

The African Union at 20

African perspectives on progress,
challenges and prospects



Edited by Wafula Okumu and Andrews Atta-Asamoah

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Dedication

This book is dedicated to the founders of the African Union and all those who have worked tirelessly to fulfil the dream of a peaceful, prosperous and united Africa.

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Acronyms

ACDEG	African Charter on Democracy, Elections and Governance
ACHPR	African Commission on Human and Peoples' Rights
ACJ	African Court of Justice
ACP	African, Caribbean and Pacific
ACRWC	African Charter on the Rights and Welfare of the Child
ACSUS	African Centre for the Study of the United States
AEC	African Economic Community
AfCFTA	African Continental Free Trade Area
AfCHPR	African Court on Human and Peoples' Rights
Africa CDC	Africa Centres for Disease Control and Prevention
AGA	African Governance Architecture
AGOA	African Growth and Opportunity Act
AIHSRN	African Integrated High Speed Railway Network
AIM	Africa's Integrated Maritime Strategy
AMISOM	African Union Mission in Somalia
AOSTI	African Observatory of Science, Technology and Innovation
APRM	African Peer Review Mechanism
APSA	African Peace and Security Architecture
APSP	Africa Peace and Security Programme
ARC	Africa Risk Capacity
ASEAN	Association of Southeast Asian Nations
ASEOWA	AU Support to Ebola in West Africa
ASF	African Standby Force
AU	African Union
AU-YVC	AU Youth Volunteer Corps
AUABC	AU Advisory Board on Corruption
AUBP	AU Border Programme
AUC	African Union Commission
AUCPCC	AU Convention on Preventing and Combating Corruption

AUDA	African Union Development Agency
AYC	African Youth Charter
CAADP	Comprehensive Africa Agricultural Development Programme
CAAU	Constitutive Act of the African Union
CAR	Central African Republic
CCP-AU	Centre for Citizens' Participation in the AU
CEPGL	Economic Community of the Great Lakes Countries
CESA	Continental Education Strategy for Africa
CEWS	Continental Early Warning System
CFTA	Continental Free Trade Area
CIDO	Citizens and Diaspora Organizations' Directorate
CISSA	Committee of Intelligence and Security Services in Africa
COMESA	Common Market for Eastern and Southern Africa
COVID-19	Coronavirus
CPA	Consolidated Plan of Action
CPI	Corruption Perception Index
CSO	Civil society organisation
CSSDCA	Conference on Security, Stability, Development and Cooperation in Africa
DRC	Democratic Republic of the Congo
EAC	East African Community
ECCAS	Economic Community of Central African States
ECJ	European Court of Justice
ECOSOCC	Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
EPA	Economic Partnership Agreement
EU	European Union
FOCAC	Forum on China-Africa Cooperation
GDP	Gross Domestic Product
GIZ	Gesellschaft für Internationale Zusammenarbeit
GPI	Global Peace Index
HDI	Human Development Index
HIV/AIDS	Human immunodeficiency virus / Acquired Immunodeficiency Syndrome
IASC	Inter-Agency Standing Committee
ICAO	International Civil Aviation Organization

ICC	International Criminal Court
ICRC	International Committee of the Red Cross
ICT	Information and communications technology
IDCPPA	Institute for Democracy, Citizenship and Public Policy in Africa
IDP	Internally displaced person
IEP	Institute of Economics and Peace
IFI	International financial institutions
IGAD	Intergovernmental Authority on Development
ILO	International Labour Organization
IMF	International Monetary Fund
INGO	International non-governmental organisation
IPSS	Institute for Peace and Security Studies
ISS	Institute for Security Studies
LPA	Lagos Plan of Action
MRU	Mano River Union
NATO	North Atlantic Treaty Organization
NEPAD	New Partnership for Africa's Development
NGO	Non-governmental organisation
NPA	National Plan of Action
OAU	Organisation of African Unity
ODA	Official development assistance
PALU	Pan-African Lawyers Union
PAP	Pan-African Parliament
PAU	Pan-African University
PIDA	Program for Infrastructural Development in Africa
POA	Programme of Action
PRC	Permanent Representative Council
PSC	Peace and Security Council
PYU	Pan-African Youth Union
R&D	Research and development
R2P	Responsibility to protect
RECS	Regional economic communities
RMs	Regional mechanisms
SAATM	Single African Air Transport Market
SACU	Southern African Customs Union
SADC	Southern Africa Development Community

SARS	Severe acute respiratory syndrome
SDG	Sustainable Development Goal
SDGEA	Solemn Declaration on Gender Equality in Africa
SSA	Sub-Saharan Africa
STC	Specialised Technical Committee
STEM	Science, technology, engineering and mathematics
TFEU	Treaty on the Functioning of the European Union
UCG	Unconstitutional change of government
UCT	University of Cape Town
UEMOA	West African Economic and Monetary Union
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNESCO	United Nations Educational, Scientific and Cultural Organization
UNFPA	United Nations Population Fund
UNSC	United Nations Security Council
US	United States
WHO	World Health Organization
Y4P	Youth for Peace

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Chapter 1

The AU since 2002: achievements, challenges and prospects

Wafula Okumu and Andrews Atta-Asamoah

It was a birthday commemorated in style. In the heart of Ethiopia's capital, Addis Ababa, the seat of the African Union (AU), water fountains erupted and champagne glasses clinked as heads of state and assorted dignitaries tucked into a four-course meal to the sound of sultry jazz.¹

Introduction

When the African Union (AU) was formed two decades ago, its founders made several commitments. These included being guided by Pan-Africanism 'to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States.' The commitments also included creating 'a unique framework for [the AU's] collective action in Africa and in [its] relations with the rest of the world.' This was in order to 'promote the socio-economic development of Africa and to face more effectively the challenges posed by globalization.'² The founders also identified several agenda items and prescribed the environment and means of achieving them.

First on the agenda was to forge a 'common vision of a united and strong Africa' and 'to strengthen solidarity and cohesion among our peoples.' These were to be achieved through 'a partnership between governments and all segments of civil society, in particular women, youth and the private sector.' While noting that 'the socio-economic development of the continent' was majorly impeded by 'the scourge of conflicts,' the founders committed to 'promot[ing] peace, security and stability as a prerequisite for the implementation of [their] development and integration agenda.'

This agenda was to be implemented in tandem with the promotion and protection of human and peoples' rights, consolidation of democratic institutions and culture, and safeguarding good governance and the rule of law. The founders were also aware that the implementation of their ambitious agenda required strengthening of Africa's 'common institutions' and providing 'them with the necessary powers and resources to enable them discharge their respective mandates effectively.'

Since its foundation, the AU has handled disease outbreaks, such as Ebola and COVID-19, addressed violent conflicts and confronted undemocratic regimes. The AU has observed over 100 elections, developed continental norms and laws, and established institutions and partnerships. Though the AU did not acknowledge its 20th year of existence or highlight its key achievements at its February and July 2022 biannual summits, there are notable achievements that deserve to be applauded on its 20th anniversary. There are also major challenges that should be pointed out and lessons that should be learnt.

There are those who deem the AU's rhetoric on integration not to have matched reality. Some have criticised the continental organisation for unfulfilled commitments, unrealistic goals and for being embroiled in myriads of institutional and political problems. Additionally, the lack of political will of African leaders to conduct required reforms needed for the success of the AU's ambitious agenda has also been highlighted.³

Many factors have been put forth to explain these challenges. Among these, is that the European foundation on which AU heavily borrows from 'is a bad model,' and that the AU has 'emulated it in conditions that are not suited to it' in Africa.⁴ Against the backdrop of the prevailing discussions on the achievements and gaps versus the way forward for the AU, this book is an assessment of the achievements of the goals and the obstacles faced in attaining them.

This introductory chapter traces the evolution of the AU from the Organisation of African Unity (OAU) and its associated integration agenda. It summarises the key achievements and major challenges over the past 20 years highlighted in the various chapters in the volume, and provides a general overview of the book.

From the OAU to the AU

As the 20th century was winding down, there was general awareness in Africa that the continent was beleaguered by debilitating underdevelopment caused mainly by bad governance and violent conflicts. Africa had a dubious distinction as a continent ruled by strong ‘big men’ who flagrantly abused the rights of their subjects under the guise of sovereignty and the principle of non-interference in the internal affairs of independent states. The OAU was generally considered to be underperforming in promoting ‘the unity and solidarity of the African States’ and coordinating ‘efforts to achieve a better life for the peoples of Africa,’ as expressed in Article 2 of its Charter.

When the OAU was formed on 25 May 1963 in Addis Ababa, Ethiopia, its founders were aware that ‘freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples.’ They recognised that Africa’s ‘natural and human resources’ should be harnessed ‘for the total advancement of our peoples.’¹⁵ The founders were inspired by the Pan-African ideal of ‘brotherhood and solidarity, in a larger unity transcending ethnic and national differences.’¹⁶ They also wanted to ‘harness the natural and human resources of our continent for the total advancement’ of the African people.⁷

The OAU founders were also convinced that for human progress to take place in Africa, ‘conditions for peace and security must be established and maintained.’¹⁸ While showing an interest in uniting Africa ‘so that the welfare and well-being of [the African] peoples can be assured,’ the leaders expressed a strong desire to dedicate themselves ‘to the general progress of Africa.’¹⁹

Apart from upholding the principle of respecting its members’ sovereignty, territorial integrity and independence, the OAU was generally credited for playing a key role in eradicating ‘all forms of colonialism from Africa.’¹⁰ However, the OAU mostly underperformed in achieving its key objectives for various reasons. For instance, despite committing to respect the Universal Declaration of Human Rights, it turned a blind eye when African leaders grossly violated the rights of their people, displacing millions from their homes and dispersing them across borders. Furthermore,

thousands of people were detained without trial and political opponents liquidated, and communities or groups deemed to be anti-government were wantonly destroyed.

Towards the end of the 20th century, it was obvious that the OAU was declining due to its failure to grow.¹¹ Furthermore, was the fact that African leaders had failed to strengthen the OAU and to establish other institutions needed to spearhead progress on the continent towards safeguarding the 'welfare and well-being' of the African people.¹² Transforming into a more vibrant organisation was, thus, deemed the only option to guarantee relevance for the OAU. The AU was founded through a transformation process in May 2001 and officially launched on 9 July 2002 in Durban, South Africa. One of the distinguishing features of the AU was that it was to involve citizens in its activities and represent the continent on the global arena.

However, as Désiré Yetsowou Assogbavi notes in chapter 15, the AU has not devolved powers to the people. Its Assembly of Heads of States and Governments continues to dominate the decision-making processes that favour states and political leaders above ordinary citizens.

Among the tasks the OAU bequeathed the AU was that of promoting 'the unity and solidarity of the African States.'¹³ The AU founders also adopted several elements of the OAU. These included:

- Commitments to 'peaceful resolution of conflicts among Member States'¹⁴
- Defence of the 'sovereignty, territorial integrity and independence of its Member States'¹⁵
- Upholding the 'sovereign equality and interdependence among Member States'¹⁶
- Enhancement of 'co-operation in all fields of human activity' that 'raise the living standards of African peoples'¹⁷
- 'Respecting of borders existing on achievement of independence'¹⁸
- The condemnation and rejection of political assassinations and subversive activities¹⁹

Institutionally, the AU inherited OAU bodies such as:

- The Assembly of the Heads of State and Government
- The Council of Ministers (the Executive Council)
- The Secretariat (the Commission)

- The Commission of Mediation, Conciliation and Arbitration
- The Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution (PSC)
- Specialised Commissions (Specialised Technical Committees) on economic, social, educational, scientific, cultural, health and defence matters

Remarkably, the AU adopted principles that radically distinguished it from the OAU and brought about doctrinal and radical paradigm shifts. These principles included ‘participation of the African peoples in the activities of the Union,’²⁰ the ‘promotion of gender equality,’²¹ and the ‘condemnation and rejection of unconstitutional changes of government.’²² The most radical commitment, however, was the diluting principle of ‘non-interference by any Member State in the internal affairs of another’ and granting the AU the right to intervene in failing or failed states to protect civilians. It also made a commitment to promote ‘self-reliance within the framework of the Union,’²³ although this has not been clarified beyond the slogan of ‘African solutions to African problems.’

Since 2002, the AU has positioned itself to actively address violent conflicts in Africa, to spearhead its socio-economic development, to accelerate the pace of continental integration, and to represent Africa’s interests in the global arena. At its launch, the AU committed to bringing about an ‘integrated, prosperous and peaceful Africa, driven by its own citizens’ through Pan-African ideals such as self-reliance.

In the preamble, objectives and principles of the Constitutive Act of the African Union (CAAU), the AU adopted a broad and ambitious agenda incorporating peace, governance, justice, development and integration matters. Specifically, these included:

- Being guided by the ideology of Pan-Africanism in the pursuit of a ‘common vision of a united and strong Africa’ (Preamble of CAAU)
- Achieving ‘greater unity and solidarity between the African countries and the peoples of Africa’ (Article 3(a) of CAAU)
- Accelerating ‘the political and socio-economic integration of the continent’ (Article 3(c) of CAAU)
- Meeting ‘multifaceted challenges that confront our continent and peoples in the light of the social, economic and political changes taking place in the world’ (Preamble of CAAU)

- Promoting ‘the socio-economic development of Africa and ... fac[ing] more effectively the challenges posed by globalization’ (Preamble of CAAU)
- Building ‘a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion among our peoples’ (Preamble of CAAU)
- Promoting ‘peace, security and stability on the continent and peacefully solving conflicts among AU Member States’ (Articles 3(f) and 4(e) of CAAU)
- Implementing Africa’s ‘development and integration agenda’ (Preamble of CAAU)
- Promoting and protecting human and peoples’ rights (Preamble of CAAU)
- Promoting and consolidating democratic culture, principles and institutions, popular participation, good governance, constitutionalism, the rule of law and social justice (Articles 3(g), 4(m) and 4(n) of CAAU)
- Promoting ‘cooperation in all fields of human activity to raise the living standards of African peoples’ (Article 3(k) of CAAU)
- Allowing ‘participation of the African peoples in the activities of the Union’ (Article 4(c) of CAAU)
- Strengthening African ‘common institutions and provide them with the necessary powers and resources to enable them discharge their respective mandates effectively’ (Preamble of CAAU)
- Promoting and defending ‘African common positions on issues of interest to the continent and its peoples,’ encouraging ‘international cooperation,’ and establishing ‘the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations’ (Articles 3(d), 3(e) and 3(i) of CAAU)
- Cooperating with and working in partnerships with the African people, regional economic communities (RECs) and international partners, particularly the United Nations (UN) (Preamble and Articles 3(l) and 3(n) of CAAU)
- Using knowledge in ‘the development of the continent’ (Article 3(m) of CAAU)

The above agenda has been implemented by a myriad of bodies in partnership with key stakeholders and under the principle of self-reliance and the ideology of Pan-Africanism.

When the AU was formed, it was seen by a section of the African citizens and non-Africans as another attempt by African leaders to dream big, to promise heaven and yet to deliver nothing. Not much hope was put in the new organisation. Expectations were low and it was treated with scepticism – a proverbial ‘new wine in old wineskin.’

In the first 10 years, African leaders adopted radical measures to protect civilians from weakening and collapsing states, to consolidate democracy, to enhance good governance, to promote peace, to maintain security and to achieve the dreams that were deferred during the OAU years. However, in the last 10 years, several leaders have changed constitutions to extend their stays in power, the rate of military coups has seen a surge, and several elections have been accompanied by violence and political stalemates. Further, urban violence perpetrated by unemployed youth has risen, and the gap between the ‘haves’ and ‘have-nots’ has widened.

Given the dichotomy of the situation after 20 years of the AU’s existence, it is opportune to pause and reflect at this point on its journey, celebrate achievements, learn from experiences, correct mistakes, and collect best practices.

This book, thus offer answers to the following questions, among others:

- How successful has the AU been as a norm entrepreneur in Africa?
- How has Pan-Africanism influenced the formation and performance of the AU?
- Has the AU developed institutional capacity and requisite culture to achieve its multiple agendas?
- What paradigms have guided the AU in its identification of African problems and in generating appropriate (African) solutions and implementing them?
- How has African leadership contributed to the achievement of the AU’s objectives? How involved have the African people, particularly women and youth, been in the affairs of the Union?
- After 20 years of ‘integrating and unifying’ the continent of Africa, do we have a peaceful, secure, just, borderless, healthy and unified continent?

- To what extent is the AU able to represent Africa in its relationship with the world?
- What lessons can we draw from the past 20 years to inform the next 30 years?

AU's performance since 2002

Conducting a critical assessment review of the AU since its formation is a daunting endeavour. The organisation does not have monitoring and evaluation frameworks with criteria for measuring the impacts of its various agendas, initiatives, projects and programmes. Conducting future assessments will continue to be difficult if the AU continues to eschew learning lessons from its experiences and subjecting itself to rigorous and regular monitoring and evaluation.

One of the AU's evaluative tools, the African Peer Review Mechanism (APRM) has continued to weaken since its adoption due to the lack of enforcement powers. For instance, in its assessments of African countries, the APRM has found that their national plans and visions are not aligned with the AU's, but it has not proposed how this can be rectified. The Africa Governance Report (AGR) is not anchored on, and nor does it refer to, the CAAU, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol) or the African Charter on Democracy Elections and Governance (ACDEG).

However, the 28th Ordinary Session of the AU Assembly, held on 30 and 31 January 2017 in Addis Ababa, Ethiopia, tasked the APRM with monitoring and evaluating Agenda 2063 and the UN Sustainable Development Goals in Agenda 2030. It is not clear why the 2002 agenda highlighted above has not been monitored and evaluated, and why Agenda 2063 and Agenda 2030 that are not anchored in key AU instruments deserved such prominent attention.

On the AU's 20th anniversary, there were mixed assessments of its achievements. Notable was the silence of the top AU organs, the Assembly and the Executive Council to commemorate this historical year with a decision, resolution, declaration, motion or statement. Among its fiercest critics, Adekeye Adebajo avers that 'it had achieved a few successes' and 'remains a weak organisation embarking on sporadic bouts of illusory reforms due to financial and capacity constraints.'²⁴

Adebajo asserts further that there is ‘too much decision-making power [that] resides with its omnipotent heads of state which has denied the organisation the ability to take decisions, and act more effectively on behalf of its members.’ His final assessment, contributions in this book do not totally agree with, is that ‘the AU’s first two decades have largely represented a magical, mystical world of unfulfilled expectations.’

While pro-AU observers assess the organisation’s achievements differently, a thorough assessment is necessary to ferret out appropriate lessons learnt to inform an improved performance of the AU in the years ahead. Chapter contributors in this book attempt this around 13 major thematic core areas that the AU has been involved in since its establishment. We note overall that Africa has taken significant and laudable steps towards attaining some of the noble ideals espoused in the CAAU over the last two decades.

While the AU has reached notable targets within that context, however, it has also missed several key milestones. For instance, it planned to delimit and demarcate all African boundaries by 2012 but postponed the deadlines three times. In 2013, the AU declared intentions to ‘silence guns in Africa by 2020’ but postponed the target date to 2030 because of non-fulfilment. It also planned to fully integrate the continent by 2025 but this deadline is also not likely to be met. Key assessments and arguments advanced by the contributors in the core areas are as outlined in the following subsections.

Ideological orientation

In assessing the role of ideological orientation in the AU’s performance, this book interrogates what ideologies, apart from Pan-Africanism, have guided the functions and performance of the AU in the last 20 years. Ideology generates meaning to action, gives legitimacy, and creates motivation and justification for action. It is a unifying factor for fragmented and directionless people.²⁵ Africa’s ideology is naturally Pan-Africanism which is supposed to give Africans an identity and a feeling about its reality and efforts to improve its condition. Over the past two decades, although the OAU Charter and the CAAU are Pan-Africanist expressions, the AU has lacked an ideology, a complex process ‘by which meaning is produced, challenged, reproduced, transformed.’²⁶

Granting Pan-Africanism reifies the AU and Africa’s common position and action, the AU has yet to formulate or adopt an ‘African mind-set’ or

rather a truly African-outlook, characteristic African ideas that distinguishes us from the rest of the world. The AU has not shaped a biased understanding of common African interests. As a result, as Stephen Okhonmina notes in chapter 2, Pan-Africanism has been in stiff competition with nationalism and the latter has prevailed over the last 20 years. Consequently, sovereignty has been used to undermine Pan-Africanism, leading the AU to wobble without an ideology to drive its integration agenda.

Pan-Africanism is viewed as a threat to national sovereignty by elites who control nation-states that guarantees them privileges a supranational entity does not provide. Julius Nyerere in 1986 lamented that it had become ‘a regular practice for African states to dishonour their obligations to African institutions or other African states.’²⁷ This has been the story of the African continent as there is no other region with an ‘international organization in which its members are as jealous of their sovereignty as the OAU’ and the AU.²⁸

Integration

The adoption of the African Continental Free Trade Area (AfCFTA), as John Akokpari and Primrose Bimha point out in chapter 10, has heralded a key achievement in African integration efforts in the last two decades. If fully implemented, it will create a single continental market by eliminating barriers to trade and boosting intra-Africa trade.²⁹ To reach this goal, AU member states must be outward looking by transforming their borders from barriers to bridges and eventually ushering in a borderless Africa. Despite commitments to integrate Africa, AU member states have hardened their borders as exemplified by the difficulties of Africans moving from one country to another.

Notwithstanding the adoption of an African passport and the establishment of the AfCFTA, it is easier for Africans to travel to Europe than to move on the African continent due to excessive restrictions. Adebayo points out that besides most Africans being ‘security-obsessed and hostile to intra-African migration, ... [t]here is also a lack of convergence of African economies. Many compete to export raw materials rather than exchange diverse goods.’³⁰ This is due to the poor ‘road, rail, and port infrastructure’ and the ‘rules of origin – which define where goods are made – are often restrictive, and non-tariff barriers are widespread.’

Even the RECs that are supposed to be the building blocks of African integration have performed dismally due to poor leadership and gross mismanagement. Consequently, ‘if integration has not worked at the national and sub-regional levels, transferring all these problems to the continental level will certainly not integrate Africa.’¹³¹

Institutional design and functionality

Successful implementation of an agenda heavily depends on the capacities of an institution and its personnel. The importance of good institutions needed for implementing Africa’s Pan-African agenda were in the minds of the founders of both the OAU and the AU. Even the OAU in the Preamble of its Charter noted the importance of establishing and strengthening common institutions as a prerequisite to achieving progress and harnessing Africa’s ‘human and natural resources’ and its other goals.

Similarly, African leaders, in the Preamble of the CAAU, committed to taking ‘all necessary measures to strengthen ... common institutions and provide them with the necessary powers and resources to enable them to discharge their respective mandates effectively.’ In pursuit of this, the AU has provided ‘an institutional platform for Africa to engage other global agencies, financial institutions, and external actors.’¹³²

As noted by Nsongurua Udombana in chapter 4, the AU has made efforts over the past 20 years to address challenges posed to the implementation of its agendas by institutional malformation and incapacity. Originally, the AU had 17 bodies but by 2022 had ballooned to 85 organs, institutions and specialised agencies. There are 21 high representatives, special envoys and special representatives supporting key AU initiatives. Furthermore, there are 12 AU Champion Leaders who ‘lead the process in focal thematic areas that will drive growth and development and lead to the achievement of Africa’s Agenda.’¹³³

However, the capacity of these institutions is still weak and poorly managed and they are, therefore, unable to effectively articulate African interests in the global arena. While some AU institutions such as the PSC have performed averagely, others such as the Pan-African Parliament (PAP), the New Partnership for Africa’s Development (NEPAD), the APRM, financial institutions and the Economic, Social and Cultural Council (ECOSOCC) have generally struggled. Since its inauguration in 2004, the

PAP has remained a ‘talking shop’ while ECOSOCC ‘has failed to provide genuine civil society participation in the AU’s institutions.’³⁴

There are also duplications, overlapping and a lack of synchronisation among RECs and multiple AU institutions. For instance, both the AfCFTA and NEPAD seek to entrench capitalist ideals of free trade and economic liberalisation by opening African markets and attracting more foreign direct investment to the continent. The APRM assesses the governance of member states and the AU Commission’s Department of Political Affairs, Peace and Security conducts assessments of their structural vulnerabilities. The Continental Early Warning System (CEWS) is expected to anticipate and prevent conflicts. And the Committee of Intelligence and Security Services (CISSA) provides the AU Commission (AUC) and its member services with ‘timely and insightful intelligence, which would assist them in making informed decisions.’³⁵

The AU has also been challenged to establish and to run mushrooming institutions. For instance, in 2003 it set out to establish an African Standby Force (ASF) by 2010 but failed in meeting this dateline, postponed it to 2015 and then ‘simply declared’ in December 2020 ‘the force be fully operational.’³⁶ Despite such challenges, in 2020 the Assembly added new institutions:

- The Continental Operational Centre for Combating Irregular Migration (to be located in Sudan)
- The African Centre for the Study and Research on Migration (Mali)
- The African Migration Observatory or the Observatory (Morocco)
- The African Union Mechanism for Police Cooperation (AFRIPOL) (Algeria)
- The African Union Centre for Post-Conflict Reconstruction and Development (AUCPCRD) (Egypt)
- The Secretariat of African Committee of Experts on the Rights and Welfare of the Child (ACERWC) (Lesotho)
- The African Observatory of Science, Technology and Innovation (AOSTI) (Equatorial Guinea)³⁷

Reports by panels headed by Adebayo Adedeji,³⁸ former Nigerian President Olusegun Obasanjo³⁹ and Rwandan President Paul Kagame⁴⁰ as well as a commissioned report by PricewaterhouseCoopers⁴¹ have all pointed out to various dimensions of prevailing serious institutional defaults and governance challenges the AU faces.

The AU has been devilled by corruption, inefficiency and mismanagement. It is an irony that while it has a mandate to promote good governance in Africa, it grapples with internal governance issues and has struggled to implement its objectives due to management challenges. Implementing what is widely regarded as ambitious agendas requires institutions that are well structured and run by professional staff that subscribe to an ideological foundation that enable the AU to function optimally.

Development of African norms and laws

Every AU meeting results in a decision, a resolution or some form of commitment. As Tiyajana Maluwa discusses in chapter 3, these are important sources of norms that establish the AU's 'role in regional law-making.' They also establish its contribution to 'emerging legal order both in the international context and on the domestic laws of states in various areas.' Notwithstanding the speed with which decisions, resolutions, communiqués and other forms of communication are done, they are such that there are inconsistencies and obvious inapplicabilities among many of the AU's documents.

Additionally, despite the expression of commitment to greater integration among member states, the AU has been denied the 'powers to adopt binding decisions and legislation with supremacy over [their] national laws in agreed areas of competence.' It also lacks the 'powers to enforce its decisions and the legislation adopted by its institutions.'

Consequently, as Khabele Matlosa notes in chapter 7, the challenge that the organisation faces is 'the gap that still exists between norm-setting and norm-implementation. Norms, instruments, and institutions exist to inculcate a culture of democratic governance, constitutionalism, rule of law and human rights. But AU Member States generally lack the political commitment to effectively implement norms and instruments using sovereignty as a shield against undemocratic behaviour and human rights violations.'

Although the CAAU is the grand norm of the AU system, it is sparingly referred to or invoked in formulation of initiatives such as 'Silencing the Guns in Africa by 2020.' Nor is it alluded to in reports such as those on African governance and African capacity. Most AU documents and initiatives invoke Agenda 2063, which is not clearly guided by the CAAU or other key instruments.

Leadership of AU institutions and leadership in addressing African problems

How the AU is led to a large extent determines how it leads in addressing African problems. Since its transformation from the OAU, the leadership of the AU and its institutions has struggled to lead them towards achievement of their objectives. At the beginning, it was the strong and visionary leadership of Muammar Gaddafi, Thabo Mbeki and Olusegun Obasanjo that drove the efforts to establish the AU. But with the retirement and demise of these leaders, the AU has lacked strategic and visionary leadership required for mobilising human, financial, scientific and social resources needed to implement its agendas.

In their report, Adedeji and his team point out that the AUC had ‘inadequate in-house leadership and weak management systems’ that ‘have resulted in poor supervision in the commission, within and between departments, and low morale among staff.’⁴² Patricia Agupusi avers that ‘the commitment of African leaders remains the most pressing obstacle to African Renaissance and development. Governance of the AU is as good as its leadership. Therefore, the type of governance within member countries, especially among the regional leaders, affects the governance of the union.’⁴³

Apart from delving into how leadership has evolved over time, in chapter 16, Thomas Kwasi Tiekou and Nordiah Lavita Newell underlie the importance of strategic and visionary leaders. They call for a new generation of more assertive liberal leaders to lead the AU for the organisation to not risk ‘losing touch with ordinary Africans.’

Knowledge

Indeed, knowledge is central to Africa’s integration, development, peace, security and good governance and to addressing most of its challenges. It is knowledge that has driven integration efforts in other regions and has addressed various problems facing them. Africa needs appropriate knowledge to avoid economic stagnation, to secure its sovereignty and to formulate effective and progressive strategies to ensure justice, democracy and peace prevail on the continent. The AU founders recognised this importance of knowledge to ‘advance the development of the continent’ by

making provision for its generation in Article 3(m) of the CAAU through ‘research in all fields, in particular in science and technology.’

The 2021 Africa Governance Report (AGR) calls for the ‘promotion of African-based values and ethics’ through uplifting, legitimising and formalising ‘African knowledge systems’ but does not define ‘African-based values and ethics’ and ‘African knowledge systems.’⁴⁴ Unfortunately, the AU has not invested in the generation of knowledge that prevents conflicts, consolidates democracy, increases food security, sustains the environment and addresses underdevelopment challenges. Furthermore, there is a lack of knowledge generation that increases popular participation in governance of AU institutions and member states to attain its various goals enshrined in the CAAU. The generation of appropriate knowledge requires a paradigm that is relevant to the conditions to which it is applied.

Samuel Makinda in chapter 11 asks thought-provoking questions: How much are the AU and its members investing in the generation of knowledge? Who has been entrusted to supply the knowledge that Africa needs? Where does the AU store the knowledge it obtains? Does the AU have the institutional capacity to generate, codify, absorb and utilise the new knowledge? While answering these questions Makinda points out ‘that the AU and its members need to construct their own intellectual frameworks for generating the knowledge that they require to address peace and development challenges.’ He argues further that ‘the AU and African countries might find it difficult to control and manage their agenda if they [continue to] rely heavily on paradigms which were not designed to pursue their particular goals.’

It is apparent that the AU has been heavily guided by the colonial ‘paradigm in explicating theoretical and policy process’ and has copiously imbued exogenous knowledge in formulating solutions for problems facing the continent. One of the many contributions of this book is to challenge the AU to ‘to *unthink* [the] ... unworkable paradigms’ it has been using to understand and address African problems.⁴⁵ But this, Makinda argues, will require African and African-focused intelligentsia to reorient their paradigm and to commit to a Pan-African frame of reference. In addition, they need to devote their scholarship to the AU objectives and agendas, and to form a community of thinkers influencing integration efforts on the continent.

Peace and security agenda

When the AU was launched, Libya was stable under the strong arm of Brother Leader Muammar Gaddafi.⁴⁶ Today, however, Libya is torn apart in a vicious civil war with an indeterminate future. Somalia had no functional government and was in an anarchical state. The country is still struggling to build a viable state under the continuing threat of terrorism and continuously belligerent clans. The Democratic Republic of the Congo (DRC) was bogged down in a civil war that had drawn in neighbouring countries, earning it the categorisation of ‘Africa’s first war.’ The DRC is presently relatively stable, despite recurring insecurities in the eastern region, with an elected president.

Sudan was engulfed in a bloody civil war between the north and the southern regions when the AU was launched. The country broke up in 2011 resulting in the world’s newest state, South Sudan. However, South Sudan has never reaped the dividends of peace as it has been embroiled in violent conflict between different factions under the leadership of corrupt, brutal and venal leaders.⁴⁷ Instead of delivering fruits of independence, these leaders have systematically looted billions of dollars from oil revenues and unleashed terror on civilians through forceful displacement, rape, mutilation, torture and murder.

Wafula Okumu notes in chapter 5 that there are several notable milestones attained in the achievement of the peace and security agenda. For instance, although the ASF is not fully operational, it has a doctrine, deployment scenarios, logistics plans, etc. Other modest achievements have been made in the operationalisation of the CEWS, the Peace Fund and the African Peace and Security Architecture (APSA) in general. Despite the stunted establishment of the ASF, the AU has deployed peacekeeping forces in Burundi, Sudan and Somalia, and attempted to resolve conflicts in Libya, CAR, Comoros, Mali and Ethiopia. However, Okumu argues that these ad hoc arrangements, besides heavy relying on external partners, have severely undermined the operationalisation of the ASF and other key APSA institutions.

Complex emergencies

The AU founders, deeply concerned by the ‘scourge of conflicts,’ committed to the eradication of ‘preventable diseases’ and to the

promotion ‘good health on the continent’ by taking ‘humanitarian action and disaster response and relief.’⁴⁸ However, over the past 20 years, Africa has experienced pervasive and chronic droughts and violent conflicts that have claimed millions of lives and forced millions more to flee their homes into camps or across borders into neighbouring countries. Other humanitarian crises have ranged from famine to mass displacements caused by armed conflicts, poor government policies, natural disasters and climate change. Most victims of militant terrorism and state violence have died from hunger and disease.

The COVID-19 pandemic and epidemics such as the bubonic plague and Ebola are the latest humanitarian crises that the continent has grappled with. Such public health threats are also attributed to poor health infrastructures, poor sanitation and poor national health policies. Although some of these health threats are preventable and easily treatable, they have almost been transformed into widespread pandemics due to poor responses by governments, and armed conflicts or corruption that have depleted national treasuries.

The AU, according to Olabisi Dare in chapter 9, has responded to these complex emergencies in several ways. Africa continues to be characterised by the same conditions that have engendered complex emergencies in the past. This is despite adopting instruments that include the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention, and Humanitarian Policy Framework. Dare argues that since most of these disasters are caused by poor governance, African leaders must be held ‘accountable in the strictest terms.’

On its part, the AU, which ‘is awash with good and laudable intentions in humanitarian affairs,’ continues to ‘perform abysmally in implementation’ of its humanitarian action laws and policies. It must ‘prevent the occurrence of humanitarian situations rather than focus on their management after they’ve occurred.’

Governance

The CAAU (Article 3(g)) aims to ‘promote democratic principles and institutions, popular participation and good governance and is guided’ (Article 4(m)) by ‘respect for democratic principles, human rights, the rule

of law and good governance.’ These principles are codified in the ACDEG that was adopted in January 2007. Politically, there is hope of a healthy democracy on the continent. Since 2002 there have been more democratic elections, retired heads of state who have left office after serving mandatory two terms, independent courts that have overturned fraudulent elections, civilians toppling regimes and wide expansions of democratic spaces.

Khabele Matlosa notes in chapter 7 that ‘since the inception of the AU, the momentum for democratisation throughout the continent has been accelerated. More countries have since embraced multi-party political systems. Politics of the bullet which marked the era of military coups on the continent between the mid-1960s and the late 1980s has been replaced by politics of the ballot with almost all AU member states holding regular multi-party elections.’

However, the continent has also witnessed minor retreats in the form of some leaders obsessed with power clinging to it by removing term limits, manipulating electoral processes and attempting to shrink the democratic spaces. These include ‘democratic haemorrhage’ in the forms of ‘electoral fraud and irregularities, massive corruption, military coups, tenure elongation, popular protests, etc.’ According to Matlosa, ‘the AU has not been able to effectively respond’ to these democratic governance challenges. Consequently, only 38% of African countries have upheld presidential term limits and those lacking term limits are sliding into instability.⁴⁹ Africa has also witnessed at least 37 coups and coup attempts since 2002.

The AU has ‘expanded the enforcement mechanisms of the 2000 Lomé Declaration’ by ‘publicly condemning coups, suspending member states in their aftermath, and even allowing for limited sanctions and the prosecution of coup leaders.’⁵⁰ It has, however, also endorsed and accepted ‘good coups’ through a 2013 Assembly decision. This decision endorsed the PSC report that ‘recognise[d] the right of our people to peacefully express their will against oppressive systems.’

In its report (PSC/AHG/4(CDXVI)), the PSC adopted the following threshold of the AU High-level Panel on Egypt that took ‘into account recent experiences in North Africa’:

- The descent of the government into total authoritarianism to the point of forfeiting its legitimacy

- The absence or total ineffectiveness of constitutional processes for effecting change of government
- Popularity of the uprisings in the sense of attracting significant portion of the population and involving people from all walks of life and ideological persuasions
- The absence of involvement of the military in removing the government
- Peacefulness of the popular protests⁵¹

The AU Assembly (Assembly/AU/Dec.536(XXIII)) did not only ‘welcome’ this ‘final report’ but also called ‘for the effective implementation of the recommendations contained therein, as endorsed by the PSC.’⁵² Consequently, since 2013 we have witnessed ‘good coups’ in Egypt, Zimbabwe, Burkina Faso, Sudan, Mali and Guinea. While celebrating the 50th anniversary of the creation of the OAU, African leaders rejected ‘unconstitutional change of government, including through any attempts to seize power by force.’ However, they recognised ‘the right of [the] people to peacefully express their will against oppressive systems.’⁵³

Human rights, rule of law and constitutionalism

One of the inspirations for the formation of the AU was the determination of its founders ‘to promote and protect human and peoples’ rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law.’⁵⁴ Reflecting on the past experiences of flagrant violations for human rights and disrespect for the rule of law, the founders of the AU decided ‘to promote and protect human and peoples’ rights’ and to ‘ensure ... the rule of law as one of the core principles guiding its performance.’⁵⁵

While making a commitment to respect human rights and the rule of law as one of its guiding principles, the AU endorsed the universality of human rights as defined in international human rights law and established pertinent institutions. It did so by committing to ‘promote and protect human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and other relevant human rights instruments.’⁵⁶

Ottilia Anna Maunganidze points out in chapter 6 that the AU has made significant achievements in enhancing the values of human dignity, equality,

respect and constitutionalism in Africa. However, this progress is not tested just by the instruments it has adopted, ‘but equally [if not more by] ... the actions taken and the shift towards’ their ‘ratification and implementation.’ Africa’s ability to meet its constitutionalism, rule of law and human rights targets will largely be determined by the AU’s success in addressing the continent’s instability, insecurity and conflicts.

The AU has also put a high premium on constitutionalism by unequivocally condemning and rejecting ‘unconstitutional changes of government’⁵⁷ and extolling the ‘supremacy of constitutions and constitutional order.’⁵⁸ In promotion of this principle, the AU has committed to bar any government that ‘shall come to power through unconstitutional means’ from participating in its activities.⁵⁹ So far, Burkina Faso, Egypt, Guinea, Guinea-Bissau, Mali, Mauritania, Madagascar, Niger, Sudan and Togo have been sanctioned under this clause.

However, the AU has faced several challenges in promoting a culture of human rights and constitutionalism in Africa. For instance, its frosty relations with the International Criminal Court and its action to give African leaders immunity from prosecution of international crimes has undermined achievements made to prevent and end a culture of impunity in Africa. Additionally, its tolerance of ‘good coups’ and the failure of member states to ratify key human rights instruments and their lukewarm support of existing human rights bodies have blotted out the AU’s good intentions to promote a culture of human rights, rule of law and constitutionalism.

Addressing African development challenges

As the AU marked its 20th anniversary, Africa had many countries whose economies were expanding while many people were migrating, either within or outside the continent, mainly for economic reasons. In 2002, the AU made commitments (Articles 4(k) and 3(j) of the CAAU) ‘to raise the living standards of African peoples.’ Additionally, it committed to ‘promot[ing] sustainable development at the economic, social and cultural levels as well as the integration of African economies.’ Since then, has the continent seen a decrease in the levels of poverty, inequality, unemployment, child and maternal mortalities, and better provision of public goods and services? Has the health of the people significantly improved?

The past 20 years have been a mixed bag of successes, squandered/lost opportunities and failures. Development indices have varied between countries, but the overall trend has been upwards. Although income disparities and other gaps have widened, the life expectancy rate has improved from 53.53 years in 2000 to 64.11 years in 2020,⁶⁰ as has the GDP growth rate average of 4% between 2002 and 2021. Furthermore, per capita GDP (for sub-Saharan Africa) rose from US\$628 in 2002 to US\$1645 in 2021,⁶¹ and literacy rates have risen from 67.5% (male) and 48.6% (female) in 2002 to 72.2% (male) and 58.8% (female) in 2019.⁶²

However, it is evident that ‘sustainable economic development’ is the AU’s weakest area. John Akokpari and Primrose Bimha in chapter 10 trace Africa’s development challenges to perennial conflicts, heavy reliance on external markets and ‘development’ partners, low intra-continental trade, low agricultural productivity and infrastructural deficit. The efforts of NEPAD to eradicate poverty, promote growth and integrate Africa into the world economy have yet to be felt on the continent.⁶³ Thus, Patricia Agupusi argues that ‘the AU’s inability to implement its economic development framework remains an obstacle to achieving its goals.’

Even regional arrangements have not boosted ‘inter-African trade when compared with other regions. The volume of trade among countries of the continent is around 15% of total trade, while in Europe, North America, and Latin America, rates are 68%, 37% and 20% respectively.’ It is expected that once the AfCFTA is fully implemented, it will increase trade among African countries as well as ‘improve manufacturing, reduce dependency on natural resources and expand the African market.’⁶⁴

Engagement of African people

The AU founders had a ‘common vision of a united and strong Africa.’ This was forged by ‘a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion among our peoples.’⁶⁵ The AU did not only commit (Article 4(i) of the CAUA) to the ‘promotion of gender equality’ but it also recognised the active participation of women’s organisations in the promotion of peace, security and stability in Africa.⁶⁶

Muneinazvo Kujeka, Liezelle Kumalo and Elizabeth Sirengo highlight in chapter 12 how the mainstreaming of youth and women in the AU over the past

20 years increased visibility in its institutions. It has so far adopted several continental policies that show how 'Africa is now on a path to have a youthful and gender-sensitive continental governance system.' While noting major achievements of including women in the AU governance, Kujeke, Kumalo and Sirengo call on the AU's member states 'to establish accountability mechanisms to ensure that women and youth empowerment strategies are implemented.'

Although significant steps have been taken to increase the participation of African people in the AU, there are still several questions that remain unanswered. To what extent has the AU been the organisation of the African people? Is the African population knowledgeable and supportive of the AU agenda? Is it committed to and participating in its implementation? It is noteworthy that ECOSOCC was designed to serve as 'an advisory organ composed of different social and professional groups,' and its 'functions, powers, composition and organization' were to 'be determined by the Assembly.'⁶⁷

However, as Désiré Yetsowou Assogbavi notes in chapter 15, the statist nature of the AU has locked out the people and turned it into a protector of state interests rather than those of the continent and its people. Among critical factors that will determine the success of Agenda 2063 is more consultation and involvement of the African people, through the civil society organisations (CSOs), in its implementation. This, urges Assogbavi, will require better sharing of information and making the AU more accessible and accountable to the people rather than only to the heads of state and government.

Partnerships for promoting human security in Africa

Besides intending to include women, youth and African CSOs in the promotion of human security in Africa, the AU has identified and made concerted efforts to work closely with RECs and international partners. The CAAU (Article 3(n)) only called for a working relationship 'with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.' Additionally, the PSC Protocol (Article 17) envisages international organisations, particularly the UN, to 'cooperate and work closely with' the AU 'on issues of peace, security and stability in Africa.'

The support of external partners has become critical over the years to the point that without it, the AU would not have delivered its agenda or built

most of its institutions. Over time, notes Tshepo Gwatiwa in chapter 14, the AU has forged international partnerships with the UN, the European Union, the League of Arab States, South America, Germany, the US, China, Japan, Russia, France, India, Turkey and Korea. The nature and objectives of these international partnerships to a large extent reflect the wishes of the incumbent chairperson of the AUC at the time entered.

The agreements are not public and most of them were not subjected to due diligence to protect Africa's interests. Since most of these agreements provide for financial exchanges, the AU pays little to no attention to the fine prints that compromise the independence of the organisation and betray its Pan-African aspirations and status. Most of these deals have conditions that strip the AU of its control and ownership of projects or initiatives being funded by external partners.

Consequently, say Kwesi Aning and Ruth Adwoa Frimpong in chapter 8, these partnerships 'need to be maintained on mutualism, integrity and respect.' Although the AU has claimed primacy in promoting human security in Africa, its member states and RECs must prioritise continental interests over their regional interests. Likewise, for RECs to be strong building blocks of African integration, their member states must prioritise regional integration above their national and regional interests.

The AU as a global actor

Having learnt from the unpleasant experience that the OAU had in defending Africa's interests, the founders of the AU decided to establish it as 'a dynamic force' representing Africa 'in the global arena.' It was to be a platform for 'encouraging international cooperation,' and an instrument to 'develop ... common policies on trade, defence and foreign relations' to be used to defend the continent and strengthen 'its negotiating positions.'⁶⁸ The AU has not only forged working relations with other international organisations but it also has established permanent missions in Beijing, Brussels, New York and Washington, DC, to pursue these goals.

Tshepo Gwatiwa notes in chapter 14 that over the past two decades, the AU has become 'the face of Africa.' It is a representative of its interests 'when it negotiates and implements international agreements on trade, law, security and other critical issues.' Nevertheless, the success of promoting and protecting Africa's interests on the global arena largely depends on the

effectiveness of the AUC. For this reason, Gwatiwa argues that the 'AU's over-reliance on donor funding' has made it 'susceptible to manipulation by states' seeking to 'coerce Africa or continue their imperial undertakings.'

Paul-Henri Boschhoff discusses in chapter 13 how the AU has been a global norm entrepreneur and has, over time, become 'more recognisable on the global stage than its predecessor.' It has achieved this through efforts to pursue continental goals, to defend Africa's common position on topical issues, to further the attainment of peace and security as a global public good, and to establish Africa as a source of global norms.

Boschhoff cites the adoption of the 'non-indifference' principle and lauds the AU for being the only international organisation that has incorporated the responsibility to protect (R2P) principle in its Constitutive Act. The AU overtly provides for the right of the organisation to intervene in a member state on the grounds of human rights. However, this commendable action is undermined by the Malabo Protocol, which grants African leaders immunity from prosecution during their stay in office. Thus, he notes that 'if the AU wishes to have greater global influence, it needs to build a more coherent, representative, results-based and innovative multilateral order.'

Learning from the past, looking ahead

Considering the gains and shortcomings in chapter 17, Andrews Atta-Asamoah and Wafula Okumu conclude that the AU's journey over the last two decades registered gains in translating the collective continental vision espoused by the founding fathers of the Union into legal, normative and institutional frameworks. However, the organisation has not been able to fully implement or register equal gains in translating the norms into actual change in managing challenges, which should have been the second phase of its evolution in the last two decades.

Going forward, they propose the 'AU does not need more institutions or frameworks' but rather a 'collective resolve to translate existing decisions and norms into outcomes through consistent action in the quest to make the continent a better place for its citizens is required and should be the agenda of the next decade,' if the aspirations of Agenda 2063 are to be met.

Overview of the book

This book accentuates the rushed transition of the OAU to the AU and its ragged growth since 2002. It is a candid reflection of the noble idea of transforming the OAU into a vibrant, proactive, self-reliant, African-oriented organisation. Moreover, it is intended to generate an open conversation of and between Africans about the AU. We critically review the AU's performance over the past two decades and point out its achievements and challenges. Additionally, we offer ideas and proposals on how the AU can perform better and suitably serve the African people over the next 30 years.

We highlight key lessons that can be learnt to inform and guide the AU in the coming years after analysing the problems and challenges. In addition, we offer suggestions on how to overcome or deal with future challenges when they arise, or current ones if they persist. Each chapter not only addresses a specific topic or theme but it also talks to others.

The book is intended to be a contribution to the growing body of literature on the AU and African integration. It is a striking historical analysis of the performance of the AU on its 20th anniversary that passed with little pomp compared to that it was met with when it was launched in July 2002. The book is the voices of Africans who have dedicatedly researched the AU and worked for it. Besides historicising the AU, the book provides a launchpad for conversation among scholars and practitioners in the next 30 years on how to make the AU more effective in serving the African people.

The past two decades were supposed to be transformative in the lives of the African people with the AU playing a crucial role. All contributions in the book attempt to identify its significant achievements over this period and point out the myriad of challenges the AU has faced. As much as possible, suggestions on how to improve its performance in the future are provided. Overall, the book provokes our thinking on the way Africa conceptualises, creates, and runs institutions, and provides an independent assessment of the AU and suggestions on how to make it more effective in the future.

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Chapter 2

Pan-Africanism and other maxims guiding continental integration

Stephen Okhonmina

Introduction

Though Africa's integration goals are far from realised, the Organisation of African Unity (OAU) and African Union (AU) have been able to achieve unity and solidarity among African peoples and states to varying degrees. Among the key drivers of the gains, the rallying role of Pan-Africanism as a central ideology which has shaped the organisation, management and goal setting of African societies is particularly noteworthy. Pan-Africanism has served as the blanket ideology for other maxims in Africa's integration efforts.

Having played an important role in the integration agenda on the continent, however, there is a major challenge to the ability of Pan-Africanism to make Africa more integrated amid the continent's contemporary realities. Against that backdrop, it is clear that Pan-Africanism, as a rallying ideology for the future of Africa, needs to be re-examined from the perspective of its tenets without attempting to reinvent it, if it is to be relevant in Africa's strides towards a more prosperous and stable continent.

In an attempt to do this, this chapter reflects on the history, meaning and contributions of Pan-Africanism to the continental integration project in Africa. It notes that given the emphasis on national sovereignties in Africa's contemporary integration efforts, it appears there is already a resetting of priorities in Pan-Africanism, and a Cold War for leadership and control is brewing. For Pan-Africanism to be meaningful, however, national sovereignty and interest will have to be harmonised with continental interests at the centre of efforts. The absence of the latter defines the problems Africa faces and must address if efforts are to be shaped by Pan-Africanism as a rallying ideology. The chapter emphasises the need for a

new framework of Pan-Africanism centred around economic interdependence and regional power leadership within the framework of independent collaborating states in Africa's quest for a stronger rallying ideology its efforts towards the Africa we want.

It concludes, among others, that the future of AU mechanisms, programmes and institutions will largely depend on the extent to which Pan-Africanism can be applied in their operations and implementation. The absence of a Pan-Africanist spirit in the continent's integration efforts will, however, make Africa vulnerable to dependence and domination by external actors.

The chapter is divided into seven main sections. The first is this introduction. The second explores the evolution of the ideology of Pan-Africanism with three sub-sections on the roots and goals of Pan-Africanism, the tenets of Pan-Africanism and Pan-Africanism prior to Africa's independence. The third section is on the impact of Pan-Africanism on the activities of the OAU. It is titled *Pan-Africanism in OAU debates, programmes and activities*.

This is followed by an examination of the relations and impact of Pan-Africanism on the AU in a section titled *Pan-Africanism and the AU*. There are two sub-sections: the role of the idea of Pan-Africanism in the emergence of the AU; and Pan-Africanism in the activities, institutions and programmes of the AU. In this sub-section, attention is given to select AU programmes such as the African Continental Free Trade Area and Agenda 2063.

The fifth section is on the hindrances to the promotion of Pan-Africanist ideals. The sixth looks at the future of the AU, and has a sub-section on the future constraints of Pan-Africanist ideals. The seventh and final section is about enhancing Agenda 2063 Pan-Africanist ideals.

Evolution of the Pan-Africanism ideology

Roots and goals of Pan-Africanism

The idea of Pan-Africanism derives from several sources. Scholars generally agree that almost 400 years of enslavement of black people, about 100 years of colonisation, and sheer European racial arrogance coupled with Africans' awareness of their weakness regarding white people

are the main sources of Pan-Africanism. Its formulation, however, began with the thoughts of Africans 'in the diaspora by such great Afro-Americans and Afro-Caribbeans [as] Henry Sylvester Williams, George Padmore, WEB Du Bois, CLR James and others.'¹

The term Pan-Africanism, however, entered the dictionary after the Pan-African Congress in London in 1900.² The history of Pan-Africanism can be traced from the desire for the safe return³ of Africans exported to the Americas and the Caribbean during the slave trade. Arising from the roots of culture in Africa,⁴ Pan-Africanism was fully formed in the diaspora,⁵ as a cultural but more manifestly a political movement. The concept returned to its ideological roots in Africa following the fifth Pan-African Congress in Manchester (1945) and the subsequent independence of African states.⁶

One version of the history of Pan-Africanism has it that the idea evolved as a reaction to Europeans as far back as the slave trade in the 15th and 16th centuries.⁷ In this view, Pan-Africanism is the manifestation of the African diaspora's desire to end the humiliation, segregation, discrimination and oppression of the black race worldwide.⁸ It became a movement in the 19th century and popular in Europe in the 20th century, and among elites in Africa in the 1930s.⁹

Like many ideologically and programmatically laden concepts,¹⁰ Pan-Africanism has no clear-cut universally acceptable definition although a broad outline can be identified.¹¹ Pan-Africanism, which is the perceived need to mobilise Africa's peoples against racism and colonialism,¹² could mean various things. It could mean the intellectual foundation of a desire for unity of Africans in the diaspora. Or it could mean a movement aimed at African unity, a global movement intended to unite Africa and its people against European hegemony¹³ and generally liberate the people of Africa and those of African descent.¹⁴ Or it could mean an ideology or philosophical guide for African nationalism.¹⁵

With respect to specific definitions, Edward Wilmot Blyden conceived of it not as black racism to counter white arrogance and racism. He defined it as 'an opposition to any form of racial prejudice and social chauvinism and as a catalyst to a constructive solidarity among all Africans.'¹⁶ More broadly, Pan-Africanism is 'a political and cultural phenomenon that regards Africa, Africans, and African descendants abroad as a unit,¹⁷ and as a people of common destiny.'¹⁸ Pan-Africanism transcends class, race, tribe, religion,

and nation-state boundaries, and is a political expression, with the ultimate purpose of creating a United States of Africa.¹⁹

The core of the idea is that economic, social and political progress and the upliftment of the people of African descent is based on the unity of African people. As a result, the idea should offload the racial, cultural, and the quest for political unity burden it currently carries. It should be simply defined as the unity and cooperation of Africans and people of African descent for the economic, social and political progress and upliftment of the people of Africa and African descent, both on the continent and in the diaspora.

Tenets of Pan-Africanism

There are four major tenets of Pan-Africanism. The first, most pronounced and empirically pursued is the political unity of Africa. This tenet was arrived at during the Pan-African Congress of 1945.²⁰ At the 1958 All-African Peoples' Conference in Accra, it was further resolved that Pan-Africanism is a political expression, with the ultimate purpose of creating a United States of Africa.²¹ The most recent crusade to actualise Africa's political unity within the United States of Africa framework was led by Muammar Gaddafi, who abandoned Pan-Arabism for Pan-Africanism in broader terms.²²

There is an increasing resistance to the political unification project in Africa because of the desire to protect the sovereignty and interest of territorial states. What's more, Walter Rodney's explanatory offering for Pan-Africanism, where interest aggregation and articulation is the basis of African unity,²³ does not admit the desire for political integration.

The second tenet of Pan-Africanism is equality of all Africans. Whether of individuals or of states, equality of all Africans poses a problem if it is not seen only as equality of access. This is because 'inequality' and leadership are required elements in regional organisation and formation.

A third tenet is the racial unity of all Africans.²⁴ There are problems with the racial unity argument in support of Pan-Africanism. First, in contemporary times as much as in early times, Africans do/did not see themselves as one and discriminated against each other even in artistic representation.²⁵ More than that, there is evidence that 'civilised' Egypt enslaved other Africans. This reality negates the contemporary argument that Pan-Africanism necessarily involves or suggests political unity on the

basis of 'similarity' to counter the hegemonic European power structure.²⁶ Second, this perspective is a mistake. Economics rather than race is the underlying factor in the European enslavement of Africans.²⁷ Even within African nation states, ethnic or racial affiliations still undermine national integration; why should we expect a factor that has proven to be divisive to serve an integrative function?

The fourth tenet of Pan-Africanism is that of cooperation. This cannot be based on similarity of culture, language, race, or residence. If anything, we can only justify African cooperation on the basis of highly networked economic cooperation, since economics is the only specific cause that can justify African integration. By making economics the pivot of cooperation, Africans make themselves the key players of Pan-Africanism rather than the victims.²⁸

Pan-Africanism prior to Africa's independence

In the colonial period, Pan-Africanism was mainly propounded through the writings and conferences of diaspora African intellectuals. This can be divided into two phases. The first, identified as proto-Pan-Africanism, marks the beginning of the movement for unity among black people worldwide.²⁹ This first phase brought together only blacks in the new world (West Indies and North America). Its aim was to attain black unity, respect and the dignity of the black person.

The second phase, termed simply Pan-Africanism, began in 1945 when the Manchester congress adopted it as an ideology of African nationalism. The congress also resolved that political independence based on black unity was non-negotiable.³⁰ This objective clearly distinguished this phase of Pan-Africanism from the first phase, which did not consider political independence as a crucial objective but only clamoured for the participation of black people in the administration of their own affairs. This second phase can be divided into two sub-phases: the actual struggle for political independence from 1945 to 1960; and the other, from 1966 to the present, aimed at African unity.

In the pre-independence era, just as now, Pan-Africanism was expressed in many continental and diaspora organisations.³¹ Most Pan-African organisations trace their roots to Pan-African congresses. Opinion varies as to when these congresses began. Some historians³² have traced the first

Pan-African Congress to 1900 and recorded six congresses thereafter. Others³³ consider the first Pan-African Congress to have been held in 1919, and thereafter five others. If we add the two Pan-African Congresses that were held in Accra in 1958, Dar es Salaam in 1974, Kampala in 1994 and Johannesburg in 2014, we will have 10 congresses since 1900.

This is significant because the two in Accra represent the homecoming of these congresses and the effort by Africa's leading elite to own and implement the Pan-Africanist aspirations of the continent, which is where Pan-Africanism has its true essence and meaning. Interestingly, the congress of 1945 included Africans living in the diaspora, Afro-Caribbeans and Afro-Americans.

From 1947 to 1957 Pan-Africanism suffered a lot. This was mainly because individual members of the movement were preoccupied with the struggle for political independence in their countries. However, the movement was revived with the first conference of independent African states convened by Kwame Nkrumah – Accra in 1958. This conference reiterated commitment to African unity and fostering the African personality. Later in the same year, another congress was held in Accra under the chairmanship of Tom Mboya. The congress called for a United States of Africa and in accordance with its radical approach, called for the dismantling of the artificial boundaries separating various African colonies and independent states.³⁴ From this time on, Pan-Africanism mainly involved practical attempts at African unity.

Pan-Africanism in OAU debates, programmes and activities

A major practical way for achieving African unity has been through the formation of regional and sub-regional organisations. It is generally believed that the OAU was the first institutional expression of the Pan-Africanist desire for a united Africa. However, it has been argued that the search for African unity did not begin with the OAU, and that Africa has experimented with various forms of formal integration arrangements since the 1950s.³⁵ Although the relational consequences of the OAU have been described as antithetical to Pan-Africanism,³⁶ the OAU did take the idea beyond conferences and intellectual reflections and outputs on the continent.

The OAU was the result of a compromise position between three strands of Pan-Africanist thought of African unity. These were the Brazzaville, Monrovia and Casablanca groups. The gradualists were led by Julius Nyerere and included Léopold Senghor and Mboya. Nyerere's idea for African integration was a realistic regional approach that aimed ultimately to achieve a continental government³⁷ as opposed to the radical Casablanca group led by Nkrumah.³⁸ However, the Monrovia group as opposed to the Brazzaville and Casablanca groups won the contest for a moderate gradualist approach in African regional organisation. This led to the formation of the OAU based on functional cooperation and African unity pursued in a gradualist manner through negotiation and consultation.

This had implications for the implementation of the policies of the OAU to the extent that policies that were meant to foster closer-knit regional integration in Africa could not be implemented. This meant that the early move for a closer united Africa championed by the Casablanca group³⁹ was jettisoned. African unity as constructed in the OAU framework, therefore, took a gradualist approach with emphasis on cultural and intellectual development. The Casablanca group favoured political integration as a prerequisite to economic integration and a socialist path to economic development.

However, the performance of the OAU left much to be desired. The organisation was subject to imperialist manipulation and sometimes was not able to hold its annual meetings of heads of state. The OAU also had to contend with the loyalty of regional blocs and organisations such as the Organisation of Islamic Cooperation, the Arab League, and the French factor in inter-African relations.

The organisation suffered from numerous conflicts within and between member nations, such as the Biafra war in Nigeria, Tanzania-Uganda war from 1978-79 and the Ethiopia-Eritrea border dispute from 1998-2000, in which its member states took sides. The organisation's performance was also affected by inadequate funds as members failed to pay their dues promptly. Another problem for the organisation was leadership, which was clearly expressed in governance challenges all over the continent and even in the organisation itself. This was compounded by Africa's endemic economic crisis.

Because of these problems facing the OAU, Pan-Africanism did not achieve much in unifying Africa. Most African countries rather focused on dealing with the challenges of development and economic management than the ambitious project of African unity. Although anti-apartheid and anti-colonial struggles in Southern Africa continued to be a rallying point for OAU activities, the tempo of Pan-Africanism was lacklustre on the continent.

Pan-Africanism and the AU

Role of Pan-Africanist ideas in the emergence of the AU

The AU is the institutional manifestation of the desire for closer integration in Africa and continental appreciation of the above challenges associated with the OAU era. As Olusegun Obasanjo points out, the AU 'is the final goal of African unity that leaders have been pursuing for more than forty years.⁴⁰ As the founders mentioned in the Constitutive Act of the African Union (CAAU), a closer-knit AU was inspired by the ideals of Pan-Africanism.⁴¹ The search for continental integration began with the OAU in 1963 and was taken a step further in the 1991 Abuja Treaty, which laid the foundation for the African Economic Community and served as a bridge that established the AU.

The object of African unity and integration has featured in all phases of Pan-Africanism with Gaddafi, Thabo Mbeki and Yoweri Museveni as its great champions.⁴² The indefatigable Gaddafi, who abandoned Pan-Arabism for Pan-Africanism in broader terms,⁴³ was particularly remarkable in driving the transformation of the OAU into the AU. Prior, Nyerere and Nkrumah had championed the idea in the 1950s and 1960s, though they differed in method.⁴⁴

Nkrumah's idea of Pan-Africanism derived from a continental perspective whereas Nyerere approached the idea from the position of territorial nationalism.⁴⁵ Nkrumah's radicalism did not sit well with the gradualists,⁴⁶ as his perspective considers the colonially created national boundaries a threat to African integration and unity.⁴⁷ However, the Pan-Africanist ideal can achieve fullest realisation when 'national self-interest and continent-wide unity come together.'⁴⁸

The transformation of the OAU into the AU is a clear institutional manifestation of the quest for greater unity in Africa.⁴⁹ Pan-Africanism,

which is the perceived need to mobilise peoples of Africa against racism and colonialism,⁵⁰ is the philosophy behind the current effort to achieve political unity in Africa through the instrumentality of the AU. In this way, Pan-Africanism has, in the 21st century, transformed into a mobilising ideology and a development blueprint. Pan-Africanism, as the directional philosophy of the AU, is identified in the preamble of the CAAU as ‘the noble ideal which guided the founding fathers of our Continental Organization and generations of Pan-Africanists in their determination to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States.’

Pan-Africanism in the AU’s activities, institutions and programmes

As an organisation that is inspired by the philosophy and idea of Pan-Africanism, the AU has rolled out several activities, institutions and programmes that are themselves formed and driven by the philosophy of Pan-Africanism. Such activities include the African Continental Free Trade Area (AfCFTA) and Agenda 2063.

African Continental Free Trade Area

The AfCFTA is one of the most recent mechanisms of Pan-Africanism to achieve integration and development in Africa. Its formative framework was designed when the Southern African Development Community, the Common Market for Eastern and Southern Africa, and the East African Community engaged in a tripartite process to form a free trade area from Cape to Cairo.⁵¹

It was formed to fast-track the Action Plan for Boosting Intra-African Trade, integrate Africa’s markets and strengthen economic relations among African states. It was also formed to create a continental market with the free movement of people, capital, goods and services to meet the aspirations of Agenda 2063. And it was to establish clear, transparent, predictable and mutually advantageous rules to govern trade in goods and services.⁵²

To achieve these purposes, AU member states are expected to progressively eliminate tariffs and non-tariff barriers to trade in goods, and

liberalise trade in services. They are to cooperate on investment, intellectual property rights and competition policy, and all trade-related areas, customs matters and the implementation of trade facilitation measures. They are expected to establish a mechanism for the settlement of disputes concerning their rights and obligations, and establish and maintain an institutional framework for the implementation and administration of the AfCFTA.⁵³ The AfCFTA is driven by AU member states and administered by the Assembly, the Council of Ministers, the Committee of Senior Trade Officials, and the AU Commission.

Lofty as the ideals of the AfCFTA are, many states are still protective of their national interests despite the fact that 80% of the 54 member states who have signed the agreement have deposited their instrument of ratification so far.⁵⁴

Agenda 2063

Agenda 2063 represents one of the most ambitious attempts to craft a development blueprint and master plan for Africa. It is intended to transform Africa into the global powerhouse of the future. It is the continent's strategic framework that aims to deliver on its goal for inclusive and sustainable development. It is a concrete manifestation of the Pan-African drive for unity, self-determination, freedom, progress and collective prosperity pursued under Pan-Africanism and the African Renaissance.

Agenda 2063 originated from African leaders' realisation of the need to refocus and reprioritise Africa's agenda from the struggle against apartheid and the attainment of political independence for the continent. This had been the focus of the OAU. Africa's leaders wanted instead to prioritise inclusive social and economic development, continental and regional integration, democratic governance and peace and security, among other issues, to reposition Africa to become a dominant player in the global arena.⁵⁵

African leaders committed to the goals and ideals of Agenda 2063 at the Golden Jubilee celebrations of the formation of the OAU/AU in May 2013. The declaration was the rededication of Africa towards the attainment of the Pan-African vision of an integrated, prosperous and peaceful Africa, driven by its own citizens, representing a dynamic force in the international arena. Agenda 2063 is the concrete programme of how the continent

intends to achieve this vision in 50 years from 2013 to 2063. It represents the vision of a desired future for Africa that includes not only aspirations but also flagship programmes that can boost Africa's economic growth and development and lead to the rapid transformation of the continent.

So far, there are challenges to the implementation of the desired goals for the first 10 years. While efforts are being made to achieve inclusive sustainable growth and development, economic challenges persist (see Chapter 10), democracy has come under new threats (see Chapter 7), conflicts have remained endemic (see Chapter 5), the global relevance of Africa is unsettled and there is still a long road to the continent's political unity.

Hindrances to the promotion of Pan-Africanist ideals

There are internal and external factors that have hindered the AU from effectively promoting and implementing Pan-Africanist ideas and programmes over the past two decades. A major challenge in this regard is the tripartite ideological divide⁵⁶ that pervaded Africa in the OAU's formative years. This ideological divide has continued to hamper the implementation of Pan-Africanist ideas on the continent as exemplified by the role it played in the lack of consensus in the 2007 call for the formation of the United States of Africa. Granted that this is a historical Pan-African aspiration,⁵⁷ this lack of consensus was indicative of the age-long divide between the 'radicals' and 'gradualists' (see discussions of this from a leadership perspective in chapter 19). There is also the problem of the originality of the ideas even of the AU itself.⁵⁸

Another major challenge to the AU's implementation of Pan-Africanist ideas is the principle of territorial and national sovereignty that has rigidified the post-colonial days. The challenge is that states do not want to submit their sovereignty to other states or a higher continental body for that matter.⁵⁹ There is also the issue of the diversity of views on the ways and method of achieving African unity as exemplified by the Nkrumah-Nyerere division. Also, there is the problem of the lack of consensus on who is an African.

The different races that make up the people of Africa, like Arab, white and black, are yet to see themselves as one and to work towards a united Africa. Another challenge is the diversity in the history and experiences of African states.⁶⁰ Diversities in social, political, cultural and economic senses

make it difficult, if not impossible, to have a similar world view, and this has hampered efforts at Pan-African unity. And there is the problem of ethnic wars and internal conflicts in many African states. Also important is the challenge around democracy and ‘sit-tight’ leaders who would prefer to lead their countries than be under a continental government.

Regardless of how weak their states are, these leaders exude the principle of equality, which in turn undermines the quest for African unity and integration. Contemporary reality challenges these assumptions, necessitating the need for reconstruction of the ideological orientation guiding the efforts to unify and integrate Africa. This reconstruction must consider the neo-colonialism and globalisation that have kept most African nations tied to the apron strings of their former colonial masters and made it difficult for Africa to integrate further into a united continent. Finally, the AU and regional economic communities must fully embrace Pan-Africanism as their principal and guiding ideology for building a peaceful, integrated and self-reliant continent.

Future of the AU

Overcoming constraints to Pan-Africanist ideas

Fundamental to addressing the above challenges is reconceptualising Pan-Africanism and related notions. This mainly relates to the idea that all Africans, and states, are equal. Inequality is a fact of life and Pan-Africanism should incorporate this reality into its thought system. Another aspect of Pan-Africanism that needs redefinition is the notion that African unity necessarily leads to political unity. This is one major element that hampers the success of Pan-Africanist ideas in Africa. Africa will do well to reset this goal.

Undoubtedly, if Pan-Africanism is to successfully navigate the challenges of the contemporary world,⁶¹ it must be redefined. Both as a response to global phenomena like globalisation and imperialism, and as a ‘software’ that inspires collective action, informs identification of Africa’s needs and problems, generates solutions and implements them.

The mantra of ‘African solutions to African problems’ has Pan-Africanist roots and is aptly reflected in Nkrumah’s ‘African personification’ and Mbeki’s ‘African Renaissance’. It gave the AU founders a ‘common vision of

a united and strong Africa' by forming an organisation that would 'achieve greater unity and solidarity between the African countries and the peoples of Africa.'

The future of AU mechanisms, programmes and institutions will, to a large extent, depend on how Pan-Africanism is embraced and applied in their operations and implementation. If they are fully grounded in the Pan-Africanist spirit, then they will not be vulnerable to dependence and domination by external partners. The AU's overreliance on external partners to support the implementation of initiatives such as 'Silencing the Guns in Africa by 2020' undermines the mantra of 'African solutions to African problems' and the ideals of Pan-Africanism.

Future constraints to Pan-Africanist ideals

A likely future constraint to the implementation of Pan-Africanist ideas and programmes in Africa is the nature of leadership.⁶² The first aspect of the question of leadership has to do with the absence of champions of the Pan-Africanist idea. This is traceable to the increasing discomfort that African leaders have had with surrendering their sovereignty to a continental union or government.

To make Pan-Africanism attractive, therefore, the question of the territorial nation state in Africa will have to be addressed. Pan-Africanists must reconsider their stands on colonially created national boundaries in Africa, by conceptualising and transforming them from barriers to bridges of continental integration. Secondly, Pan-Africanism should emphasise the norms that engender better governance of African states, inculcation of values that forge an African persona, and build institutions that serve the people.

A second important aspect on the issue of leadership is that there has not emerged a trustworthy lead nation that can drive the process of integration and unity in Africa. As has been pointed out,⁶³ regional integration is only possible under the direction of lead states. A major problem with the absence of leaders in Africa is that African states are not willing to cede the initiative to a lead nation on the continent, but are willing to accept the lead and direction of foreign states and ideas.⁶⁴ This further exposes Africa to exploitation by foreign powers.

African leaders therefore need to be willing to accept the lead of an 'African superpower', and to make allowance for this African superpower to

build its interest into its leadership efforts. This does not necessarily have to be counterproductive to the general interest of Africa, but it is a necessary condition for a lead nation to maintain its place.

Perhaps one reason that Nigeria withdrew from its leadership role in Africa is that it did most of it gratuitously without building into the process a mechanism for guaranteeing its leadership position. This will necessarily challenge the equality assumption of Pan-Africanist thought; maybe not completely remove it but at least moderate it. Power is not given, so a lead nation would have to emerge on the continent to provide leadership and direction on African integration and unity.

Historically, Nigeria was expected to play this role and did so on several occasions. However, with the human and material resources available to it, Nigeria has not done enough to assume the position of a leader on the continent. Nigeria and any other country wanting to step into the leadership space must be able to resolve its internal problems to fully assume this mantle in Africa. But that a leader is required to emerge in Africa to give Pan-Africanism its contemporary relevance is not in doubt. The contemporary relevance of Pan-Africanism is a given because it is part of the panacea for the underdevelopment and security challenges Africa grapples with.⁶⁵

An African development option, African Renaissance and African rebirth⁶⁶ have also been advocated. African leaders themselves need to take responsibility rather than blame it all on foreign domination.⁶⁷ Pan-Africanism was supposed to provide a common ground to address the continent's myriad challenges. It was meant to guide the identification of problems faced by Africa and its people, to provide a paradigm for understanding these problems and generating knowledge to solve them.

The consequences of the weakening of the Pan-Africanist spirit over the past 20 years is that Africa seems to have lost steam and direction in championing and defending its interest, and left the continent open to foreign exploitation and possible recolonisation. Certainly, the AU cannot achieve its set goals, particularly Agenda 2063, in the next 40 years with low or diminished Pan-Africanism.

The need to rethink the elements of Pan-Africanism has already been noted. The process of rethinking, however, must revolve around issues of economic interest and political power rather than a common heritage, as

the moving force of interstate relations in Africa. This is the precipitate of a Cold War that is brewing in Africa.

In the context of the prevailing relationship in Africa, which we may term the 'Cold War in Africa', individual national interests have become paramount to multilateral or bloc interest and the focus is on achieving leadership roles among states in Africa. This is consistent with the position that leadership is critical to regional alliance or group formation.⁶⁸ There are two dimensions of this war. The first is the result of the participation of African countries in the global Cold War. This has two phases. The first is the United States (US)-Soviet Union ideological Cold War⁶⁹ and the second is the US-China economic bipolar world order.⁷⁰

The concern is that such dynamics leave African nations vulnerable to coercion, conflict and the loss of economic opportunity.⁷¹ The ideological Cold War of the 1960s and 70s created broad divisions across Africa, fuelled conflicts, and reduced opportunities for trade and collaboration. The era witnessed a high level of foreign interventions by the major powers in support of their ideological allies, as well as proxy wars in places like Angola, Mozambique and the Horn. The height of it was the assassination of Congolese leader Patrice Lumumba by foreign security agents.⁷² This limited Africa's geo-economic options abroad and had implications for African integration and unity, and deepened divisions by allowing African leaders to pursue strategic self-interest. A development that still has effects in present-day Africa.⁷³

Indeed, most of the economic and development strides in Africa's independence era have been by individual countries.⁷⁴ Despite opportunities for Pan-Africanist coordination and integration provided by such global challenges as COVID-19, the pursuit of individual state interests rather than Africa's has limited collective efforts as envisioned in Article 3(d) of the CAAU.⁷⁵ This gives credence to the primacy of individual state interest and power politics over multilateral responses to bipolarism.

The second dimension of the Cold War in Africa is in terms of the ambition of individual states to lead in Africa. This ambition has become apparent with the abandonment of the commitment to protect mutual interest and welfare. The presence of foreigners, including military, in African host nations is in contravention of the letter and spirit of Pan-Africanism.⁷⁶ This is a poleaxing of the spirit of Pan-Africanism that requires

African states to stand with each other and to treat Africans from other countries as if they are their own citizens.⁷⁷ In view of this, Pan-Africanism needs refocusing to guide the continent in meeting persistent and emerging challenges. National interest needs to be aligned with continental interest for Pan-Africanism to make the desired impact.

Enhancing Agenda 2063 Pan-Africanist ideals

Agenda 2063 is the most ambitious of the development blueprints for Africa and deserves to be supported by all of Africa's resources. However, Pan-Africanism as the framework ideology for this agenda can only be useful if it is reformulated, as this chapter espouses. The desire for Africa's political integration has always met with challenges, even now, as an objective of the first 10 years of Agenda 2063. The agenda has done well to recognise that it must be driven by African states. However states must not do so as independent and separate, but as nations collaborating to achieve a politically integrated United States of Africa. Pan-Africanism must be fully embraced, and reformulated as a key tool for forging African unity and overcoming historical and contemporary challenges, to fully attain a united and prosperous continent.

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Chapter 3

Development of AU law and legal norms

Tiyanjana Maluwa

Introduction

The African Union (AU), like its predecessor the Organisation of African Unity (OAU), has given its members a forum through which they can collectively adopt policies and positions on a wide variety of issues. Some of these policies and positions are couched in resolutions, communiqués, declarations and decisions that have been adopted by the organisation at various levels. Others are enshrined in treaties concluded by its member states under the auspices of the organisation.

These sets of instruments as well as recommendations or guidelines of the AU's judicial and quasi-judicial bodies, respectively, provide the foundation for AU law and contribute to its development.

However, it is important to note that the AU is essentially an intergovernmental organisation that hasn't been purposefully endowed with powers to adopt decisions with binding 'legislative effect' on its members. In this respect it is unlike the European Union (EU). The EU possesses supranational authority to make or adopt legislation and decisions that directly bind the member states and supersede national legislation, where relevant, in the organisation's areas of competence.

As will be argued in this chapter, the AU's lack of supranational powers impacts its ability to develop its own legal order separate from that of member states. It also affects the nature and trajectory of the emergent AU law. The concept of AU law has generated some interest and become a subject of scholarly inquiry in recent years. Over the past decade, a modest body of literature has explored the emergence of AU law (and African 'Community Law') as an autonomous legal order, analogous to EU law or, previously, European Community Law.

An overarching objective of these discussions has been to analyse the AU's role in regional law-making and assess the impact of this emerging legal order both in the international context and on the domestic laws of states in various areas.¹ A common thread running through them is the recognition that just as European integration and the development of EU law have been parallel processes, the development of AU law is linked to the process of African integration.

The identification of AU law thus requires an understanding of the twin projects that Africa has set itself over the past six decades: the consolidation of political unity and the deepening of the economic integration of the continent. The project for political unity began with the emergence of the OAU in 1963. The economic integration project followed later, with the adoption of the Treaty Establishing the African Economic Community (AEC Treaty) in 1991.² In terms of Articles 98 and 99 of this treaty, the AEC was established as an integral part of the OAU, and the AEC Treaty and its Protocols were integral to the OAU Charter.

The OAU and AEC shared a common membership, related objectives, and institutional structures. Given that the AEC has been subsumed into the AU, the latter's efforts to spearhead intra-African trade and integration are thus a continuation of the process initiated by the AEC Treaty and not a novel undertaking.

This chapter examines the development of AU law and legal norms. The discussion focuses on two interrelated issues: the conceptualisation and sources of AU law, and the role of the AU policy organs in its development. The discussion identifies some of the gaps in the AEC Treaty and the Constitutive Act of the African Union (CAAU) that impede the full development of a regime of AU law.

The chapter concludes that since its establishment, the AU has shifted the focus away from the AEC, practically rendering the AEC Treaty desuetude and irrelevant for the future development of AU law. It also argues that the development of AU law requires the continental body to be entrusted with some supranational powers, like the EU, to enable it to make legally binding decisions and legislation central to Africa's integration agenda. By the nature of the continent's political environment, however, there is no indication that this could happen soon. For this to happen, the chapter recommends necessary amendments to the CAAU and relevant AU instruments.

AU law: definition, conceptual issues and sources

What is AU law? What are its sources? And what are the institutional mechanisms and structures for its enforcement? And to what extent, if at all, does EU law offer a comparative framework to draw from? This last question is relevant in view of the role that EU law plays in the construction and functioning of the EU and the claim that, as a project for political and economic integration, the AU has in some ways been modelled on the EU.

Femi Amao rightly describes AU law as a novel concept '[broadly] defined as the body of treaties, resolutions, decisions, and declarations that have direct and indirect application to the member states of the African Union.'³ Amao sees the concept as potentially the key driver to delivering the AU's integration agenda and addressing other problems, in addition to engendering new norms in various areas that constitute the emerging AU law. These include norms on unconstitutional changes of government, non-indifference, and human rights and democracy.⁴

Michèle Olivier does not directly define AU law. Instead, she focuses on the sources and, less comprehensively, the role of AU law in underpinning African economic integration. The most recent manifestation of this role is the entry into force of the African Continental Free Trade Area Agreement (AfCFTA Agreement).⁵

Olivier identifies three categories of sources of AU law. Primary sources comprise 'constitutional' instruments, namely the CAAU and others. She identifies these as the AEC Treaty, Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament (Protocol on the Pan-African Parliament),⁶ Protocol Relating to the Establishment of the Peace and Security Council of the African Union (Protocol on the PSC),⁷ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (Protocol on Human and Peoples' Rights Court),⁸ and Statutes of the Economic, Social and Cultural Council.⁹ Secondary sources include binding decisions, policies and recommendations of the AU. Tertiary sources are treaties adopted under the auspices of the AU, other than the constitutional instruments, and soft law instruments as additional possible sources.¹⁰

This chapter generally agrees with Olivier’s three-tier classification, but categorises them differently, as follows. The first principal source is the CAAU, certain OAU/AU foundational treaties, and other law-making or norm-creating treaties in force.¹¹ Second, decisions, regulations and directives of the AU Assembly and Executive Council. Third, judicial decisions of the African Court on Human and Peoples’ Rights.¹² Fourth, soft law instruments as potentially a subsidiary source (see Table 3.1). Subsequent sections discuss these four categories in detail.

Table 3.1: Sources and foundations of AU law

First	Second	Third	Fourth (Potential/ Additional)
Foundational treaties	Binding decisions adopted by AU Assembly and Executive Council	Judicial decisions	Non-binding soft law instruments adopted by competent organs (including quasi-judicial bodies)
Constitutive Act Treaties establishing AU institutions or organs Norm-creating AU treaties binding on states parties in various areas, e.g. human rights, refugees, terrorism, corruption, governance, environment, defence and security	Decisions adopted by Assembly under Articles 9 and 23, Constitutive Act Decisions adopted by Assembly under Article 10, AEC Treaty Regulations and directives adopted under Rules 34 and 35, Rules of Procedure of the Assembly Regulations and directives adopted under Rules 34 and 35, Rules of Procedure of the Executive Council	Decisions of the African Court on Human and Peoples’ Rights	Declarations and recommendations adopted by Assembly Declarations and recommendations adopted by Executive Council Quasi-judicial decisions, recommendations, declarations and guidelines of the African Commission on Human and Peoples’ Rights and the African Committee of Experts on the Rights and Welfare of the Child Declarations and guidelines adopted by AU mechanisms or standard-setting conferences

OAU/AU foundational and other treaties

Four general explanatory observations can be made at the outset of the discussion in this section. First, the term ‘AU treaties’ is used in this chapter to represent both the treaties that were adopted under the auspices of the OAU and those adopted under the AU. Sometimes the terms ‘AU treaties’ and ‘OAU/AU treaties’ are therefore used interchangeably.

Second, in discussing possible sources of AU law, some commentators have not drawn a distinction between ‘treaties in force’ and ‘treaties not in force’.¹³ This chapter draws this distinction because until a treaty enters into force, one can only speculate about its relevance for and impact on the evolving AU law. Experience with OAU/AU treaties has shown that the time span between the adoption of a treaty and its entry into force can vary from as little as one year (CAAU)¹⁴ to 38 years (the Constitution of the Association of African Trade Promotion Organizations).¹⁵ Moreover, some treaties have not yet entered into force decades after their adoption and may never enter into force at all, e.g. the Phyto-Sanitary Convention for Africa (1967) and the Inter-African Convention Establishing an African Technical Cooperation Programme (1975).

Third, under both the OAU and AU, the member states have negotiated and concluded treaties covering a wide range of areas. These treaties bind only the states that are parties to them, and most AU member states are parties only to some of these treaties. In addition, the rate at which they have ratified the treaties has varied considerably.¹⁶ These variations have created uncertainty regarding the development of the AU legal system.¹⁷

Finally, not all these treaties can be regarded as law-making, and thus as sources of AU law. Indeed, most of the treaties and instruments adopted under the auspices of the AU since 2009 relate to the establishment of AU bodies and related agencies or govern matters that have nothing to do with law-creation processes.¹⁸

Although the AU does not classify its treaties, for the purposes of this discussion they are divided into three broad categories. The first comprises ‘foundational’ treaties. These are treaties establishing the AU and various organs or institutions that form the ‘AU system’, some of which Olivier describes as ‘constitutional’ instruments.

In the second category are treaties creating certain norms, which can therefore be described as strictly law-making treaties. The most obvious

examples are human rights treaties. But there are others establishing binding legal norms for states parties in other areas. The third category involves those treaties and instruments establishing various bodies and entities that are not part of the institutional structures of the AU or governing matters wholly unrelated to law-creation.

The next section enumerates only the treaties in force belonging to the first two categories. In view of the limited objectives of this chapter and space constraints, the substantive contents of each of these treaties or the norms they establish are not discussed. The first category includes, in order of adoption:

- The AEC Treaty (1991)
- Protocol on Human and Peoples' Rights Court (1998)
- CAAU (2000)
- Protocol on the Pan-African Parliament (2001)
- Protocol on the PSC (2002)
- Protocol of the Court of Justice of the African Union (2003).

In this respect, it is important to note several instruments adopted under the auspices of the OAU creating certain legal entities at the continental level. These treaties do not, however, occupy the same space or hold the same constitutional significance as the foundational instruments mentioned above. Among these are the:

- African Civil Aviation Commission Constitution (1969)
- Constitution of the Association of African Trade Promotion Organizations (1974)
- Convention for the Establishment of the African Centre for Fertilizer Development (1985)
- Convention of the African Energy Commission (2001).

The second category consists of treaties establishing substantive norms. These can be divided into two sub-categories. In the first group are treaties dealing with human rights issues, including refugees and internally displaced people. In chronological order:

- OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention) (1969)
- African Charter on Human and Peoples' Rights (African Charter) (1981)

- African Charter on the Rights and Welfare of the Child (Charter on Rights and Welfare of the Child) (1990)
- Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) (2003)
- African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) (2009).

The second sub-category consists of treaties creating norms in areas other than human rights. The following treaties are in force in these areas:

- Economic and technical cooperation: AEC Treaty and AfCFTA Agreement
- Privileges and immunities: General Convention on the Privileges and Immunities of the Organization of African Unity (1965)
- Environmental protection: African Convention on the Conservation of Nature and Natural Resources (1968), Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa (1991), African Nuclear-Weapon-Free Zone Treaty (1996), Revised African Convention on the Conservation of Nature and Natural Resources (2017)
- International security and crimes: OAU Convention for the Elimination of Mercenarism in Africa (1977), OAU Convention on the Prevention and Combating of Terrorism (1999), AU Convention on Preventing and Combating Corruption (2003), Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004), AU Non-Aggression and Common Defence Pact (2005)
- Democracy and good governance: African Charter on Democracy, Elections and Governance (2007) and African Charter on Values and Principles of Public Service Administration (2011).

All the remaining AU treaties belong to the third category: the non-law-making instruments. An obvious point to reiterate about all these treaties, irrespective of category, is that they establish binding legal norms only for those states that have ratified them in accordance with their domestic constitutional procedures.

This author has elsewhere discussed the law, policy and practice regarding ratification of OAU/AU treaties by member states,¹⁹ and examined

the substantive contents of some OAU/AU law-making treaties to evaluate the contribution of African states to the development of international law.²⁰ These arguments, however, apply equally to the role of these treaties as sources of the emergent regional African law. Two types of norms emerge from these treaties.

The first type comprises norms that are original and distinct from existing universal international law norms. These are rules and principles developed by African states through multilateral treaties aimed at regulating relations between them within their regional framework.

Included here are treaties that enunciate rules not yet codified into binding international law at the global level through universally binding treaties or as customary rules. Yet the normative innovations in these treaties hold great potential for influencing future developments in international law globally and AU law regionally. The best example is the Kampala Convention, which is the only international treaty of its kind in the world.²¹ Even more illustrative examples of such normative innovations are two older instruments.

First, the OAU Refugee Convention broadened the definition of refugees beyond that established in the 1951 United Nations (UN) Convention relating to the Status of Refugees. This broadened definition has been subsequently adopted in another regional instrument,²² and practice of the UN High Commissioner for Refugees. Second, the African Charter introduced into the lexicon of international human rights the concept of ‘peoples’ rights’, and new ‘third generation’ rights: right to development, right to a satisfactory environment, and right to peace.²³ The most recent of these normative innovations is the incorporation of the right of intervention in Article 4(h) of the CAAU.²⁴

The second type consists of norms established in some OAU/AU treaties with the objective of supplementing established international legal norms contained in existing international treaties and enriching them by expanding their scope of application or elaborating rights and obligations for African states within the same field of regulation.

These treaties complement relevant UN treaties by adding rules and principles that address specific areas of concern and interest to African states and are applicable only in their interrelationships. A major example is the OAU Refugee Convention. In addition to broadening the refugee

definition, it introduced novel aspects to the concepts of the individual right to asylum, the principle of non-refoulement, and burden-sharing, temporary protection and voluntary repatriation.

Another example is the Charter on the Rights and Welfare of the Child, which supplements the 1989 UN Convention on the Rights of the Child. Many commentators have suggested that the adoption of the former was driven by the need to plug perceived gaps and to address certain peculiarly African problems that had not been addressed by the UN instrument.

These concerns include the situation of children living under apartheid; disadvantages facing the African girl child; African conceptions of the community's responsibilities and duties; role of the extended family in the upbringing of children; child soldiers; and the situation of child refugees and internally displaced children resulting from internal armed conflicts.²⁵

Decisions of the AU Assembly and Executive Council

To appreciate the role of the decisions of the Assembly and Executive Council as sources of AU law, it is necessary first to briefly discuss the institutional structure of the AU and the powers of the Assembly as they relate to institutional law-making. Article 5(1) of the CAAU has established nine principal organs (or categories of organs in the case of the Specialised Technical Committees and Financial Institutions):

- Assembly
- Executive Council
- Pan-African Parliament
- Court of Justice
- Commission
- Permanent Representatives Committee
- Specialised Technical Committees
- Economic, Social and Cultural Council (ECOSOCC)
- Financial Institutions

Article 14 has established seven Specialised Technical Committees, which can be restricted or expanded, while Article 19 has established three Financial Institutions: African Central Bank, African Monetary Fund, and African Investment Bank. The PSC was added to the institutional make-up of the AU with the adoption of the Protocol on the PSC in 2002, as provided in Article 7(1).

The Assembly, composed of heads of state and government or their designated representatives, is the supreme organ of the AU. One of its cardinal functions is to discuss matters of common concern to Africa with a view to coordinating and harmonising the general policy of the organisation.

As such, the Assembly is vested with the authority to adopt decisions for the general good of the member states. It also monitors the implementation of the organisation's policies and decisions and ensures that member states comply with them.²⁶ The Executive Council, second in the institutional hierarchy, is composed of foreign ministers or other designated ministers. It is common to refer to the Assembly and Executive Council as the main policy organs of the AU. But in terms of Article 13(2) of the CAAU, the Executive Council is responsible to the Assembly and its decisions do not become AU policies until formally adopted by the latter.

The CAAU does not explicitly provide for the legal status of the decisions of both the Assembly and the Executive Council, nor does it spell out which types of decisions are binding on the member states. This is arguably one of the notable omissions in the organisation's foundational instrument. Despite this, one can make a plausible argument for the binding nature of some decisions. Under Article 23(2), the Assembly has the power to impose unspecified sanctions on member states that fail to comply with the organisation's policies and decisions. The logical interpretation of this provision is that the Assembly's policies and decisions are legally binding on member states.

The provision can also be interpreted as placing non-compliance with policies and decisions on an equal footing, and that both are legally enforceable. The difficulty here is that while policies are intended to provide guidance to member states, and may have the status of soft law, they are not normally binding, unless couched in specific decisions.

Under the OAU, the Assembly and Council of Ministers adopted just over 2 000 resolutions during the organisation's 37-year existence. In just under two decades, the AU Assembly and Executive Council have between them adopted almost 2 000 decisions (812 and 1 125, respectively, as of December 2021). The normative value of these decisions may be debatable because of the silence of CAAU on their legal status, and the fact that they are not all of the same tenor. This was also the case under the OAU Charter.

Nevertheless, some OAU and AU Assembly resolutions have had a binding legislative effect on the member states and contributed to the development of African regional international law. These include resolutions on respect for the sanctity of boundaries, prohibition of secession, right of self-determination and prohibitions of apartheid and racial discrimination.²⁷ One commentator has characterised some of these as African *jus cogens*.²⁸

Unusually for an intergovernmental organisation established by a binding treaty, the AU has sought to cure the gaps in the CAAU through procedural mechanisms. First, Rule 34 of the Rules of Procedure of the AU Assembly provides that its 'Regulations' are applicable in all member states which shall take all necessary measures to implement them; and that 'Directives' are addressed to all member states, undertakings or individuals, and bind member states to the objectives to be achieved, while leaving national authorities with the power to determine the form and means of their implementation.

The Assembly may also issue 'Recommendations' and 'Declarations' to guide and harmonise the viewpoints of member states. 'Regulations' and 'Directives' under Rule 34(1) have, in regional integration law terminology, 'direct applicability' in the territories of member states. And under Rule 35, they shall:

- Be automatically enforceable 30 days after their publication in the 'Official Journal of the African Union'
- Be binding on member states, AU organs and RECs (regional economic communities)
- Attract sanctions in accordance with Articles 23 and 30 of the CAAU in the event of non-compliance

Secondly, Rule 34 of the Rules of Procedure of the Executive Council mirrors Rule 34 of the Rules of Procedure of the Assembly. Similarly, Rule 35 is a verbatim replication of Rule 35 of the Rules of Procedure of the Assembly, except that the Executive Council cannot impose sanctions for non-compliance without the Assembly's approval.

The concept of 'automatic enforceability' appears in Articles 10 and 13 of the AEC Treaty, whose provisions have been transplanted into Rule 35 of the Rules of Procedure of both the Assembly and Executive Council with appropriate changes.

Is there a conceptual muddle here? Provisions in an organisation's rules of procedure do not have the same normative force as provisions in a treaty. It would have been a different matter were these provisions incorporated in the CAAU, which would require amending the founding treaty. In fact, there is no clarity under the AEC Treaty either on what this means. For example, what are the implications of imposing such binding obligations on AU organs and RECs through these procedural rules? What is the rationale behind these provisions and who is responsible for their enforcement?

Another issue that remains unaddressed in the AEC Treaty or in the Rules of Procedure relates to whether the concept of 'automatic enforceability' means 'direct applicability' of the decisions and regulations. In this case, is there a need for enactment of national legislation for their implementation? Or direct effectiveness, which would suggest that the decisions or regulations create rights that individuals can invoke directly in national courts. The concept was probably used by the drafters of the AEC Treaty to achieve the two ends of direct effect and direct applicability.²⁹

There is no doubt that the incorporation of provisions on decisions, regulations, directives and recommendations in Articles 10 and 13 in the AEC Treaty was inspired by Article 249 of the Treaty establishing the European Community, which is now Article 288 of the Treaty on European Union. This provision differentiates between binding and non-binding legal acts.

There are three types of binding legal acts under EU law: regulations, directives and decisions, and two types of non-binding legal acts: recommendations and opinions. A regulation is a legal act that has general application, is binding and is directly applicable in all EU member states. A directive is a community legal act that requires each member state to which it is addressed to achieve certain aims but leaves to the national authorities the choice of form, procedure and instrument of implementation. They must adopt national legislation that conforms to the directive by a specified deadline.

OAU member states imported these EU concepts and the terminology into the AEC Treaty expecting that the AEC would, in time, follow the trajectory of the European Community. Because, pursuant to Articles 98 and 99 of the AEC Treaty, the AEC was integral to the OAU and the two entities shared the same institutions, the OAU Assembly and Council of

Ministers were supposed to sit in special session as the AEC Assembly and Council of Ministers when considering the economic integration agenda. In reality, the AEC Assembly and Council of Ministers were convened as such only on a few occasions between June 1997 and July 2001.³⁰ Moreover, there is no evidence that the regulations and directives adopted were implemented in terms of the AEC Treaty.

Judicial decisions and quasi-legislation

The judicial decisions relevant for the development of AU law are primarily those of the African Court on Human and Peoples' Rights, the only Pan-African court currently in operation. These decisions are limited to human rights jurisprudence.

Decisions of the integrated African Court of Justice and Human Rights, which is yet to materialise, will have an expanded human rights and general jurisdiction. However, the quasi-judicial decisions of the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child are also relevant as part of a broader category of judicial decisions.

Recommendations, resolutions, and guidelines adopted by these quasi-judicial bodies also form non-binding soft law, which is nevertheless valuable as a potential or additional source of AU law. The substantive issues relating to human rights norms and practice are the subject of another chapter in this volume and are therefore not discussed in further detail here. Similarly, the issue of the interpretation by these bodies on the extent of compliance of states with the relevant human rights treaties is not addressed.

The Pan-African Parliament is the AU's legislative organ. Established in 2001, it was originally envisaged under the AEC Treaty (hence, its establishment under a protocol to that treaty). It comprises five parliamentary representatives from each AU member state elected or designated by national parliaments. Thus, unlike the European Parliament, it is not a directly elected body. Furthermore, unlike the European Parliament, the Pan-African Parliament currently has no power to pass binding legislation.³¹

Although the Protocol to the CAAU relating to the Pan-African Parliament, among others, designates it as the legislative organ of the AU,

its power is limited to proposing and submitting draft model laws for consideration and approval by the Assembly.³² The Pan-African Parliament has so far played no role in forging AU law and legal order. It could, however, potentially play an indirect role through the adoption of soft law instruments (in its advisory and consultative capacities) or when it is finally able to prepare model laws, as quasi-legislation, to serve as guidelines to member states.

Soft law instruments as potential/additional sources

Various soft law instruments (declarations, guidelines and principles) have been adopted by the AU Assembly, special ministerial conferences, and the African Commission on Human and Peoples' Rights. While non-binding, these instruments may be relevant for norm-creation and support the interpretation and application of AU decisions and policies by relevant bodies. Are they additional or potential sources?

Olivier specifically lists a number of soft law instruments that she suggests might be binding.³³ She does not back up the argument with specific examples demonstrating how, in practice, some or all of the listed soft law instruments have been recognised as binding by states and/or judicial institutions. She simply follows the position of some commentators in listing certain human rights soft law instruments as possible sources in the African human rights system.³⁴

Yet even for those who accept, as this chapter does, that some soft law instruments may have normative value, it is necessary to pay attention to, and differentiate between, their relative weight, depending on their provenance and the body that adopted them.

For example, the illustrative instruments that Olivier and other commentators give include:

- Soft law instruments adopted as resolutions, declarations or guidelines by the AU Assembly (Solemn Declaration on Gender Equality in Africa, 2020)
- A special ministerial conference (Grand Bay (Mauritius) Declaration and Plan of Action, 1999)
- African Commission on Human and Peoples' Rights (Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa, 2008) or

- A conference convened jointly by an AU member state and international non-governmental organisations (Ouagadougou Declaration and Plan of Action on Accelerating Prisons and Penal Reforms in Africa, 2002).

It bears pointing out that, as possible additional sources of AU law, declarations adopted by the Assembly and Executive Council and the African Commission on Human and Peoples' Rights carry more weight than those adopted by other entities. It is equally important, however, to note that such soft law instruments generally have little traction among African states.

Olivier suggests a hierarchy of sources. In her telling, the primary sources establishing the AU and AU institutions bind all AU members.³⁵ But apart from the CAAU, not every AU member state is a party to each of these 'constitutional' treaties.³⁶ Do they bind non-parties? Similarly, she suggests that binding decisions 'by AU institutions' enabled by primary sources are automatically binding on all member states. But which of these decisions are binding? As noted above, the CAAU is silent on this matter.³⁷

Olivier also notes, quite correctly, that treaties between member states as tertiary sources are not automatically binding, as they require consent by each state and domestic incorporation.³⁸ However, the generalised claim that domestic incorporation is needed ignores a fundamental point: not all constitutions of AU member states require domestic incorporation for treaties to be binding on the state.³⁹

Finally, to return to the issue of the place of soft law instruments in the hierarchy of the sources of AU law. In my view, soft law instruments are hierarchically the least important, being contingent sources. At best, they are only potential sources.

EU law: a template for AU law?

The main function of EU law is to facilitate the transfer of powers in specific areas identified in the various EU treaties from member states to EU institutions. EU institutions, in turn, enable the further development of EU law. There are three main sources of EU law. The first comprises primary laws based mainly on the Treaties establishing the European Community,

the most important being the founding Treaty of Rome, now called the Treaty on the Functioning of the European Union (TFEU).

The second source consists of secondary laws, which are legislation or legal acts passed by the institutions of the EU under Article 288 of the TFEU. The institutions are the Commission, European Council and European Parliament. This secondary legislation is of three types: regulations, directives and decisions.

The third source comprises decisions of the European Court of Justice (ECJ), the EU's principal judicial organ. In addition to applying EU treaties and legislation, the ECJ has authority to apply general principles of law in every area where it exercises jurisdiction under Article 46 of the Treaty on European Union (also known as the Maastricht Treaty).⁴⁰ It may also apply international law, including international treaties, as may be applicable to the organisation.

Two fundamental principles of EU law are worth emphasising. The first is that EU law is binding uniformly and consistently on all member states in those areas over which the EU has exclusive competence. This is based on the notion that as members, states have agreed to transfer part of their sovereignty to the organisation.

The second principle is the supremacy of EU law over the domestic law of member states in the event of conflict. This principle, not provided for in any of the founding treaties, was in fact established by a decision of the ECJ in the early years of the EU in the landmark case of *Costa v Enel*.⁴¹ *Costa v Enel* illustrates that legal rules and principles can emerge as part of the legal order of an international organisation despite not being provided for in the organisation's foundational instruments. That is, EU law created by judicial decisions.

What lessons can we draw from EU law? Not all the prerequisites underlying the EU legal order are present in the AU. As an organisation, the EU combines elements of intergovernmentalism and supranationalism, with members delegating some executive, legislative and judicial powers to it in a principal-agent relationship.⁴² While it has incrementally deepened political coordination among its members, it is not a full-fledged political union.

As already noted, the AU is only an intergovernmental organisation lacking supranational powers; its integration project is yet to be realised. This is largely due to the failure of African states to execute their objectives strictly in

accordance with the roadmap set out in the AEC Treaty. Also, among the general tasks of the AU are collective policymaking and implementation. To perform these tasks, the AU needs a legal framework and legal order, autonomous and separate from those of its member states. In many ways, the AU institutions and requisite mechanisms are still evolving.

The differences in powers and attributes in the counterpart institutions of the AU and EU could not be more striking. It has already been noted that the Pan-African Parliament lacks real legislative power and that the African Court of Justice and Human Rights is yet to come into being.

The differences between the EU Commission and the AU Commission are even more instructive. The EU Commission embodies, to a degree that the AU Commission does not, the personality of the EU. It enjoys considerable powers and has been described as ‘a curious hybrid of legislature, executive and law enforcer.’⁴³ By contrast, the AU Commission has much more limited powers. Essentially, it is the bureaucratic arm of the AU and operates principally as the organisation’s secretariat, entrusted with its day-to-day administration, but lacking the authority to take decisions binding on the member states.

A major lesson from the European experience is that regional integration both implies and requires the surrender of a certain level of their sovereignty by members of the organisation. This entails acceptance of the organisation’s supranational authority and binding effect of its decisions. As one commentator puts it, ‘[such] delegation will endow the central body with supranational powers required to make legally binding decisions applicable to member states and to move beyond symbolic gestures.’⁴⁴

AEC Treaty: a treaty in desuetude and implications for AU law

The CAAU differs from the EU founding treaties in one fundamental respect: it does not formally endow the AU organs with legislative powers. In this sense, the CAAU is like the UN Charter (and the defunct OAU Charter). Yet, to varying degrees, all these bodies have performed limited legislative functions with implications on the development of international law and regional norms.

From its early years, the OAU adopted a number of law-making treaties. Some of the outcomes of this norm-creation process through treaties

constitute aspects of the emerging AU law. Altogether, African states have adopted 66 multilateral instruments under the auspices of the OAU and AU. Of these, as at this writing, 34 are in force as of 1 February 2022.⁴⁵ Although modest in number, these treaties are valuable as primary sources of AU law.

The CAAU does not spell out the relationship between the AU and the AEC directly. The preamble merely refers to the principles and objectives stated in the OAU Charter and AEC Treaty,⁴⁶ and the need to accelerate the process of implementing the AEC Treaty to promote Africa's socio-economic development.⁴⁷

One substantive provision mentions the AEC somewhat perfunctorily. Article 33(1) envisaged a transitional period following the entry into force of the CAAU '[for] the purpose of enabling the OAU/AEC to undertake the necessary measures regarding the devolution of its assets and liabilities to the Union and all matters relating thereto.' Article 33(2) states that the CAAU '[shall] supersede any inconsistent or contrary provisions of the Treaty Establishing the AEC.'

Article 33 seems to contain a contradiction. On the one hand, with respect to the devolution of assets and liabilities, the OAU and AEC are treated as one and the same entity in the first paragraph, which could be understood as suggesting that they were both becoming defunct. On the other hand, the second paragraph clearly envisages that the AEC Treaty, and by implication the AEC, would continue to exist. On this interpretation, the AEC still exists, operating on a separate legal basis but sharing the same institutional framework with the AU.

Konstantinos Magliveras has aptly captured the current reality of the AEC's presumed, if ambiguous, continued existence:

[The] Treaty establishing the African Economic Community (AEC), was the continental attempt to gradually achieve economic integration. However, it proved to be an ill-fated project and even though the AU Constitutive Act's Preamble as well as the AU 50th Anniversary Solemn Declaration reiterated the commitment to accelerate the materialization of AEC objectives, it has been left rather unceremoniously to perish. Arguably, the AU deserted the grand plan that was the AEC Treaty and opted for a less ambitious strategy.⁴⁸

This chapter agrees with Magliveras's interpretation that the AU has left the AEC to perish. Indeed, it may be argued that, to all intents and purposes, it is already dead. The AEC was meant to establish its own 'legal system', which all contracting parties had undertaken to observe, pursuant to Article 3(e) of the AEC Treaty. Since Article 99 designated the AEC Treaty and its Protocols an integral part of the OAU Charter, it is correct to conclude that the AEC legal system should have been understood as part of OAU law and that '[following] the OAU's substitution by the AU in July 2002, the AEC law would have been regarded as part of AU law as well.⁴⁹

Some may see a contradiction here: that one cannot both assert that the AEC has been left to perish unceremoniously and acknowledge that '[the] AU neither replaced nor substituted the AEC, which was meant to continue existing subject to Article 33(2) of the CAAU stipulating that its provisions take precedence over and supersede any inconsistent AEC Treaty provisions.⁵⁰ Either the AEC no longer exists or it still does, given that the AEC Treaty, ratified by 50 AU member states, has not been abrogated and there is no contradiction in simultaneous membership of the AU and AEC.

The implication of Articles 98 and 99 of the AEC Treaty was that the AEC was not accorded a separate existence from that of the OAU, and the institutions of the latter were co-opted to perform corresponding functions as institutions of the former. To reiterate the point, the CAAU did not change this situation upon superseding the OAU Charter.

From this, it seems reasonable to conclude that AU institutions continue to double as AEC institutions. However, the reality is that since the inauguration of the AU in 2002, the practice of 're-hatting' the AU summit as an AEC summit and adopting decisions and directives relating to economic integration matters as 'AEC decisions and directives' has ceased.

While the CAAU did not abrogate the AEC Treaty, subsequent practice appears to have rendered it desuetude. The contribution that the AEC might have made to the development of AU law has thus not been realised. Indeed, it is noticeable that the AU does not mention the AEC at all in its Agenda 2063, although the RECs are specifically included as key actors to be consulted and involved in the implementation of all its aspects.⁵¹ At the same time, as the legal framework for developing African 'community law' in conjunction with the RECs, the AEC Treaty has certain shortcomings, some of which have been discussed above.⁵²

Conclusion

The AU's experiences over the past two decades point to the fact that for AU law to develop along the lines of EU law as a unique regional legal order, the CAAU and other relevant instruments will need to be amended to correct the deficiencies identified in this discussion.

Most importantly, AU member states will have to cede part of their sovereignty and grant the AU and its institutions powers to adopt binding decisions and legislation with supremacy over their national laws in agreed areas of competence. This entails granting the Pan-African Parliament substantive legislative powers, strengthening the executive powers of the Commission and ensuring that the jurisdiction of the African Court of Justice and Human Rights is universally accepted. In addition, the organisation has to be accorded powers to enforce its decisions and the legislation adopted by its institutions.

These reforms are necessary for the future of continental integration and the future of the AU, but may not be easy or even feasible. It would be naive to assume that, under the prevailing political environment, African states are ready to accommodate more substantive changes that involve ceding more of their sovereignty to the AU.

Despite longstanding expressions of their desire for closer political unity and deeper economic integration, to date African states have not shown any urgency to embrace even the fairly limited amendments to the CAAU adopted in 2003.⁵³

If this experience is any guide, one can reasonably predict that many, if not most, member states would resist any further changes to the current powers and functions of the AU and its institutions in the direction of granting supranational legislative powers to the continental institution. The AU will, thus, likely remain more of an intergovernmental organisation focused on loose political cooperation than a supranational organisation with deepened political and economic integration at its core. A decade ago, Zeray Yihdego observed that:

[Although] most of the institutions are in their infancy and some of the most important organs are not even yet operational, the conclusion one can reasonably draw is that the AU system appears

to combine elements of the federalist, functionalist and neo-functional strategies of [integration].⁵⁴

Yihdego's reading of a federalist element in the AU's approach to the continent's integration is debatable. African states have not embraced the high level of supranationalism that some commentators claim for the AU, still less the federalist idea that advocates of a 'United States of Africa' imagine.⁵⁵

There is no doubt that the entry into force of the AfCFTA Agreement will nudge African states towards some level of harmonisation of their national laws (especially in the area of commercial law) to facilitate liberalisation of intra-African trade. Moreover, as seems likely, if most AU member states implement the AfCFTA Agreement, given the apparent attraction of the new intra-African free trade regime, this particular area of AU law will witness a higher level of effective functioning.

Yet this represents only one aspect of the scheme of AU law. More generally, the actual application and enforcement of AU law can best be assessed through the lens of actions that individual states take regarding the areas of AU law in question. Such an assessment requires a more focused comparative study and analysis of situations in the various states, which was outside the stated objectives and scope of this discussion.

The growth of AU law requires an organisation endowed with supranational powers to make legally binding decisions that are prerequisites for advancing the economic integration project. This implies the federalist element, which is lacking in Africa's current integration strategies. Without these substantive changes, the AU's integration agenda will not move beyond cosmetic and rhetorical gestures, and the emergent AU law cannot develop to its fullest potential. The EU experience shows that this will require further amendments to the AU's foundational treaties or the adoption of new instruments, both of which are challenging prospects.

Notes

- 1 RF Oppong, *Legal aspects of economic integration in Africa*, Cambridge: Cambridge University Press, 2011; T Maluwa, The development and enforcement of community law in the African regional economic communities: Conceptual issues, architecture and institutions, in CC Jalloh and O Elias (eds.), *Shielding Humanity: Essays in International law in honour of Judge Abdul G. Koroma*, Leiden/Boston: Brill/Nijhoff, 2016, 536; O Amao, *African Union Law: The Emergence of a sui generis legal order*, London: Routledge, 2020; M Olivier, The role of African Union law in integrating Africa, *South African Journal of International Affairs* 22:4, 2015, 513; O Amao, M Olivier, and KD Magliveras (eds.), *The emergent African Union law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 2021.
- 2 Adopted 3 June 1991; entered into force 12 May 1994. Text of the AEC Treaty and texts and status lists of all OAU/AU treaties mentioned in this chapter are available at <https://au.int/en/treaties>.
- 3 F Amao, Road map to the emergent AU law, in Amao, Olivier, and Magliveras, note 1, 1.
- 4 *Ibid.*, 1-2.
- 5 Adopted 21 March 2018; entered into force 30 May 2019.
- 6 Adopted 2 March 2001; entered into force 14 December 2003.
- 7 Adopted 9 July 2002; entered into force 26 December 2003.
- 8 Adopted 10 June 1998; entered into force 25 January 2004.
- 9 M Olivier, Conceptualising AU law within the framework of the AU, in O Amao, M Olivier, and KD Magliveras (eds.), *The emergent African Union law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 2021, 30, 39-41.
- 10 *Ibid.*, 19-22.
- 11 Texts and status lists of all OAU/AU treaties available at <https://au.int/en/treaties>.
- 12 On 1 July 2008, the AU Assembly adopted the Protocol on the Statute of the African Court of Justice and Human Rights to merge the African Court on Human and Peoples' Rights and the Court of Justice of the African Union. It is not yet in force.
- 13 KD Magliveras, The implications of AU law: conceptual analysis with emphasis on the institutional consequences, in O Amao, M Olivier, and KD Magliveras (eds.), *The emergent African Union law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 2021, 30, 39-41.
- 14 Adopted 11 July 2000; entered into force 26 May 2001.
- 15 Adopted 18 January 1974; entered into force 28 March 2012.
- 16 T Maluwa, Ratification of African Union treaties by member states: law, policy and practice, *Melbourne Journal of International Law* 13:2, 2012, 636.
- 17 KD Magliveras, The implications of AU law: conceptual analysis with emphasis on the institutional consequences, in O Amao, M Olivier, and KD Magliveras (eds.), *The emergent African Union law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 30, 39, 2021.
- 18 These include the Protocol on the African Investment Bank (2009); Statute of the African Union Commission on International Law (2009); Agreement for the Establishment of the African Risk Capacity Agency (2012); Protocol on the Establishment of the African

- Monetary Fund (2014); Statute of the African Sports Council (2016); Statute of the African Centre for Disease Control and Prevention (2016); Statute of the African Minerals Development Centre (2016); Statute of the African Observatory in Science, Technology and Innovation (2016); Statute of the African Science Research and Innovation Council (2016); Statute of the Pan-African Intellectual Property Organization (2016); Statute for the Establishment of Legal Aid Fund for African Union Human Rights Organs (2016); and Statute of the African Union Mechanism for Police Cooperation (2017).
- 19 T Maluwa, Ratification of African Union treaties by member states: law, policy and practice, *Melbourne Journal of International Law* 13:2, 2012, 636.
 - 20 T Maluwa, Reassessing aspects of the contribution of African states to the development of international law through African regional multilateral treaties, *Michigan Journal of International Law* 41:2, 2020, 327.
 - 21 Adopted 2 October 2009; entered into force 6 December 2010.
 - 22 Cartagena Declaration on Refugees, adopted by the Organization of American States on 22 November 1984.
 - 23 T Maluwa, Reassessing aspects of the contribution of African states to the development of international law through African regional multilateral treaties, *Michigan Journal of International Law* 41:2, 2020, 361-378.
 - 24 *Ibid.*, 378-394. See also, T Maluwa, African state practice and the formation of some peremptory norms of general international law, in D Tladi (ed.), *Peremptory norms of general international law (jus cogens)*, Leiden/Boston: Brill, 2021, 259, 291-299.
 - 25 F Viljoen, Supra-national human rights instruments for the protection of children in Africa: the Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child, *Comparative and International Law Journal of Southern Africa* 31:2, 1998, 199, 205.
 - 26 Constitutive Act of the African Union (CAAU), Article 9(1)(e).
 - 27 T Maluwa, African state practice and the formation of some peremptory norms of general international law, in D Tladi (ed.), *Peremptory norms of general international law (jus cogens)*, Leiden/Boston: Brill, 2021, 259, 273-276.
 - 28 D Ahmed, *Boundaries and secession: challenging uti possidetis*, Cambridge: Cambridge University Press, 2015, 127-136. (noting, *inter alia*, that the sanctity of boundaries has been reaffirmed as regional *jus cogens* in the policies and practices of African states). See also T Maluwa, African state practice and the formation of some peremptory norms of general international law, in D Tladi (ed.), *Peremptory norms of general international law (jus cogens)*, Leiden/Boston: Brill, 2021, 259, 273-276 (discussing their wide acceptance and subsequent reference and application by OAU/AU member states based on their nature as fundamental rules and principles of international law).
 - 29 RF Oppong, *Legal Aspects of Economic Integration in Africa*, Cambridge: Cambridge University Press, 2011, 198.
 - 30 Between 4 June 1997 and 11 July 2001, the OAU Assembly convened five times as the AEC Assembly, during which it adopted decisions endorsing 'Regulations' adopted by the AEC Council of Ministers. The last substantive Regulation on Implementation of the Decisions and Regulations of the AEC was adopted by the AEC Council of Ministers at its Seventh Ordinary Session: CM/OAU/AEC/Regl.1 (VII), 8 July 2000. The AEC Assembly endorsed it at its Fourth Ordinary Session: AHG/OAU/AEC/Dec. 1(IV), 12 July 2000. These were the last sessions of the AEC Assembly and Council of Ministers before the demise of

the OAU. The AU has not resumed the practice of convening separate AEC summits and ministerial meetings.

- 31 Article 3(i) of the Protocol on the Pan-African Parliament provides that this Parliament shall have consultative and advisory powers only.
- 32 Article 8(1), Protocol to the CAAU relating to the Pan-African Parliament, adopted 27 June 2014; not yet in force.
- 33 M Olivier, Conceptualising AU law within the framework of the AU, in Amao, Olivier, and Magliveras, note 1, 21-22.
- 34 D Long and R Murray, The role and use of soft law instruments in the African human rights system, in S Lagoutte, T Gammeltoft-Hansen, and J Cerone, *Tracing the role of soft law in human rights*, Oxford: Oxford University Press, 2016, 89-108.
- 35 M Olivier, Conceptualising AU law within the framework of the AU, in O Amao, M Olivier, and KD Magliveras (eds.), *The emergent African Union law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 2021, 22, 30, 39-41.
- 36 For example, the Democratic Republic of the Congo (DRC), Eritrea, Guinea and Somalia are not parties to the Protocol on Pan-African Parliament; Cape Verde, DRC and South Sudan are not parties to the Protocol on the PSC.
- 37 Cf. Article 25 of the UN Charter expressly stipulating that members agree 'to accept and carry out' the decisions of the Security Council.
- 38 M Olivier, Conceptualising AU law within the framework of the AU, in O Amao, M Olivier, and KD Magliveras (eds.), *The emergent African Union law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 30, 22 (Figure 1.1; noting that self-executing provisions might be directly applicable), 2021.
- 39 T Maluwa, Constitutional regulation of conclusion of treaties in Africa: selected case studies from Anglophone and Francophone Africa, *African Yearbook of International Law*, 23, 2017/18, 231, *passim*.
- 40 T Tridimas, *The general principles of EU law*, second edition, Oxford: Oxford University Press, 2006, 36.
- 41 *Flaminio Costa v ENEL* (1964) Case 6/64, EU:C:1964:66.
- 42 See generally G Tsebelis and G Barrett, The Institutional Foundations of Intergovernmentalism and Supranationalism in the European Union, *International Organization* 55:2, 2001, 357.
- 43 S Weatherill and P Beaumont, *EC law: The essential guide to the legal workings of the European Community*, London: Penguin Books, 1993, 72.
- 44 M Olivier, Conceptualising AU law within the framework of the AU, in O Amao, M Olivier, and KD Magliveras (eds.), *The emergent African Union law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 2021, 30, 19.
- 45 Information valid as at 1 February 2022..
- 46 CAAU, Preamble, second paragraph.
- 47 CAAU, Preamble, sixth paragraph.
- 48 KD Magliveras, The implications of AU law: conceptual analysis with emphasis on the institutional consequences, in O Amao, M Olivier, and KD Magliveras (eds.), *The Emergent African Union Law: conceptualization, delimitation, and application*, Oxford: Oxford University Press, 2021, 30, 32. (Internal footnotes omitted.)

- 49 Ibid., 33.
- 50 Ibid., (n 11).
- 51 Assembly/AU/Dec.565(XXIV); Agenda 2063 documents available at <http://agenda2063.au.int/>.
- 52 T Maluwa, The development and enforcement of community law in the African regional economic communities: conceptual issues, architecture and institutions, in CC Jalloh and O Elias (eds.), *Shielding humanity: essays in international law in honour of Judge Abdul G. Koroma*, Leiden/Boston: Brill/Nijhoff, 2016, 536.
- 53 Protocol on Amendments to the Constitutive Act of the African Union; adopted on 11 July 2003, but still not yet in force at this writing; T Maluwa, Fast-tracking African unity or making haste slowly? A note on the amendments to the Constitutive Act of the African Union, *Netherlands International Law Review*, 51:2, 195, 2004.
- 54 Z Yihdego, The African Union: founding principles, frameworks and prospects, *European Law Journal* 17:5, 2011, 568, 580.
- 55 T Maluwa, Reimagining African Unity: Preliminary Reflections on the Constitutive Act of the African Union, *African Yearbook of International Law* 9, (n 24), 2013, 16-21.

Chapter 4

AU institutional capacity to implement integration and the human security agenda

Nsongurua Udombana

Introduction

International or inter-governmental organisations are increasingly playing indispensable roles in our interconnected world with its interconnected challenges. These challenges include climate emergency, violent extremism, mass migration, and of course epidemics/pandemics such as COVID-19.

Regional institutions create platforms for states with geographical, historical, cultural, and other affinities to pursue or advance common policies in areas of common concern. They also coordinate the implementation of joint programmes that advance human security within the respective communities. The African Union (AU) is one of many such communities.

The AU metamorphosed from the Organisation of African Unity (OAU) after the latter 'played a determining and invaluable role in the liberation of the continent, the affirmation of a common identity and the process of attainment of [Africa's] unity.'¹ Like the OAU before it, the AU is fashioned to provide 'a unique framework for ... collective action in Africa' and in its 'relations with the rest of the world.'²

It aims, more specifically, to accelerate Africa's political and socio-economic integration,³ and to more effectively face the challenges of globalisation.⁴ The Constitutive Act of the African Union (CAAU) even contains an omnibus provision mandating the organisation to 'promote co-operation in all fields of human activity to raise the living standards of African peoples.'⁵ In the Durban Declaration, African states pledged to 'address the key issues which impact on the development of our countries such as the excruciating external debt and globalization.'⁶

This chapter focuses on the institutional capacity of the AU to implement integration goals and advance human security in Africa. It assesses how some of the principal organs have performed over the past two decades, and reflects on future prospects. The chapter is divided into three parts, excluding the conclusion.

Part one provides the context. It examines the nature of postcolonial institutions and their implications on development and human security in Africa. Part two examines the organic design of the AU and assesses the achievements and failures of some key organs, in terms of realising the integration agenda for human security. Part three focuses on efforts towards institutional reforms that will make the AU ‘fit for purpose’ in the quest to realise its ambitious goals, including the nascent Agenda 2063. The chapter adopts a socio-legal methodology rather than a strictly formalistic doctrinaire exegesis.

Africa’s postcolonial institutional challenges

The reason that African states have generally failed to meet the basic needs of their citizens is largely political and institutional rather than legal. Historian Basil Davidson writes: ‘Africa’s crisis of society derives from many upsets and conflicts, but the root of the problem is different from these ... The more one ponders this matter the more clearly is it seen to arise from the social and political institutions within which decolonized Africans have lived and tried to survive. Primarily, this is a crisis of institutions.’⁷

At the dawn of political independence, Africans imagined the future years in excited reverie. As soon as the euphoria of decolonisation and legitimisation of self-determination ebbed, the post-independence elite were immediately confronted with the profound incompleteness of state formation and consolidation. Decolonisation has generally been equated with a transfer of power to colonised peoples by procedures of international law.⁸ That is a lie. Decolonisation was a transfer of rudimentary political powers to the formerly colonised with no real transformation in the structures of domination.⁹

As Kreijen writes, ‘the legal revolution that facilitated the decolonization of sub-Saharan Africa emphasized the juridical elements of statehood, while neglecting the empirical element.’¹⁰ Decolonisation, or rather ‘the

morally instigated legal revolution on which it was premised, constituted a sudden swing from effectiveness to legality in international legal thought that was too much to handle for the essentially decentralised international legal order.¹¹

Many of the former colonies have been extremely weak, from an institutional-political and economic perspective, due largely to the way they emerged as independent states.¹² The postcolonial African states represent the strongest and most apparent examples of unwavering reliance on colonial political forms.¹³

All postcolonial state apparatuses – the law, civil service, police, etc. – remain predominantly Western in style and outlook. Under the inherited common law system, black judges and lawyers wear blond wigs. Even the armed forces are standardised around a Western-styled template, with platoons and battalions, colonels and generals.

To distinguish themselves from the common people of their societies, the elite suppressed indigenous languages and promoted those of the colonisers; and no one bothered to ask ‘why it mattered so much how one pronounced words in a language that was not our mother tongue.’¹⁴ The result is that the ‘elites of non-Western societies are often better able to communicate with Westerners and each other than with the people of their own society.’¹⁵ Colonialism has led to the oligarchisation of the elite and the pauperisation of the citizenry.

The postcolonial states also follow the colonial methods of economic development. They seem to believe that capitalism and its basic principles – private ownership of means of production, division of labour, profit maximisation, open and competitive market driven by forces of demand and supply – is the perfect model for sustainable economic development. Just as colonialism laid an economic infrastructure geared exclusively at meeting the needs of the colonial metropolis, most of postcolonial Africa has a centrally directed but uneven development.¹⁶

Development has generally been urban-biased, to the neglect of rural areas. Most of the potential low-cost sources of advancement are found in rural areas, compared to the urban sector with its ‘articulatness, organization and power.’¹⁷ Expectedly, poverty is higher in rural areas.¹⁸

The inheritance elite had the opportunity to make a transition from statism to nation building, one rooted in social justice and equality in recognition of

the new multi-culturalism. They failed to seize the opportunity. They also lacked the historical precedent and experience necessary to define and develop their positions and roles regarding civil society.¹⁹ They lacked the capacity to discharge functions associated with national sovereignties, such as the maintenance of the rule of law, regulation of borders, and provision of social services. Yet they were expected to shoulder the burdens of formulating and implementing policies that would transform their societies, in agriculture, industrialisation, education, health or other sectors.

Predictably, they failed to deliver on the great expectations. They were 'the smart and the lucky and hardly ever the best.'²⁰ They were woefully inadequate to address slow-moving crises like hunger and poverty. 'In case after case, high expectations were followed by profound disillusionment, and the role attributed to the African state changed from the prime mover of development to that of its main obstacle.'²¹

Rather than dismantle and deconstruct their new states, the new rulers deliberately retained those repressive colonial structures. Some social and administrative problems combined to compound the leadership fiasco, among them sharply divided ethnic groups, a predominantly uneducated populace, and virtually no trained African administrators.²²

Africa's governance failure is particularly marked in the political sphere. As the AU explains, Africa also has not been able to foster and manage effective political transitions. This is partly because the erstwhile liberation movements have taken far too long to transform themselves into dynamic governing political parties, which could more successfully adapt to operating in pluralistic democratic societies as agents of political discourse and crucial facilitators than act as stumbling blocks to any democratic dispensation.²³

Africa's premier regional institution – the OAU – could have helped its post-independence member states to confront their institutional and governance challenges, but it chose to maintain their pre-independence status quo. Rather than embark on a radical reconstruction of postcolonial institutions, it worked to maintain the Westphalian state-centric models of governance in the name of consolidating sovereignty and territorial integrity of its members.²⁴ It even entrenched such alien principles as the *uti possidetis juris* doctrine – the inheritance of colonial boundaries,²⁵ which the AU also sanctifies.²⁶

In the end, the OAU became 'a contradiction in the sense that it advocated for liberation with an instrument that frustrated democratisation and therefore called into question the democratic legitimacy of its underlying pursuits in regional institutional law.'²⁷

The failure to fashion out modern and functional political institutions affected post-independence political and economic development. Postcolonial states are more relevant internationally, but not authorised and empowered domestically.²⁸ They 'rarely possessed the attributes of robust states in anything other than a purely formal legal sense.'²⁹ They remain deficient in the legitimate exercise of coercion within their borders, in financial self-sufficiency, in leadership of national political communities, and in the provision of basic services.

When it comes to tackling big social and economic issues like jobs, health, education and infrastructure, most governments tread water and nibble away at the margins. Africa's institutions have failed to deliver public service works. Civil services, which exist to implement government policies, generally lack the human and material resources to effectively discharge their functions.³⁰ Their abilities to discharge their mandates have depended on the form of government at any point in time.

Government ministries, departments and agencies are deeply politicised, leading to a diluted credibility and integrity and a diminished sense of professional prospects, loss of motivation by workers, and apathy.³¹ Unprofessionalism and apathy define the patrimonial civil/public service in Africa. Such laid-back attitudes lead to much unauthorised absenteeism, lateness, idleness, and poor output. The mentality of a typical public servant tends to be, 'It is not my father's work. Work or no work, I must collect my salary.'³²

Weak institutions continue to pull Africa backward, with shoestring budgets, compromises, and external sources of power resulting in failure to fulfil treaty and constitutional obligations. Public expectations are so low that governments are patted on the back when they construct boreholes or poorly equipped health centres for communities. Spending on public health, housing and education and other social services has been severely curtailed over the years, resulting in a sharp decline in the quality of life in many countries. Many governments have failed to address the structural problems that could reduce dependence on social safety

nets. The integration, disintegration, and deformation wrought by colonialism have led to continuous processes of confrontations and adjustments.³³

African states, presumably, are conscious of the need to deconstruct and reconstruct their postcolonial governance institutions for service delivery. The CAAU begins with a pledge by its states parties to ‘take all necessary measures to strengthen our common institutions and provide them with the necessary powers and resources to enable them [to] discharge their respective mandates effectively.’³⁴ The CAAU also seeks to promote and consolidate democratic institutions in the continent.³⁵ How does the AU itself fare in terms of its institutional design?

The AU and institution building

African states created the AU to address emergent regional and other challenges that the OAU failed to confront. The AU’s ability to meet these challenges largely depends on its institutional design and functionality. This segment examines the institutional structure of the AU and what this has enabled it to accomplish, as well as the remaining challenges.

Institutional design³⁶

The CAAU establishes nine institutional organs to drive its ambitious goals:

- Assembly of the African Union
- Executive Council
- Pan-African Parliament (PAP)
- Court of Justice
- Commission (AUC)
- Permanent Representatives Committee (PRC)
- Specialised Technical Committees (STCs)
- Economic, Social and Cultural Council (ECOSOCC)
- Financial Institutions.³⁷

The CAAU authorises the AU Assembly to establish other organs in the future as it may decide.³⁸ Later treaties have established other regional organs and agencies, such as the Peace and Security Council (PSC)³⁹ and the African Peer Review Mechanism (APRM).⁴⁰

In the Durban Declaration, adopted at the inaugural meeting of the AU Assembly in July 2002, member states pledged to ‘urgently establish all institutional structures to advance the agenda of the African Union.’⁴¹ Three of these organs – the AU Assembly, Executive Council and PSC – are regarded as ‘Policy Organs’. A brief overview of their mandates is warranted.

The AU Assembly is the political organ of the organisation. It is the first organ listed in Article 5 of the CAAU and is referred to as ‘the supreme organ of the Union.’⁴² Synonyms for ‘supreme’ include ‘dominant’, ‘highest’, ‘ultimate’, ‘utmost’, ‘absolute’, ‘top’, or ‘most excellent’. Thus, the Assembly is pre-eminent over other organs; and understandably so, because it is composed of member states’ heads of state and government or their duly accredited representatives.⁴³

The AU Assembly is the chief deliberative, policymaking, and representative AU organ. It determines the common policies of the AU, establishes its priorities, and adopts its annual programme. There is something unsettling about the functions and powers of the AU Assembly. The CAAU and the Rules vest in the Assembly what may be likened to legislative, executive, and even judicial functions and powers.

Some of the legislative functions and powers include deciding on intervention in a member state, whether regarding grave crimes,⁴⁴ or ‘at the request of that Member State in order to restore peace and security’;⁴⁵ adopting the AU budget;⁴⁶ amending the CAAU;⁴⁷ determining the structure, functions and regulations of the AUC;⁴⁸ determining the structure, functions, powers, composition and organisation of the ECOSOCC;⁴⁹ giving directives to the Executive Council, the PSC or the Commission on the management of conflicts, wars, acts of terrorism, emergency situations and the restoration of peace; and determining the appropriate sanctions to be imposed on any member that defaults in its financial contributions to the AU.⁵⁰

Accelerating Africa’s political and socio-economic integration is partly legislative and executive. Most other functions and powers are executive in nature, such as monitoring ‘the implementation of policies and decisions of the Union as well as [ensuring] compliance by all Member States.’⁵¹ The Assembly is also empowered to interpret the CAAU, ‘pending the establishment of the Court,’⁵² a core judicial function.

Since the AU came to fulfil, not abolish, the African Economic Community (AEC), it stands to reason that the AU Assembly has the

additional responsibility to ensure implementation of the AEC's objectives,⁵³ some of which are also captured in the CAAU. To this end, it shall determine the general policy and major guidelines of the AEC, and give directives, coordinate and harmonise the economic, scientific, technical, cultural and social policies of member states; take any action to attain the objectives of the AEC; and oversee the functioning of AEC organs as well as the follow-up of the implementation of its objectives.⁵⁴

The AU Assembly is also the default organ that will oversee the African Continental Free Trade Area (AfCFTA), providing strategic guidance and action plans for boosting intra-African trade.⁵⁵ This irregular arrangement implicitly permits third states that are yet to ratify the AfCFTA Agreement to participate in deliberations and decide on matters affecting the AfCFTA.⁵⁶

As has been argued, it is an anomaly for third states to deliberate and decide on matters on which they are not bound. If the AU intended the AfCFTA to be an integral part of its existing institutional infrastructure, it should have dispensed with the ratification requirement. It should have simply provided for automatic entry into force of the AfCFTA Agreement upon its adoption. Having chosen ratification as the way states agree to be bound, international law demands that only the ratifying states should bear rights and obligations under the AfCFTA Agreement.⁵⁷

The concentration of powers in one organ makes the AU Assembly a leviathan. That poses a danger to international rule of law in Africa. The Assembly is the uncommanded commander; it directs all AU and even other organs, but is itself not directed by anyone. That is a textbook definition of dictatorship, which may be more dangerous from an international institutional perspective. Many of the heads of state and government who constitute the Assembly came to power through unconstitutional or undemocratic means, which itself betrays the pretensions of the AU to advance democratic principles. The AU cannot function effectively without inbuilt checks and balances among its institutional organs.

As things stand, there is no other organ to effectively check possible abuses by the Assembly either in its decision-making, implementation of policies, or appointments. It is unlikely that the Executive Council, consisting of appointees of member states, will challenge decisions of heads of state and government who appoint them. In the game of loyalty, the subordinate

is not allowed Hamlet's option. The lack of jurisdiction of the African Court of Justice also means there is no avenue for aggrieved entities with standing to challenge ultra vires or unconstitutional acts of the Assembly.

The CAAU mandates the Executive Council to coordinate and take decisions on policies in areas of common interest to members. The list of such areas is made up of anything that comes to mind, of anything that can be in the same catalogue even if not in the same category. They include foreign trade; energy, industry and mineral resources; food, agriculture and animal resources, livestock, production and forestry, water resources and irrigation; and environmental protection, humanitarian action, and disaster response and relief.⁵⁸ Others are transport and communications; education, culture, health, and human resources development; science and technology; and social security, including the formulation of mother and child care policies and those relating to the disabled and the handicapped.⁵⁹

The STCs prepare projects and programmes of the AU on these policy areas, coordinate and harmonise them, and submit reports to the Executive Council.⁶⁰ There are STCs on rural economy and agriculture; trade, customs and immigration; industry, science and technology, natural resources and environment; defense and security; and health, labour, and social affairs.⁶¹

The principal mandate of the PSC is to promote peace, security and stability in Africa, 'which is intended to guarantee the protection and preservation of life and property, the well-being of Africans and their environment and the creation of conditions conducive to sustainable development.'⁶² The AU Commission serves as 'the Secretariat of the Union' and its 'structure, functions and regulations' are 'determined by the Assembly.'⁶³ Among other functions, the Assembly tasks the Commission with financial and administrative oversight authority over all non-policy organs and institutions of the Union and their elected officials.⁶⁴

There is presently no functional African Court of Justice (ACJ). Africa has been on a wilderness journey on the establishment of a continental judicial institution, with no destination in sight. The AEC Treaty provided for a Court of Justice of the Community (CJC)⁶⁵ to 'ensure the adherence to law in the interpretation and application of th[e] Treaty and ... decide on disputes submitted thereto pursuant to th[e] Treaty.'⁶⁶ A Treaty provided that the AEC

Assembly determine the ‘statutes, membership, procedures, and other matters relating to the Court of Justice’ in a protocol relating to the Court.⁶⁷

The Assembly, whose existence was short-lived, never adopted the envisaged protocol; so the CJC never materialised. The CAAU subsequently provided for an ACJ as one of the principal organs of the AU.⁶⁸ Like the AEC Treaty before it, the Act provided that ‘[t]he statute, composition and functions of the Court of Justice shall be defined in a protocol relating thereto.’⁶⁹ The AU Assembly adopted the Protocol on the ACJ in 2003.⁷⁰ This Protocol has entered into force but the AU hasn’t operationalised the ACJ for reasons that are beyond the scope of this chapter.

In sum, the organic structure of the AU anticipates an organisation that discharges the kinds of plenary powers close to the governmental structure at the municipal level, which is usually divided into three organs – legislative, executive and judicial. That is where the similarities end.

Unlike municipal legal systems that have highly developed institutional power structure, the international legal system is fragmented and fluid. There is no central authority capable of wielding either legislative or executive functions. The closest approximation to a central authority under the AU legal order is the AU Assembly, which exercises some legislative, executive, and judicial functions and powers.

Assessing institutional functionality

The AU has undoubtedly set a new direction for Africa in terms of vision and mission. Generally, the AU uses regional economic communities (RECs) as building blocks of Africa’s integration agenda,⁷¹ but its Executive Council also collaborates directly with other institutional organs to advance policies on trade and related matters.

In 2016, for example, the Council mandated the AU Commission to: ‘Undertake technical studies with pertinent data underlining Africa’s potential in trade, industry and mining sectors in order to boost investments in identified priority sectors including pharmaceuticals.’⁷² It further mandated the Commission to collaborate with the UN Economic Commission for Africa to ‘undertake a study that will enable Africa to formulate a common approach to future Africa-US trade and investment relations including an analysis on the low utilization of AGOA [the African Growth and Opportunity Act].’⁷³

More recently, in the wake of the COVID-19 pandemic, the Council requested the African Export-Import Bank to ‘urgently put in place financing mechanisms and instruments to enable the attainment of the target of vaccinating 60% of the continent’s population and to support post COVID-19 economic recovery, including through the implementation of the ... AfCFTA.’⁷⁴

A pattern of prioritisation of ‘common policies of the Union’ has emerged over the years. From 2002, the AU began focusing on issues of common concern to African states, including trade negotiations,⁷⁵ health,⁷⁶ food security,⁷⁷ environment (including climate change),⁷⁸ and, of course, security. At its 11th Extraordinary Session in November 2018 on the Post-Cotonou Negotiations, the AU Assembly stressed the need to ensure that Africa speak with one voice on the various platforms of partnership with the European Union in order to leverage on the partnership and to help advance the Agenda 2063 goals.⁷⁹ It further directed the AU Commission ‘to extend technical support to the African Members of the ACP [African, Caribbean, and Pacific] negotiating team, as may be requested.’⁸⁰

The Assembly reiterated this position a few months later at its 32nd Ordinary Session in February 2019,⁸¹ and mandated the AU Commission to ‘ensure cohesion between the Post-Cotonou Agreement and the Post-2020 Continent-to-Continent Partnership, in order to reflect the continental priorities, as articulated in Agenda 2063 and other related instruments, to be consistent in both tracks.’⁸²

In a landmark Decision on Multilateral Cooperation, taken at its 33rd Ordinary Session in February 2020,⁸³ the Assembly decided that members of the Bureau of the Assembly of the AU, chairpersons of RECs, the chairperson of the Heads of State and Government Orientation Committee of the AU Development Agency-New Partnership for Africa’s Development, and the chairperson of the AU Commission should represent Africa at the statutory meetings of partnership between Africa and a partner country.⁸⁴

The AU is as much an institution for security governance as it is for political and economic governance. It has recalibrated its role in dealing with security challenges in Africa. It has improved its apparatus for managing inter- and intra-state conflicts. Some AU principal organs are increasingly playing significant roles in Africa’s new security framework. Among the organs are the AU Assembly, AU Commission and the PAP. The

African Peace and Security Architecture, as illustrated in chapter 5, establishes relationships that enables the PSC to work closely with other AU institutions such as PAP and the African Commission of Human and Peoples' Rights (ACHPR) to promote human security in Africa.⁸⁵

The problem with these APSA institutional arrangement, for instance, in 2015, as highlighted in chapter 4, is that they have not worked collaboratively. For instance, in 2005, the Executive Council asked the ACHPR to expunge two 'Merit' decisions on Rwanda from its Annual Activity Report. The Council was also unhappy with some of the ACHPR's decisions against some AU members.

It ordered the ACHPR to re-examine its procedures, particularly on provisional measures and urgent appeals. It then determined that the AU Assembly had authorised the publication of the 'Report' in question 'after its update and due incorporation of the proposals made by Member States and agreed upon, within that report, as reflected in these conclusions.' By interpretation, the Council meant that, 'the Report should only be accepted and permitted after the issues raised have been amended in line with the wishes of the states against which findings had been made.' Such egregious interference raises the fundamental question on how independent Africa's judicial institutions really are, whether at the regional or national levels.

Taking institutional reforms seriously

Less than a decade to the 2030 target date of the UN's SDGs, which coincides with Agenda 2063's first 10-year phase, Africa seems ill prepared to respond adequately to its many problems. The continent is still challenged on many fronts, including the effective implementation of the integration, development and peace agendas, the involvement of people – including the Diaspora – in the AU's affairs, and the alignment between the AU vision and its institutional framework. A recent AU report notes that:

Since the [AU's] foundation in 2002, the global context has changed dramatically. The changes include, but are not limited to, the following: Most African states have transitioned to democracy; China has emerged as a major economic force; religious extremism

is on the rise; the use of social media is now widespread; mass migration from Africa and the Middle East to Europe is occurring; Europe, the United States and Australia have moved to the far right of the political spectrum; and severe weather has affected the environment. These changes are far-reaching and it is hard to predict where they will lead.

As an institution for regional governance, the AU is expected to help its members reform their postcolonial governance institutions capable of maintaining human security. But the AU itself appears to be facing a ‘physician heal thyself’ moment, with multiple internal challenges that seem to overwhelm its ability to effectively deliver on its ambitious mandate. Barely five years into its inauguration, the AU handlers realised that the organisation was losing its bearing. Intermittent efforts at institutional reform indicate that the AU is still searching for the Golden Fleece to accelerate its integration and human security agenda. The following section examines and assesses some of these reform initiatives.

The Adedeji High Level Panel

One of the early initiatives at institutional reform occurred in 2007, when the AU constituted a high-level panel headed by Nigeria’s Adebayo Adedeji. The panel was mandated to, inter alia

- Review the operations of all the various organs and institutions of the AU as presently constituted with a view to identifying the weaknesses and strengths in their functioning and aligning them with the realities of political and economic integration.
- Review the structures and processes of the various organs of the AU with a view to promoting efficiency and coherence in the functioning of the various organs.
- Review the nature of the relationship between the various organs and institutions of the AU and with other relevant continental organisations, indicating the nature and character of inter-organ relationships and relations with other institutions that will help to accelerate the integration process.
- Make concrete recommendations on the policies, strategic orientations, institutions and structures, programmes, roadmaps

and possible scenarios required to accelerate economic and political integration.

The Adedeji Report recognised the considerable potential for moving the process of political and economic integration forward, subject to reforming and strengthening the various AU organs and institutions for efficient functioning. It noted that the AU's destiny rested with its organs and institutions, as these agencies could guarantee good governance. It warned that these organs and institutions would constitute the Achilles heel of political and economic integration if they were not 'dynamic, proactive, efficient and effective.' The Report made 159 specific recommendations to AU organs and others, urging that they should be fully implemented by 2011.⁸⁶ Many of those recommendations were not implemented by that target date.

The Kagame Reform Committee

In July 2016, the AU Assembly mandated President Paul Kagame of Rwanda to 'put in place a system of governance capable of addressing the challenges facing the Union.'⁸⁷ He was authorised to 'make use of any expertise of his choice to effectively carry out his mission.'⁸⁸ Kagame submitted his report in 2017. It acknowledged that Africa's problem 'is not primarily technical, but rather the result of a deeper deficiency.'⁸⁹ It noted the various strategic frameworks that the AU Commission put in place as necessary roadmaps towards realising AU goals, but insisted that, '[r]eform does not start with the Commission. It starts and ends with [African] leaders, who must set the right expectations and tempo.'⁹⁰

Further, Africa's problem has never been in the realm of goal-setting or strategic frameworks. Neither are states' failure to meet their political and socio-economic obligations because of a lack of ideas, visions, priorities, resources, or capabilities. The dormant treaties, resolutions, declarations, recommendations, decisions and action plans that gather dust in Africa's institutional archives and university libraries are actual pieces of evidence that Africa is agog with noble ideas.⁹¹

What then is the problem? The Kagame Report provides the obvious answer: 'By consistently failing to follow up on the implementation of the

decisions we have made, the signal has been sent that they don't matter.⁹² The report specifically identifies the following fault lines:

- A constant failure to see AU decisions through, resulting in a crisis of implementation
- A perception of limited relevance to African citizens
- A fragmented organisation with a multitude of focus areas
- Overdependence on partner funding
- Underperformance of some organs and institutions due to unclear mandates or chronic underfunding
- Limited managerial capacity
- Lack of accountability for performance, at all levels
- Unclear division of labour between the AU Commission, the RECs, other regional mechanisms and members
- Inefficient working methods in both the AU Commission and Assembly⁹³

The AU, indeed, is a bloated institution. Many of its organs and agencies dissipate largely depend on donor funds on irrelevant programmes and endless conferences that make no positive contributions towards uplifting the living standards of ordinary Africans. At the time of the Kagame Report, the AU consisted of 11 organs, eight commission directorates, 31 departments and offices, 31 Specialized Technical Committees (STCs), and about 20 high-level committees.⁹⁴ Meanwhile, the AU's programmes are 97% funded by donors, as members routinely default in their financial obligations. This sad situation raises a fundamental question on who owns the African Union.⁹⁵

The Kagame Report recommended four action points towards strengthening the AU for better performance:

- Focusing on key priorities with continental scope, such as political affairs, peace and security, economic integration and Africa's global representation and voice.⁹⁶
- Realigning AU institutions to deliver against those priorities, as the existing complicated structures hamper the AU's ability to make decisions and implement them.⁹⁷
- Managing the AU efficiently at both political and operational levels, including reforming the working methods of AU summits; reviewing partnership summits by external parties with a view to providing an effective framework for AU partnerships; strengthening and

enforcing existing sanctions mechanisms; and undertaking a fundamental review of the structure and staffing needs of the organisation and conditions of service.⁹⁸

- Financing the AU internally and sustainably, among others, by voting budgets that members can afford to pay based on equitable burden-sharing⁹⁹ and stricter oversight on the AU's budget and finances.

Building a more relevant AU

Following the Kagame Report, the AU Commission set up an advisory team to review all past reports and assess the AU's priorities and its effectiveness in implementing its current and future priorities. The report, *Building a More Relevant African Union*,¹⁰⁰ contains 20 practicable recommendations:

- Focus the AU's agenda on fewer priority areas
- Clarify division of labour between the AU, RECs, regional mechanisms, members and continental institutions
- Conduct an audit of the AU's bureaucratic bottlenecks and inefficiencies
- Re-evaluate the size and capabilities of the AU Commission's structures
- Establish a lean and performance-oriented senior leadership team at the Commission
- Review and update mandate and structure of key organs and institutions
- Launch initiatives focused on increasing the AU's relevance to citizens
- Reform the working methods of the AU summit
- Determine the appropriate African representation at partnership summits
- Establish a troika of the outgoing, current and incoming AU chairpersons
- Strengthen and enforce the current sanctions mechanism
- Enhance the process for selecting the Commission chairperson
- Recruit the Commission deputy chair and commissioners competitively

- Reframe the role of deputy chairperson and potentially change the titles of the chairperson and deputy chairperson
- Review structure, staffing needs and conditions of service of the Commission
- Implement the Kigali Financing Decision
- Adopt complementary measures to reinforce the Kigali Financing Decision
- Establish high-level supervision arrangements for the AU reform process
- Establish a unit in the Commission to drive reform implementation
- Establish a binding mechanism to ensure reform implementation¹⁰¹

Commendably, the AU is taking steps to address these and other fault lines, which is crucial to moving Africa's integration and sustainable development project forward. On financing, for example, the AU policy organs have reiterated the desire to explore more sustainable and predictable funding options.¹⁰²

In July 2016, AU member states took an unusual step towards confronting this endemic problem by holding a special retreat on financing the Union in Kigali on 16 July 2016. In the outcome document,¹⁰³ the AU Assembly reaffirmed its determination to ensure that the organisation 'is financed in a predictable, sustainable, equitable and accountable manner with the full ownership by its Member States.'¹⁰⁴ After considering the Report of the AU High Representative of the Peace Fund as well as other contributions, the Assembly took the following decision on financing of the AU generally:

- To institute and implement a 0.2% levy on all eligible imported goods into Africa to finance the AU operational, programme and peace support operations budgets starting from 2017.
- That the amounts collected from the levy will be automatically paid by the national administration into an account opened for the AU with each member state's central banks for transmission to the AU in accordance with each member state's assessed contribution.
- That the AU Commission will put in place strong oversight and accountability mechanisms for ensuring the effective and prudent use of the resources.

- That the AU Commission should complete the ongoing institutional reform of the AU to ensure a more effective attainment of its objectives and prudent use of all resources.
- To establish a committee of finance ministers comprising 10 member states, representing the five regions – two per region – to participate in the preparation of the annual budget.

In 2017, following the retreat on the AU's institutional reform, the AU Assembly decided that the organisation should focus on fewer priority areas that were continental in scope. These included political affairs, peace and security, economic integration (including AfCFTA), and Africa's global representation and voice.¹⁰⁵ It further decided that there should be a clear division of labour and effective collaboration between the AU, RECs, regional mechanisms, members and other continental institutions, in keeping with the principle of subsidiarity.¹⁰⁶

It directed the AU Commission to re-evaluate its structures to ensure that they had the right size and capabilities to deliver on the agreed priorities. It emphasised on the necessity to keep the Commission's senior leadership team lean and performance-oriented,¹⁰⁷ a clear admission that the organisation was bloated. These are commendable steps, but the AU Assembly must do more. It should take tougher decisions to reposition the organisation for the challenges ahead.

Conclusion

Africa has had many opportunities for progress. It can reasonably be accused of squandering its past. African states created the AU to move Africa in a new direction that would enable it to regain its lost decades.

To achieve its ambitious goals and meet new challenges, the AU needs to periodically readjust its priorities.¹⁰⁸ It should keep reinventing itself to remain relevant in a world that is constantly changing. It should fully implement all institutional reform reports if it is to achieve its ambitious human security agenda. Governance is not a laboratory experiment; rather, it is the structured expression of public lives, hopes and fears. For the AU to successfully promote good governance in Africa, it must first effectively and professionally govern itself.

Notes

- 1 Constitutive Act of the African Union (CAAU), adopted 11 July 2000, entered into force 26 May 2001, pmbi, OAU Doc. CAB/LEG/23 15 (as amended by the Protocol on Amendments to the Constitutive Act of the African Union 11 July 2003) ['Constitutive Act of the AU']; cf. Durban Declaration in Tribute to the OAU and on the Launching of the AU, AU Doc. Ass/AU/Decl. 2 (I) (10 July 2002), paras 2 & 4. ['Durban Declaration'].
- 2 CAAU, Preamble.
- 3 Ibid., Article 3.
- 4 Ibid., Preamble.
- 5 Ibid., Article 3(k).
- 6 Durban Declaration, paragraph 6.
- 7 B Davidson, *The black man's burden: Africa and the curse of the nation-state*, London: James Currey 10, 1992.
- 8 J Jansen and J Osterhammel, *Decolonization: a short history*, Princeton: Princeton University Press, 2017, 1-4, 29.
- 9 S Grovogui, *Sovereigns, quasi sovereigns, and Africans: race and self-determination in International Law* (analysing the inadequacies of international law to meet the desire of colonised to achieve true sovereignty and self-determination), 1996, 2.
- 10 G Kreijen, *State failure, sovereignty and effectiveness: legal lessons from the decolonization of sub-Saharan Africa*, Leiden: Martinus Nijhoff Publishers, 2004, 1-2.
- 11 Ibid., 2.
- 12 Ibid., 141.
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- 14 M wa Ngugi, *The rise of the African novel: politics of language, identity and ownership*, Abuja: Cassava Republic Press, 2020, 29-30, (adding: 'No one bothered to ask what African language we spoke and applaud us if we spoke it well.').
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- 17 A Ighodalo, Poverty and sustainable socio-economic development in Africa: The Nigeria experience, *European Scientific Journal* 8(26), 2012, 52, 56.
- 18 Ibid.
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- 21 M Doornbos, The African state in academic debate: retrospect and prospect, *Journal of Modern African Studies*, 28(2), 1990, 183.
- 22 L Emmerij, Co-responsibility versus double standards, in A Adedeji (ed.), *Africa within the world: beyond dispossession and dependence*, London: Zed Books, 1993, 97 at 106.

- 23 African Union, Master Roadmap of Practical Steps to Silence the Guns in Africa by Year 2020 (Lusaka Master Roadmap), adopted in Lusaka in 2016, paragraph 5, https://au.int/sites/default/files/documents/37996-doc-au_roadmap_silencing_guns_2020.pdf.en_.pdf.
- 24 Algiers Declaration, OAU Doc. AHG/Decl.1 (XXXV) (July 1999) paragraph 6 (on the necessity to 'consolidate the hard-won national sovereignty,' Durban Declaration, paragraph 2).
- 25 Resolution on Border Disputes, OAU Doc. AHG/Res.16(I) (July 1964) enshrined the principle of respect of borders existing on achievement of independence.
- 26 CAAU, Article 4(b).
- 27 CA Odinkalu, Foreword, in NJ. *The African Union in international law: selected studies*, John Archers Publishers, 2020, 15.
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- 29 R Brooks, Failed states, or the state as failure? *Chicago Law Review*, 72:4, 2005, 1159 at 1168.
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- 31 M Salisu, Incentive structure, civil service efficiency and the hidden economy in Nigeria, in S Kayizzi-Mugerwa (ed.), *Reforming Africa's institutions*, Tokyo: United Nations University Publications, 2003, 170–171.
- 32 ST Ajayi, a former Nigerian Civil Service Commissioner, quoted in *ibid.* 170.
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- 35 *Ibid.*, Article 3(g). The AU is also anchored on some liberal principles, such as democratic governance, human rights, gender equality, rule of law, and social justice. Article 4(l)–(n).
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- 37 *Ibid.*, Article 5(1).
- 38 *Ibid.*, Article 5(2).
- 39 Protocol on Peace and Security Council, adopted 9 July 2002, entered into force 26 December 2003, AU Doc. ASS/AU/Dec. 4 (I) (July 2002) ['PSC Protocol'] comprehensively laying out the continental security architecture.
- 40 Statute of the APRM, adopted August 2016, AU Doc. V11082016 ['APRM Statute'].
- 41 Durban Declaration, paragraph 17.
- 42 CAAU, Article 6(2).
- 43 *Ibid.*, Article 6(1); cf. Rules of Procedure of the Assembly of the Union, AU Doc. Assembly/AU/2(l)-a (2002) (as amended), Rule 3 ['AU Assembly Rules'].
- 44 Assembly Rules, Rule 4(1)(e).
- 45 *Ibid.*, Rule 4(1)(f).
- 46 *Ibid.*, Rule 4(1)(i).

- 47 Ibid., Rule 4(1)(r).
- 48 Ibid., Rule 4(1)(t).
- 49 Ibid., Rule 4(1)(u).
- 50 CAAU, Article 23(1).
- 51 Ibid., Article 9(1)e).
- 52 Assembly Rules, Rule 4(1)(s).
- 53 Treaty Establishing the African Economic Community, adopted 3 June 1991, entered into force 12 May 1994, Article 8(2), *International Legal Materials*, 30, 1245 ['AEC Treaty'].
- 54 Ibid., Article 8(3).
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- 57 Ibid., at 59 (referencing Vienna Convention on the Law of Treaties, adopted 23 May 1969, entry into force 27 January 1980, Article 14(1)).
- 58 CAAU, Article 13(1).
- 59 Ibid. Also included among the areas of common interest are insurance; nationality, residence, and immigration matters; and likewise the establishment of a system of African awards, medals and prizes.
- 60 Ibid., Article 15.
- 61 Ibid., Article 14(1).
- 62 PSC Protocol, Article 3(1).
- 63 CAAU, Article 20.
- 64 Decision on Consequence Management and the Oversight Role of the Chairperson of the AU Commission within the Union on the Functioning of the AUC and Other AU Organs, paragraph 3, AU Doc. Ass/AU/Dec.757 (XXXIII), February 2020.
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- 66 Ibid., Article 18(2).
- 67 Ibid., Article 20.
- 68 CAAU, Article 5.
- 69 Ibid., Article 18(2).
- 70 Adopted 11 July 2003, entry into force 11 February 2009 ['Protocol on ACJ']. For a commentary, see NJ Udombana, An African Human Rights Court and an African Union Court: A needful duality or a needless duplication? *Brooklyn Journal of International Law*, 28(3), 811 (arguing against dual continental courts and calling for a merger, a year before the AU Assembly decided on it), 2003.
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- 76 Maputo Declaration on Malaria, HIV/AIDS, Tuberculosis and Other Related Infectious Diseases (ORID), AU Doc. Ass/AU/Decl.6 (II), July 2003.
- 77 Declaration on Agriculture and Food Security in Africa, AU Doc. Ass/AU/Decl.7 (II), July 2003.
- 78 Decision on the African Common Position on Climate Change including the Modalities of the Representation of Africa to the World Summit on Climate Change, paragraphs 2 and 3, AU Doc. Ass/AU/Dec.257 (XIII) Rev.1 July 2009); *cf.* Decision on Africa's Preparations for the UN Conference on Sustainable Development (RIO+20); Common Positions and Strategies in the face of the Challenge of Green Economy and International Governance of the Environment, AU Doc. Ass/AU/381 (XVII), July 2011.
- 79 Decision on Post-Cotonou Negotiations, paragraph 4, AU Doc. Ext/Ass/AU/Dec.4 (XI), November 2018.
- 80 Ibid., paragraph 3.
- 81 Decision on Post-2020 Partnership with the EU, para. 2, AU Doc. Ass/AU/Dec.715 (XXXII), February 2019.
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- 83 Decision on Multilateral Cooperation, AU Doc. Ass/AU/Dec.762 (XXXIII), February 2020.
- 84 Ibid., paragraph 6.
- 85 PSC Protocol, Article 18.
- 86 Ibid., 159.
- 87 Decision on the Institutional Reform of the AU, paragraph 2, AU Doc. Ass/AU/Dec.606 (XXVII), July 2016.
- 88 Ibid.
- 89 Kagame Report, 7.
- 90 Ibid., 4.
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- 92 Ibid., 8.
- 93 Ibid., 6-7.
- 94 Ibid., 12.
- 95 Ibid., 25.

- 96 Ibid., 8 and 11.
- 97 Ibid., 8 and 12.
- 98 Ibid., 8 and 23.
- 99 The Report recommends a revision of the current scale of assessment, based on the following principles: ability to pay; solidarity; and equitable burden sharing. Ibid., 25.
- 100 AU Reforms Report: Building a More Relevant African Union, 4, 15 January 2017.
- 101 Ibid., 5-7.
- 102 AU Doc. EX.CL/Dec.285 (IX) (June 2006); AU Doc. Assembly/AU/Decl.2 (IX) (July 2007); AU Doc. EX.CL/Dec.643 (XVIII) (Jan. 2011); and AU Doc. Assembly/AU/Dec.364 (XVII) (July 2011).
- 103 AU Doc. Assembly/AU/Dec.605 (XXVII) (July 2016). Mauritius made a reservation, though its nature was not indicated.
- 104 Ibid., paragraph 1.
- 105 Decision on the Outcome of the Retreat of the Assembly on the Institutional Reform of the AU, paragraph 1, AU Doc. Ass/AU/Dec.635 (XXVIII) Annex, January 2017.
- 106 Ibid., paragraph A.
- 107 Ibid., paragraph B(i)&(ii); cf. Decision on the Institutional Reform, AU Doc. Ext/Ass/AU/Dec.1 (XI) (mandating the Commission Chairperson to develop a new departmental structure that is lean and performance-oriented), November 2018.
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Chapter 5

Addressing Africa's peace and security challenges

Wafula Okumu

Introduction

When the African Union (AU) was established, its founders were aware of the need to put in place conditions for the continent to fulfil its integration and development goals. This realisation was informed by Africa's experiences with conflicts, underdevelopment and insecurity, particularly the failures of the continent in its management of the Rwandan genocide.

The genocide raised critical questions about the failure of existing institutional structures, such as the Organisation of African Unity (OAU) Mechanism for Conflict Prevention Management and Resolution, to address human security threats. It also revealed the futility of *ad hoc* responses, lack of capacity to manage insecurity and 'absence of a normative and legal basis to intervene'¹ even in situations where it wanted to. In the ensuing quest for more responsiveness to myriad African challenges, the indispensable foundational role of peace and security to the attainment of all other necessary conditions became central.²

The high hopes that greeted the formation of the AU were, thus, centred principally around expectations that it would be an effective instrument for addressing human security challenges. Indeed, the AU has, over two decades, designed an impressive response toolkit. This includes institutional frameworks, improving capacity to anticipate, prevent and respond to conflicts; legal and normative frameworks, and intervention in various insecurity situations. Besides deploying peace support missions to areas such as Somalia (2007), Burundi (2003) and Comoros (2008), it has undertaken 'special political missions' to contain violence and prevent deterioration of security in other places.

These efforts have contributed immensely to the management of insecurity by significantly increasing the continent's peace index. This is reflected in the reduced number of violent conflicts or civil wars between the end of the Cold War and the turn of the century. Great strides, as noted in chapter 7, have also been made in democratisation on the continent.

However, Africa continues to grapple with persistent instabilities in places such as the Central Africa Republic (CAR), eastern Democratic Republic of the Congo (DRC), Guinea, Mali, Libya, South Sudan and Sudan. The continent is also dealing with civil wars in Ethiopia and Cameroon, the Boko Haram menace in Nigeria, coups in West Africa and instability in Somalia. Violent extremism continues to threaten states and spread across borders in the Horn of Africa and Sahel regions.

These challenges – deeply rooted in the interplay of social, political, economic, historical and environmental dynamics – have disrupted livelihoods, destroyed infrastructure, led to untold human fatalities and suffering and undermined development efforts. This chapter provides an overview of the state of peace and security in Africa. It analyses the evolution and performance of AU mechanisms adopted to implement this agenda, particularly in preventing, managing and resolving conflicts, and engaging in peacebuilding processes.

It points out the major achievements and challenges over two decades of the AU's African Peace and Security Architecture (APSA). It also recommends measures to be adopted to achieve the peace and security goals of Agenda 2063. The chapter argues that, on one hand, limited successes in addressing insecurity and conflicts have raised concerns over the AU's ability to promote peace and maintain security.

On the other hand, it has developed institutional frameworks, generated and articulated norms, values and standards, and implemented strategies and established practices that encompass its peace and security architecture. This is evident in the conceptualisation and implementation of APSA. The architecture furthers the provisions of the Constitutive Act of the African Union (CAAU) and the Protocol Relating to the Establishment of the Peace and Security Council (PSC Protocol). The latter is the mechanism for fulfilling the AU's peace and security agenda.

State of peace and conflict in Africa

As the AU turned 20 in 2022, the continent was beset by unresolved situations in Ethiopia, Somalia, Libya, DRC, CAR, Mozambique, Sudan, South Sudan and others. The concurrence of these situations defines the nature of continental challenges, but skews an appreciation of AU strides in managing insecurity on the continent.

A true appreciation of progress in this area of peace and security, therefore, ought to be seen against the trajectory of the continent's experiences over time. It is easy to misrepresent the positives if achievements are measured against the continent's status at a particular time rather than an appreciation of its evolution over decades. Also important is that a macroanalysis of Africa's peace and security misses the diversity of issues and experiences that inform the nature of conflicts and responses. Reducing Africa's experiences into trend lines ignores important nuances.

There is a rise in the number of internal disputes driven by identity-based grievances seeking redress from central governments. However, disputes such as those in Cameroon, CAR, Ethiopia, Mali, Nigeria and Mozambique are reactions to perceived or real marginalisation and exclusion from centres of power. Others, such as that in eastern DRC, are cocktails of resource exploitation, ethnic manipulations and external interferences.

Although African conflicts have been mainly intrastate, their impacts are felt across borders as they spill into neighbouring countries, affecting surrounding regions. For instance, the 1994 fighting in Rwanda spilled into Burundi, DRC, Tanzania and Uganda, while the Libya crisis is being felt across the Sahel region, particularly in Mali, Niger and Mauritania.

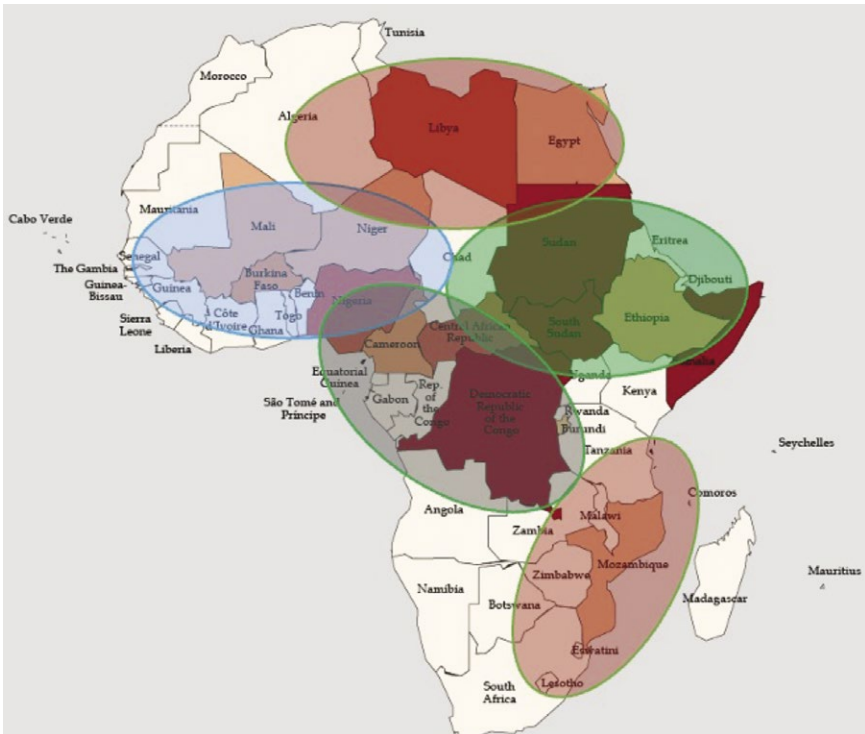
Africa continues to face interstate wars, internal civil strife, genocidal political violence, terrorism, piracy, violations of human rights, weak and failed states that cannot provide law and order, and other forms of human insecurities. The continent has some of the most conflict-prone countries in the world, with several currently embroiled in armed conflicts. Some of these countries are facing territorial and boundary disputes with neighbours and others have concerns over the security of their borders and the mutual exploitation of natural resources straddling them.

These crises have created complex emergencies arising from forced migration, food insecurity and destruction of family systems and

infrastructure. Civil wars in Cameroon, CAR, DRC, Ethiopia, Mali, Nigeria, South Sudan, Sudan and Somalia have displaced or claimed the lives of millions of people through direct violence or through disease and starvation. As of 2021, there were '32 million Africans ... either internally displaced, refugees or asylum seekers' compared to 29 million in 2020.³ More than 36% of South Sudan's population is forcefully displaced, while 2.5 million Nigerians have been displaced by Boko Haram's violence.

The spread of situations across different regions has also generated about five major regional security complexes defined by common threats to neighbouring states (Figure 5.1). The first complex cluster, in the Horn of Africa, is defined largely by the insecurity in Somalia, Sudan and South Sudan. The recent outbreak of conflict in the Tigray area of Ethiopia threatens to exacerbate existing regional vulnerabilities.

Figure 5.1: Clusters of conflicts in Africa, 2022



Source: Base data from *Systemic Peace*, illustration by author.

Conflicts in the Horn of Africa are among the continent's most complicated, given that many have a long and complex history, convoluted regional and extraregional dimensions and no immediate solutions in sight. Over the years, however, great progress has been made in their management, resulting in ongoing transitions in Sudan, South Sudan and Ethiopia. Certain conflicts have, thus, evolved from active combat situations with extreme humanitarian consequences into a fragile no-peace and no-war state. These are heavily dependent on the successes or otherwise of the ongoing internal transitional process, particularly in Sudan and South Sudan.

The second cluster of conflicts is concentrated around the central Africa region and centre largely on instability in parts of DRC, CAR, Cameroon and, to some extent, Burundi. This cluster has a long history. It endures due largely to underlying state weaknesses, governance challenges, prevalence of natural resources and emotive dimensions, particularly religious undertones in CAR and secessionism in Cameroon.

The third cluster is in north Africa, which has witnessed an Islamic insurgency in the Maghreb and the Tunisian revolution in 2010 that triggered an Arab Spring uprising. It also experienced the Egyptian political crisis that led the AU to revise its position on unconstitutional changes of government and the Libya crisis that persists to this day. Apart from violent extremism and terrorism threats from Algeria's 1990s challenges with the Salafist Group for Preaching and Combat, the region remained relatively stable compared to others. The outbreak of the Arab Spring and the conflict in Libya, however, marked a major turning point in the recent history of the region and drew attention to simmering governance challenges. The ousting of Muammar al-Gaddafi in 2011 triggered a humanitarian crisis, a civil war, foreign interventions and the outflow of weapons that spilled into the Sahel region. Consequently, this and parts of West Africa have become epicentres of instability.

West Africa is home to the fourth cluster, with conflicts caused mainly by bad governance, corruption, ethnic marginalisation and exclusion and injustices. The long history of violent extremism was fuelled in the recent past by huge influxes of weapons after Gaddafi's assassination. Countries such as Mali, Chad, Niger, Nigeria and Burkina Faso have been affected by

the rising number of violent extremist groups operating in the region. Particularly worrying, as of the end of 2022, has been the southwards spread of these groups towards the coast. The emergence of groups such as Boko Haram, Ansar al-Dine – Ansar Dine, and Jama'at Nasr al-Islam wal Muslimin has challenged the security of countries such as Nigeria, Niger, Burkina Faso and Mali. These terrorist groups have significantly shaped the region's security landscape.

In the early-1990s, before violent extremists appeared in the Sahel region, the Manor River areas accounted for a great proportion of Africa's instability, with conflicts in Liberia, Sierra Leone and Cote d'Ivoire. Insecurity in West Africa is compounded by aspects including transnational organised crime, climate change-induced threats such as farmer-herder conflicts and governance weaknesses.

In the Southern Africa cluster, the current insecurity in northern Mozambique caused by the Islamic fundamentalist group Ansar al-Sunna is the most serious threat to regional peace and security. Although Ansar al-Sunna has no relations with al-Shabaab, it has the 'potential of growing into the Boko Haram of southern Africa'.⁴ Although the region has a history of violent conflicts dating back to the 1960s, these have abetted with the demise of the colonial and apartheid regimes in the 1990s.

Due to their long history and shifting dynamics over the years, these conflicts have posed fundamental threats to the development of the continent. The AU has stemmed some from escalating into violent wars. Several have been resolved with or without its direct involvement, while others have lingered on despite interventions.

The AU played key roles in midwifing South Sudan's independence, mediating the 2009 Madagascar political crisis,⁵ containing the 2016 to 2017 Gambia crisis, securing the post-Bashir peace deal in Sudan, and mediating an end to a calamitous two-year conflict between the Ethiopian government and rebel authorities in Tigray region. Situations such as the 2018 rapprochement between Ethiopia and Eritrea that ended the 18-year stalemate over implementation of the 2000 Algiers peace accord were driven largely by external actors, including Saudi Arabia. The AU was not actively involved.

Similar was the settlement of the Kenya-Somalia maritime boundary dispute handled by the International Court of Justice (ICJ) in October 2021.⁶ AU effectiveness in maintaining security in Africa has been judged largely by its successes in establishing environments and institutions for good governance, rule of law and respect for human rights and constitutionalism.

Piracy and terrorism have exacted heavy tolls on human life, property and sources of livelihood. Piracy in 2017 in the Guinea and Aden gulfs and the Indian Ocean off Somalia's coast extracted ransoms of more than US\$818 million and resulted in billions of dollars in indirect costs. This is according to a 2017 report by Oceans Beyond Piracy.⁷ Terrorism has cost an average of 2.5% of gross domestic product (GDP) over the years. Al-Shabaab terror attacks have claimed more than 20 000 lives and cost billions of dollars through destroyed properties and lost businesses.⁸

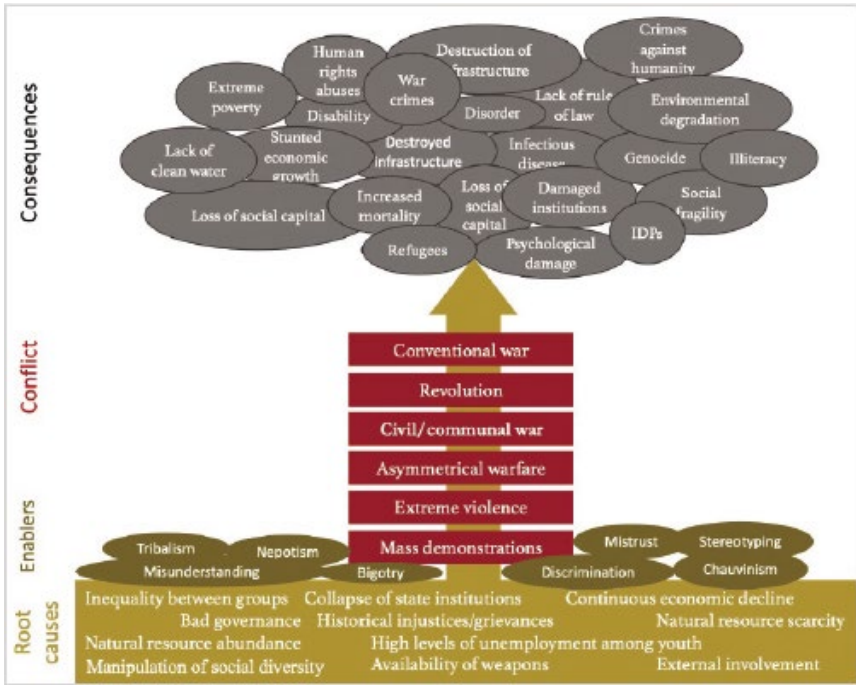
Threats to Africa's human security (Figure 5.2), particularly conflicts and armed violence, are traceable to many factors. These range from state mismanagement, misgovernance and high-level corruption to historical injustices and grievances, poor handling of electoral processes and social diversities, incumbents manipulating political processes or constitutional orders, and foreign interference. The root causes of conflicts fuelled by tribalism, nepotism, bigotry, chauvinism, discrimination and stereotyping have engendered public economic downturns, disorder and violence.

In response to threats to regime or state security, ethnic loyalties and securocrats are called on to keep incumbents in power. The securitisation and militarisation of the state come at an astronomical cost to the economy and society due to high expenditures.

Some continental governments, according to the *Routledge Handbook of African Security*, spend large shares of national expenditure on the military in 'disproportion to their available economic resources and existing security threats'.⁹ This burdens national treasuries and denies the population peace dividends. For instance, South Sudan wiped out its peace dividends by spending an average of 8.1% of its GDP between 2011 and 2016 on its military.¹⁰

Challenges aside, there are successes in the management of some major crises attributable to conflict prevention and peacebuilding efforts of the AU, regional economic communities (RECs), regional mechanisms

Figure 5.2: Conflict tree



Source: Okumu¹⁷

(RMs) and international communities. Such developments include the rapprochement between Ethiopia and Eritrea and the Eritrea-Djibouti accord to settle the border disputes over the Doumeira mountain and island in the Red Sea. The signing of another peace accord to end hostilities between warring parties in South Sudan in 2018 and the increased number of peaceful elections and power transfers also signal progress.

Mechanism for promoting AU peace and security agenda

The AU was established primarily to address peace, security, governance, development and other continental challenges. The AU’s agenda to fulfil this mandate is rooted in the OAU Charter that identified a strong correlation between ‘human progress’ and ‘peace and security’. It also advocated

peaceful settlement of disputes by 'negotiation, mediation, conciliation or arbitration' and established a commission of mediation, conciliation and arbitration and a specialised commission on defence.¹² The charter also unreservedly condemned all forms of 'political assassination as well as of subversive activities on the part of neighbouring states or any other states.'¹³

The AU peace and security agenda was heavily influenced by former UN Secretary-General Boutros Boutros-Ghali, who asserted 'peace, the economy, the environment, society and democracy are interlinked dimensions of development.'¹⁴ Rather than emphasising conflict resolution and conflict management, Boutros-Ghali, in *An Agenda for Peace*, stressed peacebuilding and peace maintenance. He used the word 'peacebuilding' to describe the development of human resources, social change and reconciliation of disputing groups. In other words, societies could address the underlying causes of war and conflict by investing in peacebuilding.

It is in recognition of building peace that African heads of state and government, in Article 3(f) of the CAAU, declare that is the AU should 'promote peace, security and stability' Article 4(e) states that an AU principle is 'peaceful resolution of conflicts among member states.' Article 4(h) gives the body the right 'to intervene in a member state ... in grave circumstances, namely war crimes, genocide and crimes against humanity.'

Thus, the AU has a mandate to help resolve interstate and intrastate conflicts, deal with security threats such as terrorism and conduct peacebuilding activities. While celebrating the OAU/AU 50th anniversary in Addis Ababa on 26 May 2013, the organisations affirmed their commitment to 'address the root causes of conflicts including economic and social disparities.'¹⁵ They also resolved to achieve a conflict-free Africa, make peace a reality for Africa's people, eliminate wars, civil conflicts, human rights violations, humanitarian disasters and violent conflicts, and prevent genocide.'

They pledged 'not to bequeath the burden of conflicts to the next generation of Africans and undertake to end all wars in Africa by 2020.' This was to be done by, *inter alia*, pushing the agenda of conflict prevention, peacemaking, peace support, national reconciliation and post-conflict reconstruction and development through APSA. They also undertook to

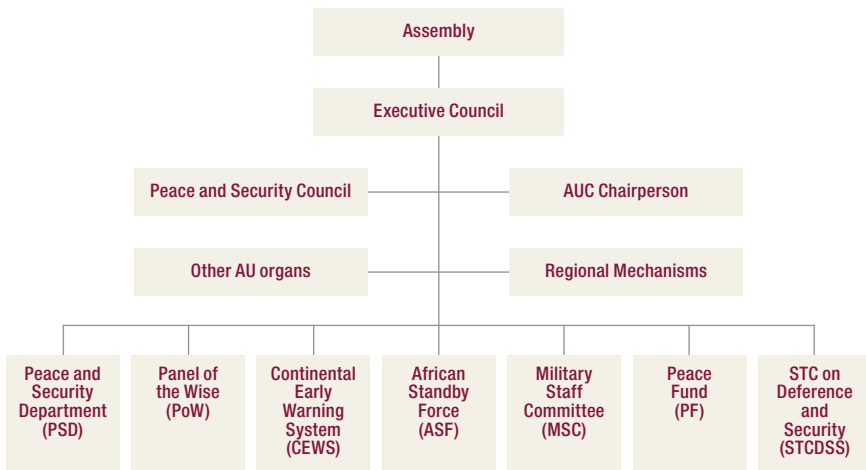
ensure enforcement of and compliance with peace agreements and build Africa's peacekeeping and enforcement capacities through the African Standby Force (ASF). To implement its agenda, the AU has very elaborate structures, including the APSA framework, as outlined in figures 3 to 5.¹⁶

The AU peace and security agenda has changed significantly over the years. It now includes issues such as piracy, trafficking in narcotics and humans, extremism, armed rebellions, terrorism, transnational organised crime and cybercrime. Other focuses are border security, nuclear disarmament, non-proliferation and peaceful uses of nuclear energy, and landmines and the non-proliferation of small arms and light weapons.

APSA was formally established in May 2004 when the PSC Protocol came into action. The word 'architecture' is used only once in Article 16 of the PSC Protocol, which states that RMs are part of the wider security architecture of the AU, whose primary duty is maintaining peace, security and stability in Africa.

However, the acronym APSA has come to define and express the efforts undertaken or attempted by the AU to advance peace and security in Africa. There is confusion about what APSA is and how it is expected to function. This is due to the lack of AU documents clearly defining and describing it other than the PSC Protocol article. While the AU has adopted

Figure 5.3: AU peace and security institutional arrangement



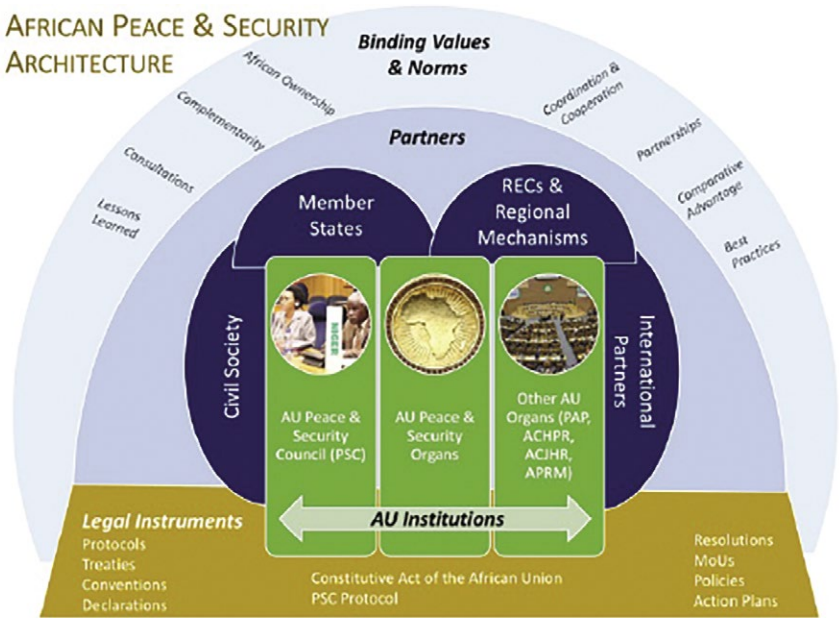
Source: Makinda, Okumu and MICKLER¹⁶

Figure 5.4: AU depiction of APSA



Source: African Union17

Figure 5.5: APSA



Source: Makinda, Okumu and Mickler

the narrower definition depicted in Figure 5.3, this chapter focuses on the comprehensive definition depicted in Figure 5.5.¹⁷

Figure 5.4 illustrates the structures, legal instruments, guiding principles and other main components of APSA. The section below provides an overview of these components and how they relate to each other to realise the AU agenda.

APSA structures and arrangements

Although Article 3(f) of the CAAU declares that an AU goal is to promote stability, security and peace across the continent, it does not specify how. To address this lacuna, the AU Assembly adopted the PSC Protocol under Article 5(2) of the CAAU. Several arrangements, shown in Figure 5.3, are identified to play specific roles such as conflict prevention, conflict management and conflict resolution under the umbrella of the PSC. Over the last two decades, as shown in the section below, the AU's major focus has been establishing, refining and implementing APSA structures.

Peace and Security Council

The PSC is the standing decision-making organ for the prevention, management and resolution of conflicts. It is set up as a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa. In this, it is supported by the AU Commission (AUC), the Panel of the Wise (PoW), the Continental Early Warning System (CEWS), the ASF and 'a special fund,'¹⁸

The council comprises 15 members 'elected on the basis of equal rights' with 10 for two-year terms and five for three-year terms 'to ensure continuity.' A conscious effort was made to avoid the UN Security Council model of some members holding permanent seats and wielding veto power. However, Nigeria has become a *de facto* PSC permanent member as it has hung on to its membership since joining in 2004.

The PSC mandated the African Union Mission in Burundi – AMIB (2003 to 2004), African Union Mission in Sudan – AMIS (2004 to 2007), African Union Military Observer Mission in Comoros (2004), African Union Mission for Support to the Elections in Comoros (2006), African Union Mission in Somalia – AMISOM (2007 to 2022), the African Union

Electoral and Security Assistance Mission to Comoros (2007 to 2008), the African Union/United Nations Hybrid Mission (2008 to present), Regional Cooperation Initiative for the Elimination of the Lord's Resistance Army – RCI-LRA (2011 to 2017) and African-led International Support Mission to Mali (2013).

Despite authorising these missions, the PSC has been criticised for several faults. When electing its members, the qualification criteria laid out in Article 5(2) of the PSC Protocol, such as 'respect for constitutional governance, the rule of law and human rights,' have been overlooked. Member election has been left to the regions to determine, using their own criteria. For instance, West Africa decided to have a 'permanent member' status contrary to the letter and spirit of the protocol.

The PSC holds too many meetings, which overburden its meagre financial and human resources. Although it was to meet at least twice a month, it has – since inauguration – been meeting more than five times a month. This is due to increased demands on it to address a growing number of issues, some of them agendas of chairs to advance their national interests. The PSC is also grossly underfunded for the activities it is expected to undertake.¹⁹ These funds are usually spent on hosting meetings and retreats, and undertaking 'fact-finding' missions.

Apart from being undercapacitated, the PSC secretariat lacks staff with specialised expertise in crucial subject matters such as international law, conflict analysis, conflict resolution and peacebuilding. Besides its overburdened skeletal secretarial team, PSC meetings hardly benefit from well-researched and independent reports. Until recently, when its relationship with civil society organisations (CSOs) and its thinktanks seemed to be improving, it usually made decisions without expert inputs and decision-making information, particularly for complex matters.

The more than 1 110 meetings²⁰ and briefings held since 2004 have generated mostly decisions on issues such as the deployment of peacekeepers. This is despite the AU's lack of capacity, capability and will to deploy them. In 2015, the decision of ambassadors on Burundi was reversed by the AU Assembly. Since then, the council seems to have developed an affinity with less-controversial issues (usually thematic) rather than sensitive matters involving conflict situations in key member states.

Notwithstanding its weaknesses, the PSC arguably remains the most active organ of the AU and APSA. The quality of its deliberations and communiqués has improved significantly over time. Among its credits are principled decisions on controversial issues such as the suspension of AU member states that use unconstitutional means to change governments.

Continental Early Warning System

CEWS was created to anticipate potential disputes and recommend mitigations. By 2022, it had yet to reach the intended and expected levels of strategic and operational capacity required for conflict prediction and prevention. CEWS faces challenges not only of harmonising information collection methods but of coordinating with other entities involved in gathering information for conflict prevention.²¹

A key approach for CEWS is to coordinate and work with regional early warning systems. The Economic Community of West African States (ECOWAS) Early Warning and Response Network and Intergovernmental Authority on Development (IGAD) Conflict Early Warning Network (CEWARN) were set up by the creators of CEWS.

The establishments of early warning systems in other RECs and RMs are still in the early phases of creating policy frameworks, concepts and methodologies. In the Community of Sahel-Saharan States (CEN-SAD), East African Community (EAC), and the Common Market for Eastern and Southern Africa (COMESA), data collection and reporting for early warning are inoperative. CEWARN, for example, is not linked to the AU situation room and remains exclusive to pastoralist conflicts in selected areas in the Horn of Africa. While the Southern African Development Community (SADC) tends to use conventional intelligence techniques for information gathering, IGAD prefers information from the field.

Since the establishment of CEWS, there has been no proof that its work has had the room to influence policymaking or to serve as the basis for interventions or policies. Instead of being developed from the bottom up, CEWS is being created from the top down. The AU's resistance to working with CSOs and African thinktanks has worsened the situation as some important engagements are yet to benefit from the extensive information gathering and analysis capacity of CSOs.²² The accuracy and timeliness of CEWS data have also been of concern, particularly how data are handled and presented.

For the past two decades, rather than becoming functional, CEWS has been a mere fire alarm prototype under construction. Numerous software modules have been tested to make it easier to gather, share and distribute information both inside the AU and with the RECs. However, CEWS has so far been unable to keep track of actual, potential and post-conflict circumstances in Africa.

Heavy reliance on foreign experts to conceptualise, design and redesign CEWS has, at times, also denied it African perspectives on continental realities and needs. On one hand, member states are wary of providing information to CEWS for fear that it may end up in the hands of opponents and endanger its own sovereignty. On the other hand, it is unwilling to use information that contradicts its own sources and places low value on enhancing its national security interests.

Operationally, CEWS is not the only actor collecting information to enhance human security in Africa. It now shares this role with the African Peer Review Mechanism (APRM) and the Committee of Intelligence and Security Services of Africa (CISSA), neither of which has a work relationship with CEWS. Unfortunately, CISSA has not been integrated in APSA nor the Political Affairs, Peace and Security Department (PAPSD) under whose umbrella CEWS, and the divisions of defence and security and conflict prevention exist.

CISSA held its 10th annual conference in Harare, Zimbabwe, in May 2013, to explore the nexus among Africa's natural resources, development and security. There, it indicated its interest to focus on sources of conflicts such as failure to address poverty, and threats to security, such as cross-border crimes, terrorism, drug trafficking, cybercrime, cyberterrorism and online financial fraud. Although CEWS should focus also on poverty, it is notable that CISSA has identified these other security issues that are not on the radar of the PAPSD.²³ Thus, AU leadership receives crucial conflict prevention information from three sources that, given their different approaches to data gathering and analysis, largely contradict one another. This, in turn, impedes decision-making and causes uncertainty and inertia.

Panel of the Wise

Article 11 of the PSC Protocol established the PoW to support the efforts of the PSC and the AUC chairperson in preventing conflicts. PoW is

'composed of five highly respected African personalities from various segments of society who have made outstanding contribution to the cause of peace, security and development on the continent.'²⁴

The panel is mandated to advise the PSC and the AUC chairperson on how to promote and maintain 'peace, security and stability in Africa.' It must also undertake, at their requests or on its own initiative, 'action deemed appropriate to support the efforts' of the PSC and the chairperson to prevent conflicts. It should 'pronounce itself on issues relating to the promotion and maintenance of peace, security and stability.'

Since its establishment, PoW has faced enormous challenges. First, its conflict prevention role is not clearly conceptualised nor properly defined. Clarity is needed on its role in intervening to prevent, manage or resolve conflicts. Then, due to lack of financing from member states, it is mainly donor-funded, and it has a skeletal and demoralised support team.

Furthermore, its members have other commitments and are often unavailable for peace missions, and it is located in the conflict management division rather than in the office of the chairperson or the PSC secretariat. Lastly, the use of ad hoc 'panels' and the successful establishment of 'special political missions'²⁵ in nations at risk of violence or undergoing conflict has also stunted PoW growth. However, the 'high-level panels' have produced useful lessons that could have been transferred to PoW but they have usually operated independent of it.

Despite these challenges, the panel has issued statements on the crises in Guinea, Guinea Bissau, Zimbabwe, Madagascar, Somalia and Sudan (Darfur), and has undertaken confidence-building missions to several other nations. It has also met on topics such as election-related conflicts, non-impunity, justice and national reconciliation, and women and children in armed conflicts in Africa.

To boost its capability, the AU has established Friends of the Panel and the Pan-African Network of the Wise. The latter comprises regional counterparts, panel members, the Forum of Former African Heads of State (Africa Leadership Forum), the African Ombudsman and Mediators Association, and national peace infrastructures and mediation councils. Additionally, the African Network of Women in Conflict Prevention and Peace Mediation (FemWise-Africa) has been established as a panel subsidiary. It focuses on 'strengthening the role of women in conflict

prevention and mediation ... by providing a platform for strategic advocacy, capacity building and networking.²⁶

Notably, other RECs are following ECOWAS, which has a council of the wise that intervened in conflicts in Liberia, Sierra Leone, Niger, Guinea, Guinea Bissau and Togo. CEN-SAD has a permanent high-level mediator deployed to mediate peace in Chad, Mali, Niger and CAR, while COMESA has established a committee of elders as part of its preventive diplomacy strategy.²⁷

IGAD, which in the past was crucial in mediating peace in Somalia, Sudan and South Sudan, established a mediation support unit in 2012. The Economic Community of Central African States (ECCAS) wants to establish a committee of ambassadors, while the EAC plans to found a council of eminent persons as part of its Conflict Prevention, Management and Resolution Protocol. Although SADC has not shown interest in establishing a PoW, its forum of former heads of state has been called on to mediate in the Tanzania-Malawi border dispute.

African Standby Force

The ASF is the APSA instrument mandated to support peace missions and intervention pursuant to Article 4(h) and (j) of the CAAU.²⁸ Conceived as a multidimensional continental force with military, police and civilian components, the ASF has, since 2003, developed several roadmaps to establish its planning elements in all the regions. It has also produced core documents on doctrine, logistics, standard operating procedures, training and evaluation, command and control, and communications and information system. Furthermore, it has also documented the testing, evaluation and implementation of its rapid deployment capability.

A panel of experts appointed in 2013 and headed by Ibrahim Gambari (Nigeria), found it unlikely that the ASF would achieve full operational capability by end-2015. The panel also found that, although the AUC and RECs/RMs were all very aware of the 2015 goal, they did not realise what it entailed.²⁹ Nevertheless, noted Adekeye Adebajo in December 2020, the AU 'simply declared the force to be fully operational, despite the fantasy involved in such a statement.'³⁰

The panel also noted several challenges for the ASF. First, the disparate mandating processes in the UN Charter, CAAU, REC/RM legal instruments

and constitutions of troop-contributing countries prevent the ASF from responding urgently and robustly to mass atrocities. Then there is the lack of clarity of the roles and obligations of the AU and RECs/RMs when cooperating in ASF operations. There is no legal nor procedural basis for transfer of authority from a REC/RM to an AU mission or vice-versa. No instrument nor guideline exists on how the AU and RECs/RMs can mandate, plan, deploy, manage, support and liquidate ASF operations.

Another challenge is the absence of procedures and internal guidelines on how AUC divisions and departments should cooperate and coordinate in mandating, planning, management, support and liquidation of ASF operations. Fourthly, despite the characterisation of ASF as multidimensional, its development is mainly a military affair. Civilian and police representatives have been excluded from the annual meetings of African chiefs of defence staff and Specialised Technical Committee on Defence, Safety and Security meetings held to date. There is also an imbalance in the way ASF military, civilian and police capacities are being developed.

Another stumbling block is that the ASF was conceived, designed, supported and staffed at all levels by external partners. In addition, there is the lack of functional strategic headquarter capability at the AUC that can plan, manage, support and liquidate ASF operations. The AUC provides no strategic leadership nor guidance, which is compounded by poor information sharing and inconsistent coordination of policies, programmes and planning for ASF establishment and deployment. No generic tables, mechanisms, procedures nor guidelines exist to verify the pledged equipment for military, police and civilian components.

A further challenge is that the AUC and some RECs/RMs, compared to the United Nations (UN) and European Union (EU), have very little integrated mission support experience. The experience they have is beset by corrupt procurement and hiring practices.³¹ The panel also found that 'the AUC lacks the mechanisms, systems and processes needed to bring together support functions such as human resources, finance, supply, procurement, engineering and communications to support AU operations.'

The final issue noted is that the AU and RECs/RM have been unable to establish and maintain continental and regional logistics depots. In addition,

there is a lack of strategic lift capability unless it is offered by major powers such as the United States, Russia, Germany and France.

When the Malian crisis developed in early-2013, it was clear that the ASF was far from reaching its rapid deployment capability. The force had been expected to be operational while still being set up. This is tantamount to flying a prototype plane while under construction. Donor frustrations with ASF activation have led to *ad hoc* arrangements and their formalisation through the African Capacity for Immediate Response to Crises (ACIRC). ACIRC was established at the 22nd session of the AU Assembly, in Addis Ababa in May 2013. The proposal for this arrangement did not define how ACIRC would relate to the ASF. Despite assurances from AU leadership and countries pledging to contribute troops to ACIRC that it would be a temporary (interim) measure, seemingly the ASF and ACIRC are being developed on different tracks. The tendency of the AU and RECs to use *ad hoc* structures rather than the ASF has gradually dissipated enthusiasm for the ASF's usefulness in the quest for peace and security.

Other structures and arrangements

The fourth APSA institution is the Military Staff Committee, whose role is to advise and assist the PSC on military and security, including military intervention to stem humanitarian crises. The implementation of the AU peace and security agenda will be carried out by the above mechanisms within a governance structure. The structure comprises the Pan-African Parliament, the African Commission of Human and People's Rights, RMs for conflict prevention, management and resolution; international organisations (particularly the UN) and CSOs.

Other APSA structures and arrangements established through various instruments include the African Peace Academy, the African Centre for the Study and Research on Terrorism, and the African Union Commission on International Law. There are also the African Union Border Programme, CISSA and the African Committee of Experts on the Rights and Welfare of the Child, and the most recently added structure, ACIRC.

Although APRM was established on 9 March 2003, it has yet to serve as an effective conflict-prevention mechanism. Its mandate is to monitor participating AU member states in the four thematic areas of democracy and political governance, economic governance and management,

corporate governance and socio-economic development. It was originally conceptualised as a tool to assist African leaders to earn good bills of health to be used to attract foreign financial assistance and investments.

Countries are to conduct their assessments before that of the APRM secretariat. The secretariat's report is submitted to heads of state and government for review and recommendation on implementation. The reviewed countries then enact their national programmes of action, addressing highlighted governance issues. Since bad governance is a major trigger of most African conflicts, implementing APRM recommendations could prevent their inevitability.

Partners in the promotion of Africa's peace and security

Implementing the AU peace and security agenda was expected to be in partnership with member states, RECs/RMs, CSOs and international partners such as the UN and EU. Since the contributions made by international partners are exhaustively addressed in chapters 8 and 14 of this book, this section focuses on the other stakeholders. Although the AU is a body of member states, they are individually given specific peace and security responsibilities in the CAAU and the PSC Protocol.

Member states are expected to respect the principles in Article 4 and to implement APSA by cooperating with the ASF when it is executing its functions. They must also pay their dues and other financial obligations to the AU, implement AU decisions and behave in a way that promotes peace and security. Furthermore, member states are required to peacefully co-exist and settle dispute when they arise, avoid using force and respect each other's sovereignty and independence. Lastly, Article 7 of the PSC Protocol requires member states to contribute to APSA implementation by recognising PSC actions as their own, accepting and implementing its decisions and fully cooperating with it. They must facilitate its actions, shouldering their duties and responsibilities of promoting peace and security such as meeting financial obligations and fully cooperating with the PSC as it fulfils its mandate.

RECs and RMs are key partners in the implementation of the AU agenda, states Article 16 of the PSC Protocol. This special partnership is sanctified by a memorandum of understanding (MoU) between the AU and RECs/RMs states. The parties must cooperate in APSA's 'full

operationalisation and effective functioning,’ ‘foster closer partnership,’ ‘develop and implement joint programmes and activities’ and ‘facilitate coordination and enhance partnerships’ in peace, security and stability.³²

The MoU is the only AU instrument that extensively invokes and strongly affirms the principles of partnership, coordination, cooperation, subsidiarity, complementarity and comparative advantage in the functioning of APSA. It also addresses prevention, management and resolution of conflicts; humanitarian action and disaster response, post-conflict reconstruction and development, and arms control and disarmament. It further covers preventing and combating counter-terrorism and transnational organised crime, managing borders, sharing knowledge and mobilising resources.

However, the MoU narrowly defines APSA to include only CEWS, PoW and ASF and details how the organisations will cooperate in information exchange, meetings, institutional presence, joint activities and field coordination. Despite frequent reference to partnership, complementarity between the AU and RMs has not been easy, with the two having had a tumultuous relationship when addressing threats or situations of conflict and insecurity. Examples are the ‘rocky’ relations the AU had with SADC in addressing the Madagascar crisis, and with ECOWAS in dealing with the Côte d’Ivoire political crises and in Niger and Togo. The AU and IGAD alliance in South Sudan has been characterised mostly by a lack of cooperation and coordination.

However, some RECs have recorded notable achievements, including the 2013 AU collaboration with ECOWAS and ECCAS to deploy missions in Mali and CAR. A review was conducted that year of the PSC’s responses to conflict situations in Madagascar, eastern DRC, Mali, Guinea Bissau, CAR, Somalia, Sudan and South Sudan. It showed that they were significantly shaped by SADC, ECOWAS, ECCAS, IGAD and the International Conference on the Great Lakes Region.³³

RMs’ contributions to implementing Africa’s peace and security agenda are undermined by factors such as a lack of capacity and resources to develop and follow through on promising initiatives. This remains a major barrier to their conflict prevention, management and resolution effectiveness. RECs/RMs lack the capacity to contribute positively to the agenda. Most are poorly run, with leadership that lacks vision and action plans. Their personnel, particularly in peace and security, do not have the right training, education and experience to perform the duties they are assigned.

As with the AU, the RECs are heavily dependent on 'international partners', particularly the G8 countries, which hinders their development into independent organisations. These and other factors have raised serious concerns about the capability of RECs/RMs to contribute effectively to the advancement of APSA objectives without external support.

CSOs, particularly women's organisations, research institutes and thinktanks, are encouraged by PSC Protocol articles 12, 13, 20 and 21 to participate actively in the efforts to promote peace, security and stability. However, there is little evidence that they have successfully collaborated and partnered with the PSC to fulfil this.³⁴

The AU prefers to use a limited pool of mostly European consultants as 'experts' and it is they who generate ideas, write key documents, review projects and programmes, and produce implementation reports. The most active AU partner CSOs are either foreign-based with liaison offices at the AU or foreign-funded ones such as the South Africa-based Institute for Security Studies. African CSOs lack funds or government support to enable them to fully engage with the AU.

Why have AU mechanisms underperformed?

APSA mechanisms have not been fully implemented, delaying interventions to mitigate and resolve conflicts. As pointed out above, conflict prevention mechanisms such as CEWS and PoW and conflict management instruments such as the ASF lack capacity to effectively undertake their PSC Protocol mandates. Despite this, AU member states have ensured that they do not act swiftly and robustly by invoking their sovereign right to protect their internal affairs from external interference.

Since 2002, the AU had advanced its agenda through APSA guided by the Pan-Africanist spirit of 'self-reliance' proclaimed in the CAAU. This spirit was later reprised as an 'African solution to African problems' and espoused with other principles and norms guiding the operation of APSA. Besides the kaleidoscopic definitions of APSA that have created confusion in its implementation, there has been no subscription to core principles. These include partnership, coordination and cooperation, consultations, African ownership, comparative advantage, subsidiarity, complementarity, lessons learnt and best practices.³⁵

For instance, poor coordination and cooperation between partners and key institutions have hampered the effectiveness of APSA initiatives. Consultations among the AUC, RECs, RMs and CSOs in conflict prevention and settlement have been incongruous.³⁶ As highlighted in chapters 8, 14 and 15 on partnerships, the AU has not astutely managed African or international partnerships. While it has generally overlooked and underused contributions of African CSOs and other organisations, it has relied heavily on foreign partners. This has been at the expense of transferring ownership of important institutions such as the AU Border Programme³⁷ and initiatives such as ‘Silencing the Guns in Africa by 2020.’³⁸

An example of how a partnership can work was exhibited after the March 2012 military coup d’état in Mali, when the AU authorised ECOWAS to lead the intervention to restore state authority. In September 2012, the UN Security Council adopted Resolution 2071 and the PSC approved a strategic concept to resolve the crisis in October 2012 with non-ECOWAS members part of the international intervention.

The AU has a penchant for duplicating decisions, activities and institutions, which increases costs astronomically and extends time for meeting commitments. For instance, since its inception, it had used APSA as a framework for addressing peace and security challenges. However, in 2013, it replaced APSA with ‘Silencing the Guns in Africa by 2020’ as a flagship project of Agenda 2063. It then designed an APSA roadmap 2016 to 2020 as its strategic document for handling security concerns and promoting peace in Africa. In November 2016, the AU also adopted a master roadmap to Silence the Guns in Africa by 2020 to stem the ‘cycle of violent conflicts and disruptive crises that persists on the continent.’³⁹ These two roadmaps have created confusion despite not being stringently implemented.⁴⁰

As mentioned, implementation of the AU agenda has been hampered by a lack of financial resources and qualified personnel. In January 2017, the AU admitted that a major impediment is lack of funds. The important unintended consequence of this, it stated, is the high level of donor dependency that has weakened ownership in this crucial area of the mandate and led to strategy drift.⁴¹

Besides lacking ‘clarity around subsidiarity’ that ‘has induced inconsistency in the implementation of APSA,’⁴² as Samuel Makinda points

out in chapter 11, the AU does not collect, store nor use lessons. Hence, new initiatives are carried out as if for the first time. Lacking a depository of lessons learnt and best practices from the past two decades, the AU has taken longer to initiate and operate missions. The establishment and operation of AMIS and AMISOM did not benefit from each other's lessons or those of AMIB and have not guided ASF implementation.

An *ad hoc* approach has replaced institutionalised mechanisms and has now become the norm and AU's preferred conflict management and resolution method although the mechanisms were intended to be stopgaps. The AU has relied on high-level panels to undertake missions to facilitate peace in Darfur, and between Sudan and South Sudan, investigate human rights violations in South Sudan and assess APSA institutions. These panels intervene in conflicts instead of PoW, while peacekeeping arrangements such as AMISOM, RCI-LRA and the Multinational Joint Task Force operation against Boko Haram and the G5 Sahel Joint Force are preferred to ASF regional brigades.

These weaknesses have also opened opportunities for foreign interests such as the French Operation Barkhane in the Sahel to rescue Mali from being overwhelmed by Tuareg insurgents in 2012. AMISOM was deployed to Somalia in 2008 but it has wound up without eradicating the al-Shabaab menace, leaving the country to be run by a flailing makeshift government. *Ad hoc* arrangements are flashes in the pan that are not duplicable nor relied on regularly. They are aimed mainly at freezing the conflicts but do not address their root causes.

Some *ad hoc* arrangements, set up to operate differently outside APSA mechanisms to enhance donor interests, have severely undermined 'African solutions to African problems'. Foreign interests usually take advantage of desperate countries, whose sovereignties are under threat from non-state actors such as militant groups, to initiate these arrangements. None of these arrangements resembles African institutionalised responses to peace and security challenges. They are all tailor-made to meet sponsors' interests or their understanding of the African problem. For instance, the EU proclaimed in 2004 that it would support the AU through the African Peace Facility (APF) to implement African solutions to African problems with APSA. However, by 2021, it had replaced APF with the European Peace Facility, which bypasses APSA by directly supporting *ad hoc* arrangements.

By stripping it of its central role in addressing African peace and security challenges, the EU has pulled the rug from under APSA.

Looking ahead

The AU, its member states and the African people face formidable but not insurmountable peace and security challenges. AU response to future challenges will depend considerably on full functioning of APSA and the African Governance Architecture. This is particularly for mechanisms for preventing conflict (CEWS through timely early warning and PoW through early action), managing and mitigating conflicts (ASF), resolving/settling conflicts (PoW and mediation teams) and post-conflict peacebuilding. To realise APSA, the AU must ensure that all key components are functional in an environment supported by strong guiding principles and legal instruments.

It must also reclaim ownership of ideas, projects and institutions that have been undermined or made moribund by foreign interests. This is reflected most notably where actors claim to support “African solutions to African problems” but enact processes that undercut the AU’s ability to act. Some foreign role-players have taken advantage of AU weaknesses and challenges to promote other processes, which has ultimately prevented full implementation of APSA. This has certainly compromised APSA’s guiding principles of partnership, subsidiarity, complementarity and comparative advantage.

For instance, by devoting €8 billion to the G5 Sahel between 2014 and 2020, the EU used the power of its purse to muscle out the AU from the region.⁴³ The latter can reclaim its primacy by subscribing to the Pan-Africanist value of self-reliance and protection of African interests by sustainably financing its peace and security institutions and activities. Most crucially, ordinary people must own the African human security agenda. The AU must allow this and provide the incentives to drive it.

AU institutions, particularly the PSC, make too many decisions and commitments, most unmet, deferred or abandoned. For instance, all deadlines for key APSA initiatives have been severally postponed. In 2002, the AU committed that all African boundaries would be clearly defined and marked by 2012. This deadline was postponed to 2017, 2022 and now 2027. Similarly, the dateline for ‘silencing the guns’ has moved from 2020 to

2030. A postponement of Agenda 2063 will not be a surprise. This calls for a comprehensive review and harmonisation of AU's peace and security commitments, legal instruments and institutions.

The AU must reclaim the identification and understanding of African solutions and the generation and implementation of solutions. As Samuel Makinda writes in chapter 11 of this book, the AU must rely on African paradigms to understand African realities and challenges. It must work with African research institutions and experts, and fund solutions generated using African knowledge. Choosing the proper paradigm and producing the necessary knowledge can solve most problems. Finding the appropriate knowledge for the right initiatives at the right time is the responsibility of the AU and its member states.

For the AU to achieve its agenda, as recommended by Nsongurua Udombana in chapter 4, it must first enhance its institutional capacities and administrative and operational ability, effectively manage its organs and mechanisms and provide sufficient finance for its initiatives. It must also articulate clearly and uphold strictly APSA guiding principles, particularly those related to working with other stakeholders. It should streamline APSA institutions and decision-making processes, incentivise African people to own the agenda and skilfully manage external partner relations.

It must execute decisions properly, fulfil commitments made before taking on new ones and continually assess its performance. The AU is capable of containing most threats to Africa's human security without over-relying on foreigners with vested interests. The objectives outlined in the CAAU and other legal instruments will best be met by African people and member states accepting primary responsibility for funding APSA institutions and activities.

Notes

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- 2 See Preamble and Article 3 of the Constitutive Act of the African Union.
- 3 Africa Center for Strategic Studies, 32 million Africans forcibly displaced by conflict and repression, *Infographic*, 17 June 2021, <https://africacenter.org/spotlight/32-million-africans-forcibly-displaced-by-conflict-and-repression>.
- 4 MN Mutasa and C Muchemwa, Ansar Al-Sunna Mozambique: Is It the Boko Haram of southern Africa? *Journal of Applied Security Research*, 17:3, 2022, 332.
- 5 D Zounmenou, Madagascar's political crisis: What options for the mediation process? *African Security Review*, 18:4, 2009, 71-75.
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- 8 See Statista, Economic cost of terrorism as percentage of GDP. www.statista.com/statistics/1197872/economic-cost-of-terrorism-in-nigeria/.
- 9 A van Nieuwkerk, Security sector reform in Africa, in JJ Hentz (ed), *Routledge handbook of African security*, Abingdon, Oxon: Routledge, 2017, 128.
- 10 See SIPRI Military Expenditure Database. <https://milex.sipri.org/sipri>.
- 11 W Okumu, *Conflict prevention from the ground — opportunities and challenges for closer cooperation between AU, RECs and civil society on conflict prevention in Eastern Africa*. Addis Ababa: Friedrich-Ebert-Stiftung, 2020.
- 12 See preamble and articles III(4), XIX and XX(3) of the OAU Charter.
- 13 See Article III(5) of the OAU Charter.
- 14 Boutros Boutros-Ghali, *An agenda for peace*, New York: United Nations, 1992.
- 15 African Union, Solemn Declaration of the 50th Anniversary of the OAU/AU, <https://au.int/en/documents/20130613/50th-anniversary-solemn-declaration-2013>.
- 16 SM Makinda, FW Okumu and D Mickler, *The African Union – addressing the challenges of peace, security and governance*, London: Routledge, 2015.
- 17 See African Union, The Peace and Security Council, <https://au.int/en/psc>.
- 18 See Article 2 of the PSC Protocol.
- 19 For example, in 2015, the Assembly allocated it only \$759 253 for its operations. See Decision EX.CL/Dec 852(XXVI) of the Twenty-Sixth Ordinary Session of the Executive Council, 23 – 27 January 2015, Addis Ababa, Ethiopia.
- 20 This was the count of meetings as of 15 October 2022.
- 21 Okumu, *Conflict prevention from the ground*.
- 22 See. *ibid*.
- 23 I Guvamombe, CISSA: when the ides of march woke up a continent in *The Zimbabwe Herald*, April 23, 2013, www.herald.co.zw/cissa-when-the-ides-of-march-woke-up-a-continent/ (last accessed 18 March 2015).

- 24 The current PoW members are former Burundian president Domitien Ndayizeye; former Egyptian foreign minister, Amre Moussa; Professor Babacar Kante, Vice President of the Senegal Constitutional Council, and Kenya's Lady Justice Effie Owuor. They represent the central, northern, western and eastern regions of Africa.
- 25 African Union, Main successes of the AU in peace and security, challenges and mitigation measures in place, au.int/en/pressreleases/20170127/main-successes-au-peace-and-security-challenges-and-mitigation-measures-place, 27 January 27.
- 26 See African Union, The Peace and Security Council, <https://au.int/en/psc>
- 27 See COMESA, Governance, peace and security, www.comesa.int/governance-peace-security/.
- 28 See Article 13 of the PSC Protocol.
- 29 See African Union Independent Panel of Experts, Assessment of the African Standby Force and plan of action for achieving full operational capability by 2015. (October 2013).
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- 32 See Memorandum of Understanding on Cooperation in the Area of Peace and Security between the African Union, the Regional Economic Communities and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern Africa and Northern Africa, June 2008.
- 33 See SA Dersso, *Annual review of the African Union Peace and Security Council 2013/2014*, Pretoria: Institute for Security Studies, 2014: 42.
- 34 For details of the challenges facing the AU to cooperate and collaborate with RECs/RMs and CSOs, see Desire Assogbavi chapter in this book and Okumu, *Conflict prevention from the ground*.
- 35 For a detailed analysis of these guiding principles, see S Makinda and W Okumu, The African Union as a human security arrangement, in Gerd Oberleitner (ed), *Research handbook on international law and human security*, Cheltenham, UK: Edward Elgar Publishing, 2022, 388-405.
- 36 Okumu, *Conflict prevention from the ground*.
- 37 See Germany Embassy Uganda, Support for the African peace and security architecture,

<https://kampala.diplo.de/ug-en/themen/politik/-/1798746>; and German Ministry of Foreign Affairs [GMFA]: Support for the African peace and security architecture, www.gicafrica.diplo.de/Vertretung/suedafrika-dz/en/02-Content/01__GA/Partnership/Germany-AU-G8.html.

- 38 W Okumu, A Atta-Asamoah and R Sharamo, *Silencing the Guns in Africa by 2020: achievements, opportunities and challenges*, Pretoria: Institute for Security Studies, 2020.
- 39 See African Union master roadmap of practical steps to silence the guns in Africa by year 2020 (Lusaka Master Roadmap 2016), au.int/en/documents/20200204/african-union-master-roadmap-practical-steps-silence-guns-africa-year-2020-lusaka.
- 40 See Okumu et al, *Silencing the Guns in Africa by 2020*.
- 41 African Union, Main successes of the AU in peace and security, challenges and mitigation measures in place, Au.int/en/pressreleases/20170127/main-successes-au-peace-and-security-challenges-and-mitigation-measures-place, 27 January 27.
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Chapter 6

AU promotion of constitutionalism, the rule of law and human rights

Otilia Anna Maunganidze

Introduction

At the heart of the Constitutive Act of the African Union (CAAU) and Agenda 2063 are African people, human rights, the rule of law and constitutionalism.¹ These are regarded as core principles of the African Union (AU) and its member states.² While recognition of human and peoples' rights were integral to the Organisation of African Unity (OAU) before it, the establishment of the AU presented an opportunity to advance, promote and entrench human rights practically. This is through several departures in the CAAU from the provisions of the OAU Charter.

The objectives of the AU as set out in the Constitutive Act include the promotion of democracy and good governance, the protection of human rights, and the promotion of peace, security and stability in Africa.³ The AU and its member states are also guided by key principles that should underpin efforts towards realising these objectives. These principles include sovereign equality and interdependence, the participation of the people of Africa in the AU's activities, the promotion of gender equality, and the condemnation and rejection of unconstitutional changes of government.

The AU's legal framework for the promotion of the rule of law and constitutionalism on the continent comprises the African Charter on Human and Peoples' Rights (Banjul Charter); Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol); African Charter on Democracy, Elections and Governance (ACDEG); Declaration on Democracy, Political, Economic and Corporate Governance; and African Charter on Values and Principles of Public Service and Administration.

Thus, in shifting from the OAU to the AU, member states opted for a new system that includes non-indifference and qualifies the non-interference,⁴ which includes clear provisions for the AU to intervene in the affairs of any of its member states. The Act also contains explicit recognition of human rights and goes further to connect these with the promotion of social, economic and cultural development.

Drawing from the CAAU and instruments adopted since, on paper, and to some extent in practice, the AU has championed a new system that centres human rights, justice and the rule of law. This system is supported by several policies, legal instruments and frameworks.

These instruments are intended to serve as the basis on which the AU and African countries entrench, respect, protect, and promote human rights and good governance to advance a safer and more secure Africa. These include instruments on the rights and welfare of the child, on human and peoples' rights, on the rights of women, on the protection and assistance of internally displaced persons in Africa, against unconstitutional changes of government, on accountability for serious crimes, and on dispute resolution. However, not all treaties, protocols and policies are unanimously adopted and/or ratified, and gains at regional and national levels vary.

The AU has also achieved some gains in, for example, advancing good governance and constitutionalism. However, there has also been some regression. First, there has been a resurgence of coups d'état. Between January 2010 and February 2022 alone, there were over 43 coups and/or attempted coups in numerous African countries. Twenty of these attempted or successful coups were in West Africa and the Sahel alone. Notably, half (6) of the 12 successful coups were between August 2020 and February 2022.

Further, conflicts in which gross human rights violations are committed continue to affect millions across the continent, and few are held accountable for crimes against humanity. This has included attacks on international institutions like the International Criminal Court (ICC) when senior government officials are indicted. The challenge for the AU and African states is to ensure that reality meets aspiration and that beyond rhetoric, the ideals set out in AU instruments to which member states ascribe are put into action.

This chapter explores some of the gains in Africa's respect for the rule of law and constitutional rule. In so doing, it will assess to what extent the human rights situation in Africa has evolved. Further, the chapter will look at

impunity and accountability, focusing on gross human rights violations and international crimes. Through this assessment, the chapter seeks to provide a constructive point of departure for the AU and member states to reflect on and strengthen the ideals set out in the AU's policies and treaties.

Before the AU: human rights, constitutionalism and rule of law

For 39 years prior to the establishment of the AU, African countries were united under the OAU. The OAU's core aims were to promote the unity, solidarity and cooperation of African states; defend the sovereignty, territorial integrity and independence of African states; eradicate all forms of colonialism from Africa; and promote international cooperation.

In the latter years of the OAU, questions related to constitutionalism, the rule of law and human rights began to arise. Significantly, this led to the adoption in 1981 of the Banjul Charter that entered into force in October 1986; the 1990 African Charter on the Rights and Welfare of the Child that entered into force in November 1999; and the 1998 Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights (the African Court) that entered into force in January 2004.

However, despite these instruments and as pointed out by Wafula Okumu and Andrews Atta-Asamoah in chapter 1, the OAU failed to protect and promote human rights, rule of law and constitutionalism. It did not proactively address horrendous human rights violations on the continent or respond decisively as a bloc to conflicts. This includes the 1994 genocide in Rwanda, and the civil wars in Angola, Mozambique, Burundi, Sierra Leone, Liberia, Côte d'Ivoire, the Democratic Republic of the Congo (DRC), Somalia, Algeria, Mali, Niger, Nigeria, Djibouti, the Central African Republic (CAR), Chad, Sudan, Uganda, Congo-Brazzaville, and the conflicts between Eritrea and Ethiopia, Tanzania and Uganda, among others. Further, in the absence of mechanisms to address human rights violations and autocratic or dictatorial rule, the OAU served as a 'safe space' for many dictators during its time.⁵

Prior to the adoption of the Constitutive Act, AU heads of state and government were already concerned about unconstitutional changes of government. In 1997, at the summit in Harare, AU heads of state took a

stand against such actions.⁶ This was followed in 1999 by a decision on unconstitutional changes of governments intended to reinforce respect for democracy, the rule of law, good governance and stability. The decision affirmed international human rights instruments such as the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Civil and Political Rights and the 1948 Convention on the Prevention and Punishment of the Crime of Genocide. This decision was a ‘normative revolution,’⁷ which culminated in the 2000 Lomé Declaration that now serves as the basis of the AU’s perspective on unconstitutional changes in government.⁸

These shifts within the OAU recognised the many interconnected challenges the body and its member states faced. These included political instability, military coups, civil wars, and slow progress in development and in addressing socio-economic concerns. As this chapter, and chapters 4, 7, 9 and 10 in this book, will show, many of these challenges remain. Though progress remains limited, how African countries and the AU have responded to them, is changing.

A shift from the past? Developments since 2002

Among its many aims, the AU specifically includes the importance of relying on the UN Charter and the Universal Declaration of Human Rights. Further, it clearly articulates its vision to promote peace, security and stability on the continent; promote democratic principles and institutions, popular participation and good governance; and promote and protect peoples’ rights in accordance with the Banjul Charter and other human rights instruments. This articulation lays the foundation for the way the AU *intends* to advance certain principles and ideals.

Unlike its predecessor, a key feature of the AU is a new approach informed by ‘non-indifference’ towards mass atrocities.⁹ The Preamble of the CAU of the AU underscores the organisation’s commitment ‘to promote and protect human and peoples’ rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law.’ Read together with, among others, the objectives of the AU in Articles 3(e) and 3(h), and guiding principles enshrined in Articles 4(m-o), as well as Articles 3(f), 4(c), 7(m) and 5(2)(g), the AU’s stance – at least on paper – is to depart from the indifference of the OAU before it.

Thus the AU, unlike the OAU, has the right to intervene in the internal affairs of member states to protect human rights and constitutional order. Article 4(h) of the CAAU articulates that pursuant to a decision of the Assembly of Heads of State and Government regarding ‘grave circumstances,’ the AU has the right to intervene in the affairs of a member state to restore peace and stability. These grave circumstances are war crimes, genocide, crimes against humanity, and any serious threat to legitimate order.¹⁰

Further, the Preamble of the Peace and Security Council (PSC) Protocol¹¹ clearly states that ‘observance of human rights and the rule of law’ is ‘essential for the promotion of collective security, durable peace and stability, as well as for the prevention of conflicts.’ This shift was informed by the previous gaps in the OAU’s infrastructure and practices in addressing key challenges arising from impunity for gross human rights violations, international crimes and instability.¹²

Over the past 20 years, there has been growing consensus among African states on their obligation to respect, protect and promote human rights as well as to intervene in situations to prevent genocide and crimes against humanity.¹³ However, beyond recognition and legal tools is the need for states and the AU to act in accordance with these precepts. That is to say that the norms and principles of the AU are only effective if they are systematically enforced.

Underpinning the CAAU and its longer-term articulation of ideals under Agenda 2063¹⁴ is a vision of a continent where good governance, democracy and equality are universal, human rights are respected and justice and the rule of law are promoted. This vision includes the AU working with member states to develop and implement effective policies. In and of itself, the framing and adoption of Agenda 2063 is a significant milestone for the AU and its member states. However, the proof of any pudding is always in the tasting. This test is on how, if at all, the AU has succeeded in ensuring that its treaties and policies to advance good governance and protect human rights are actually implemented.

While it is beyond the scope of this chapter to discuss every AU treaty, protocol or policy related to good governance, rule of law and human rights, it is worth highlighting that these instruments are wide-ranging and factor in the specific plights of vulnerable groups. Table 6.1 contains an overview of

some of the main instruments related to good governance, the rule of law and human rights to illustrate this range.

Table 6.1: Main instruments on good governance, rule of law and human rights¹⁵

Treaty	Date of adoption	Date of entry into force
Constitutive Act of the AU ¹⁶	11 July 2020	26 May 2001
African Charter on Human and Peoples' Rights (the Banjul Charter) ¹⁷	1 June 1981	21 October 1986
Agreement for the Establishment of the African Rehabilitation Institute	17 July 1985	2 December 1991
African Charter on the Rights and Welfare of the Child	1 July 1990	29 November 1999
Protocol to the African Charter on Human And Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	10 June 1998	25 January 2004
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	1 July 2003	25 November 2005
Protocol of the Court of Justice of the African Union	1 July 2003	11 February 2009
African Union Convention on Preventing and Combating Corruption	1 July 2003	5 August 2005
African Charter on Democracy, Elections and Governance (ACDEG)	30 January 2007	15 February 2012
Protocol on the Statute of the African Court of Justice and Human Rights	1 July 2008	–
African Charter on Values and Principles of Public Service and Administration	31 January 2011	–
Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights	27 June 2014	–
Protocol to the Constitutive Act of the African Union Relating to the Pan-African Parliament	27 June 2014	–
Statute on the Establishment of Legal Aid Fund for the African Union Human Rights Organs	30 January 2016	–
Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa	31 January 2016	–

Source: AU Commission

To support the implementation of good governance and respect for human rights on the continent, the AU established judicial, human rights and legal institutions and organs.¹⁸ These include the African Commission on Human and Peoples' Rights, African Court, AU Commission on International Law, Pan-African Parliament, African Peer Review Mechanism (APRM), Economic, Social and Cultural Council, AU Advisory Board on Corruption, and African Committee of Experts on the Rights and Welfare of the Child.

Aside from the AU Commission itself, the AU's work is further buttressed by regional economic communities. Their role, as well as the functions of the African Governance Architecture and the African Peace and Security Architecture, are explored in more detail in other chapters of this book. This chapter focuses on two specific issues – constitutionalism and human rights. These two areas are instrumental in good governance and the rule of law.

Table 6.2: Africa Governance Report indicators for the rule of law and universal rights

Rule of law		
Key driver	Critical impact factors	AGR 2021 call to action focus areas
Rule of law	Constitutionalism	<ul style="list-style-type: none"> Entrench a strong culture of human rights and provide sanctions as deterrents for poor governance practices
	Justice and fairness	<ul style="list-style-type: none"> Codify norms and standards and legal frameworks to address instances of popular uprisings Formalise laws that prescribe inclusion and involvement of youth Provide citizens with direct access to the African Court and international jurisdictions for human rights protections
	Adherence, compliance and enforcement	<ul style="list-style-type: none"> Prioritise and streamline legal frameworks between AU, regional entities and Member States Recommit Member States to adhere to, comply with and enforce ratified agreements, instruments, treaties and protocols
	Good governance futures indicators	
<ul style="list-style-type: none"> There is a culture of good governance, democracy, rule of law and human rights in all AU Member States and governance institutions AU Member States are actively committed to the implementation of shared African values, ratified instruments and the CAU Streamlined and respected laws, legal frameworks, codified norms and standards at regional and national levels that promote and protect citizen human rights Diferent population groups are involved in governance and are free to express dissenting opinion 		

Universal rights		
Key driver	Critical impact factors	AGR 2021 call to action focus areas
Universal rights	Protection and promotion of universal rights as the birth-right of every individual regardless of age, gender, race, ethnicity, cultural heritage and background, status, disability, and religious beliefs	<ul style="list-style-type: none"> • Entrench a culture of universal rights that respects the inherent rights of all human beings • Enhance the concept of a trust-based, inclusive social contract rooted in the acknowledgement of universal rights
	Good governance futures indicators	
	<ul style="list-style-type: none"> • Respect for and protection of the universal rights of all human beings, regardless of age, gender, ethnicity, cultural heritage and background, status, disability, and religious beliefs • A dynamic and influential Africa that leaves none behind and is centred on and driven by diverse peoples 	

Source: APRM, Africa Governance Report

Any progress since 2002?

Under ADCEG and Agenda 2063, constitutionalism¹⁹ and the rule of law are framed as the respect for the law as the ‘basis for good governance, including promotion and protection of human rights; public participation in governance; access to justice; accountability of government to the public; independence of the legislature and judiciary.’

Table 6.3: Measuring constitutionalism and the rule of law

<p>There are eight key parameters to determining whether a state follows constitutionalism and advances the rule of law. These are:</p> <ul style="list-style-type: none"> • Respect for law • Respect for and enforcement of human rights • Public participation in governance • Effectiveness of the bureaucracy • Accountability of the executive • Independence and accountability of the legislature • Independence and accountability of the judiciary • Access to justice
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Source: APRM

Respect for the law

Respect for the law is a fundamental aspect of determining whether a state follows constitutionalism and advances the rule of law. The ‘rule of law’ means ensuring that law guides actions, and that people and institutions comply with principles and procedures established by law.

Ensuring the rule of law requires that law is applied equally and fairly, and not selectively; it also requires that rules and procedures, court decisions and local practices are adhered to. Further, the rule of law requires that the law itself is not manipulated for nefarious reasons. While there is no universal definition of what is meant by the rule of law, based on understanding, there is consensus that the following comprise core elements of the rule of law:²⁰

- The principle of legality: this includes the requirement of a transparent, accountable and democratic process for enacting laws and ensuring that the process for administering and enforcing is accessible, fair and efficient.
- The principle of non-discrimination and equality before the law.
- Legal certainty and prohibition of arbitrariness: this requires that laws are clear and just, that they are applied evenly, and that they protect fundamental rights.
- Justice is delivered in a timely manner by a competent, ethical and independent judiciary.
- Human rights are respected.

The Preamble to the CAAU emphasises ‘the determination of the member states to promote and protect human and peoples’ rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law.’ Article 4(m) of the CAAU states as one of its fundamental principles the ‘respect for democratic principles, human rights, the rule of law and good governance.’

The 2012 ACDEG expands on this. Its Preamble reiterates member states’ ‘collective will to work relentlessly to deepen and consolidate the rule of law, peace, security and development.’ Article 2(2) of the ACDEG states as one of its objectives the desire to ‘promote and enhance adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the Constitution and constitutional order in the political arrangements of the state parties.’

Chapter 4 of the Charter is dedicated exclusively to ‘democracy, rule of law and human rights.’ Finally, Article 32 of the Charter calls on member states to institutionalise good political governance through ‘entrenching and respecting the principle of the rule of law.’ This sets a useful normative framework and basis on which states can be assessed on their adherence (or lack of) to the respect of the law and the associated rule of law.

With this in mind, it is important to assess the respect of the law across the continent. This chapter will not provide detailed analysis of how all 55 AU member states to the AU respect (or not) the rule of law. Suffice it to say that there is varied adherence.

Several international surveys assess the performance of countries in aspects of the rule of law. These include the World Justice Project Rule of Law Index,²¹ Freedom House,²² Transparency International’s annual Corruption Perceptions Index,²³ the Mo Ibrahim Foundation’s Ibrahim Index of African Governance (Ibrahim Index),²⁴ and the Fragile States Index.²⁵

For illustrative purposes, while a few countries are improving on adherence to the rule of law, the World Justice Project Rule of Law Index details a general global decline in the rule of law, and specifically across Africa.²⁶ Of the 139 countries assessed, the DRC ranks lowest on the adherence to the rule of law in Africa, while Namibia, Botswana and South Africa are assessed as the best performing on the continent despite having a relatively weak score.

The Ibrahim Index shows that the top 10 performers on the rule of law as of 2020 are Mauritius, Cabo Verde, Botswana, Seychelles, Tunisia, Namibia, Senegal, South Africa, São Tomé and Príncipe and Benin.²⁷ Meanwhile the weakest performing countries in adhering to the rule of law are the CAR, Congo-Brazzaville, Burundi, Equatorial Guinea, Sudan, Libya, Eritrea, the DRC, South Sudan and Somalia.²⁸

Human rights are protected and promoted

All AU member states, with the exception of Morocco, have ratified the Banjul Charter. This demonstrates a commitment, at least on paper, to advance human rights. Most African countries also include clear respect, protection and promotion of human rights in their constitutions. However, the practice of human rights in Africa is varied.²⁹ For example, though most African countries have legal frameworks and institutions to promote and

protect human and peoples' rights, most people still do not enjoy the rights enshrined in them.

Further, continental institutions tasked with advancing human rights – particularly the African Commission on Human and Peoples' Rights and the African Court – are severely under-resourced. This, as pointed in chapter 4 in this book, means their ability to deliver on their mandate is hindered. Compounding this is that when both institutions issue recommendations, decisions and judgments, states do not always comply or implement.

On this, the 2020 Ibrahim Index report notes a startling decline in African countries' performance in participation, rights and inclusion.³⁰ The report notes that of all the core categories of assessment, this one experienced the largest deterioration between 2010 and 2019, with a particularly concerning pace of deterioration between 2015 and 2019.³¹ Reports of international human rights organisations, such as Human Rights Watch³² and Amnesty International,³³ confirm this trend. With this in mind, it is essential to map out some of the key human rights concerns. These can be summarised as:³⁴

- Serious violations of human rights and abuses of international humanitarian law
- Violations of the rights of refugees, asylum seekers, migrants and internally displaced people
- Repression

Serious violations occurring during conflicts

Conflicts in Africa are not new, and have been a characteristic of the African landscape from before the AU was established.³⁵ For the purposes of this chapter, a summary of recent conflicts illustrates the pervasiveness of serious violation of international humanitarian and human rights law in conflict. These include the decade-long conflict in north-eastern Nigeria, the conflict in Ethiopia, and continuing instability in South Sudan, the CAR, Somalia and the DRC. It also includes cross-regional conflicts and violent extremism in the Sahel (particularly Burkina Faso, Mali and Niger) and the Lake Chad Basin, and emerging armed conflict in Mozambique's north. In all these contexts, security forces, armed groups and militia commit atrocities with impunity despite the existence of an AU normative framework.

Indeed, impunity for international crimes and other serious human rights violations and abuses remain pervasive in Africa. As conflicts continue on the continent and human and peoples' rights are violated, there is an equal need for accountability mechanisms.

At the continental level, the African Court and a proposed Court of Justice of the African Union are the primary judicial institutions established to adjudicate matters regarding human and peoples' rights, disputes between states and, in future, international and transnational crimes. The African Committee of Experts on the Rights and Welfare of the Child is the third institution of the AU whose mandate centres on human rights.

The establishment of judicial institutions and processes reflects the shift away from impunity towards accountability.³⁶ Human rights trials provide 'teeth' to the enforcement of human rights obligations.³⁷ However, accountability remains elusive and impunity for crime remains a key challenge for the continent despite efforts to address human rights violations at the international and domestic levels. Indeed, Africa remains the site of many human rights violations that have largely gone unpunished. Lamenting the state of the human rights system in Africa at the time, Francois-Xavier Bangamwabo writes:

[I]t is painful to remark that the African human rights system is still weak and, indeed, in its infancy ... [T]he African system of human rights does not address the more troubling issue of impunity and individual criminal responsibility for international crimes often committed on the African continent. Thus, victims of international crimes rely on national courts in their respective states. Not only are these national legal systems inherently weak, but – more importantly – they are not sufficiently balanced and impartial so as to adjudicate upon international crimes which are, more often than not, committed by ruling parties, members of armed forces or senior government officials.³⁸

The situation remains essentially unchanged, despite some steps in the right direction.

Addressing gross human rights violations in Africa is critical and is the responsibility of the affected states themselves and the AU. In particular,

Article 4(h) of the CAAU affirms ‘the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity.’ However, to date, the AU has not invoked Article 4(h). Neither has any member state invoked the related Article 4(j), which enshrines ‘the right of Member States to request intervention from the AU in order to restore peace and security.’

Since 2002, there has been a shift in the way the AU thinks about its role in addressing human rights violations in Africa. On the one hand, the AU still places emphasis on the non-indifference principle guided by rigid notions of sovereignty. On the other, it has provided for greater ‘responsibility to protect.’³⁹ However, despite this demonstrated shift in thinking, in practice application hasn’t always been consistent. This is due to a combination of factors, including but not limited to absence of political will, limited resources, and the at times normative incoherence within the AU.⁴⁰

The AU recognises the grave impact of impunity on African peace, stability and prosperity. However, efforts to undermine constitutionalism continue, which suggests limited if any, deterrence of AU actions. These have included violence, power grabs, unlawful extensions of holds on power and instrumentalising of the law.

It is imperative that the AU develop a consistent approach to impunity and lawlessness as entrenched impunity aggravates cycles of violence.⁴¹ Justice and accountability are two tools the AU can employ as antidotes to impunity. To do this, the false dichotomy between justice and peace should be done away with. According to Kamari Clarke, treating peace and justice as opposites overlooks structural issues at the core of violence in many parts of Africa and undermines substantial efforts to address both.⁴² Indeed, the practice has shown that peace and justice go together. Justice guarantees sustainable peace through reconciliation and state building. Peace enables the conditions for improved access to justice, adherence to the rule of law, and constitutionalism.

In rhetoric the AU has shifted towards non-indifference, however it has battled to act. The reasons for the lack of implementation all fundamentally boil down to lack of political will. This is coupled with limited budget and capacity – logistically, and technically – to lead on interventions without substantive external assistance.

In 2009, the AU resolved to expand the jurisdiction of the African Court to include jurisdiction over specific serious criminal matters. This culminated in a draft protocol that adds criminal jurisdiction over the international crimes of genocide, war crimes and crimes against humanity, as well as several transnational crimes such as terrorism, piracy and corruption, and to the crime of unconstitutional change of government.⁴³ The amendment protocol was adopted in 2014 by AU heads of state and requires 15 ratifications to enter into force. By February 2022, only 15 countries had signed the protocol, and none had ratified it. This means that while an African Court with international criminal jurisdiction would go a long way to end impunity,⁴⁴ the prospects of such a court being operationalised remain slim.⁴⁵

It is worth stating that much of the impetus to expand the jurisdiction of the African Court came after the ICC issued a warrant for the arrest of then Sudanese president Omar al-Bashir.⁴⁶ This gained momentum when two people charged by the ICC in the situation in Kenya, Uhuru Kenyatta and William Ruto, became president and deputy president of that country in 2013.⁴⁷ With limited action on the ICC front, by February 2022 much of this momentum was all but gone.

However it is worth emphasising that despite an instrument that underscores the importance of ending impunity for international crimes, AU Heads of State and Government continued to shield fellow leaders (and, by extension, themselves) from accountability. They did this by actively attempting to undermine the work of the ICC, including through the Sirte Decision at the Extraordinary Summit of Heads of State in July 2009.⁴⁸

At the heart of this were two fundamental issues. First, that heads of state and government should be immune from prosecution, and second that states were not obligated to cooperate with the ICC, particularly in cases arising from states that are not party to the Rome Statute. Even though the initial proposal to expand the jurisdiction of the African Court was not motivated by noble intentions, the AU can still encourage states to ratify the protocol and strengthen Africa's resolve to end impunity for human rights violations.

Meanwhile, it is important to emphasise some positive developments in advancing accountability through AU institutions. One such example is the 2011 unanimous order by the African Court for provisional measures regarding the crisis that was unfolding in Libya at the time.⁴⁹ In it, the African

Court demanded that Libya ‘immediately refrain from any action’ that would ‘result in loss of life or violation of physical integrity of persons.’⁵⁰

The order was *proprio motu* by the court while considering an urgent application the African Commission on Human and Peoples’ Rights brought against Libya on 16 March 2011 alleging ‘serious and massive violations of human rights guaranteed under the African Charter on Human and Peoples’ Rights.’⁵¹ The court ordered Libya to respond to the application within 60 days.⁵²

The African Court’s timely response to the Commission’s urgent application was bold and demonstrated an innovative approach to tackling an unfolding crisis.⁵³ In making its order, the court relied on information provided by the Commission that included AU statements, the Arab League’s position and UN Security Council Resolution 1970.⁵⁴ The African Court’s order confirmed that the Libyan authorities at the time continued with their violent actions despite international condemnation. Of course, the events since that have seen the situation in Libya progressively deteriorate over a decade, raising questions around how, if at all, the AU can work to advance human rights in the face of mass atrocity.

The Libyan example illustrates the challenges inherent in the African human rights system. In particular, the African Court suffers from serious non-compliance by member states. Most states do not comply with its decisions, and the African Court protocol does not include any built-in consequences for non-compliance. Some states, such as Tanzania, have complied with only some aspects while ignoring other aspects of the court’s decisions.⁵⁵ Only Burkina Faso has fully complied with the court’s judgments. This lack of compliance gravely impacts the utility of the African Court.

At the national level, there have been some efforts towards accountability for serious violations of human rights and humanitarian law. This includes efforts by the DRC to hold perpetrators accountable for sexual violence,⁵⁶ Uganda’s attempts to prosecute crimes committed during the conflict in the north of the country,⁵⁷ the prosecution of Hissène Habré in Senegal,⁵⁸ the establishment of a Special Criminal Court in the CAR⁵⁹ and efforts towards a hybrid court for South Sudan.⁶⁰ However, despite some progress, many of these and other processes have been undercut by the governments in these countries.

Repression

Repression of dissent and freedoms is another feature of the African human rights landscape. This takes on several forms, including through excessive use of force, crackdown on peaceful protests, attacks on human rights activists and civil society, the associated limitation of civic space and restrictions on media freedoms. The CAAU, read together with ACDEG, can be seen as providing a normative framework that the AU and member states must abide by. There has been limited progress in using these instruments to consistently address repression on the continent.

Rights of refugees, asylum seekers, migrants and internally displaced people

Due partly to conflicts, situations of violence, repression and gross human rights violations, millions of people across Africa continue to be forcibly displaced from their homes. Since 2011 there has been an upward trend in this number.

African countries suffer the brunt of conflict, violence and human rights violations, and bear the most significant burden of hosting displaced people. By mid-2021, according to the UN Refugee Agency, over 32 million Africans were either internally displaced, refugees, or asylum seekers. With over six million forcibly displaced people, the DRC has over a third more displacement than any other African country. South Sudan follows it with nearly four million people displaced,⁶¹ then Ethiopia, which saw the sharpest rise in displaced people since 2020.

Nigeria, Somalia, Sudan, Burkina Faso, the CAR, Burundi and Mozambique are other countries of serious concern. It is worth noting that 10 African countries in conflict account for 88% of all forcibly displaced people on the continent.⁶² Seven of the 10 have governments that lean towards autocracy.⁶³

In chapter 9 of this book, Olabisi Dare highlights several legal instruments and policy frameworks guiding AU responses to Africa's refugee crises. These include the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa (OAU Refugee Convention or the

1969 Refugee Convention), the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa (the Kampala Convention), AU Humanitarian Policy Framework and the AU Post-Conflict Reconstruction and Development Framework.

An impartial and accountable judiciary and access to justice

An impartial, independent and accountable judiciary is indispensable. Such a judiciary performs its core functions of applying and interpreting laws enacted by the legislature, reviewing the actions and decisions of government, and ensuring the rule of (and by) law. In the absence of an independent judiciary, the executive and legislature can advance a tyranny of the majority where the equitable application of the law is undermined and human rights are not observed. The rule of law requires that the judiciary is the final arbiter of the law and provides avenues for dispute resolution.

Finally, to determine whether a state follows constitutionalism and the rule of law, there must be access to justice. This, connected with an able, independent, impartial and accountable judiciary, allows the public recourse for wrongdoing. Importantly, while the formal judicial structures are an integral part of this access to justice, they are not the *sole* avenues for justice. This also recognises the critical role the justice system should play in making justice more accessible to all.

Some African countries have embedded both formal and informal dispute resolution mechanisms in their constitutions. Others have established initiatives to enhance access to justice such as through free legal services (for example legal aid schemes), public interest litigation, reliance on paralegals, and courts established for small claims and misdemeanours. These all help ensure that the public can access justice more readily.

Good governance

There are three aspects of good governance that can be used to assess the rule of law and constitutionalism. First, whether the public participates in governance. Second, whether there is an effective and accountable public service and executive. Third, is an independent and accountable legislature.

For the purposes of this chapter, these three elements are assessed together with the other five elements to determine the extent of constitutionalism and the rule of law.

Understanding the above eight elements in Table 6.3 underpinning constitutionalism and the rule of law is important in assessing what (if any) progress was made in the first 20 years of the AU's work. Since attaining independence, particularly since the establishment of the AU, advancing constitutionalism has been key for Africa. There is some evidence of progress in advancing constitutionalism and the rule of law at the continental and national level.⁶⁴ This has included the promotion of democracy and good governance as fundamental to sustainable peace, security and development.

As noted above, at continental level, this is articulated in several instruments of the AU. This includes the CAAU, as well as AU declarations on, among others, unconstitutional changes of government,⁶⁵ governing democratic elections,⁶⁶ and observing and monitoring elections,⁶⁷ and the ACDEG.

At the national level, constitutionalism is increasingly a feature in AU member states, with several adopting constitutional reforms aimed at promoting rights, advancing multi-party democracy and enhancing, at least on paper, political freedom. This is reflected in assessments by the Ibrahim Index, for example.⁶⁸ This index shows progress since 2014 (when the first phase of implementation of Agenda 2063 commenced) on questions of the rule of law and access to justice, however limited, and in some instances the overall picture shows a decline.⁶⁹

In brief, Africa under the AU is different from Africa under the OAU in several respects. In 2022, as pointed out by Khabele Matlosa in chapter of this book, there is multi-party democracy in many African countries. There is some consensus on presidential term limits,⁷⁰ regular free and fair elections at the local and national level, and separation of powers (with the required checks and balances) between the executive, the judiciary and the legislature. A free and independent media and civil society exist, and there is a recognition of the need to advance equality of the people before the law.⁷¹ Further, countries have adopted constitutions that codify human rights but do not automatically translate to individual and collective realisation of these rights. However,

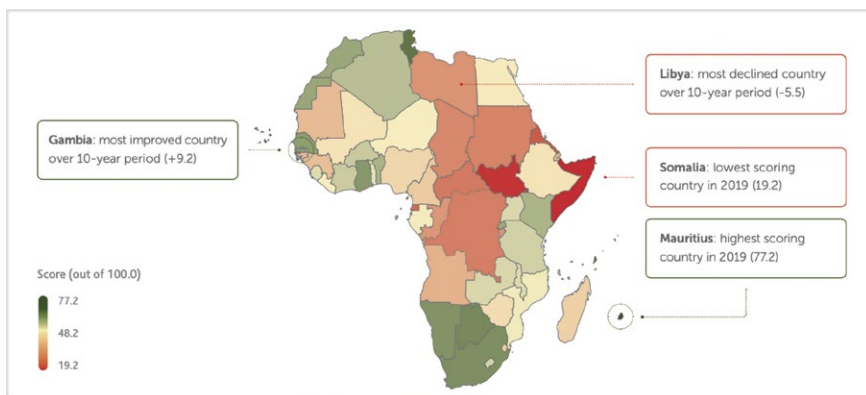
challenges do remain, including governance deficits, and these can imperil the modest gains.

In the most recent report on the status of governance in Africa, the Mo Ibrahim Foundation notes progress since 2010 in the areas of infrastructure, health and environmental sustainability. However, overall good governance is on the decline, with significant regression in participation, rights and inclusion, and security and the rule of law. This is primarily due to worsening security situations across the continent, and a deterioration in the state of human rights and civic participation in many African countries.⁷²

Since 2006, the Ibrahim Index has provided the most extensive data on governance in Africa in four major areas – safety and the rule of law; participation and human rights; sustainable economic opportunity; and human development. Chapter 7 of this book, focusing on governance, covers these in more detail. Countries should entrench mechanisms that promote constitutionalism, accountability, democracy, and good governance as key means to ensuring that they achieve their development goals. Research by the ISS shows that weak democracies have an immense impact on the ability of states to develop and effectively deliver basic services to people.

According to *The Economist's* 2020 Democracy Index,⁷³ many African countries remain under authoritarian and hybrid regimes, with a few countries considered 'flawed democracies'. Thus an assessment of

Figure 6.1: Overall Governance scores (2019)



Source: Mo Ibrahim Foundation

progress on democratisation in Africa is best done by assessing gains at the national level. Importantly, while the AU has a key role to play in advancing good governance, democracy and the rule of law in Africa, the onus still rests on states themselves.⁷⁴ Unfortunately, this has led to a rise in ‘constitutional coups,’⁷⁵ the emergence of popular uprisings that can and do turn violent, and the re-emergence of coups in Africa.⁷⁶

On paper, through ACDEG and the Lomé Declaration, the AU has set guidelines on how to deal with unconstitutional changes of government that include military coups and refusals to vacate offices on termination of tenures.⁷⁷ This has included the AU, through its PSC, pronouncing itself on unconstitutional changes of government, imposing sanctions and calling for the restoration of constitutional order in several African countries.

Though challenges remain, including not being able to prevent unconstitutional changes in government, the existence of a normative framework guiding the AU’s position on these issues is itself a success.⁷⁸ It reflects, at the very least, an institutional attempt to ensure that constitutionalism and the rule of law are respected.⁷⁹

Conclusions: looking to the future

The AU is guided by its Constitutive Act, instruments of the OAU before it and frameworks developed since 2002. Drawing on these, it’s clear that the AU has developed guiding principles aimed at championing an African governance system rooted in human rights, justice and the rule of law. However, the test of progress is not only in the instruments adopted, but equally (if not more) in the actions taken and the shift towards constitutionalism, rule of law and human rights. This action includes ratification and implementation of the instruments and adherence to their terms.

This chapter has shown that while human rights instruments do receive basic support from states – through initial signature and in some instances ratification – full implementation remains a challenge. This is a task for both member states and the AU.

For its part, the AU has achieved some gains in developing tools for advancing good governance and constitutionalism, and in responding to gross human rights violations and international crimes. The picture varies at the national level, however. While it is outside the scope of this chapter to

discuss the specifics of individual countries, a few conclusions can be reached.

First, instability and conflict affect Africa's ability to meet its constitutionalism, rule of law and human rights targets. Second, vacuums in accountability foment insecurity. Third, lessons can and should be drawn from the practice of African institutions established to deal with rule of law and human rights issues. Finally, and perhaps most glaring, the gap between aspiration and reality must be bridged if the AU and its member states are to achieve the goals set out in Agenda 2063.

The AU can steer the continent towards the utopian 'Africa Thriving' scenario from the Africa Governance Report 2021. In this scenario, Africa will be 'a politically united and economically integrated continent that is equity-based and prosperous.'⁸⁰ In this scenario, constitutionalism, the rule of law, good governance and human rights are central.

Notes

- 1 The African Charter on Democracy, Elections and Governance articulates the need to promote and strengthen good governance and democracy by consolidating the rule of law, and by ensuring peaceful transfer of power brought about through regular, free, fair and transparent elections. Inherent in this is a rejection of unconstitutional changes and an advancement of fundamental human rights.
- 2 Constitutive Act of the African Union (adopted 1 July 2000, entered into force 26 May 2001), 2158 UNTS 37733 (CAAU) Articles 3 and 4. See too AU Commission, *Agenda 2063: The African we want: first ten-year implementation plan, 2014-2023* (Addis Ababa: African Union Commission, 2015).
- 3 See more generally, Article 3(f) and (h) of the CAAU which states that the objectives of the AU shall be to promote peace, security and stability on the continent, as well as human and peoples' rights in accordance with the African Charter and other relevant human rights instruments, and Article 4 (o) relating to the condemnation and rejection of impunity.
- 4 While non-interference by a member state in the affairs of another state remains a key principle of the AU, the CAAU provides for the right of the AU 'to intervene in any member state pursuant to a decision of the Assembly in respect of war crimes, genocide, crimes against humanity,' as well as a serious threat to legitimate order to restore peace and stability.
- 5 Notable examples include the DRC's (then Zaïre) Mobutu Sese Seko, Uganda's Idi Amin and Milton Obote, the various military regimes in Nigeria, Jean-Bédel Bokassa in the Central African Republic; Hastings Kamuzu Banda in Malawi, Muammar Gaddafi in Libya, Blaise Compaoré in Burkina Faso, Teodoro Obiang Nguema Mbasogo in Equatorial Guinea, Ghana under various military rules, Daniel arap Moi in Kenya, Robert Mugabe in Zimbabwe, and many others.
- 6 Assembly of Heads of State and Government, 33rd Ordinary Session of OAU, AHG/Decl.1-4 (XXXIII), June 1997, Harare, Zimbabwe, https://au.int/sites/default/files/decisions/9542-1997_ahg_dec_120-123_xxxiii_e.pdf
- 7 M Mwanasali, The African Union and the responsibility to protect, paper presented at the Centre for Conflict Resolution policy seminar on Building an African Union (AU) for the 21st Century: Relations with Regional Economic Communities (RECs), the New Partnership for Africa's Development (NEPAD) and Civil Society, Cape Town, 20-22 August 2005.
- 8 Assembly of Heads of State and Government, 36th Ordinary Session of OAU/AHG/Decl.5 (XXXVI), 10 - 12 July, Lomé, Togo, <https://www.peaceau.org/uploads/ahg-decl-5-xxxvi-e.pdf>
- 9 R Murray, Human rights in Africa: from the OAU to the African Union, www.sahistory.org.za/sites/default/files/archive-files/rachel_murray_human_rights_in_africa_from_the_obookos.org_.pdf, 2004.
- 10 CAAU, Article 4(h).
- 11 Protocol Relating to the Establishment of the Peace and Security Council of the African Union, <https://au.int/en/treaties/protocol-relating-establishment-peace-and-security-council-african-union>, 2002.
- 12 A Ibrahim, Evaluating a decade of the African Union's protection of human rights and democracy: A post-Tahrir assessment, *African Human Rights Law Journal*, 12.
- 13 M Izarali, O Masakure and B Ibhawoh (eds.), *Expanding Perspectives on Human Rights in Africa*, Routledge, 2019.

- 14 AU, Agenda 2063: The Africa We Want, <https://au.int/en/agenda2063/overview>.
- 15 This is not an exhaustive list of all AU instruments that deal with questions of governance, rule of law and human rights. It is illustrative to demonstrate the many legal documents adopted by the AU on these issues. See <https://au.int/en/treaties/> for a list of all AU treaties and direct links to each.
- 16 CAAU.
- 17 African Charter on Human and Peoples' Rights, <https://au.int/en/treaties/african-charter-human-and-peoples-rights>.
- 18 AU, Judicial, Human Rights & Legal Organs, <https://au.int/en/legal-organs>.
- 19 For a detailed analysis on constitutionalism and Africa, see: JM Mbaku, Constitutionalism and Africa's Agenda 2063: How to Build 'The Africa We Want', *Brooklyn Journal of International Law*, 45, 537, <https://brooklynworks.brooklaw.edu/bjil/vol45/iss2/2>.
- 20 See also: UN, Report of the Secretary-General, The rule of law and transitional justice in conflict and post-conflict societies: Report of the Secretary General, S/2004/616, www.un.org/ruleoflaw/blog/document/the-rule-of-law-and-transitional-justice-in-conflict-and-post-conflict-societies-report-of-the-secretary-general/ (specifically, Section III: Articulating a common language of justice for the United Nations (6)), 2004.
- 21 For the most recent report, see: World Justice Project, *WJP Rule of Law Index 2021*, <https://worldjusticeproject.org/our-work/research-and-data/wjp-rule-law-index-2021>. Note: Although the World Justice Project reports started in 2006, Africa was included only from 2012.
- 22 Freedom House Reports, <https://freedomhouse.org/reports>.
- 23 Transparency International, Corruption perceptions index, www.transparency.org/en/cpi/2021.
- 24 The Ibrahim Index of African Governance, <https://mo.ibrahim.foundation/iia>.
- 25 Fragile States Index, <https://fragilestatesindex.org/>.
- 26 The 2021 Index ranks 139 countries and jurisdictions included in the WJP Rule of Law Index 2021 in order of score.
- 27 Mo Ibrahim Foundation, 2020 Ibrahim Index of African Governance, <https://mo.ibrahim.foundation/sites/default/files/2020-11/2020-index-report.pdf>.
- 28 Ibid.
- 29 Human Rights Watch reports; University of Pretoria, Centre for Human Rights, A guide to the African human rights system, www.corteidh.or.cr/tablas/31712.pdf, 2017; P Tiyambe Zeleza, The struggle for human rights in Africa, *Canadian Journal of African Studies/Revue Canadienne des Études Africaines*, 2007, 41, 474-506.
- 30 See also: C Fombad and E Kibet, The rule of law in sub-Saharan Africa: reflections on promises, progress, pitfalls and prospects, *African Human Rights Law Journal*, 2018, 18, 1, Pretoria.
- 31 Mo Ibrahim Foundation, 2020 Ibrahim Index of African Governance, 36, <https://mo.ibrahim.foundation/sites/default/files/2020-11/2020-index-report.pdf>.
- 32 HRW Africa Reports, [https://www.hrw.org/publications?country\[9450\]=9450&page=1](https://www.hrw.org/publications?country[9450]=9450&page=1)
- 33 AI Reports & Campaigns, <https://www.amnesty.org/en/latest/?qlocation=1698&sort=date-desc>
- 34 Coverage of economic, social and cultural rights is beyond the scope of this chapter, though these are also priority areas.

- 35 J Palik, S Rustad and F Methi, Conflict trends in Africa, 1989-2019, PRIO, <https://reliefweb.int/report/world/conflict-trends-africa-1989-2019>, 2020.
- 36 P Akhavan, Beyond Impunity: can international criminal justice prevent future atrocities? *American Journal of International Law*, 2001, 95, 7 at 30, 2001; African Commission on Human and Peoples' Rights, 344 Resolution on the fight against impunity in Africa – ACHPR/Res.344(LVIII)2016, www.achpr.org/sessions/resolutions?id=383, 2016.
- 37 T Buerghenthal, The contemporary significance of international human rights law, *Leiden Journal of International Law*, 22, 217, 2009.
- 38 F Bangamwambo, International criminal justice and the protection of human rights in Africa, in A Bösl and J Diescho (eds), *Human rights in Africa: legal perspectives on their protection and promotion*, 105, 2009. While progress has been made, this situation remains largely the same.
- 39 A Adebajo, M Paterson and J Sarkin (eds), Special Issue: Africa's responsibility to protect. global responsibility to protect, 2 (4), 373, 2010.
- 40 N Ani, The African Union Non-Indifference Stance: Lessons from Sudan and Libya, *African Conflict and Peacebuilding Review*, 2016, 6, Fall 2016, 1-22.
- 41 S Nouwen, The International Criminal Court, in D Curtis and G Dzinesa (eds), *Peacebuilding, power, and politics in Africa*, Johannesburg, Wits University Press, 172. On the possible role of the ICC, see also: G Werle, L Fernandez and M Vormbaum eds. *Africa and the International Criminal Court*, The Hague, T.M.C. Asser Press, 2014.
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Chapter 7

Governance in Africa: AU achievements, challenges and prospects

Khabele Matlosa

Introduction

Both the 50th Anniversary Solemn Declaration of 2013¹ and the 2014 Agenda 2063: The Africa We Want² make clear that the African Union (AU) has four main priorities towards continental unity and integration. These are democracy and governance, peace and security, socio-economic development, and repositioning Africa within the international political economy.³ It is evident, therefore, that governance occupies centre stage in the AU's efforts towards achieving its vision of a united, integrated, prosperous and peaceful Africa driven by its own citizens and representing a dynamic force in global affairs.

This is not hard to fathom because democratic governance is a prerequisite for peace and security, both of which are indispensable conditions (*conditio sine qua non*) for socio-economic development and structural transformation. Against this backdrop, the promotion of good governance in Africa has been a major commitment of the AU since its formation and has resulted in the adoption and development of numerous normative and institutional frameworks on governance and democracy since 2002. This chapter assesses what the AU has achieved over the two decades of its existence, the challenges it grapples with and the prospects for improved governance on the continent.

The chapter comprises five main sections. Section one provides a contextual background by discussing the imperatives of change and its associated dynamics from the Organisation of African Unity (OAU) to the AU. This is followed by a second section which provides an overview of governance and democracy in Africa over the last two decades, 2002 to

2022, with specific focus on the African Charter on Democracy, Elections and Governance (ACDEG), the African Peer Review Mechanism (APRM) and the African Governance Architecture (AGA). Section three outlines the key achievements and successes of the AU's governance and democracy agenda since its formation. The fourth section then highlights the key challenges and obstacles that constrain AU efforts in nurturing, deepening and consolidating democratic governance. The chapter concludes with lessons learnt and recommendations for the way forward.

Background

The idea of instilling a culture of democratic governance in Africa is relatively new. During the colonial period, the governance systems in all the colonies were autocratic in both form and substance. Colonialism, therefore, did not entrench democratic governance. It was, inevitably, an authoritarian system of governance anchored on the militarisation of society, oppression, coercion and exploitation. This is not surprising, given that colonists did not have any interest in democratising the colonies. Their main interest was to maintain stability, law and order for the sole purpose of maximum exploitation of Africa's natural resources for the benefit of Europe; hence Europe's socio-economic development became a perfect corollary of Africa's underdevelopment.

Colonial exploitation was largely achieved through repressive legislation, oppressive policies, and 'divide and rule' strategies. It was no surprise, therefore, that part of the agenda for decolonisation of Africa included the quest for democratisation through inclusive and participatory governance.

However, even upon independence, the internal and external environment for the pursuit of democratic, inclusive, and participatory governance in Africa was inauspicious. Thus, in the immediate aftermath of independence, Africa lacked the institutional and politico-cultural foundations to anchor democratic governance. Furthermore, from the onset, independent Africa became a theatre of various wars and instability resulting from both exogenous (e.g. the Cold War) and endogenous (interstate and intrastate conflict) factors, particularly in the immediate independence era. This challenging environment has persisted for the larger part of Africa's post-independence existence.

The Cold War was an imposed war on Africa involving the then major global superpowers, namely the United States of America and the Union of Soviet Socialist Republics.⁴ With the end of the Cold War and apartheid rule in the late 1980s and early 1990s, respectively, Africa's internal and external environment changed for the better in regard to its governance trajectory.

Thus, democratisation in Africa, on a large scale, has a relatively short history, and its momentum has intensified since the 1990s. It is essentially a post-Cold War and post-apartheid phenomenon, which emerged as part of the Huntingtonian third wave of democratisation on a global scale.⁵ Consequently, the promotion of good governance and democracy was not top priority on the agenda of the OAU during the continental body's existence between 1963 and 2002. The OAU was more focused on the liberation of African states and peoples from colonial domination, which was completed in 1994 with the end of apartheid in South Africa (the last bastion of colonial and settler domination).⁶ The OAU's major focuses were principally to:

- (a) promote the unity and solidarity of African States; (b) coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa; (c) defend their sovereignty, their territorial integrity and independence; (d) eradicate all forms of colonialism from Africa; and (e) promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.⁷

Despite the numerous challenges that it faced, the OAU registered major achievements in its pursuit of these goals, especially in ensuring the completion of the continent's decolonisation. Besides its contribution to decolonisation and political liberation of the continent, the OAU also played a key role in resolving major conflicts in Africa including mediating formal peace agreements to end the Algeria–Morocco border war of 1963 and the Ethiopia–Eritrea border dispute of 1998–2000.

Given its doctrine of non-interference in the internal affairs of its member states, which was codified through the 1964 Cairo Resolution that recognised colonial boundaries, the OAU was constrained in advancing democratisation and a culture of human rights, since such matters were

considered internal to member states. This, in part, explains the OAU's failure to prevent the genocide against the Tutsi in Rwanda in 1994.

Due to less emphasis on democracy, human rights, constitutionalism and the rule of law, two major trends marked the governance landscape in Africa during the OAU era: (a) the prevalence of one-party system and (b) military regimes. Multi-party democracy was perceived as divisive and considered inimical to the communalist social solidarity needed for nation-formation and state-building. For instance, Nkrumah's Ghana and Nyerere's Tanzania both institutionalised *de jure* one-party systems arguing that these systems would ensure the national unity needed for development.

According to Peter Anyang' Nyong'o, four arguments were typically advanced in support of one-party systems in Africa. These were that (a) a single party would promote national unity; (b) people's efforts would be directed towards nation-building and not wasted on politics; (c) since people generally agreed that the government was to engage itself in development, party politics was not necessary; and (d) whatever differences would emerge, these could be freely discussed under the single-party regime as democracy and human rights would be practised.⁸

The one-party system was practised in both socialist-leaning and capitalist-inspired African countries. Military regimes dominated mostly in West, Central and North Africa. Between the 1960s and the late 1980s, military coups were more frequent in Africa than multi-party elections. One-party regimes dominated the political landscape in Eastern and Southern Africa,⁹ while in Eastern Africa, the most powerful and politically stable one-party system was found in Nyerere's Tanzania. One-party regimes (both *de jure* and *de facto*) were also pervasive in Africa.¹⁰

Early attempts to support good governance by the OAU can be traced to its firm stance against the 1963 military coup in Togo. After the coup, the Togolese delegation was denied access to the founding conference of OAU. This was a positive gesture in terms of democratisation and peacebuilding. Over time, however, the OAU became less bothered about military coups and other governance issues largely due to its adoption of the principle of non-interference in the internal affairs of its member states.

The challenge of not prioritising democracy was, however, also a manifestation of the character of the global system. Geldenhuys (2012)

argues that it was an attempt by newly independent African states to 'protect their statehood in a turbulent Cold War world and complete the decolonisation of the continent.' However, sovereignty served as a veneer under which many African leaders ruled with impunity.¹¹

Within the context of the ideological bipolarity of the Cold War era, global powers were also concerned with winning the hearts and minds of allies within their spheres of influence rather than democracy promotion. In the absence of continental and extra-continental pressure, African leaders failed to prioritise democracy, aware that even if they pursued authoritarian policies, these would not tarnish their international legitimacy in the context of global politics at the time.

At the end of the Cold War, the incentive for the promotion of democracy and good governance continued to be absent as colonial administrations and political systems inherited by the newly independent states equally lacked the orientation towards such. In both form and content, colonial structures were essentially autocratic, repressive and militaristic systems. Typical of the resulting ruthlessly repressive and autocratic regimes in the immediate post-independence Africa was the Idi Amin regime in Uganda, which subjected Ugandans to the most horrendous human rights abuses, arbitrary killings and extreme ill treatment of the Indian community between 1971 and 1979.

Hamstrung by its parochial, narrow-national sovereignty considerations, the OAU failed to intervene thereby allowing impunity to fester in Uganda and elsewhere. The worst of it all was that Idi Amin became the Chairperson of OAU between 28 July 1975 and 2 July 1976. This was the most vivid demonstration of OAU's ostrich-style posture to human rights abuses by its member states and the height of its abysmal failure to respond to prevailing governance democracy imperatives. Amin's regime was eventually toppled by a military action by Tanzania.

Even though the move was in violation of the OAU's norm of non-interference, the incident presented one of the ironies and contradictions of African international relations and diplomacy at that point in time. McMahon and Baker note that 'while criticized by some for violating the norm of national sovereignty, given the hideous nature of the Amin regime, most public opinion in the international community – and even the OAU – expressed at least tacit support for the intervention.'¹²

To address the glaring democratic deficit on the continent, the AU in its Constitutive Act (CAAU) introduced a new dynamic for continental integration in Africa by placing issues of democratic governance at the heart of its overall vision and core mandate. Beyond promoting democracy and governance, the AU's agenda has also included promotion of peace and security, socio-economic development, and structural transformation as well as repositioning Africa in the global political economy.¹³

The AU, in contrast with the OAU, is better poised to advance inclusive, democratic and participatory governance in Africa. This is within the context of a rise in democratic practice on the continent and a changed context within which authoritarian governance is no longer attractive.¹⁴ African citizens are more informed and have been actively demanding legitimate, accountable, responsive and transparent governance since the onset of the Third Wave of democratisation.

Governance and democracy after the AU's formation

Against the backdrop of the above, it is clear that democratic governance has strengthened during the era of the AU. Africa's efforts to fulfil its governance aspirations have subsequently led to the development of a plethora of robust normative and institutional frameworks on governance and democracy. The principal components of the normative and institutional frameworks and their resulting foundational anchors for the promotion of good governance in Africa are discussed below.

African Charter on Democracy, Elections and Governance

Democratic governance in Africa is anchored on the African Charter on Democracy, Elections and Governance (ACDEG). The driving impetus for the development and adoption of ACDEG is traceable to the determination of the AU founders in 2002 to 'consolidate' democratic governance by assigning the new institution the responsibility to 'promote democratic principles and institutions, popular participation and good governance' in Africa.¹⁵ It was adopted by the eighth Ordinary Session of the Assembly of the AU¹⁶ in line with Decisions EX.CL/DEC.3 (III), adopted in 2003,¹⁷ and EX.CL/124 (V), adopted in 2004. Both decisions affirmed the importance for the development and application of this key instrument.

A notable 'governance clause' Article 4(p) of the CAAU is that relating to the unequivocal embrace of popularly and legitimately elected governments and an outright rejection of unconstitutional changes of government in line with the 2000 Lomé Declaration. Within the framework defined in the various articles of ACDEG, the 'AU upholds the basic democratic principle that elections are a legitimate method of transfer of power and the only democratic manner of expressing popular sovereignty in representative democracy.'¹⁸

The CAAU's appreciation of the role of sustainable democratic governance to political stability, peace and security in Africa is further reiterated in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol).¹⁹

ACDEG provides a solid platform for crafting the future of democracy in Africa. In fact, ACDEG is so broad in its provisions for crafting democracies in Africa to the extent that it provides for embracing the electoral, liberal and social democratic systems depending on each country's governance vision. Chapter 9 of ACDEG provides a solid foundation for crafting social democracy based on the idea that democracy must be built hand in glove with the advancement of socio-economic development.

The chapter also provides the imperative to harness the democratic value of African traditional governance institutions, which are often denigrated under electoral and liberal forms of democracy. The section also embraces the right to development as key to democratisation and thus ensuring that democracy's intrinsic and instrumental values are realised. The chapter further calls for a type of democracy that addresses poverty, inequality, unemployment, ill health, illiteracy, marginalisation, environmental degradation, exclusion and underdevelopment.

In order for the Charter to come into effect, it required 15 ratifications. So far, 47 AU member states have signed it and 34 AU member states have ratified ACDEG. At the timing of finalising this chapter, with 13 ratifications, West Africa remains the trailblazer in respect of normative commitment to the advancement of democracy as enshrined in ACDEG. West Africa is followed closely by East Africa with nine, Southern Africa (a distant third) with five ratifications, and North and Central Africa with only three ratifications each. The apparent success of the ratification of ACDEG in West Africa must be further consolidated and entrenched especially in light

of the recent spate of military coups and constitutional amendments for elongation of tenure of incumbent heads of state.

The poor record of ratification in Central, Eastern, North and Southern Africa suggests there is need to popularise the Charter in these regions by working with various stakeholders including regional economic communities (RECs), regional parliaments, CSOs and think-tanks. The signing and ratification of ACDEG, however, does not mean much for democratisation in Africa; it is rather the domestication and implementation of the provisions of the ACDEG that speaks volumes. Despite the adoption of the ACDEG, the record so far clearly points to democratic backsliding in Africa with an upsurge in autocratic regimes accentuated worsened by the lockdowns necessitated by the COVID-19 pandemic.²⁰

African Peer Review Mechanism

The 2002 Summit of the AU adopted three other instruments aimed at nurturing democratic governance and building peace in Africa. These are the New Partnership for Africa's Development (NEPAD) Declaration on Democracy, Political, Economic and Corporate Governance; the OAU/AU Declaration on the Principles Governing Democratic Elections; and the AU Guidelines for Election Observation and Monitoring Missions. The NEPAD Declaration recommitted AU member states to democratic governance, while the other two instruments emphasised the need for credible, transparent and democratic elections that lead to legitimate and acceptable outcomes devoid of political violence and instability.

Through the NEPAD Declaration, Africa accepted that it 'faces challenges and the most urgent of these are the eradication of poverty and the fostering of socio-economic development, in particular, through democracy and good governance.'²¹ The declaration further commits AU member states to work together in policy and action towards the realisation of (a) democracy and good political governance; (b) economic and corporate governance; (c) socio-economic development; and (d) the African Peer Review Mechanism (APRM) goals. This Declaration paved the way for the establishment of the APRM in 2003 in Abuja, Nigeria.

The APRM introduced Africa's own self-assessment and peer review on the state of governance covering democracy and political governance, economic governance and management, corporate governance and socio-

economic development. Through the assessment process, African states aim at institutionalising and consolidating democratic governance through:

foster[ing] the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and enforcement of successful and best practice, including identification of deficiencies and assessing the needs for capacity building.²²

A country that accedes to the APRM commits to be reviewed every two to four years in terms of its policy frameworks, institutional architecture, systemic set-up and practices around democracy and political governance; economic governance and management; corporate governance; and socio-economic development. In some instances, participating APRM Heads of State and Government may be prompted by signs of an impending socio-economic and/or political crisis or turmoil to call for a review in a given country 'in a spirit of helpfulness to the government concerned.'²³

Since its establishment, a total of 40 AU member states have acceded to the APRM. As with ACDEG, West Africa leads the way in terms of accession to the APRM with 12 AU member states having acceded to the mechanism. Both East Africa and Southern Africa share position two with nine accessions each. Central Africa stands at six accessions while North Africa has only four accessions. It is still unfathomable why not all AU member states have acceded to the APRM, but this is a clear testimony of the level of political commitment by African leaders to democratisation.

The other challenge is that several APRM countries which have undergone peer review have relapsed into political crisis years following their peer reviews. These include Algeria, Egypt, Lesotho, Kenya, Nigeria, Sudan, South Africa and Tunisia. Ordinarily, the APRM would have undertaken crisis interventions in these countries as per its base instruments but did not do so. While the ACDEG implores all AU member states to accede to APRM, it also forms a key part of the standards and codes used in the self-assessment and peer review itself.

African Governance Architecture

African Governance Architecture (AGA) is traceable to the 2009–2012 Strategic Plan of the African Union Commission (AUC), which introduced the notion of shared values as one of the pillars of the AU Agenda for continental unity and integration. Through its shared values pillar, the AUC committed itself to achieving participatory governance, democracy, human rights, and a rights-based approach to development including social, economic, cultural and environmental rights. In this regard, based on existing institutions and organs, the AUC committed to promoting and facilitating the establishment of an appropriate architecture for the promotion of democratic and participatory governance.

This commitment was taken forward in January 2010 by the 16th Ordinary Session of Executive Council and the 14th Ordinary Session of the AU Assembly which decided to devote 2011 to ‘Shared Values in Africa,’ in particular, by putting in place a Pan-African architecture on governance. In January 2011, the 18th Ordinary Session of the Executive Council endorsed the strengthening of the African Governance Architecture, through the launch of a Governance Platform as a ‘mechanism to (a) foster the exchange of information; (b) facilitate the elaboration of common positions on governance; (c) strengthen the capacity of Africa to speak with one voice.’

The same Executive Council decision also called for the AUC to ensure greater synergy and coherence between the African Governance Architecture and the African Peace and Security Architecture. The AU Assembly of January 2011 adopted a declaration on the theme of the Summit: ‘Towards Greater Unity and Integration through Shared Values’ (Assembly/AU/Dec.1(XVI)), which affirmed the importance of establishing the African Governance Platform as a basis for facilitating harmonisation and coordination of initiatives in governance and democracy. The AU Commission launched the African Governance Platform in June 2012.

The AGA has four main components. Firstly, the vision, norms and standards constitute the shared values pillar. This includes all the shared values instruments of the AU and RECs aimed at promoting democratic and participatory governance on the continent.

Secondly, AU organs and institutions that constitute the African Governance Platform constitute the institutional pillar. These are all the AU

organs with the democracy, governance and human rights mandate. They include the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the Pan-African Parliament, the African Peer Review Mechanism, the Economic, Social and Cultural Council, the Peace and Security Council, etc. Within the framework of the African Governance Platform, these institutions are supposed to work together and deliver as one on the AU democracy and governance mandate.

Thirdly, the African Governance Platform constitutes the dialogue pillar. The platform is coordinated by the AUC and exists to:

- Evaluate mechanisms for the implementation of the African Charter on Democracy, Elections and Governance
- Facilitate harmonisation of instruments and coordinate initiatives in democracy and governance
- Convene the annual high-level dialogue on democracy, governance and human rights
- Enhance greater engagement and participation of African citizens including women, youth and civil society in all the relevant initiatives of the African Governance Platform Members
- Facilitate the establishment and operationalisation of the AGA Clusters.

Fourthly and finally, the African governance facility or the governance fund constitutes the resource mobilisation pillar. Presently, the AU depends overwhelmingly on external sources of funding for its programmes. This situation is not sustainable. If the Union is to be more effective in driving its own democracy and governance programme, it needs to explore alternative sources of funding with emphasis on domestic mobilisation of resources with external development partners simply complementing such efforts.

The proposals emanating from the Obasanjo report on alternative sources of funding provided a glimmer of hope in this direction. As a result of the recommendations of the Obasanjo report, the AU has committed to continuing to fund 100% of its operational costs, 75% of all its programmes and 25% of all its peacekeeping operations. Already the AUC has the Democracy and Electoral Assistance Fund to which some member states contribute voluntarily in support of democratisation (especially elections) on

the continent. This existing fund could serve the intended purpose of the African governance facility. There is no need to establish yet another fund.

The AGA has five clusters: the Socio-Economic Service Delivery and Urbanisation cluster covers public service and administration, decentralisation and local governance, urban development and human settlements, combatting corruption, and natural resource governance. The democracy cluster covers election observation, technical support to election management bodies, support to political parties, civil society, media, parliaments, etc. The human rights and transitional justice cluster covers human rights promotion, protection, and observance, advancing transitional justice in post-conflict situations, supporting national human rights institutions, human rights observation, etc.

The constitutionalism and rule of law cluster covers constitutional amendments, combatting unconstitutional changes of government, inculcating a culture of constitutionalism, promoting rule of law, separation of powers/checks and balances, and supporting key rule of law watch-dog bodies such as the ombudsman. The humanitarian assistance cluster deals with displacement of people because of either natural disasters, large-scale development projects or protracted violent conflicts. It covers support to refugees, internally displaced persons, returnees etc. It also deals with aspects of migration, especially the AU efforts towards free movement of persons on the continent whose vision is to strive towards a visa-free Africa within the framework of Agenda 2063.

Besides the five clusters as outlined above, there is a functioning AGA/APSA Secretariat, based at the African Union Commission within the Department of Political Affairs, Peace and Security that coordinates the work of clusters and supports the Bureau of the AGA and its platform. This Secretariat is also tasked in strengthening the synergy and complementarity between AGA and the African Peace and Security Architecture (APSA).

In pursuit of the Africa Agenda 2063, the synergy and complementarity between and among AGA, AUDA–NEPAD and APSA is critical. This is so because continental unity and integration requires the simultaneous pursuit of democracy (AGA), peace (APSA) and development (AUDA–NEPAD). Durable peace in Africa requires a sustainable democratic setting and vice versa. Both democracy and peace are the critical enablers for socio-economic development. In like manner, socio-economic development is key for sustainable democracy and durable peace.

Achievements and successes

The achievements and successes of the AU governance and democracy agenda are many and varied. Firstly, the AU has been successful in developing the normative and institutional frameworks aimed at advancing inclusive, democratic and participatory governance in Africa. As discussed in the previous section, three of these achievements are the 2003 APRM, 2007 ACDEG, and the 2010 AGA.

The adopted norms and values illustrate tacit commitment of AU member states towards nurturing and deepening democratic governance given the firm realisation that democratic governance on the one hand and peace, security and stability on the other hand are flip sides of the same coin. In this regard, it is also obvious from the aspirations of Agenda 2063 that both democracy and peace are necessary for socio-economic development.

Agenda 2063 is Africa's long-term development blueprint with seven noble aspirations. Two of these specifically address the challenges of governance, peace and security. The first is Aspiration 3, which envisions 'An Africa of good governance, democracy, respect for human rights, justice and the rule of law' in line with ACDEG. The AGA is the institutional vehicle for the realisation of this aspiration. The second is Aspiration 4, which envisages 'A peaceful and secure Africa' in line with the 2002 Protocol relating to the Establishment of the Peace and Security Council of the African Union. The African Peace and Security Architecture (APSA) provides the institutional mechanisms/systems towards realising this aspiration.

Because the Agenda 2063 resonates with the 2030 global agenda on sustainable development, it is no wonder that Aspiration 3 and Aspiration 4 of Agenda 2063 dovetail neatly to Sustainable Development Goal (SDG) 16 which aims to 'promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.'

Secondly, since the democratisation wave of the late 1980s and early 1990s, multi-party elections have become a major feature of the governance landscape on the African continent. By and large, competitive multi-party and representative political systems have

replaced the authoritarian regimes of the civilian and military varieties of the yesteryear. Evidently, ballot politics have progressively replaced bullet politics. Today, there are, on average, fifteen general elections (parliamentary and presidential) conducted in Africa annually besides numerous local government elections and referenda. Even though elections per se do not amount to democracy, they are an important ingredient of democratic governance.

As part of its democracy and governance mandate, the AU deploys election observation missions in all its member states holding elections as a deterrent against possible electoral fraud/irregularities. Despite their shortcomings, election observation missions are a conflict prevention and management tool and a democracy promotion mechanism. However, more investment has to be earmarked for institutional capacity enhancement of national citizen (domestic) observer groups who have more stake in democratic governance in their own countries even more than the AU, RECs and the international community.

Thirdly, in part, due to the promotion of democratic governance, which also entails constructive management of diversity and peaceful resolution of conflicts, there has been a discernible trend of considerable decline of protracted and violent interstate conflicts, even though intrastate conflicts persist. This trend has been underway since the collapse of the Cold War globally and the demise of apartheid in the early 1990s.

While various institutions and organs of the AU that constitute the AGA have played (and continue to play) a key role in terms of stemming the tide of both interstate and intrastate conflicts, there is no doubt that the institutions that comprise APSA, most notably the Peace and Security Council (PSC), have played a major role in conflict prevention, management and resolution. Both AGA and APSA are coordinated and operationalised through the newly established Political Affairs, Peace and Security Department of the AUC which combines the former departments of Political Affairs and Peace and Security as part of the currently on-going institutional reforms of the AU.

The AU's record towards achieving its agenda to 'silence the guns'²⁴ by 2030 and realise the noble goals of Agenda 2063 and the 2030

global agenda on sustainable development is fundamentally dependent upon the extent to which inclusive, democratic, and participatory governance is nurtured and deepened on the continent.

Fourth, as highlighted in chapters 12 and 15 in this book, active citizen engagement in governance, including the participation of marginalised and vulnerable groups such as women and the youth, represent one of the success stories of the AU governance and democracy agenda. The AU has adopted various normative instruments that commit the continental body to gender equality and youth empowerment. The 2003 Protocol to the African Charter on Human and Peoples' Rights relating to the Rights of Women adopted in Maputo, Mozambique commits AU member states to gender equality. The 2006 African Youth Charter commits the Union to youth empowerment.

Whereas its member states still have a long way to go to realise gender equality and youth empowerment adequately at national levels the AU embraces gender parity within its own organs and institutions. For instance, today, of the ten members of the African Union Commission (AUC) five are males and five are females, more by design than by default. One interesting feature of citizen participation in Africa today is the phenomenon of popular protests.

To their own credit, through the 50th Anniversary Solemn Declaration of May 2013, the African leaders committed themselves to deepening democratic governance through, inter alia, 'rejection of unconstitutional change of government, including through any attempts to seize power by force *but recognise the right of our people to peacefully express their will against oppressive systems*' (AU, 2013) (author's emphasis).

Fifth and finally, in part because of the expansive AU normative and institutional frameworks, over the past two decades, democracy promotion, protection and oversight institutions have been established in all AU member states such as the human rights institutions, the ombudsman (public protector), election management bodies, auditor-general, etc. Despite their institutional deficiencies, their mere existence is an illustration of progress towards nurturing, deepening and consolidation of democracy and inculcation of a culture of human rights, constitutionalism and the rule of law.

Challenges and obstacles

Despite the milestones highlighted in the previous section, the AU has also faced several challenges and obstacles in its promotion of democratic governance. The first challenge is what this author terms ‘democratic haemorrhage.’ The notion of democratic haemorrhage is used here to denote reversals on the democratisation project globally and in Africa. It is these reversals that the 2019 Global State of Democracy Report by the International Institute for Democracy and Electoral Assistance refer to as ills of democracy that need to be cured. These ills are described variously throughout the report as democratic erosion, democratic recession, democratic backsliding, democratic breakdown, democratic façade, democratic reversal, democratic slowdown, democratic fragility, democratic weakness and democratic decline.²⁵

In the African context, the democratic haemorrhage manifests in various ways. The democratic quality and integrity of elections has declined over time resulting in either political violence or the challenge of election results in the courts of law. Furthermore, democratic institutions remain weak and highly politicised to serve interests of the political class. Declining electoral integrity, combined with violence in some instances, has contributed to declining public trust in governance institutions and declining voter turnout. Afrobarometer studies (including the latest Round 9 survey, 2020/22) have shown that while citizen demand for democracy remains high in Africa, its supply by the state severely lags behind.

The second challenge is the trend of unconstitutional changes of government (UCG) despite the AU’s zero tolerance against this phenomenon as articulated in both the 2000 Lomé Declaration and the 2007 ACDEG. The most comprehensive instrument in the AU arsenal against unconstitutional changes of government is ACDEG that has a specific section (Chapter 8) focusing on the subject.

In Article 23, ACDEG expanded the definition of unconstitutional changes of government beyond the 2000 Lomé Declaration to entail:

- Any putsch or coup d’état against a democratically elected government
- Intervention by mercenaries to replace a democratically elected government

- Any replacement of a democratically elected government by armed dissidents and rebels
- Any refusal of an incumbent government to relinquish power to the winning party after free, fair and regular elections, or
- Any amendment or revision of constitutions or legal instruments, which is an infringement on the principles of democratic change of government.

Despite point 1 above, the phenomenon of military coups has continued since 2002 as illustrated by Table 7.1 below.

Table 7.1: Successful coups d'état in Africa, 2002–2022

Region	Country	Year	Total
Central Africa	CAR	2003	1
	Chad	2006, 2021	2
	DRC	2001	1
East Africa	Sudan	2019, 2021	2
	Madagascar	2009	1
North Africa	Algeria	2019	1
	Egypt	2013	1
	Mauritania	2005, 2008	2
Southern Africa	Zimbabwe	2017	1
West Africa	Burkina Faso	2022	1
	Côte d'Ivoire	2002	1
	Guinea	2008, 2021	2
	Guinea Bissau	2003	1
	Mali	2012, 2020, 2021	3
	Niger	2010	1
	São Tomé and Príncipe	2003	1
	Togo	2005	1
Total			23

Source: Omotola;²⁶ Barka and Ncube;²⁷ Abebe²⁸

It is evident from Table 7.1 above that since the establishment of the AU and despite the paradigm shift from the old OAU doctrine of non-interference in

internal affairs of member states to the new AU doctrine of non-indifference to human rights abuses within member states, military coups have persisted, albeit at a relatively lower scale compared to the period of the 1960s to the 1980s. Since the establishment of the AU to date, a total of 23 successful military coups have occurred in Africa. This figure does not include unsuccessful or attempted military coups.

The most recent overt military coups are the ones that occurred in Sudan (2019 and 2021), Mali (2020 and 2021), Chad (2021) and Burkina Faso (2022). Covert military coups have recently taken place in Egypt (2013), Zimbabwe (2017) and Algeria (2019). Recent attempted or unsuccessful coups have taken place in Niger (2021) and Guinea Bissau (2022). Adekoya warns that ‘these power grabs threaten a reversal of the democratisation process Africa has undergone in the past two decades and a return to the era of coups as the norm.’²⁹

The significance of points 4 and 5 above should not be lost, given that constitutional amendments to tamper with or remove term limits have also become major threats to democratic governance in Africa since the recent past, as demonstrated in Table 7.2 below.

Table 7.2: Outcome of third- and unlimited-term agenda, 2002–2022

No.	Country	President then	Mechanism	Date	Outcome
1	Algeria	Abdelaziz Bouteflika	National Assembly	2008; 2016	Successful
2	Benin	Patrice Talon	National Assembly	2017	Failed
3	Burkina Faso	Blaise Compaoré	National Assembly	2014	Failed
4	Burundi	Pierre Nkurunziza	National Assembly	2015; 2018	Successful
5	Cameroon	Paul Biya	National Assembly	2008	Successful
6	Chad	Idriss Déby	National Assembly	2005; 2018	Successful
7	Congo Republic	Denis Sassou Nguesso	National Assembly	2015	Successful
8	Comoros	Azali Assoumane	National Assembly	2018	Successful

No.	Country	President then	Mechanism	Date	Outcome
9	DRC	Joseph Kabila	National Assembly	2016	Successful
10	Côte d'Ivoire	Alassane Ouattara	National Assembly	2020	Successful
11	Djibouti	Ismaïl Omar Guelleh	National Assembly	2010	Successful
12	Egypt	Abdel Fattah El-Sisi	National Assembly	2019	Successful
13	Gabon	Omar Bongo	National Assembly	2003	Successful
14	Guinea	Lansana Conté	National Assembly	2020	Successful
15	Malawi	Bakili Muluzi	National Assembly	2003	Failed
16	Nigeria	Olusegun Obasanjo	National Assembly	2006	Failed
17	Rwanda	Paul Kagame	National Assembly	2015	Successful
18	Senegal	Abdoulaye Wade	National Assembly	2012	Failed
19	South Sudan	Salva Kiir	National Assembly	2015; 2018	Successful
20	Togo	Gnassingbé Eyadema Faure Gnassingbé	National Assembly National Assembly	2002 2015; 2019	Successful Successful
21	Tunisia	Zine el-Abidine Ben Ali	National Assembly	2002	Successful
22	Tunisia	Kais Saied	National Assembly	2022	Successful
23	Uganda	Yoweri Museveni	National Assembly	2005; 2017	Successful

Source: adapted and updated from Omotola;³⁰ Siegle and Cook;³¹ Suleiman and Onapajo³²

Table 7.2 is a vivid illustration that governance in Africa is currently anchored uncomfortably on the personality cult of strong men. It is predicated on enfeebled institutions. Strongmen are institutionalised, and weak institutions are personalised. This explains why between 2002 and 2022 there were 23 constitutional amendments for elongation of power of incumbents of which

18 were successful and five were unsuccessful. In some cases, the removal of constitutional term limits has been solidified with removal of age limits for incumbents, as in the case of Uganda.

The AU has not been able to effectively respond to tenure elongation as a form of UCG through either the AGA or APSA, especially the PSC. In the meantime, since the recent past, the phenomenon of military coups has reared its ugly head. In all fairness, the AU has been relatively more forthcoming and proactive in response to military coups and less so in respect to constitutional amendments and covert military coups, especially those that ride on the wave of popular protests.

The third challenge is the declining state–society social contract which manifests primarily in two ways: (a) declining public trust in democratic institutions and (b) loss of faith in elections as demonstrated by low voter turnout. Social contract is largely strained by the dwindling public trust of citizens in governance institutions as shown in Table 7.3 below.

From Table 7.3, it is evident that key institutions that are supposed to anchor democratic governance are not trusted by the majority of citizens. This is clear in the case of parliament which is not trusted by about 50% of citizens, local authorities (53%), ruling parties (54%), opposition parties (63%), and revenue collection authorities (50%). Institutions that enjoy the trust of the majority of citizens are the head of state/government (52%), the army (64%), traditional leaders (59%), religious leaders (69%), and the courts of law (51%).

It is noteworthy that African citizens seem to have more trust in unelected institutions such as the army, traditional leaders and religious leaders compared to ones that are central to democracy building and promotion such as the electoral commission, parliament and political parties.

The fourth challenge has been occasioned by the onset of the coronavirus disease of 2019 (commonly known as COVID-19) since February 2020. Undoubtedly, the COVID-19 pandemic has compounded the ill health of democracy. The 2021 Freedom House report recognises this reality and observes that ‘since it spread around the world in early 2020, COVID-19 has exacerbated the global decline in freedom. The outbreak exposed weaknesses across all pillars of democracy from elections and rule of law to egregiously disproportionate restrictions on freedoms of assembly and movement.’¹³³

Table 7.3: Public trust in institutions in Africa

	President (%)	Parliament (%)	National election commission (%)	Local council (%)	Ruling party (%)	Opposition party (%)	Tax/revenue authority (%)	Police (%)	Army (%)	Traditional leaders (%)	Religious leaders (%)	Courts of law (%)
Not at all/ Just a little	45.4	54.9	50.2	53.1	53.7	62.8	51.3	49.8	33.4	33.5	29.2	45.2
Somewhat/ A lot	51.7	41.5	44.5	43.4	43.6	33.2	41.4	48.6	64.1	58.9	69.0	50.9
Refused	0.5	0.3	0.3	0.1	0.5	0.5	0.3	0.3	0.3	0.3	0.2	0.3
Do not know/ Haven't heard enough	1.9	3.2	5.0	4.4	2.2	3.9	7.0	1.2	2.1	7.2	1.5	3.7
Total	100	100	100	100	100	100	100	100	100	100	100	100

Source: Afrobarometer³⁴

The COVID-19 pandemic has tended to reduce the resilience of governance institutions, thereby triggering instability by, among other things, a trend manifesting in democratic backsliding and autocratic upsurge; the rise in populist nationalism; the rise in protests linked to poor service delivery; escalating COVID-19 corruption relating to procurement of personal protective equipment; declining public trust in governance institutions undermining state-society relations; and declining economic growth that has exacerbated poverty, hunger, unemployment and inequality, which are some of the structural root causes of violent conflict in Africa. Doss and Ibrahim have warned that the COVID-19 pandemic ‘risks becoming a political emergency that threatens the democratic progress that countries across the continent have made in recent years.’¹³⁵

This may worsen the already low public trust in governance institutions, a scarce resource that governments need to curtail the pandemic. Gyimah-Boadi and Logan warn that public trust is poor already and may plummet further with the securitised responses to the COVID-19 pandemic. They observe that ‘fewer than half (46%) of citizens trust their elected leaders ... parliament (43%), and local government council (43%).’¹³⁶ To regain public trust, Doss and Ibrahim propose that ‘leaders should consult widely to build consensus across the political landscape. If they do not, emergency measures may be perceived as a strategy for political gain by incumbents. This subverts the public trust needed to address the health crisis.’¹³⁷

Gyimah-Boadi and Logan make a pertinent warning: ‘of perhaps even greater concern are clear signs that some countries already edging toward more authoritarian governance may take advantage of the moment to impose greater restrictions intended to become permanent. Newly granted presidential powers, and new limits on public freedoms, may not be so easily reversed.’¹³⁸

The fifth and final challenge confronting governance and democracy in Africa today remains electoral violence. The causes of electoral violence include deep-seated socio-economic discontent by citizens as well as weak intraparty democracy and conflict-ridden interparty relations. In an effort to respond to this problem, during the 13th Ordinary Session of the Assembly of Heads of State and Government held in Kampala, Uganda in July 2010, the AU adopted the report of the Panel of the Wise on ‘Election-

Related Disputes and Political Violence: Strengthening the Role of the African Union in Preventing, Managing and Resolving Conflict.’

This report provides a comprehensive menu of strategies and approaches for the AU to adequately tackle election-related disputes and political violence. The report emphasised that the AU, through its Panel of the Wise and other relevant organs such as the AUC, should address root causes of electoral violence both within the electoral cycle (election-related causes) and structural factors (systemic causes). It further highlighted the need for the Union to invest more resources in preventive measures and early warnings and early responses. The report details far-reaching policy recommendations which are clustered in six as follows:

- Risk mapping, preventive and early warning mechanisms
- Electoral governance and administration
- Coordination of electoral assistance
- Postelection conflict transformation mechanisms
- International cooperation and partnerships
- Strategic interventions by the Panel of the Wise³⁹

Conclusion, lessons and recommendations

As noted in the contextual background section of this chapter, and in chapter 1 of this book, it was in the transformation of the OAU into the AU that governance became a central link of the continental agenda of unity and integration. Unlike the OAU, the AU has made clear its commitment to strive towards a three-pronged Pan-Africanist agenda, namely: democratic governance; peace, security and stability; and socio-economic development and structural transformation. As part of its transformation from the OAU, the AU jettisoned the old doctrine of non-interference and adopted a new doctrine of non-indifference to human rights abuses in its member states.

The AU has a plethora of governance and democracy normative and institutional frameworks, chief among them being the APRM and ACDEG. The main challenge that faces the AU, as pointed out in chapter 3 of this book, is mainly the gap that still exists between norm-setting and norm-implementation. Norms, instruments and institutions exist to

instil a culture of democratic governance, constitutionalism, rule of law and human rights.

However, AU member states generally lack the political commitment to effectively implement norms and instruments using sovereignty as a shield against undemocratic behaviour and human rights violations. This explains in part the general trend of democratic backsliding on the continent since the mid-2000s, marked in the main by electoral fraud and irregularities, massive corruption, military coups, tenure elongation, popular protests, etc.

The AU has a very clear strategy of continental unity and integration underpinned by Pan-Africanism and African Renaissance in the form of Agenda 2063 – the ‘Africa We Want’ with 14 flagship projects and seven aspirations. There is no need for another strategy. What is needed is for member states to effectively implement the 14 flagship projects and seven aspirations of Agenda 2063. With a view to advance, nurture and consolidate democratic governance and entrench the culture of human rights over the next 30 years, the AU must focus on six main areas as outlined below.

Culture of democracy and human rights

Achieving a culture of democracy and human rights will require the effective implementation of all existing instruments:

- Strengthen monitoring and enforcement of the implementation of the African Charter on Human and Peoples’ Rights (Banjul Charter) at national, regional and continental levels, and adequately empower the African Commission on Human and Peoples’ Rights (ACHPR) and African Court on Human and Peoples’ Rights (AfCHPR).
- Ensure universal ratification of ACDEG by all the 55 member states of the AU by 2023 (the end date of the first ten-year implementation plan of Agenda 2063) and its effective implementation.
- Develop guidelines on unconstitutional changes of government and entrench zero tolerance against military coups, drawing from ACDEG.

- Develop guidelines on popular protests and uprisings in line with the provisions of the 50th Anniversary Solemn Declaration to fill a gap that still exists in ACDEG on this front.

Governance at the centre of AU peace, integration and development

- Ensure universal accession of all the 55 member states of the AU to the African Peer Review Mechanism (APRM) by 2023 (the end date of the first ten-year implementation plan of Agenda 2063).
- Ensure that the APRM Country Review reports, National Plans of Action (NPAs) and targeted review reports are effectively implemented by concerned member states.
- Transform the APRM from being voluntary to being a mandatory instrument binding all AU member states.

Developmental and participatory governance system

- Decolonise Africa's governance and human rights architecture by, inter alia, mainstreaming traditional African governance institutions and mechanisms.
- Ensure that non-state actors, especially civil society organisations, play a central role in the advancement of democratic governance and human rights.
- Ensure that democracy's intrinsic and instrumental values enhance the lives and livelihoods of citizens (e.g. there is a need to balance the right to vote (intrinsic value) with the right to food (instrumental value)).

Regular governance reforms

These should be the core element of 'Silencing the Guns in Africa' towards achieving Aspiration 3 and Aspiration 4 of Agenda 2063 and SDG 16. For instance, it is easy to undertake governance reforms following general elections after every five years in each AU member state.

Inclusive approach

Facilitate inclusion of marginalised social groups into the governance and human rights architectures through affirmative action measures targeting women, youth, people with disability, minorities, refugees and internally displaced persons.

Support to member states

Provide various types of support (technical and political) to member states to address the AU's current governance challenges, including unconstitutional changes of government and popular protests through various early warning, preventive diplomacy, and conflict management mechanisms such as the APRM, PSC, Panel of the Wise, and Africa Forum of Former Heads of State and Government to ensure durable peace and stability as key preconditions for inclusive socio-economic development:

- Invest more in the prevention of election-related political violence in member states through early warnings, early responses and preventive diplomacy.
- Support all the member states, such as Mali, Sudan, Guinea, Guinea Bissau and Burkina Faso, that have experienced unconstitutional changes of government to restore rule of law and constitutional order.

Notes

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- 9 Democratic governance in Southern Africa was further eroded by the apartheid system in South Africa and Namibia with its devastating regional destabilisation campaigns which had indelible Cold War fingerprints.
- 10 For instance, states such as Algeria, Angola, Gambia, Malawi, Mozambique, Tanzania, Zaire (present-day DRC), Zambia and Zimbabwe embraced *de jure* one-party rule between the mid-1960s and early 1990s, while others such as Cameroun, Côte d'Ivoire and Kenya were *de facto* one-party states. Mauritius has embraced and upheld a political culture of pluralism and political tolerance anchored on a relatively stable multiparty political system predicated upon liberal democracy, and Botswana has achieved the same goal through the dominant party system since independence.
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Chapter 8

Partnerships for implementing the AU's human security agenda

Ruth Adwoa Frimpong and Kwesi Aning

Introduction

The notion of security before and during the Cold War era has changed from being state-centred to something that seeks to protect the human rights and needs of individuals within the state. This implies that security was formerly perceived primarily as amassing military strength to protect the territories of states, and as such it focused on how to achieve and secure the state's control over its structures and practices.¹

In light of this, numerous attempts were made during the Cold War period to bridge the gaps created in the state-centric notions of security. These include the 1948 adoption of the Universal Declaration of Human Rights, disarmament and nuclear non-proliferation, the World Order Models Project and the postulation of development theories to encompass the emergence of new challenges. These included extreme poverty, youth bulge, under-nutrition, low industrialisation, civil war, ethnic conflicts and epidemics² in developing parts of the world.

Accordingly, the concept of human security gained prominence in the post-Cold War era after scholars and policymakers saw the need to incorporate the non-military aspects of the state and its citizenry. In 1994, therefore, the United Nations (UN) Development Programme's Human Development Report clearly outlined the parameters for the notion of human security to encompass the 'freedom from want and fear.'³

The report has since formed the basis for the promotion of the human security agenda globally. Apart from the definition, the report widens the contours of the notion of human security to include economic, food, health, environmental, personal, community and political securities. It also links human security to development by suggesting that by adjusting the existing

development priorities, individual states can address human security issues.⁴

The UN General Assembly Resolution 66/290 of 2005 posits that human security ‘is an approach to assist Member States in identifying and addressing widespread and cross-cutting challenges to the survival, livelihood and dignity of their people.’⁵ Therefore the concept of human security is universal yet context-specific, comprehensive, prevention-centred, and people-centred, and its dimensions are interdependent.⁶

This chapter establishes that the AU was formed to enhance human security in Africa and is committed to addressing human security threats through, among others, working in partnerships with other stakeholders such as the African people, regional economic communities (RECs) and key international partners such as the UN. It provides answers to such questions as: Who are the AU’s partners? How have these partnerships been forged and maintained? How have these partners contributed to or undermined the AU’s human security agenda? How can these partners make positive contributions in the next 30 years? It argues that getting the partnership right is essential to finding the right solutions to the contemporary challenges confronting Africa since no regional entity can single-handedly address all challenges.

This chapter is categorised into three parts. The introductory part explores the concept of partnerships by providing an overview of the AU’s partnerships in implementing its human security agenda. The second part seeks to examine how the AU has forged and maintained such partnerships with its key stakeholders with particular reference to the UN, RECs, member states and civil society organisations (CSOs). The third part discusses the implications of these partnerships on the AU’s human security agenda. The chapter concludes by offering recommendations on how the AU can foster durable and strategic partnerships with the UN, RECs, member states and CSOs in light of its Agenda 2063.

Overview of the AU’s partnerships

The concept of partnership at the regional and continental level entails a collaborative relationship between two or more parties towards attaining a given goal based on trust, equality and mutual understanding.⁷ According

to the AU's Sub-Committee on Multilateral Cooperation, strategic partnerships provide the opportunity to mobilise efforts and resources for the attainment of goals either in the long or short term in the context of Africa's interests and in line with the guiding principles and frameworks of the AU.⁸ While the attainment of this objective has not always been the case, the sub-committee's perspective establishes the modalities around which partnerships in Africa should be anchored.

During the Organisation of African Unity (OAU) era, partnerships between the organisation and its member states were driven by the collective desire to address issues of political liberation, economic development, security, solidarity and projecting a strong African voice on the international stage.

With the transformation of the OAU into the AU, these central themes have evolved to focus on the need to promote integration among member states, urge African unity on the international stage, defend Africa's common interests and strengthen Africa's position globally in multilateral and economic frameworks.⁹ In pursuing these objectives, the AU notes that its partners have been allowed the prerogative to develop concepts that guide relationships between both parties that ordinarily should have been joint efforts, spelling out the areas of need for both sides.¹⁰

Almost two decades after the AU was established two major processes have aimed to address the above efforts. First is the AU's ongoing process to develop a Partnership Strategy and Policy Framework – AUDA/NEPAD to help guide its partnership engagements based on equality, efficiency, accountability, mutual respect, ownership, consistency, value addition and comparative advantage. The AUDA/NEPAD aims to strengthen the AU's capacity in partnership initiation, development, coordination, and management towards achieving Agenda 2063, specifically Aspiration 7 of Africa as a 'strong, united, resilient, peaceful and influential global player and partner.'¹¹

According to the draft outline framework for strategic partnerships, cooperation between the AU and its partners should be based on interests and the realisation that 'Africa needs something from Partners and Partners need something from Africa.'¹² While this should be so in the spirit of mutualism, relationships among stakeholders in AU partnerships have often tilted in favour of Africa's partners. Consequently, to a large extent, the

powerplay and politics at the centre of some of the AU's partnerships has resulted in minimal interest in Africa's human security agenda. Rather partnerships have served Western agendas and ideas more prominently in key sectors such as trade and economics, education, healthcare and security.

The one-size-fits-all approach to partnership architecture has usually failed to consider the relative complexities of the many partnerships and the distinct opportunities they offer Africa.¹³ Furthermore, many partners are still unclear about AU continental priority programmes and how they are meant to contribute to their implementation.¹⁴

The second process relates to efforts to resolve partnership issues as part of the organisational and financial reform process based on the Kagame Report.¹⁵ In 2017, the setbacks that confronted the achievement of the AU's human security agenda led the AU reform process to reconsider partnerships. It was found that the New Partnership for Africa's Development (NEPAD) was unable to fully integrate its activities due to duplication of roles between NEPAD and the AU Commission. The reforms suggested that NEPAD not act as a lone wolf institution but be integrated into the AU Commission, possibly as the AU's development agency.

Another aspect of the current institutional reform on the issue of partnerships is the merging of the Partnerships Management and Coordination Division with the resource mobilisation division of the Strategic Policy Planning, Monitoring and Evaluation, and Resource Mobilisation into the Partnerships Management and Resource Mobilisation Directorate, under the Bureau of the AU Commission Chairperson.¹⁶ This is aimed at addressing issues of inefficiency and ineffectiveness in the coordination, resource mobilisation, and monitoring and evaluation of the AU Commission's engagements with its partners.

Despite the ongoing changes, the AU's institutional reform processes and partnership strategy fail to provide a clear outline of how the AU Commission seeks to implement its strategic partnerships in line with its key priorities in Agenda 2063. The nature and direction for the realisation of partnerships meant to implement and/or augment AU efforts towards the realisation of peace and security goals is also not clear. What is however clear is that there is the need for the AU to promote durable and

strategic partnerships through a tripartite approach that focuses on the reformation of the AU's institutional architecture for managing partnerships, its representation role and the nature of its partners based on their capabilities.

AU's key implementation partners

In efforts to fulfil Africa's peace and security aspirations, the following major stakeholders are central to the AU's partnership engagements.

Member states

One of the main objectives behind the establishment of the OAU Charter was to coordinate and intensify the cooperation and efforts of member states to achieve a better life for the people of Africa. This was to be attained through partnership among member states and between states and the AU. In pursuit of an 'integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena,'¹⁷ the AU consults with member states on policy planning, formulation and implementation on continental policy decisions.

Partnerships between member states of the AU exist in three forms – political, economic and social. Political partnerships between states exist in the form of security assistance, parliamentary collaborations and foreign/diplomatic relations. Economic partnerships are based on agriculture, trade and commerce as well as regional fiscal policies that bind African states. Social partnerships exist in the form of education, science and technology, cultural and exchange programme collaborations.

Through collaborations with the AU and with other international organisations, African states are able to contribute to the human security needs of the continent. At the level of continental policy decisions, the Assembly of Heads of State and Government remains the major entry point through which member states can contribute to peace and security efforts. While the partnership between the AU and its member states has been central to peace and security efforts, the key lingering issue is that partnership complexities surrounding national interests sometimes take centre stage in relations at the expense of continental interests.

RECs and RMs

Eight RECs¹⁸ serve as the vehicles by which the AU's political, economic and social integration efforts are expressed. Collaboration between the AU and RECs is based principally on the Abuja Treaty and the Constitutive Act of the African Union (CAAU). It is also guided by the 2008 Memorandum of Understanding (MoU) on Cooperation in the Area of Peace and Security between the AU, the RECs and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern Africa and Northern Africa.¹⁹ This MoU forms the legal basis of the coordination between the AU and RECs/RMs in operationalising African peace and security. It seeks to forge closer partnerships between parties in the promotion of peace, security and stability on the continent.²⁰

Despite the MoU's guidance regarding coordination, facilitation, consultation and operational cooperation, the security partnerships between the AU and RECs/RMs continue to grapple with the lack of synergy and coherence in efforts to address Africa's peace and security problems. For instance, the security bodies of the eight RECs and the AU have overlapping mandates, leading to conflicting roles.²¹

The multiplicity of security actors in Africa's various peace and security efforts also present management issues due to the duplication of efforts. There are consequently problems around jurisdiction regarding who has the primary responsibility to intervene in particular crisis situations in the various regions.²² This was evident in the AU and the Economic Community of West African States' (ECOWAS) responses in the 2011 Côte d'Ivoire and 2013 Mali crises, which saw the failure to agree on a proper division of responsibilities.

As part of the AU-REC relationship, RECs are responsible for initiating and engaging in partnerships for regional initiatives and participating in strategic partnership meetings, and preparing status reports on inputs into the partnerships framework for cooperation/action plans.²³ Some RECs have operated independently from the AU in carrying out its activities. Although the implementation of continental programmes needs the active participation of RECs, the AU's partnerships are sometimes designed without their input.²⁴ Furthermore, RECs do not have the financial resources needed to organise and implement AU-related activities, which inhibits the acceptance of continental initiatives at the regional level.

International organisations

Historically, Africa has forged relations with the international community at various levels. The AU-European Union (EU) Partnership is one example. This is the official avenue for cooperation between the AU and Africa. It is based on the 2007 Africa-EU Summit's Joint Africa-EU Strategy,²⁵ which was supported by heads of state and government. The stated vision of the partnership is to reinforce political relations, strengthen and promote issues of common concern, promote effective multilateralism, and promote people-centred partnerships.

Another international partner of the AU since it was established in 2002 is the UN. In 2006, a declaration and framework that sought to enhance UN-AU cooperation in view of a 10-year capacity building programme was formulated.²⁶ The framework seeks to:

... cover all aspects of the cooperation between the UN and the AU, including but not limited to the following areas: peace and security (including crime prevention); assistance in institution building, and political and electoral matters; peacekeeping operations; governance, human rights and the rule of law; peace-building; humanitarian response, recovery and food security, social, cultural, and health issues; and the environment.²⁷

The UN Office to the AU was also established in 2010 by the UN General Assembly to strengthen the UN-AU partnership in the area of peace and security. It was also to provide coordinated and consistent UN advice to the AU on both long-term capacity building and short-term operational support, and streamline the UN presence in Addis Ababa in delivering UN services.²⁸ Other notable international partners of the AU are the World Trade Organization, World Bank and World Health Organization (WHO). These organisations have contributed to the advancement of healthcare, trade, education and provision of social infrastructure in the region.

Civil society organisations

CSOs, as pointed out in chapter 15 of this book, are crucial to the development and promotion of human security in Africa. They comprise

formal and informal organisations that operate outside the state, including social movements, volunteer organisations, mass-based membership organisations, faith-based groups, non-governmental organisations, and community-based organisations. They also include communities and citizens acting individually and collectively.²⁹

The roles played by CSOs are critical in people-centred development and human security. They are the eyes and ears of society and serve as a link between national and regional authorities and the people. The Constitutive Act and PSC Protocol obliges the AU to partner with civil society to promote peace and security.³⁰ In this regard, the AU partners with CSOs in the areas of conflict prevention, management and resolution, security sector reform, peacebuilding, mediation, education, healthcare and trade.

The AU has a Civil Society Division mandated to mainstream civil society involvement in its work. The division ensures that African CSOs get the opportunity to make regular input into various AU processes.³¹ It also facilitates dialogues aimed at promoting 'critical interactions with key sectorial groups in support of Africa's integration and development agenda.'³²

Through the Economic, Social and Cultural Council (ECOSOCC) established under the CAAU, CSOs also contribute to the AU's principles, policies and programmes and foster partnerships among themselves.³³ However the model adopted by ECOSOCC has been described as rigid and unable to efficiently promote partnerships. An example of an AU-CSO partnership that promotes human security is that of the AU with the West Africa Network for Peacebuilding. Inadequate institutional capacity, policy issues and procedures pose a challenge to partnerships between the AU and CSOs. This could be resolved through autonomous, direct civil society interaction with the AU through the dissemination of information and increased coordination.

Implementation partnerships and the human security agenda

The discussions below are centred on the extent to which the AU's partnerships have contributed to or undermined its human security agenda, based on four of the AU's human security objectives in Agenda 2063:

- Promotion of sustainable development at the economic, social and cultural levels, and the integration of African economies
- Promotion of peace, security and stability on the continent
- Effective participation of women in decision making particularly in the political, economic and socio-cultural areas
- Eradication of preventable diseases and the promotion of good health in Africa³⁴

Promotion of sustainable development

Agenda 2063 and the UN Sustainable Development Goals (SDGs) highlight the need for the promotion of sustainable development at the economic, social and cultural levels, and the integration of African economies. This is particularly key as both policy documents hinge their relevance on improvements in the standard of living, education, health, nutrition and wellbeing of citizens, and prioritises multisectoral partnerships for the achievement of goals.³⁵ The AU's partnerships with member states, CSOs, RECs and international organisations are geared towards socio-economic advancements in member states in the areas of trade, foreign direct investment and official development assistance.

Of the AU's 55 member states, 54 have so far ratified the agreement on the African Continental Free Trade Area.³⁶ This agreement will create a single market for goods and services, facilitated by movement of people, in order to further the continent's economic integration and in accordance with the Pan-African vision of an 'integrated, prosperous, and peaceful Africa' enshrined in Agenda 2063. It also aims to promote sustainable and inclusive socio-economic development, gender equality, and structural transformation of the states parties.³⁷ Notwithstanding this strategic agreement, and as John Akokpari and Primrose Bimha point out in chapter 10, strict border controls and member states' protectionist policies could stifle trade relations in the AU.

Despite what this trade agreement seeks to achieve, it is contended that Africa still trades below its potential, both in its position in global value chains and in total trade flows.³⁸ Ali Mazrui succinctly puts it that 'Africa is the richest yet the poorest.' The continent is endowed with natural resources such as oil and gas, forestry, water resources, minerals and a

vibrant human resource base. Yet partnerships in the region do not fully harness the potential of these resources in improving trade and export in member states. To resolve this, there is a need for increased integration, either regionally or continent-wide, under the general guidelines of the SDGs and Agenda 2063, with the aim of improving people's quality of life.³⁹

In the same vein, the 2021 Africa's Development Dynamics report on digital transformation for quality jobs highlights the acceleration in entrepreneurship and business investments due to the AU's partnership with the EU.⁴⁰ Social development in Africa in education, access to healthcare and job opportunities has also seen improvement due to partnerships between the AU and member states, RECs, CSOs and international development organisations.⁴¹ What remains outstanding in achieving socio-economic development in the region is the full integration and participation of CSOs in continental activities. CSOs are either not consulted by member states in the drafting and implementation of sustainable development policies and programmes, or they are seldom invited to AU consultation meetings.⁴²

In addition, there have been targeted efforts aimed at cultural development in Africa by collaboration between countries' governments, such as the African Cultural Exchange programme.⁴³ Notwithstanding these contributions gained from AU partnerships and collaborations, factors such as the overdependence on foreign goods and services and import of foreign cheap goods from outside Africa can have negative consequences. They can stifle the growth of local industries and the realisation of the full outcomes of partnerships.

Promotion of stability on the continent

The continent is encumbered with myriad human security issues ranging from the proliferation of small arms and light weapons to famine, violent extremism, and more recently COVID-19, and others.⁴⁴ These situations, as pointed out in chapter 5 of this book, have adversely affected the stability of member states and threatened human life in various ways. Addressing insecurity has thus been key in the achievement of stability for the continent. Tackling security threats involves coordinated efforts towards addressing these at the national, regional and continental level. One of the AU's key partners in promoting regional peace and stability on the continent

is the UN. In the context of Chapter VIII of the UN Charter, the two organisations pursue stability on the continent under the 2017 Joint UN-AU Framework for Enhanced Partnership in Peace and Security.

The AU-UN partnership is underpinned by institutional mechanisms, institutional collaborations and joint actions. Key structures for the partnership include the Joint Task Force on Peace and Security, the UN-AU Annual Conference, the AU Permanent Observer Mission to the UN and the presence of the UN Office to the AU.⁴⁵ Furthermore, partnerships on peacebuilding and post-conflict reconstruction and development carried out in post-conflict societies have yielded good results and contributed to the sustenance of political and socio-economic order on the continent. Peace and reconstruction efforts in Guinea-Bissau, Liberia, Sierra Leone, Burundi, and the Central African Republic, for example, benefited in various ways from the AU-UN partnership.

Africa's efforts to address the problem of conflicts have also benefited immensely from the UN's support for African-led missions, the implementation of joint peacekeeping missions and overall management of insecurity across the continent. The full realisation of the outcomes of these collaborations however have been challenged by the low political will of member state governments in the implementation of interventions, and African states' fragility.

Another strategic partner to the AU on peace and security is the EU. Shared interests have always driven the AU-EU partnership on peace and security, even though the details have sometimes diverged. The African Peace Facility is one such partnership that has been going since 2004. It was established to provide support to the region in the areas of peace support operations, capacity building for security personnel and early response activities.⁴⁶ This partnership has contributed personnel to UN peace support operations, largely the UN Multidimensional Integrated Stabilization Mission in Mali and the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo.⁴⁷

Another contribution to African peace and security is the EU's huge investments in the anti-piracy EU Naval Force Somalia (EU NAVFOR, or Operation ATALANTA), which commenced in 2008 and ended in 2020.⁴⁸ There are currently processes to redesign its instruments to streamline and enhance the effectiveness of its overall external action, with a strong focus

on Africa. Peacebuilding, recovery, quick conflict response and security are all included in the new EU budget for 2021-2027, with €12.5 billion dedicated to these areas over seven years – including €5 billion for the European Peace Facility.⁴⁹

Another invaluable contribution of the Africa-EU peace and security partnership is the implementation of the 2050 AIM Strategy (Africa's Integrated Maritime Strategy).⁵⁰ In collaboration with the EU, this strategy has helped deal with issues of security and migration and illegal fishing in Africa's coastal states. For example, EU NAVFOR helps fight maritime piracy, protect vulnerable vessels and monitor and report on illegal fishing.⁵¹ Other benefits from the EU-AU partnership on maritime security is the provision of capacity building for security personnel on sea border management and the conclusion of sustainable fisheries partnership agreements with 15 African countries.⁵²

The Africa-EU partnership is limited in instances where elements of geopolitical interest come into play on the African Peace Facility. For instance, whereas the AU highlights the Great Lakes region and the Gulf of Guinea as areas for security concerns, the EU's focus is more on the Sahel and Horn of Africa, closely linked to European migration and security interests. The Africa-EU partnership is also lacking in the area of political dialogue.

The various instruments for dialogue either do not prioritise peace and security issues, such as the Commission-to-Commission meetings between the AU and the EU, or exclude the RECs/RMs from discussions, as is the case with meetings between the AU PSC and the EU Political and Security Committee.⁵³ This could be resolved by addressing the critical question of what the EU's priorities are in Africa's peace and security agenda, regardless of its numerous activities and programmes targeted at regional peace and security.

Another area of this partnership worth re-evaluating is the longevity of political commitment to capacity building. When working with the AU and RECs/RMs, the EU should focus capacity building on a few key sectors rather than tackling the partnership's entire agenda.

Despite advancement in the AU partnership on peace and security, collaboration lags in areas of multilateral peacekeeping, mediation and crisis management. The AU's partnerships on peace and security with the

EU and UN have also come under heavy scrutiny due to the implications its ideals and frameworks have on durable peace and stability in post-conflict societies.

This is because foreign security assistance on the continent has followed a cookie-cutter approach and constantly followed the tenets of Western liberal peacebuilding, which prescribes liberal democracy, market-based economic reforms and the formation of institutions associated with modern states as building blocks for peace in these societies. This is problematic because making each peacebuilding intervention universal, and attempting to build a modern state that resembles those found in the West, has compelled the AU's partners to adopt a peace process that follows a top-down approach. It is not context-specific, it is devoid of local ownership, and often does not address the structural causes of violence.⁵⁴

Effective participation of women in decision making

Throughout Africa's history, women have contributed to political, socio-economic and cultural development in their various societies. There are accounts of how women in African societies fought tribal wars, led liberation movements, participated in community politics through women's assemblies and enlisted the support of other women in 'making war' on war towards achieving peace. Women's participation in the political, economic and socio-cultural areas has gradually eroded over the years; and this has been attributed to the infiltration of Western culture, religion and colonialism. This has contributed to a gap in women's representation and the exclusion of women in decision making in the political, economic and socio-cultural domains.

Africa, as pointed out in chapter 12 of this book, is committed to the promotion and protection of women's rights and gender inclusion. This is reinforced in the provisions of the CAAU (2000), the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003), the Solemn Declaration on Gender Equality in Africa in 2004, the 2009 AU Gender Policy and the UN Security Council. The AU's Strategy for Gender Equality and Women's Empowerment was established in 2018. It emphasises the systemic promotion and protection of women's rights and gender equality across all sectors.⁵⁵ Through the removal of official and

informal barriers, the plan aims to provide women with a voice for them to be equally represented in all areas of decision making and at all levels of policymaking – national, regional and continental.⁵⁶

Partnership with CSOs and international organisations and African countries has resulted in the formulation and implementation of national policies on women's empowerment. Internal regulations mandate women's involvement in sub-regional institutions, such as the East African Legislative Assembly and the Southern African Development Community (SADC) Regional Women's Parliamentary Caucus, for example, which brings together female MPs from Southern Africa.⁵⁷

The AU's development partners such as the EU and the World Bank have provided technical assistance to facilitate the implementation of its Gender Policy and the Strategy for Gender Equality and Women's Empowerment. The World Bank continues to provide assistance to African governments in the form of funding gender-related initiatives, rigorously monitoring their outcomes, and ensuring that projects increasingly mainstream gender in design and implementation. The organisation factored gender considerations into 99% of its lending to African countries in 2013.⁵⁸

The EU also collaborates with the AU on gender equality and women's empowerment through governments of member states and civil society organisations in harnessing the economic potential of women and increasing their participation in economic activities. In 2020, for instance, a collaboration between the EU, AU and the Tony Elumelu Foundation provided 2 500 women with gender-sensitive entrepreneurship training and seed financing to help them navigate through the start-up and early growth stages of their firms.⁵⁹ Such initiatives have been strategic in ensuring women's effective participation in decision making in the energy sector.

It is also important to highlight the impact of the AU's partnership on the promotion of gender equality in Africa. This has been possible through the adoption of resolutions such as the UN Security Council Resolution 1325, and the formulation and implementation of National Action Plans by AU member states. Also by the organisation of gender-specific training workshops and seminars by international organisations such as the UN Development Programme.

Although partnerships on empowering African women have made meaningful contributions in recent years, more needs to be done to

augment the current state of women's participation particularly in the political, economic and socio-cultural areas. What the AU's partnership with its external partners lack in this area of human security is the political will to institutionalise policies and frameworks on women's participation at all levels of governance. The future of promoting women's participation in Africa will need to consider focusing on strengthening the political mandates in guaranteeing equal representation of women at the political, cultural and socio-economic tables.

Promotion of good health on the continent

The 2003 Commission on Human Security report highlights the importance of health and its impact on human security. This is assessed based on the 'scale of the disease burden now and into the future,' the 'urgency for action,' the 'depth and extent of the impact on society' and the 'interdependencies' or 'externalities' that can exert ripple effects beyond particular diseases, persons or locations.⁶⁰ Health security in Africa, therefore, forms part of the AU's human security agenda and has caught the attention of academics and policymakers. It is imperative to note that health and human security are knowledge-based and socially driven. It is concerned with the development of medical technologies, such as vaccines, and drugs, whereas the latter generates healthcare systems, and promotes public health education.

Africa is fraught with the menace of infectious and contagious diseases such as cholera, hepatitis B, malaria, typhoid, HIV/AIDS, tuberculosis and yellow fever, among many others. It also battles with mental, maternal and reproductive health-related issues, which cause both the loss of lives and finances. Over the past decade and quite recently, health security in Africa is threatened by endemics and pandemics such as Ebola, the SARS virus in 2003, bird flu in 2004, swine flu in 2009 and the prevailing coronavirus. The AU Support to Ebola in West Africa (ASEOWA) in 2014 provided health workers and other specialists to tackle the Ebola outbreak in West Africa.⁶¹ It was also supportive in creating public awareness and preventive measures across Africa and specifically in the affected region.

The AU's Africa Centres for Disease Control and Prevention (Africa CDC) has also carried out sterling work on the control and prevention of COVID-19 on the continent. This includes creating emergency

preparedness and response mechanisms, liaising with national public health infrastructures in member states and helping member states develop comprehensive national laboratory strategies. These include regulations of laboratory diagnostic testing and secure and safe handling of highly dangerous pathogens.⁶²

The AU partners with UN agencies and other international organisations such as the World Health Organisation (WHO). This is done through its 2016-2030 African Health strategy adopted in line with the AU's Agenda 2063 and SDGs.⁶³ Partnerships forged with external stakeholders have contributed to the provision of technical assistance and financial investments to and in AU member states. WHO, for example, provides technical expertise to the African Medicines Agency, thereby creating an enabling environment to foster local production of medicines. It also ensures that high-quality, safe and effective medicines are available to promote good health throughout the continent.

The relationship has improved coordination between the Africa CDC and WHO, with a special focus on emergency preparedness, to bolster AU member states' defences against epidemics and other health catastrophes. It has also played a key role in implementing the Addis Ababa Call to Action on universal health coverage and the African Union Assembly decision on domestic financing. Statistically, health development assistance funding from development assistance partners increased from 9.7% in 1990 to 13.8% in 2001, and then to 22.7% in 2007 in the sub-Saharan Africa region.⁶⁴ In the same vein, health aid disbursement in the region increased from US\$1 billion in 2000 to US\$4 billion in 2009.⁶⁵

Funding assistance from official development assistance (ODA) partners has contributed to health infrastructural development, health-related research, purchasing of technological equipment and the production of drugs and medicines. In 2018, over half of health ODA was spent on the sub-Saharan Africa region, totalling US\$11.9 billion, with Nigeria being the largest recipient of US\$951 million.⁶⁶

Conclusion and recommendations

Partnerships are vital for navigating contemporary pressures on multilateralism, especially as no organisation can successfully manage human security issues on their own. In view of this, future African partnerships need to be maintained on mutualism, integrity and respect. AU-member state and AU-REC partnerships in the coming years need to prioritise regional interests above national interests especially amid the changing security landscape in the region. For example, the EU should work more closely with some REC/RMs, to participate in more in-depth engagement in particular specialised sectors. In addition, national and regional frameworks and policies on CSO engagements should be reviewed to provide opportunities for strategic deliberations on socio-economic and political development in the region. In terms of international partnerships, there is need to strengthen political and institutional linkages, with a focus on clear, tangible outcomes.

Additionally, in the next 30 years, the AU must strengthen its partnerships by doing the following:

- To enhance trade and industrialisation, especially those of member states, there is need to adopt a coordinated, coherent strategy and exercise local ownership over their growing interactions with emerging economies. African governments must be intentional in decision making on foreign trade and investments. Forging trade partnerships with the international community must factor in how to spur the growth of local industries as well as protect Africa's environment and climate. Socio-economic relations with external partners should not be detrimental to the development of African states.
- Member states and RECs must speak with one voice on issues of regional peace and stability. For example, the African responses to the coup in Mali at the beginning of 2012 saw ECOWAS condemning the coup and suspending the country's membership to the organisation in March 2012, whereas it took the AU another month to come to the same conclusion.
- Prospective AU partnerships must be forged and grounded in the principles of dignity, trust and mutual respect. It has and still subtly

experiences its fair share of Western discrimination and oppression in areas of politics, economics and culture. As such, it is critical that governments of member states blare the horn of values and principles in the face of its emerging development partners. This will go a long way in defining the future of cooperation and collaboration and set the tone for comparative advantage.

- In view of the AU's Agenda 2063 and its stipulated objectives, its collaborations with the international community must seek to redefine the parameters for engagements and be specific on the desired outcomes from these partnerships. RECs must take charge of peace and security partnerships through political will and commitment of member states. In situations where a single REC cannot fulfil its mandates, support from other RECs should be seamless and timely with the collective aim of promoting regional peace and security.
- Due to ongoing structural transformations, increased peace and a reduction in the number of conflicts, renewed economic growth and social progress, the need for people-centred development, gender equality and youth empowerment, among others, the AU's partnerships need to revise and adapt its development agenda to meet the objectives of Agenda 2063.⁶⁷
- Lastly, the conceptual framework for human security in Africa should have an administrative bureaucracy to manage the state on rational-legal terms, an independent commercial class, a move from states and leaders to citizenship, as centrepieces, institutionalised democracy, and a regional approach to security.⁶⁸ As such, partnerships in the years ahead must capitalise on how best to address these conditions with reference to the reorientation of the AU's Partnership Strategy and Policy Framework. Modalities on AU-CSO partnerships should be reviewed and re-evaluated on how best to involve CSOs in NEPAD's activities. The new outlook on the partnership, for example, should involve capacity building especially in joint European-African initiatives in the peace and security sector.

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Chapter 9

Managing complex emergencies: frameworks, policies and responses

Olabisi Dare

Introduction

Following the end of the Cold War, political instability changed its geographical centre of gravity. While political tensions increased in parts of Africa, the Middle East, Eastern Europe and Central Asia, they reduced in East Asia and Latin America. This resulted in a rise in the number of situations designated as complex emergencies in Africa and Asia, in particular.

Of the 26 United Nations (UN)-designated complex emergencies that affected some 59 million people in 1993, for example, most were in the Africa-Eurasia zone.¹ In Africa, this rise was partly because regimes that depended heavily on superpower rivalry to prop themselves up were suddenly orphaned by the end of the Cold War.

The resultant emergence of regime weaknesses then gave way to dissent, which such regimes struggled to contain, resulting in violent internal conflicts. In addition to other challenges originating from structural drivers, Africa's humanitarian outlook became marked by conflicts, political instability, the effects of climate change and diseases, among others.

These situations collectively resulted in dire humanitarian crises characterised by violence, loss of lives, massive displacement, slow development and reinforced state fragility in proportions that qualified them to be regarded as complex emergencies, by Inter-Agency Standing Committee (IASC) classification. According to the IASC, '[Any] given country, region or society where there is a total or considerable breakdown of authority resulting from internal or external conflict and which requires an international response beyond the mandate or capacity of any single agency'² constitutes a complex emergency. Africa's post-Cold War

experience was particularly complex as various forms of political crises (manmade disasters) dovetailed into natural disasters and vice versa.

It is against this backdrop that the framers of the Constitutive Act of the African Union (CAAU) recognised the yearnings and aspirations of Africa's leaders to deal with such issues. Article 13(1)(e) assigns the Executive Council the responsibilities of coordinating and taking 'decisions on policies in areas of common interest to the Member States, including ... environmental protection, humanitarian action and disaster response and relief.'³

This commitment was expanded in Articles 3(f) and 6(f) of the Protocol Relating to the Establishment of the Peace and Security Council (PSC Protocol). These recognised humanitarian problems in Africa as a major AU concern and mandated the Peace and Security Council (PSC) to undertake 'humanitarian action and disaster management.' While the Continental Early Warning System, was to 'develop an early warning module based on clearly defined and accepted political, economic, social, military and humanitarian indicators,' the African Standby Force was mandated to provide 'humanitarian assistance to alleviate the suffering of civilian population in conflict areas and support efforts to address major natural disasters.'⁴

This chapter assesses how these mandates and commitments have fared after two decades of their express pronouncements. The chapter argues firstly that the AU, in the past 20 years, has not achieved much in its efforts to respond to and manage complex humanitarian emergencies as many milestones are yet to be met. Secondly it argues that the existing emergency management mechanisms are insufficient, and provision of sustainable solutions has been elusive, without an overarching political will both at the continental and national levels. To this end, the organisation will need to reprioritise to bring about appropriate governance to the continent as a prerequisite for containing complex emergencies.

This chapter is organised in three sections. Section one provides an overview of Africa's major complex emergencies. This is followed by a discussion of the legal, policy and institutional frameworks developed to guide continental responses discussed in tandem with the efforts made. The chapter concludes by noting that the AU is an essential political organisation that should remain at the forefront of continental efforts. However, for it to have the desired impact, the AU needs to act boldly and

show serious commitment to the tenets of promoting peace, security and prosperity in order to register appreciable progress.

Overview of the humanitarian situation in Africa

It is necessary to highlight the five major complex humanitarian situations the continent has been dealing with to provide the proper context for understanding the nature of Africa's humanitarian situation and the kind of responses the AU has rolled out. This section discusses situations that have constituted complex emergencies in the past two decades.

Health emergencies

Over the past two decades, Africa has experienced two major health outbreaks that spread across national borders – the Ebola virus in 2014, and the 2019 worldwide COVID-19 pandemic. In these two cases, Africa responded adequately, given the unusual circumstances on the continent.

Ebola

Ebola broke out in December 2013,⁵ when it was reported that an 18-month-old boy was infected with the virus from contact with bats in Guinea. The situation spread rapidly with fatal consequences in neighbouring areas until an official alert was given regarding the outbreak of a disease with uncommon symptoms in March 2014. But that time it had started spreading across the entire country. By the end of the month, the rate of spread and deaths was enough for the World Health Organization (WHO) to classify it as an outbreak of Ebola Virus Disease caused by the *Zaire ebolavirus*. By the time the declaration was made, 49 people were estimated have been infected, and 29 people had died.⁶

Due to weak disease surveillance systems, poor public health infrastructure and inadequate response, the situation grew into an epidemic that affected Guinea and its neighbouring countries, Liberia and Sierra Leone. In efforts to contain it, the AU PSC at its 450th meeting held on 19 August 2014:

- Authorised the immediate deployment of an AU-led Military and Civilian Humanitarian Mission, comprising medical doctors, nurses

and other medical and paramedical personnel, as well as military personnel, as required for the effectiveness and protection of the mission, and

- Instructed the AU Commission to take, without further delay, the necessary steps including the development of a concept of operations for the AU mission including logistical, financial and other relevant aspects.

In operationalising the authorised civil-military medical mission, the AU Support to Ebola in West Africa (ASEOWA) was established and deployed. The strategic task force consisted of representatives from various AU departments, UN agencies and partners. ASEOWA recruited 86 health workers from several member states, including Burundi, Cameroon, the Republic of the Congo, the Democratic Republic of the Congo, Ethiopia, Kenya, Niger, Nigeria, Rwanda, Tanzania, Uganda and Zimbabwe. In support of the deployment, the Executive Council called on member states to ‘respond positively and provide adequate numbers of qualified health personnel for ASEOWA to assist the affected countries to combat the [Ebola virus].’⁷

As a practical demonstration of support, a total of US\$1 million was released from the AU’s Special Emergency Assistance Fund in August 2014. An additional \$100 000 was later added from the special refugees and internally displaced people’s contingency funds in September 2014, while the staff members of the AU donated another \$100 000 to the Ebola effort. In December, 178 Nigerian and 187 Ethiopian health workers were deployed to provide interventions in Liberia and Sierra Leone.⁸ Given the challenges the AU has with respect to deploying missions and sustaining them financially, the gesture in response to the Ebola pandemic was a major step in its efforts to address humanitarian emergencies in Africa.

COVID-19 pandemic

Since the outbreak of Ebola, Africa has added another significant institution to combat diseases and safeguard the health of the continent. In 2015, the Africa Centres for Disease Control and Prevention (Africa CDC) was inaugurated. The role of the Africa CDC became especially

prominent with the outbreak of COVID-19 in December 2019 and its subsequent spread across the world. Despite the spread of the pandemic being slower in Africa than initially feared, its case-fatality ratio has been higher in Africa than the global rate.⁹ Africa's baseline vulnerability is also high largely because of the lack of requisite health infrastructure on the continent and the existence of several predisposing factors including hygiene and lack of proper healthcare systems.

In the early days of the pandemic, Africa's primary response approach effectively centred around controlling the rate of transmission and delaying the peak of the outbreak through nationwide lockdowns, in order not to overwhelm the continent's already weak healthcare infrastructure. Overall, Africa's strategy has comprised of enhanced prevention, monitoring and treatment. Even though the response slowed the spread in the first wave of the pandemic, the associated negative economic consequences impacted the ability of states to keep the same level of strict enforcement of lockdown regulations in subsequent waves. At the time of writing, the world was still dealing with the pandemic even though its impact had lessened. Africa's response, however, was constrained by inadequate global supply chain issues regarding COVID-19 personal preventive equipment and vaccines.

Complex emergencies

Humanitarian emergency in West Africa

Of the various sub-regions in Africa, West Africa has witnessed multiple humanitarian crises originating from insecurity dynamics associated with the spread of violent extremism, climate change, inter-communal conflicts and socio-economic challenges. The emergence of Boko Haram in the Lake Chad Basin, for instance, has accounted for a massive displacement of people in Nigeria and its neighbours, particularly Cameroon and Niger. This has compounded existing complex layers of challenges associated with water scarcity and food insecurity due to the shrinking of Lake Chad. According to sources, the lake has shrunk by about 90% owing to climatic factors and rising temperatures.¹⁰ This has adversely affected existing populations, worsened displacement and affected local populations' resilience.

Crisis in the Central African Republic

Long before the present crisis, the Central African Republic (CAR) had witnessed grave humanitarian concerns, with many humanitarian indicators at alarming levels. The humanitarian community was often caught trying to respond to the situation in the country in an emergency mode. But at the root of the CAR crisis is the near absence of a functioning state capable of providing its citizens with adequate social services and effective security, even in the capital Bangui and its environs. Since the return to seeming democracy and the subsequent violence and instability that have followed, the humanitarian situation in the country has deteriorated.

Of the CAR's population of 4.6 million, about 500 000 people have been internally displaced, nearly 100 000 have been displaced into neighbouring countries, and 1.6 million are in dire need of humanitarian assistance as a result of the rebellion in the country.¹¹

Famine and insecurity in the East and Horn of Africa

Between August 2010 and July 2011, the number of affected populations because of drought in the East and Horn of Africa increased from about 6.3 million to more than 10 million, according to UN reports. The worst famine of the 21st century thus far is the Somali disaster of 2011, caused by a combination of high food prices, crop failure, armed conflict, corruption, and predatory economic policies by warring parties. Added to this list is a calamitous delay in lifting the United States' counter-terror restrictions on humanitarian aid to the country, imposed out of fear that relief somehow brought material benefit to al-Shabaab.¹²

Amid the major causes of the famine is the 'total or considerable breakdown of authority' in the face of the challenges that warlords pose. This situation creates a complex emergency and therefore conflict becomes a major driver of the famine in Somalia. According to Kofi Annan, former UN Secretary-General:

UN humanitarian relief agencies were fully engaged in Somalia from March 1991, shortly after the fall of Barre. But with the spreading contagion of the conflict and its accompanying fundamental breakdown of Somali society, the UN presence was not enough to

stall terrible consequences for the population. Services and systems of trade and food distribution disappeared as months rolled past. Over half the population, 4.5 million people, became threatened with severe malnutrition and an estimated 1.5 million were considered at immediate risk of death.¹³

This was not a famine created by weather but by an inept food distribution system that could have been remedied in the short term through humanitarian relief alone. While a devastating drought had created the initial food shortage, this famine was created by armed men wilfully obstructing the most basic means of survival to an entire section of a population. Delivering humanitarian aid was not enough to deal with a famine born from a brutal civil war.

There are other major emergency situations that have equally threatened the lives, wellbeing and livelihoods of the greater percentage of people in the region. According to Tim Allen and Mareike Schomerus,¹⁴ such major emergency situations usually share these four notable characteristics:

- It is not politically motivated, and there are no political or conflict-related impediments to humanitarian access.
- Local and national capacities are inadequate to meet relief needs.
- International or cross-border operations are not affected by political differences.
- The situation requires measures beyond the capacity of any single agency.

The humanitarian situation on the continent has been compounded by major emergencies including pandemics, drought, armed conflicts and others. Contemporary features of conflicts and natural disasters have increased the rate of displacements and impacted humanitarian action.

Overall, several things are notable. First, existing emergency management mechanisms are insufficient, and provision of sustainable solutions has been elusive in the absence of political will at the national, regional and continental levels to act decisively. This has resulted in many forced displacements including refugees and internally displaced people. Africa has several million refugees, and internally and other displaced people, such as migrants and pastoralists, who are not safe or protected.

Conflicts and violence, as pointed out in chapter 5 of this book, account for most displacements in Africa. However, other emergencies associated with natural disasters, the outbreak of diseases such as Ebola and COVID-19, worsening poverty and food insecurity also account for a significant proportion. Despite the significance of cross-border displacements, internal displacements affect far more people in Africa, as they do in many parts of the world.

Second, a lack of respect for the neutrality, impartiality and independence of humanitarian efforts; threats to humanitarian workers; the targeting of civilians in conflicts; and the leading role of warlords in conflicts hamper Africa's efforts to address humanitarian issues.¹⁵ The continent has done well in health emergencies, given existing constraints such as the deplorable state of most healthcare systems across Africa and the lack of funding for their maintenance. And the AU has scored high in responding to the two major crises Africa has faced in recent times – Ebola and COVID-19.

Frameworks for AU responses to complex emergencies

Africa's humanitarian situation over the past two decades has been a major concern for national, regional and continental policy actors. Existing emergency management mechanisms at the operational and tactical levels are insufficient. And provision for sustainable solutions at the strategic level has been elusive. Work has been done however to develop the requisite legal and institutional frameworks to guide continental efforts.

Continental legal frameworks for humanitarian action

Recognition must be given to the progress made in the past 20 years in the codification and adoption of treaties that collectively provide the legal instruments for humanitarian action in Africa. These instruments include the AU Convention for the Protection and Assistance of Internally Displaced Persons in Africa, also known as the Kampala Convention,¹⁶ which came into effect in 2012. The Convention is the first of its kind globally to provide for the protection of internally displaced people and constitutes a landmark achievement for human rights. It complements the 1969 Organisation of African Unity (OAU) Refugee Convention Governing the Specific Aspects of

Refugee Problems in Africa.¹⁷ The two form the major pillars of statutory protection for forcefully displaced people on the continent. Other treaties that serve as basic norm include the:

- Constitutive Act of the AU¹⁸
- PSC Protocol¹⁹
- African Charter on Human and Peoples' Rights (ACHPR)²⁰
- Protocol to the Charter on Human and Peoples' Rights on the Rights of Women in Africa (Maputo Protocol)²¹
- African Charter on the Rights and Welfare of the Child (ACRWC),²² and
- Policy and institutional instruments such as the AU Humanitarian Policy Framework and the AU Humanitarian Agency.

The CAAU, as pointed out in chapters 1, 5 and 6 of this book, was guided from the start by the need to establish an organisation inherently concerned with protecting human rights. This was in immediate reaction to the atrocities perpetrated in Rwanda in 1994, and other African countries. It aimed to formalise its abhorrence to genocide, crimes against humanity and war crimes, and stress the responsibility to protect Africans from such situations happening again as prescribed by the CAAU in Articles 4(h) and 4(j).

One of the major elements and a distinguishing factor of the CAAU is its provision for the right of the AU to intervene in response to particular emergency situations. Article 4(h) provides for 'the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.' This was the first treaty, globally, that enshrined the principle of 'responsibility to protect (R2P)' and gave it legal teeth to confront complex emergencies. This is a major contribution to the operation of a global norm and constituted an expansion of the frontiers of international law at that time.

This was further reinforced in the PSC Protocol, and unpacked into different areas towards ensuring the safety of the lives of Africans. The PSC Protocol and the CAAU provide the umbrella that covers and strengthens the gamut of human rights treaties aimed at protecting African people.

There are five main human rights treaties that are of relevance to this chapter. Three are of a general nature regarding the rights of all humans,

and two relate specifically to forced displacement. These treaties are the ACHPR, ACRWC, Maputo Protocol, Kampala Convention, and the Convention Governing Specific Aspects of Refugee Problems in Africa (Refugee Problems Convention).

The two legal frameworks that currently respond directly to the consequences of conflicts and disasters in Africa are the Refugee Problems Convention and the Kampala Convention.

The most significant contribution of the Refugee Problems Convention is the definition of ‘refugee’ in Article I(2) and its influence on the development of national laws and refugee policies in Africa. It has also contributed to the use of the *prima facie* approach in refugee status determination.²³ The approach is used where ‘entire groups have been displaced under circumstances indicating that members of the group could be considered individually as refugees.’²⁴

The approach has been used in the management of displacements originating from post-election violence in Côte d’Ivoire, Ghana, Guinea, Liberia and Togo.²⁵ In the Horn of Africa, the management of people fleeing violence in South Sudan and Somalia have also benefited from the use of the *prima facie* approach. Article I(2) has guided the formulation of regional instruments outside the continent as well.

The Kampala Convention and the Kampala Declaration on Refugees, Returnees and Internally Displaced Persons in Africa incorporate 52 comprehensive recommendations adopted by the ministers in charge of forced displacement matters. The Extraordinary Session of the Executive Council that preceded the Special Summit endorsed these recommendations. The Kampala Declaration and the 52 recommendations provide a broad framework for addressing the continuum from relief to recovery and development.

Continental policy frameworks

On the policy front, the AU made a significant leap when it adopted a Humanitarian Policy Framework in 2015. The framework addresses diverse humanitarian challenges. These include insufficient emergency management mechanisms, large numbers of forced displacements, weak coordination of humanitarian mechanisms and the challenges of integrating military mission operations in situations where the army is

deployed to uphold humanitarian imperatives. Through the framework, the AU undertakes to:

- Support the efforts of member states to protect and assist displaced populations
- Strengthen institutional framework and capacity to protect and assist displaced populations and other categories of affected populations
- Collaborate with and encourage member states to collaborate with each other and with international organisations and humanitarian agencies, civil society organisations and other relevant actors in accordance with their mandates
- Support measures taken by member states and RECs to protect and assist displaced and affected populations
- Encourage member states and RECs to share information with the AU and its relevant organs on humanitarian situations in their countries, especially regarding displaced people in Africa
- Urge member states to sign, ratify and enact necessary laws and policies to implement relevant AU protection instruments
- Encourage member states to cooperate with and support the Special Rapporteur of the African Commission on Human and Peoples' Rights for Refugees, Returnees, IDPs and Asylum Seekers in addressing issues of displaced persons
- Encourage all relevant partners to honour their obligations with respect to humanitarian support to refugees, asylum seekers, returnees, stateless people and internally displaced people
- Promote special measures for the protection of women, vulnerable groups especially children, youth, the elderly and people with disabilities in humanitarian situations²⁶

Before this Policy was adopted, the framework for managing humanitarian problems in Africa was weak. Notwithstanding its adoption, however, the mechanisms still require enhancement, coordination and consolidation. As noted in paragraph 9 of the framework, the 'support and reinforcement of humanitarian principles and the enhancement of coordination and consolidation of these mechanisms require a multi-dimensional coordinated approach.'²⁷

Regarding issues of post-conflict reconstruction, the Humanitarian Policy highlights the absence of a 'culture of peace and sustainable

mechanisms' as the cause of Africa's challenges with protracted and recurring conflict situations and their eventual implications on the fragility of states. It therefore emphasises the need to recognise the development, peace and security nexus and the role of 'deliberate measures to link humanitarian action with peace building, post conflict and development efforts'²⁸ as a means to achieve sustainable peace in post-conflict situations. Good governance and inclusive peace processes are also emphasised as key to preventing relapse into conflicts. These are overall in line with the CAAU, PSC Protocol, AU's Agenda 2063 and the UN's Sustainable Development Goals, which emphasise the importance of peace, security and stability in Africa's search for development.²⁹

Among the six indicative elements of the AU's Post-Conflict Reconstruction and Development Policy Framework is humanitarian/emergency assistance. This incorporates creating an enabling political and legal environment for humanitarian action, prioritising preparedness at the national, regional and continental levels, and strengthening institutional measures for humanitarian action.

Africa's efforts to reduce disaster risk over the past decade have been guided by the Africa Regional Strategy for Disaster Risk Reduction. In adopting the framework in 2005, African heads of state and government reiterated the continent's commitment to the implementation of the Sendai Framework for Disaster Risk Reduction as a means of sustaining the momentum generated by the Extended Programme of Action (POA).³⁰

Institutional mechanisms for humanitarian response

Several institutional mechanisms exist within the AU to provide the needed institutional framework for robust humanitarian response decision making. Foremost among these is the Permanent Representative Council (PRC) and the PSC. At the strategic level, the PSC has the overall power to deal decisively with any humanitarian issue. The Executive Council is also mandated under Article 13(1)(e) of the CAAU to 'take decisions on policies in areas of common interest to ... Member States, including ... environmental protection, humanitarian action and disaster response and relief.' The PRC's Sub-Committee on Refugees, Returnees and Internally Displaced Persons serves as the main emergency response mechanism in

the AU and provides directives to the AU Commission for intervention at the operational level.

The AU Commission, through the Humanitarian Affairs, Refugees and Displaced Persons Division, is the operational tool that translates the AU's vision into concrete action. The mandate for the implementation of the various policy and strategic frameworks on disaster risk reduction and humanitarian action rests primarily with this division and two other departments. The Department of Rural Economy and Agriculture implements the Africa Regional Strategy for Disaster Risk Reduction, while humanitarian action in general (complex and major emergencies) is mandated to the Department of Political Affairs, now the Department of Social Affairs. The Department of Political Affairs Peace and Security deals with the political dimensions and consequences of complex emergencies.

Several institutional mechanisms also exist for making decisions related to funding humanitarian action in Africa. As far back as 1984, the OAU Advisory Committee on Administrative, Budgetary and Financial Matters through the advice of the then OAU Commission of Fifteen on Refugees, now the PRC Sub-Committee on Refugees, Returnees and Internally Displaced Persons, made a recommendation to the OAU Council of Ministers to create a Special Refugee Contingency Fund with effect from the 1984/1985 financial year.

The fund was to be allocated 1% of the total OAU administrative budget. This percentage was increased to 2% in 1989.³¹ Although a decision was made in 2011 to double this percentage, funds have not been disbursed accordingly. As of 2020, 2% of the AU budget was a paltry US\$3 million and will not meet the enormous humanitarian challenges facing Africa unless the amount is significantly increased.

Funds for disasters come from external donations and from member states to the Special Emergency Assistance Fund. At its height, this fund had a cumulative sum of US\$30 million managed by a board under the direct supervision of the African Development Bank. Only South Africa has contributed to the fund in the past 10 years. Member states access the funds by formally applying for a grant of about US\$150 000.

To address the rather ad hoc and unpredictable nature of funding for disaster response, the Africa Risk Capacity (ARC) Group was established in 2012 as a specialised agency of the AU to help 'African governments

improve their capacities to plan, prepare, and respond to extreme weather events and natural disasters.¹³² The ARC facilitates the strengthening of the disaster risk management systems of African countries and also helps states in the throes of disaster to access rapid and predictable financing towards meeting the livelihood and food security requirements of their vulnerable populations.

Is a humanitarian response enough?

The overall humanitarian situation in Africa is characterised by ongoing conflicts, persistent instability, food insecurity due to erratic weather conditions and worrying humanitarian consequences, including massive displacement within and across borders. As a result, despite the efforts of African states, RECs, the AU and other actors to manage the humanitarian situation, response mechanisms are still inadequate.

The humanitarian situation in Africa, therefore, constitute a major challenge which requires, first, that the continent's leaders hold each other accountable in the strictest terms. They must eschew their personal interests and peer-review each other's action or non-action for the good of Africa's people. Secondly, the AU is first and foremost a political organisation and so should be seen as acting as such. Currently, the AU is awash with good and laudable intentions in humanitarian affairs but performs abysmally in implementation. For it to adequately address Africa's prevailing humanitarian situation, the AU should actively uphold the tenets of its legal and policy documents. It should also aim to prevent the occurrence of humanitarian situations rather than focus on their management after they have occurred.

Conclusion

The AU is essentially a political organisation, and must consciously remain at that level strategically. Whether on the issue of health, food security, environment or infrastructure, political consideration must be at the forefront; and in this situation, political factors are indeed largely at the root of the problem. In this regard, it is essential to proffer three areas as a way forward for improving the continent's position in responding to and managing complex emergencies.

First, for the AU as a political organisation, it is necessary to be bold and show serious commitment to continental tenets that promote peace and prosperity. According to the Report of the High-Level Independent Panel on UN Peace Operations, 'Lasting peace is not achieved nor sustained by military and technical engagements, but through political solutions.'³³ In situations of armed conflict, the AU should robustly lead efforts to contain the violence, minimise human suffering, promote respect for human rights by all actors of the conflict and find lasting solutions to the crisis.

Since the primacy of response rests largely with national actors, both the UN and AU should facilitate national efforts to achieve and sustain peace. Orienting international support and efforts during complex emergencies to reinforce national efforts towards the restoration of peace provides a more sustainable way of building peace, rather than interventions hinged principally on external actors.

Second, at the operational level, it is incumbent on the AU to speedily establish and operationalise the African Humanitarian Agency (AfHA) in line with the Common African Position on Humanitarian Effectiveness. The establishment of the agency should reflect the AU's Pan-African ideals and African shared values.³⁴ Operationally, it should be anchored on existing national and regional mechanisms and draw funding from African states rather than external sources.³⁵

The third area that the AU should pay keen attention to is funding. The humanitarian situation on the continent has long remained grim, partly due to inadequate funding. The decision to gradually increase the contribution of AU member states to the Refugees and IDPs Fund from January 2011 has not been implemented. Similarly, the Special Emergency Assistance Fund has not received any substantial contributions over the past six years, despite the increased humanitarian crises that have affected the continent and despite the general appeal that the AU launched in this regard.

With these two avenues slated to serve as the sources of funding of humanitarian actions by the AU, it is obvious that the resources at the AU's disposal are dismal. Therefore funding must be addressed as a major priority to close the huge financing gap for robust and lasting solutions to the continent's dire humanitarian situation.

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Chapter 10

African Union's role in addressing Africa's economic development challenges

John Akokpari and Primrose Bimha

Introduction

The African Union (AU) succeeded the Organisation of African Unity (OAU) in 2002 to build on the latter's work by accelerating integration and, *inter alia*, to 'promote sustainable development at the economic, social and cultural levels as well as the integration of African economies.'¹ The AU's integration and development agenda has been guided by such frameworks as the New Partnership for Africa's Development (NEPAD), adopted on 20 July 2001; Agenda 2063, adopted on 31 January 2015; and more recently, the African Continental Free Trade Area (AfCFTA), founded on 21 March 2018.² These frameworks, among other initiatives, reflect concerted efforts by the AU to promote economic growth and development on the continent.³

However, as the AU approached its 20th anniversary, on 9 July 2022, there was pessimism, even scepticism, about its efficacy to deliver solutions to many of Africa's developmental challenges. Among other things, Africa still faces high levels of poverty and inequality, low levels of intraregional trade, overreliance on external markets and primary commodity exports, a massive infrastructure deficit, poor human capital, and various viruses – all of which remain formidable obstacles to the continent's development.

This chapter analyses the efforts of the AU to confront these developmental challenges since its formation in 2002. It argues that while the AU has made efforts to promote development, more still needs to be done as the continent continues to battle with a myriad of anti-development tendencies. The chapter begins with a brief conceptualisation of development from the perspective of the AU. Subsequently, it highlights

some of the leading impediments to Africa's development and the ways the AU has attempted to address them. The concluding section summarises the main issues and arguments in the chapter.

The AU's conception of development

While the term 'development' is framed by different perspectives, the the AU's view is driven by the notion that increased cooperation and integration of African states is key to driving the continent's growth and economic development. Accordingly, the AU has conceptualised development through initiatives such as NEPAD and Agenda 2063. These initiatives emphasise eradicating poverty, reducing conflicts, developing the agribusiness sector, and rallying support for common agenda in the areas of trade, health, education and infrastructure development.

This chapter sheds light on how the AU has addressed these issues. Though far from exhaustive, the discussion indicates that poverty levels remain high and difficult to reduce owing to aggravating factors such as conflict, bad governance and epidemics. Although Africa experiences fewer conflicts compared to the Cold War era, the AU, as stated in chapters 5 and 7 of this book, still battles with intrastate conflicts, spawned by election disputes, insurgency, coups and religious fundamentalism.

Investments in agribusiness, education and infrastructure development remain behind expected levels. Intra-Africa trade remains low and may be further suppressed by challenges associated with the COVID-19 pandemic. The continent is struggling to keep up with technological innovations in line with global trends in business, education, health, agriculture and other sectors. Overall, while the picture appears bleak, the AU remains at the forefront of addressing these challenges.

Poverty

Although it has various levels, poverty is generally characterised by the sustained deprivation of choices, capabilities and the power necessary for a decent standard of living.⁴ Among many other deprivations, extremely poor people often lack access to education, health services, electricity, basic sanitation and safe water.⁵ For example, 46 of Africa's 55 states are in

sub-Saharan Africa (SSA), which is also home to 60% of the world's extremely poor people.⁶

In 2017, SSA's performance on the Human Development Index (HDI), a measure of the average achievement in the key dimensions of a long healthy life, knowledge, and standard of living, was 0.536.⁷ This was much lower than Asia (0.714), Europe (0.845), North America (0.733), South America (0.738) and (Oceania 0.693).⁸ Over time, the proportion of people living in poverty in the region declined from 58% in 1990 to 40% in 2018.⁹ However, the poverty rate has not fallen fast enough to keep up with Africa's growing population. In 2019, at least 433 million people on the continent lived in extreme poverty, up from 284 million in 1990.¹⁰

The COVID-19 pandemic, which caused so much socio-economic disruption across the world, is expected to push up to 40 million more Africans into extreme poverty¹¹ in addition to the multiplying effects of conflicts and related insecurity dynamics on the continent. This prognosis presents a pessimistic prospect for Africa's efforts to paddle its poor population out of poverty.

Recognising the devastating impact of poverty on development, AU member states, during the commemoration of the 50th anniversary of the OAU in 2013, agreed to adopt and work towards the realisation of Agenda 2063 – a 50-year framework for inclusive growth, sustainable development and collective prosperity of Africa.¹² The first of the seven aspirations stipulated in Agenda 2063 is to see 'a prosperous Africa based on inclusive growth and sustainable development.'¹³

In this regard, Agenda 2063 seeks, among other things, to eradicate poverty by creating income earning opportunities, enhancing education and skills training, expanding healthcare services, and transforming economies through industrialisation and value addition. This vision is consistent with the concept of human development (HD), conceived as the creation of opportunities and choices for all citizens to fully utilise their potential.¹⁴

NEPAD, a partnership programme between Africa and G-8 countries, aims at improving governance on the continent in return for greater financial aid from the latter and other international financial institutions (IFIs). NEPAD aimed principally to reduce poverty, promote growth and sustainable development, restore peace and reverse Africa's marginalisation in the

global economy, among other things.¹⁵ To achieve these objectives, the AU focused on priority areas such as peace and security, economic and corporate governance, infrastructure, agriculture and access to international markets. NEPAD thus remains one of the AU's cardinal initiatives for poverty alleviation and development.

While the AU has played the role of agenda setting through the development of frameworks such as Agenda 2063, which seeks to promote collective prosperity, poverty persists in most parts of the continent. Since the AU does not manage country budgets and development projects, it is hoped that fulfilment of country targets will lead to improvements in the continent's development trajectory.¹⁶ The AU has not mobilised sufficient funds for development projects due to its heavy reliance on external sources.¹⁷ Reliance on external funding has been exacerbated by the lacklustre contributions of member states.

By 2020, member states were meant to fully cover 75% of programme budgets.¹⁸ Yet, in 2022, they were only required to finance 41% of programme budgets, and 59% would be solicited from international partners.¹⁹ However, the AU's finances remain unpredictable and erratic. Its continued dependency on external sources has undermined the sustainability of development projects. A further challenge is that, although sanctions are in place for non-paying members, country contributions are always below set targets. Only a few member states pay their annual contributions on time, while more than 40% of members remain in arrears in the payment of their contributions.²⁰

In addition to the financial challenge, the AU has not been able to effectively coordinate poverty eradication programmes due to intrastate factors such as income inequality, corruption and bad governance. The high levels of income inequality in Africa reduce the elasticity of poverty to economic growth on the continent. Poverty and income inequality levels vary widely across the continent. For instance, while countries in North Africa are set to reduce extreme poverty to below 3% by 2030 and the percentage of people living on less than US\$1.25 a day in the Seychelles is almost zero, the vast majority of the population of the Democratic Republic of Congo (DRC) lives in extreme poverty.²¹

Compared to other developing regions with a comparable level of economic growth, poverty reduction has been slow in Africa. For example,

the extreme poverty rate in East Asia and the Pacific declined from 60% in 1990 to 1.2% in 2018 and that of South Asia fell from 45% to 15%, while SSA reduced its poverty level only by 16 percentage points from 56% to 40% over the same period.²²

Corruption and bad governance are other important factors impeding efforts to reduce poverty in Africa. Graft is rampant and most African countries with a low HDI have a high corruption perception index (CPI).²³ Corruption robs the state of funds required for the delivery of public services and financing of economic development and social welfare projects. With an average CPI score of 32, SSA is the lowest performing region on the corruption scale globally.²⁴ Countries with the best scores in the region include Seychelles (66) and Botswana (60), while the bottom of the index includes South Sudan (16) and Somalia (12).²⁵

The adverse impact of corruption on development is too familiar to recount here. Suffice to say that in Africa the biggest effect is the extent to which it has stifled development initiatives due to the theft of public funds by politicians, bureaucrats and development sector personnel.

While the AU has provided frameworks, technical support and access to funds through initiatives such as NEPAD, poverty can hardly be eradicated in corrupt environments. According to the United Nations Conference on Trade and Development (UNCTAD), Africa loses an estimated US\$90 billion each year to illicit practices.²⁶ 'The money lost annually is equivalent to 3.7% of Africa's collective GDP and almost as much as the continent receives in the form of foreign direct investments and development assistance.'²⁷

Although the true cost of corruption cannot be ascertained, some experts have estimated that about US\$1 trillion has moved out of Africa through corruption, money laundering and tax evasion since 1980.²⁸ This amount is enough to clear the continent's external debt and fight extreme poverty. Although the AU established the Advisory Board on Corruption (AUABC), there is no clear statement on strategies that would be adopted to combat illicit governance practices. The 2003 AU Convention on Preventing and Combating Corruption (AUCPCC) contains vaguely worded provisions, calling upon states to take necessary measures to fight against corruption. The convention does not provide for complaints or conflict resolution mechanisms at the continental level.²⁹

Enforcement at national and continental levels is, moreover, hampered by limited financial and operational independence of oversight of prosecutorial and judicial bodies.³⁰ Corruption further diverts funds away from public services such as health, education and skills development. In 2019, the Global Corruption Barometer revealed that approximately 130 million citizens in the 35 African countries surveyed, or at least one in four people, paid a bribe before accessing healthcare.³¹ The developmental objectives of Agenda 2063, including the elimination of poverty, may remain a mirage if corruption and bad governance remain unchecked.

Countries with high levels of fragility and those affected by violent conflicts are at a higher risk of plunging into extreme poverty. In 2018, about 1.8 billion people lived in fragile contexts, and this figure is projected to grow to 2.3 billion by 2030. It is estimated that by 2030, 80% of the world's poorest people could be living in these contexts.³²

The Global Peace Index (GPI), which measures peacefulness on a scale of 1 to 5, with the lower score indicating more peace, shows that countries such as South Sudan, Sudan, DRC, Nigeria and Mozambique score on the high end of the GPI. This compounds their CPI and HDI scores, all of which militate against poverty eradication. South Sudan, for instance, has a high GPI (3.45),³³ high CPI (12)³⁴ and low HDI (0.5).³⁵

Conflicts place significant financial strain on member states. The International Monetary Fund (IMF) notes that the annual growth of countries in conflict has reduced by about 2.5 percentage points.³⁶ This supports the popular contention that conflicts can diminish GDP growth by 2 to 3%,³⁷ in addition to immeasurable human suffering, loss of life and the destruction of infrastructure.

The average economic cost of violence is three times higher for countries with the largest deteriorations in GPI.³⁸ For example, in 2021 the Institute of Economics and Peace (IEP) reported that as much as 8% of Nigeria's GDP, US\$132.59 billion, had been impacted economically by growing violence around the country.³⁹ Peacemaking efforts made by the AU and regional economic communities (RECs) could lead to stability and pave the way for positive developments such as lower GPI and higher HDI. However, internal actors' political will to silence the guns is key as the AU and other external actors can only do so much in terms of sending peacekeeping missions and mediators to places of conflict.

Conflict as a threat to poverty reduction

The preponderance of poverty is exacerbated by perennial conflicts on the continent, some of which have remained intractable. The principle of ‘non-interference in the internal affairs of states’⁴⁰ enshrined in Article III of the OAU Charter, prevented the organisation from robustly resolving intra- and interstate conflicts. Thus, the Angolan war of the 1970s, the Ethiopia–Somali border conflict, the conflict over the Ogaden region, the 1994 Rwandan genocide, and the conflict between the north and south of Sudan, which only ended after the signing of the Comprehensive Peace Agreement (CPA) in 2005, with their devastating impact on human security and poverty, all raged on in the glaring eyes of the OAU, without intervention.

However, as pointed out in chapter 5 of this book, the AU changed this, moving away from non-intervention to non-indifference and adopting both proactive and reactive stances on conflict and adopting a robust peace and security architecture. Despite the AU’s efforts, conflicts and other forms of security threats have remained. High profile conflicts such as those in Somalia, eastern DRC and recently Mali remain unresolved, while Islamic extremism and terrorism continue to undermine development and human security in Nigeria, Chad, Cameroon, parts of North Africa and the Sahel. Together, conflicts and other security threats undermine peace but also inhibit the implementation of development programmes.

‘Silencing the Guns by 2020’, one of the flagship projects of Agenda 2063, was a reconfirmation that ‘continued prevalence of armed conflicts in Africa ... has contributed more to socio-economic decline on the continent and the suffering of the civilian population than the scourge of conflicts within and between our States.’⁴¹ For instance, there was a 36% increase in the number of incidents of armed conflict, from 15 874 in 2018 to 21 600 in 2019,⁴² with devastating effects on development.

In fact, the World Bank notes that ‘the average cost of a civil war is equivalent to more than 30 years of GDP for a medium-sized developing country.’⁴³ Despite launching the ‘Silencing the Guns in Africa by 2020’ initiative in 2013,⁴⁴ violence has persisted on the continent.⁴⁵

Africa's heavy reliance on external markets and actors

One of Africa's developmental challenges has been its heavy but also precarious reliance on external markets. Intra-African trade thus remains low. The AU has sought to rectify this through the AfCFTA. The decisive step to implement the AfCFTA is a noteworthy development in the 20-year review of the AU. As of May 2022, 43 countries had deposited their instruments of ratification out of 54 that had signed the consolidated text of the agreement establishing the AfCFTA.⁴⁶ To some extent, the agreement seems like a questionable merger between progressive and non-progressive states. For example, just three countries – Egypt, Ghana, and South Africa – had established the necessary customs infrastructure for trading at the start of 2021.⁴⁷

Nevertheless, the fact that many African states signed on to the AfCFTA was a good sign of intention to develop the continent's markets and promote intraregional trade. The importance of intra-African trade to the continent's development cannot be overemphasised. Africa's heavy reliance on primary commodity exports to external markets, especially the European Union (EU), has been one of its key developmental challenges. In 2021, 65% of goods exported to the EU from African countries were primary goods (food, raw materials and energy), while 68% of EU exports to Africa were manufactured goods.⁴⁸

The trade relationship between Africa and the EU, especially that crafted under the (in)famous Economic Partnership Agreements (EPAs), is one of 'unequal partners' in which the EU benefits to Africa's detriment (see discussions of this point in Chapter 16).⁴⁹ Moreover, intra-African trade will remove tariffs and ensure the unimpeded movement of goods, people and services within the continent. Africa's high susceptibility to global economic shocks since its exports are primarily upstream products, destined for non-African economies, remains a motivation for the creation of a continental common market. Africa's exports, for example, dipped sharply during the 2008/2009 financial crisis, and declined again during the 2012–2016 period, as oil prices and trade in mineral products plummeted.⁵⁰

Owing to the economic impact of the COVID-19 pandemic, African exports have been negatively affected by decreased demand from developed economies and a concurrent spike in imports. This is dislodging

the balance between exports and imports and is creating notable shortfalls in export receipts in many countries. The continent's recovery is largely dependent on trade with major partners like the EU and China.⁵¹ Thus, the AfCFTA will minimise the unpredictability of demand for Africa's exports and create a more sustainable market for economic growth. The importance of a common African market to development cannot therefore be overstressed.

Africa is home to the majority of the world's developing countries, otherwise referred to as 'countries that face the challenge of late industrialisation.'⁵² Industrialisation is a key strategy that can reduce poverty and improve regional development.⁵³ Unfortunately, African countries tend to export a relatively narrow range of goods (often low priced primary agriculture and mining products) whereas richer countries such as China and the United States of America (US) produce and export a wide range of manufactured products.⁵⁴

Due to slow industrialisation, AU member states have not been able to reap the benefits of having strong manufacturing sectors. For instance, Malaysia and Nigeria were equally poor in the 1960s, but today the former's GDP is about five times that of the latter. This was because Malaysia took significant steps to industrialise as well as diversify its export portfolio. In contrast, Nigeria continues to over rely on crude oil exports.

Low intra-African trade

The importance of the AfCFTA is further underscored by the reality of low intra-Africa trade. In 2002, trade among African countries accounted for 10% of their total external trade.⁵⁵ African countries trade more with the EU than among themselves in spite of their geographical proximity.⁵⁶ Africa's largest trade partner in 2020 was the EU, with 28% of both exports and imports, while China accounted for 8% of exports and 16% imports.⁵⁷

Exports within the continent counted for 23%, while imports added up to 13%.⁵⁸ Further, while the EU accounted for 85% of Africa's primary exports, the corresponding figure for China was a paltry 3%.⁵⁹ The AU admits that a key feature of Africa's trade, which has had adverse implications on economic growth and development, is its high external orientation and relatively low level of intraregional trade.⁶⁰

Intra-Africa trade stands at around 13% compared to approximately 60%, 40%, and 30% intraregional trade achieved by Europe, North America and the Association of Southeast Asian Nations (ASEAN), respectively.⁶¹ Africa's share of world trade was just 2% in 2002.⁶² Since then, the continent's global share has risen to just 3% of global imports and exports as of 2021.⁶³

When Agenda 2063 was promulgated in 2013, the AU aimed to 'double intra-Africa trade by 2022.'⁶⁴ However, as of 2021 intra-African exports represent only 17% of total continental exports.⁶⁵ The continent is, thus, far from attaining the 2022 target, and this raises doubts about the AU's capacity to address the continent's trade challenges. The AfCFTA is expected to eliminate import tariffs on 97% of goods traded within the continent,⁶⁶ and reduce tariffs to a maximum of 3% by 2035.⁶⁷

According to the World Bank, full implementation of the AfCFTA could lift at least 30 million people out of extreme poverty by 2035, while more than half of the continent's population is likely to live on more than US\$5.50 a day by the same time.⁶⁸

Since free intra-African trade only commenced in January 2021, the AfCFTA's contributions towards increasing intraregional trade and development may only be visible in the next decade of the AU's existence. Historically, the EU's and China's external relations with Africa have been skewed and have perpetuated an unequal exchange.⁶⁹ Sadly, the AU has failed to play an interlocutory role as evidenced by occasions when individual states and regions bypassed the continental body and negotiated their own trade deals with the EU (see discussions of this in chapter 16).⁷⁰

The AU's marginal role in mediating between African states and the EU was further evidenced in its absence in the protracted negotiations between the two regions, which culminated in the EPAs. During the negotiations, the artificial regional blocs created by the EU negotiated the agreement themselves. Subsequently, regions took different, rather than a uniform position in their agreements. In other words, the AU showed limited capacity to prevent the divide-and-rule tactic adopted by Brussels to eventually get African states to sign the EPAs.

Although the EPAs sought to establish a common market between the EU and regional blocs in Africa, they demanded the liberalisation of 80% of the latter's markets. In return, Africa would be granted access to the EU

market for its largely primary agricultural products.⁷¹ In 2020, almost 70% of the EU's exports to Africa were manufactured goods, while over 61% of EU imports from Africa were primary goods.⁷²

In response to the unequal terms of trade, some observers advocate for the protection of the continent's largely fragile industries through subsidies, similar to EU support for its agricultural sector, and trade protection policies.⁷³ The EU spent over 37% (about 50 billion euros) of its budget on agriculture in 2018.⁷⁴ This was approximately three times its aid budget.⁷⁵ The effect of this was to increase EU production and lower global agricultural prices.⁷⁶

African countries are disadvantaged by lower international prices since the AU does not have a similar agriculture budget. Given Africa's significant agricultural potential, agro-processing could help the continent develop a vibrant manufacturing sector. However, Africa's exports to developed countries face more pronounced tariff regimes in processed agricultural products, with higher tariffs on processed commodities than on raw materials. This discourages African producers from moving up the value chain. It is hoped that the full implementation of the AfCFTA will help mitigate the constraint of tariff escalation by encouraging countries to focus on more value-added products and export diversification.

Further worsening the challenges posed by asymmetrical trade relations with the EU, the AU has failed to avert challenges posed by unequal China–Africa trade relations.

The major concern is that Africa's resource-rich nations mostly export primary products to China, and they tend to attach minerals to aid-related deals with Beijing.⁷⁷ For example, Angola has exchanged crude petroleum to finance infrastructure development.⁷⁸ In some cases political elites abuse resources for their own political interests. For instance, the government of Zimbabwe financed the construction of a military intelligence college using US\$98 million obtained from a joint venture with Anjin, a Chinese-owned diamond mining company operating in Zimbabwe.⁷⁹

Citizens entrust state leaders to ensure that economic partnerships or development projects yield growth and profits enough to service debt, therefore the AU's post-2022 plans should instead include deliberate measures to tackle poor governance and corruption in Africa. Furthermore, to evade unfair outcomes from economic engagement with China and

other external actors, AU member states should shift from exporting mostly primary products to industrialising and exporting manufactured goods. African states should further strengthen commitment to self-fund future developments.

Over-reliance on economic relations with external actors undermines cooperation at both REC and continental levels. Efforts to foster Africa's ownership of its own development initiatives has been hampered, for example, by China's financial assistance which is not readily available from the AU. China is the largest bilateral lender for public sector loans, having 'committed US\$153 billion to African public sector borrowers between 2000 and 2019.'⁸⁰

It is worth noting that the Forum on China–Africa Cooperation (FOCAC) yielded several infrastructure benefits for the continent. These include the fully funded building of the AU headquarters in Addis Ababa, Addis Ababa Light Rail Transit, Ethiopia–Djibouti Railway and Zimbabwe's new parliament. China also committed to sponsor hydropower electricity facilities in Guinea and Angola, DRC's special economic zone, Nigeria's Edo State oil refinery and Zambia's cement sector. The AU's post-2022 plans should include deliberate measures to promote self-funding of infrastructure development and other economic projects.

Subsistence agriculture

Africa's development and poverty alleviation narratives remain incomplete without a discussion, even if cursory, on agriculture, which contributes about 30% to the continent's GDP.⁸¹ Moreover, 70% of Africans make a living through agriculture,⁸² yet its productivity rate of 36% is the lowest in the world,⁸³ despite the continent having 60% of the world's arable land.⁸⁴

The sector remains neglected as evidenced by high rates of underfunded small-scale farming, dated technology, poor infrastructure, high post-harvest losses and the inability to adjust to contemporary climate conditions. Moreover, Africa's agriculture remains subsistence and largely rain-fed. Studies in 2010 found that only about 13 million hectares of Africa's agricultural land, translating to 6%, are irrigated. This figure pales in comparison to 37% and 14% in Asia and Latin America, respectively.⁸⁵

A decade later, the statistics remain unchanged, and Africa's agriculture continues to rely on erratic rainfall and unpredictable climatic conditions although irrigated lands produce the same yields as those of favourable rainfall. Productive investment in agriculture is key to poverty alleviation in Africa. While meeting food security challenges, it will raise income levels and economic diversification through agro-processing.

African states rely on the production and export of agricultural commodities to extra-continental markets.⁸⁶ The AU must encourage increased investments in agriculture to raise its contribution to the continent's GDP. NEPAD's Comprehensive Africa Agriculture Development Programme (CAADP), which is owned and led solely by African states, is a positive step towards the achievement of economic growth through agriculture. The programme provides technical assistance to member states by mobilising resources and providing knowledge-based advisory services.⁸⁷

While CAADP recommends that member states should dedicate at least 10% of their budgets towards agriculture to eliminate hunger and poverty, only 20 member states have made this adjustment.⁸⁸ More funding, training, water and electricity supply, as well as smart agriculture technology, should be adopted to empower smallholder farmers who contribute about 80% of SSA's food supply.⁸⁹ Improving their capacity would guarantee better yields.

China is increasingly complementing the programmes of the AU by assisting in the modernisation of Africa's agriculture.⁹⁰ Beijing has so far donated agricultural machinery to Rwanda, South Africa and Zimbabwe, among others, which is expected to raise productivity in these countries. However, some analysts warn that China's agricultural equipment donations are of inferior quality. While they may increase productivity in the short term, the cost of replacement and investment in the long term will hamper the sustainability of agricultural projects and erode any short-term gains.⁹¹

Yet, the profitability and development of the agricultural sector may be hampered by what Thomas Callaghy has referred to as the 'fallacy of agricultural composition.'⁹² African states produce similar agricultural products, creating difficulties in trading among themselves.⁹³ The production of homogeneous commodities limits intraregional trade.⁹⁴

In Southern Africa, for example, Zimbabwe, Zambia, Mozambique and Malawi, account for Africa's largest share of tobacco leaf production. Coffee and tea are the major exports of East African countries, including Kenya,

Tanzania, Uganda, Ethiopia and Rwanda, while in West Africa, cocoa remains the main agricultural export from Togo, Benin, Ivory Coast and, until 2011, Ghana.⁹⁵

In addition to increased investments, the AU will need to encourage the diversification of Africa's agricultural sector to promote intra-African trade.⁹⁶ Until this is achieved Africa's agricultural commodities will continue to find markets outside the continent.

A further factor, which may impede effective integration and undermine the AfCFTA is the prevalence of multiple and, in most cases, overlapping membership of states in RECs.⁹⁷ This phenomenon, humorously referred to as the *spaghetti bowl*, remains a visible feature of Africa's integration process.

For example, Tanzania has membership in three RECs, namely, the Southern Africa Development Community (SADC), the East African Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA). Burundi, which applied unsuccessfully to join SADC in 2017, is a member of four: EAC, COMESA, the Economic Community of Central African States (ECCAS), and the Economic Community of the Great Lakes Countries (CEPGL). In West Africa, Côte d'Ivoire, Guinea, Liberia and Sierra Leone are members of both Economic Community of West African States (ECOWAS) and the Mano River Union (MRU), while all the eight Francophone West African states belong to both the West African Economic and Monetary Union (known by its French acronym, UEMOA) and ECOWAS.

Multiple memberships in RECs not only waste efforts and resources but also compound the challenges of harmonisation and coordination. Ultimately, it slows down the process of integration.⁹⁸ With the removal of trade barriers and the pursuit of common continental goals within Africa, the AfCFTA may help mitigate the undesirable impact of multiple memberships.⁹⁹

Infrastructure deficit

Infrastructure constraints continue to undermine development on the continent. It has frequently been argued that poor infrastructural outlays are among the causes of the low intraregional trade in Africa.¹⁰⁰ The energy and transport sectors are particularly notable. Africa loses 2-3% of GDP due to the lack of reliable energy.¹⁰¹ Energy is essential for industrial, commercial and domestic purposes, ultimately leading to improved HDI levels.

The Program for Infrastructural Development in Africa (PIDA) is expected to 'increase power access from 39% in 2009 to nearly 70% in 2040, providing access to an additional 800 million people.'¹⁰² So far, over 640 million (about 40%) of Africans have no access to energy,¹⁰³ casting further doubts on the AU's capacity to achieve the set target. Such lack of progress continues to negatively affect education, health and other socio-economic outcomes.

The energy crisis on the continent is worrying as economic powerhouses, including Nigeria and South Africa, struggle to provide sustained electricity supply to domestic households and industry. In Nigeria, an uninterrupted three-hour electricity supply in a day is a luxury. Ghana went through a four-year period of poor electricity supply between 2013 and 2016. Africa currently utilises less than a tenth of its hydropower potential due to technical challenges.¹⁰⁴

The Grand Inga hydroelectric project, powered by the DRC's Congo River, and one of the AU's five main Agenda 2063 flagship projects, is expected to ensure access to clean and affordable electricity for all Africans.¹⁰⁵ However, the project has already been delayed by eight years as financiers and technical experts continue to deliberate their options.¹⁰⁶ The World Bank, a key player which has cancelled its financing plans, argued that the DRC government took strategic decisions which did not correspond with those of the bank.¹⁰⁷ The DRC government, nevertheless, hoped that the project would take-off before the end of 2021, but that never happened.

Infrastructural deficit in the transport sector poses further challenges to development, which the AU must deal with. In addition to energy supply, PIDA set out to facilitate continental integration through improved regional transport infrastructure. Four modes of transport are used in Africa – road, rail, maritime and air – all of which remain inefficient. Approximately US\$200 billion worth of trade is carried out by road, yet it remains underdeveloped.¹⁰⁸ It is estimated that only 0.8 million of the 2.8 million-km road network is paved, with 50% of this in poor condition.¹⁰⁹

The cost of road transport in Africa is estimated to be twice that of other developing parts of the world, with the cost in landlocked countries nearly four times higher.¹¹⁰ Neither is the rail network efficient. It was estimated that by 2011, only South Africa had a 9 000 km electrified railway lines. This

represented 42% of total rail lines in Africa. The DRC and Zimbabwe are two other countries with significant distance of rail line of 858 km and 313 km, respectively, but these are not presently operative.¹¹¹

Nor is marine transportation efficient. Africa uses sea transport mainly to conduct trade with the outside world. African ports are beset with old equipment, cargo theft and low levels of automation.¹¹² Maritime piracy poses a major threat to Africa's sea trade security. At its peak, piracy off the Horn of Africa cost the shipping industry up to US\$7 billion annually.¹¹³ In 2020, there was a 40% rise in the number of kidnappings reported in the Gulf of Guinea, which currently accounts for approximately 95% of global kidnappings.¹¹⁴

Similarly, air travel infrastructure in Africa remains poor. In addition to the high cost of air travel and unnecessary intra-African bureaucratic hurdles, most of Africa's airports and airfields do not meet International Civil Aviation Organization (ICAO) standards.¹¹⁵ In terms of sea trade, Africa accounts for a paltry 1.2% of world shipping. The bulk of African trade takes place through land routes.¹¹⁶

The Single African Air Transport Market (SAATM), another of the AU's Agenda 2063 projects, was designed to ensure intraregional connectivity and facilitate the creation of a single unified air transport market for the continent.¹¹⁷ This strategy would ensure that aviation plays a major role in boosting intra-Africa trade and tourism. Tourism has been identified as a catalyst for economic development and trade within the African context.¹¹⁸

Research has shown that larger and more developed African destinations benefit most from African tourism.¹¹⁹ For example, South Africa accounts for the largest portion of African travel in terms of visitors from the continent. Local tourism levels are low in most African states, due to high costs of travel and access to attraction sites. There is scant research on intra-Africa tourism levels. African tourists tend to travel to destinations closer to their countries, due to the cost(s) of travel and accessibility.¹²⁰ Removal of barriers to the free movement of persons and goods such as the introduction of the African passport for citizens may encourage intra-Africa tourism. Increased demand for transport and tourism services may lower the costs of movement within the region.

Similarly, the African Integrated High Speed Railway Network (AIHSRN) is expected to connect all African capitals and commercial centres.¹²¹ It is

expected to support economic growth by removing existing trade barriers. The network can accelerate economic growth by connecting regional economic hubs and adding on to available modes of transport for citizens and tourists.¹²² Modern train networks offer efficient and affordable options for commuters. The AU, therefore, must ensure that the proposed network is set up.

Beijing has been the single largest financier of African infrastructure over the past two decades, funding one in five projects in transport, shipping and ports.¹²³ The major disadvantage is that these loans are generally guaranteed by natural resources.¹²⁴ In all, the AU must be commended for the various initiatives to develop Africa's infrastructure and setting the continent on the path of development.

Education

The AU promotes the goal of universal access to education. Remarkably, the proportion of children who completed primary school rose from 27% in 1971 to 67% in 2015.¹²⁵ However, some researchers have pointed out that the expansion of access to education through free or low-fees payment government initiatives led to a fall in quality.¹²⁶ There is a general perception that private schools, which are urban-based and expensive, tend to offer better quality education than schools in rural areas.¹²⁷ Poor education outcomes are therefore another key developmental challenge for the continent.

In addition to inequitable access, throughput levels are a major concern. According to the United Nations Educational, Scientific and Cultural Organization (UNESCO), over one-fifth of children between ages 6 and 11 were out of school, in addition to one-third of those aged between 12 and 14, and almost two-thirds of 15- to 17-year-olds by 2021.¹²⁸ In addition to education exclusion, there has been slow uptake of relevant educational technology to keep up with the demands of the global knowledge economy.

Inadequate political commitment and poor financing have left most projects at the planning stage. In order to actualise the AU's vision of an integrated prosperous Africa, driven by its own people, the continental body is 'committed to ensure the development and harmonisation of education policies'¹²⁹ with the aim of developing necessary human capital for the continent's sustainable development.¹³⁰

So far, member states have committed to execute plans in line with the Continental Education Strategy for Africa (CESA) to ensure amongst other factors, training and research are in line with scientific and technological innovation and entrepreneurship.¹³¹ It is expected that 'by 2030, Africa will be home to more than a quarter of the world's population under 25, who will make up 60% of the continent's total population.'¹³² Yet the development of the African education sector continues to be undermined by irrelevant curricula, hence weak links with today's labour market. The skills deficit coupled with poor industrialisation and susceptibility to poverty further undermine the AU's development goals.

The COVID-19 pandemic

The latest challenge to Africa's development confronting the AU is the COVID-19 pandemic, the impact of which began to spread from late 2019. The closure of borders and airports, along with imposed restrictions on travel and movement of persons across borders, occasioned by the pandemic, negatively affected socio-economic life across the world. Africa's fragile economies and those in the Global South took the hardest knock. In addition to the number of fatalities in Africa, which is small in comparison to the US and other regions, the economic devastation caused by the pandemic has been palpable. Across Africa, some companies either scaled down operations or closed completely, exacerbating the already high unemployment situation on the continent and deepening poverty.

Countries such as South Africa, with better HDI and inclusive social welfare policies prior to the COVID-19 pandemic, were better able to mitigate the socio-economic and health challenges posed by the virus. On the other hand, countries with high GPI and CPI levels became worse off. The COVID-19 pandemic forced African states to borrow heavily for survival, further undermining prospects of self-sustenance and increasing external indebtedness.

One observer estimates that Africa requires a debt standstill, and a rescue package of US\$100 billion – US\$200 billion for health response and another US\$100 billion for economic stimulus from the international community to deal with the impact of the COVID-19 pandemic.¹³³

Consequently, the pandemic is likely to lead to higher and unsustainable debt-to-GDP levels, in addition to other poverty-exacerbating factors.

The global response to the COVID-19 pandemic has been led by the World Health Organization (WHO). However, at the continental level, the AU responded by emphasising the health and preventive protocols recommended by WHO, including increased vaccinations, sanitisation and social distancing.¹³⁴ On 26 March 2020, the AU set up the AU COVID-19 Respond Fund to support the purchase and distribution of medical equipment to mitigate the impact of the virus on African states, and to strengthen the capacity of its Centres for Disease Control and Prevention (CDC) to fulfil its mandate.¹³⁵

In late October 2021, the Africa CDC estimated that the continent needed to vaccinate 70% of its population by the end of 2022 to have a chance of effectively bringing the pandemic under control.¹³⁶ According to CDC, the plan was to vaccinate 60% of the African population by June 2022. By the beginning of November 2022, 25.6% had been fully vaccinated.¹³⁷ Increased uptake will ensure herd immunity and a safer transition when more economies open. However, the frequent emergence of new variants of COVID-19 indicates that it will be longer than expected before the pandemic is brought under control.

Conclusion

This chapter highlights some of the key challenges militating against Africa's development, including: (1) the ubiquity of poverty and poverty-exacerbating conditions such as corruption and conflict, (2) low intra-continental trade due to overreliance on extra-African markets, (3) infrastructure deficit, poor education outcomes, and recently (4) the emergence and rapid spread of the seemingly intractable COVID-19 pandemic. The chapter showed that each of the factors have presented formidable challenges to development. Poverty was exacerbated, and conditions for its alleviation made more complex by bad governance and conflicts.

Africa's reliance on external rather than on a continental market has constrained the growth of industries that would engineer the production of value-added products and the creation of employment that would aid

growth and development. Similarly, the lack of relevant infrastructure in energy development and supply as well as in transport, among others, to spur continental development have truncated Africa's chances of growth and the improvement of the quality of life of citizens. The COVID-19 pandemic made things worse in a continent already lagging behind other regions on the development ladder.

Accordingly, Africa displays the worst in almost every human and economic index compared to other regions, two decades after the AU's commencement.

The AU has not been a passive onlooker at Africa's distressing conditions. On the contrary, it has undertaken, formulated or recommended measures to deal with each of the anti-development challenges. NEPAD initiatives, along with other AU activities undertaken to enhance human security, have all aimed at addressing Africa's development challenges.

The AfCFTA is meant to address the low intra-African trade and the precarious reliance on the EU market; while the flagship projects under Agenda 2063, which provide for mega-projects such as the Grand Inga Dam Project, the Single African Air Transport Market (SAATM) and the African Integrated High Speed Railway Network (AIHSRN), among other things, aim to address the deficits in energy supply and transport services.¹³⁸ While the dynamics and nature of COVID-19 remain uncertain and even unpredictable, the AU has been complimenting the efforts of the WHO to fight the pandemic.

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Chapter 11

Role of science, technology and innovation in peace and development

Samuel Makinda

Introduction

This chapter starts by defining science as a systematic way of exploring, acquiring and utilising knowledge. It incorporates the pursuit and application of knowledge about both natural and social phenomena. Moreover, science requires the use of open and verifiable methods to observe, collect and analyse the evidence. For this reason, individuals or groups can use science to generate applicable findings. The term knowledge, in turn, is used here to include formal and informal education and technical know-how. Knowledge may be acquired through oral instructions, books, journals, the internet and educational institutions.¹

The World Bank's knowledge economy index rests on four pillars: economic and institutional regime; education and skills; information and communication infrastructure; and innovation systems.² However, this is only one way of measuring knowledge, and these pillars cannot always be taken for granted. For example, Asongu has found that 'education and innovation in terms of scientific and technical publications broadly bear an inverse nexus with financial development'.³ The study observed that 'ICT [information and communications technology] generally has a positive incidence on all financial sectors but increases the non-formal sector to the detriment of the formal sector'.⁴

Whether the African Union (AU) and its members generate their own knowledge, and to what extent, depends on various factors. The first is the nature of the paradigm used. Kuhn defined a paradigm in 1962 as 'an accepted model or pattern'.⁵ Paradigms are often displaced by newer ones, but while they last, they are regarded as 'universally recognized scientific achievements that, for a time, provide model problems and solutions for a

community of practitioners.⁶ They specify what is to be observed, the kind of questions to ask, how the questions are constructed, and how researchers should interpret the results of their investigations.

Therefore, paradigms exercise intellectual hegemony by establishing lines of exclusion and inclusion, and by determining the legitimacy of what researchers investigate. As the AU has adopted the concept of ‘African solutions to African problems,’ the paradigm that benefits it most ought to be consistent with this concept. Moreover, as the AU’s Agenda 2063 seeks to create ‘An integrated, prosperous and peaceful Africa, an Africa driven and managed by its own citizens and representing a dynamic force in the international arena,’⁷ the appropriate paradigm for the AU should generate knowledge which can lead to this goal.

However, the AU relies on external assistance to fund and implement its programmes and, most of the time, foreign funders re-interpret these programmes to suit their own interests. A re-interpretation is essentially a re-creation of the strategies in question.⁸

This chapter’s principal argument is that the AU and its members need to construct their own intellectual frameworks for generating the knowledge that they require to address peace and development challenges. In other words, the AU and African countries might find it difficult to control and manage their agenda if they rely heavily on paradigms which were not designed to pursue their particular goals. This is not to suggest that Africa has to turn its back against the global intellectual heritage. This chapter posits that while the AU and African states may benefit from knowledge generated by other parts of the world, they cannot sustainably pursue their Africa-centric goals without generating their own knowledge.

Therefore, the way forward for the AU, its regional economic communities (RECs) and African states is to invest strategically in research and development (R&D). They will continue to apply some ideas from the global intellectual heritage after re-interpreting them, but such ideas should supplement, rather than displace, knowledge produced specifically to meet Africa’s needs. It should also be noted that not all knowledge generated in Africa is Africa-centric. The appropriateness of knowledge is determined by the nature of questions asked, the type of assumptions that underpin these questions, and whether the answers are consistent with the needs, aspirations and hopes of the African people.

As Okolie argues, the AU and African states need to design research institutions that facilitate the production of relevant knowledge ‘by creating spaces for the expropriation of what is suitable in modern science and technology and their re-articulation with elements of African traditions, values, practices and relationship with nature in order to pursue development policies that are African-centred and sustainable.’⁹

The AU needs knowledge that effectively de-centres foreign experiences while centring African experiences, which, in turn, ‘denaturalizes the way we have studied the world so far.’¹⁰ This is reasonable as long as it is acknowledged that traditions, values and practices evolve. Moreover, the centring of African experiences and knowledge should not imply that they are superior. It should signify that they are relevant and need to be taken into consideration.

On the eve of the first conference of independent African states in Accra in April 1958, Ghana’s former president Kwame Nkrumah used the concept of the African personality to express a desire for Africa-centrism when he said:

For too long in our history, Africa has spoken through the voices of others. Now what I have called the African personality in international affairs will have a chance of making its proper impact and will let the world know it through the voices of Africa’s own sons [and daughters].¹¹

This leads to other questions: How much are the AU and its members investing in the generation of knowledge? Who has been entrusted to supply the knowledge that Africa needs? Where does the AU store the knowledge it obtains? Does the AU have the institutional capacity to generate, codify, absorb and utilise the new knowledge?

Writing five years after the AU’s creation, we argued that knowledge was ‘the key to Africa’s security, development and good governance.’¹² We posited that the ‘successful pursuit of democratization, gender equality, environmental management, and sustainable development [was] predicated upon the rejection of obsolescent knowledge and the promotion of a knowledge renaissance.’¹³ As the AU celebrates its 20th anniversary, this chapter explores how the organisation has applied knowledge in the past and how it uses its past record.

This chapter proceeds from two other assumptions. The first is that there is always knowledge at play in whatever activities international organisations and other purposeful agents carry out. The main difference is that some knowledge may be appropriate while some other knowledge could be inappropriate in relation to a particular mission. The second assumption is that most knowledge is produced for specific purposes and for particular audiences. Whenever research is conducted, the interpretation of its findings is done with a view to promoting the normative or political purposes for which it was performed.¹⁴

It is knowledge that drives globalisation, inter-African trade, changes in information technology and strategies to address COVID-19, the Ebola virus and HIV/AIDS. It is mainly with Africa-centred knowledge that the AU, RECs and African states can pursue digitisation, the green economy and the ‘Silencing the Guns in Africa’ project for their people’s benefit.

The remaining part of this chapter is divided into four sections. The next section explores the structures, platforms and mechanisms that the AU has established to address the need for knowledge flows. It is followed by a discussion of the challenges of knowledge generation in Africa. The third section examines the peace and security challenges, while the fourth explores the development challenge. The conclusion re-emphasises the need for an Africa-centric paradigm in the generation of knowledge.

The AU’s knowledge infrastructure

In the first speech at the launch of the Organisation of African Unity (OAU) in May 1963, Ghana’s former president Kwame Nkrumah captured the need for an African paradigm and the importance of science, technology and innovation (STI) and knowledge in agriculture, industry, infrastructure and other areas of society. Nkrumah proclaimed:

We have the resources ... It is only by uniting our productive capacity and the resultant production that we can amass capital ... With capital controlled by our own banks, harnessed to our own true industrial and agricultural development, we shall make our advance. We shall accumulate machinery and establish steel works ... and factories; we shall link the various states of our continent

with communications by land, sea and air. We shall cable from place to another, phone from one place to the other, and astound the world with our hydroelectric power; we shall drain marshes and swamps, clear infested areas, feed the under-nourished, and rid our people of parasites and disease. It is within the possibility of science and technology to make even the Sahara bloom into a vast field with verdant vegetation for agricultural and industrial developments.¹⁵

Six decades later, the AU has yet to realise the dream of applying 'African solutions to African problems.' It has made modest progress in establishing mechanisms for promoting STI, but this has been due largely to the globalisation processes.

On the surface, the AU appears to have been keen to address the need for knowledge infrastructures from its inception. Its Constitutive Act (CAAU) states that one of the AU's objectives is to advance 'the development of the continent by promoting research in all fields, in particular science and technology.'¹⁶ The CAAU requires the Executive Council to coordinate and take decisions on 'education, culture, health and human resource development' as well as on 'science and technology.'¹⁷

Whether the Executive Council's decisions on these matters are consistent with the concept of 'African solutions to African problems' or merely serve the prevalent neo-liberal agenda depends on the nature of advice it receives. In addition, the CAAU established two Specialised Technical Committees (STCs) that deal with STI. These are the STCs on Industry, Science and Technology, Energy, Natural Resources and the Environment, and on Education, Culture and Human Resources.

As the Statute of the African Observatory for Science, Technology and Innovation has recognised, the CAAU 'underscores the importance of science, technology and innovation as a tool for socio-economic transformation.'¹⁸ Moreover, the Science and Technology department within the AU Commission deals with knowledge and innovation. Had the objectives in the CAAU been pursued within an Africa-centric vision, rather than from a perspective that seeks any 'packaged' knowledge from external sources, the situation in Africa would be radically different.

Apart from the CAAU, the AU's rhetoric suggests that the organisation considers 'Investments in education, technical competences and training, and in science, technology, research and innovation [to be] critical.'¹⁹ Accordingly, the AU has created several mechanisms in the past two decades that deal with knowledge and STI. For example, in 2006, the AU Executive Council meeting in Sudan endorsed the African Science and Technology Consolidated Plan of Action (CPA) which, in turn, produced various innovation strategies over a 10-year period. The CPA focus revolved around five areas: biodiversity, biotechnology and indigenous knowledge; energy, water and desertification; material sciences, manufacturing, laser and post-harvest technologies; information and communication technologies; and mathematical sciences.

Seven years later, in 2013, the AU Assembly established the African Observatory of Science, Technology and Innovation (AOSTI), which is based in Equatorial Guinea. Some of AOSTI's functions include the monitoring and evaluation of the AU's implementation of its STI policymaking, the championing of evidence-based STI policymaking, and the strengthening of 'national and RECs capacities for STI policy design, evaluation and review.'²⁰ This appears to be a major step forward for the AU, RECs and African states, but, when it comes to the crunch, the question is: Who funds AOSTI?

In relation to the budget, the AOSTI statute refers to voluntary contributions from AU members, the AU's development partners, the private sector and 'any other source of funding in accordance with AU rules.'²¹ As stated earlier, most funders often subtly re-interpret and re-frame a project's core aims and strategies.

The AU has also established other mechanisms for the pursuit of knowledge in other areas of STI. For example, in 2006, the AU convened a High-Level African Panel on Modern Biotechnology, comprising researchers from the continent and the diaspora and co-chaired by Professor Calestous Juma, formerly of Harvard University's Kennedy School of Government, and Professor Ismail Serageldin, Director of Bibliotheca Alexandrina in Egypt, to map out a long-term strategy for STI. Among other things, this Panel observed that 'Africa's 'distance' from the centers of technological origin is a source of creativity in applying existing technologies to new uses and therefore expands the prospects for international cooperation.'²²

It was this Panel that conducted the CPA review and transformed it into the Science, Technology and Innovation Strategy for Africa 2024 (STISA-2024), which was approved by the AU Assembly in 2013. Although STISA-2024 is a 10-year strategy, which expires in 2024, it is renewable until the realisation of Agenda 2063. For example, there will be STISA-2034, STISA-2044 and STISA-2054, which will conclude in 2063.

STISA-2024 programmes revolve around six priority areas, which are required to contribute to the achievement of Agenda 2063. The first is to eradicate hunger and ensure food and nutrition security through agriculture and conservation measures. The second is to prevent and control diseases and ensure well-being through better understanding of endemic diseases, traditional medicine, and adequate attention to maternal and child health. The third is to facilitate physical communication in terms of land, air, river and maritime routes, as well as intellectual mobility through ICT.

The fourth priority area is to protect Africa's space through space technologies, climate change studies, and knowledge of water cycle and river systems. The fifth is to work out a formula for building resilient societies through shared values, governance and democracy, regional integration and city management. The sixth is to facilitate wealth creation through the proper management of water, minerals, forestry and marine resources.

In addition, STISA-2024 suggests that the AU and African governments need to focus on four key pillars that could lead to improved STI uptake. 'These strategic actions are building and upgrading research infrastructures, enhancing professional and technical competencies, promoting entrepreneurship and innovation, and providing an enabling environment for STI development in the African continent.'²³ However, STISA-2024 has reservations about key factors, including inadequate expertise on STI policy development and insufficient funding for STI. It argues that Africa's low level of investment in R&D 'puts Africa at a strategic disadvantage.'²⁴

STISA-2024 could be seen as a product of African states' efforts, conceived from Africa-centric perspectives, to transform their societies technologically, economically and politically since the 1970s. These include the Monrovia Strategy of July 1979 and the Lagos Plan of Action (LPA) for the economic development of Africa. The LPA 'was a visionary, far-reaching

and unprecedented blueprint on how to foster collective self-reliance and sustainable development of the continent.²⁵ There was also the 1994 Abuja Treaty which sought to achieve mutually beneficial economic integration through the creation of an African Economic Community.

The first major politico-economic structure designed to transform Africa in the 21st century is the New Partnership for Africa's Development (NEPAD), which was launched in Lusaka in 2001. NEPAD, which was supported strongly by former South African president Thabo Mbeki, pioneered the peer review mechanism. In one sense, NEPAD was conceived as a Pan-Africanist agency, with Mbeki waving the African Renaissance flag.²⁶ In another sense, NEPAD was seen as a tool that could be used by neo-liberal forces that had little interest in 'African solutions to African problems.'

The African Continental Free Trade Agreement (AfCFTA), which was concluded in Rwanda in March 2018, is one of the most recent economic structures that stand to benefit from Africa-centric knowledge. Its goal is to accelerate intra-African trade and help boost Africa's trading position in the world. The agreement requires members to remove tariffs from 90% of the goods and services across the continent. AfCFTA is one of the main milestones of the AU's Agenda 2063. STISA-2024, which 'places STI at the epicentre of Africa's social and economic development within ... Agenda 2063,' is organically linked to the AfCFTA as well as NEPAD.²⁷

By its nature, the AfCFTA requires a re-articulation of Africa's borders. However, the AfCFTA came into force when the AU's Border Programme (AUBP) was being emasculated. The AUBP was established by a declaration of the first conference of African ministers in charge of border issues in June 2007 and the decision of the AU Executive Council in July 2007. The programme was effectively fulfilling its mandate to delimit, demarcate and reaffirm borders, promote cross-border cooperation, settle border disputes, and enhance border management until 2013 when it was undermined by the German organisation, Gesellschaft für Internationale Zusammenarbeit (GIZ). The GIZ, whose goals are different from the original AUBP objectives, established a new border programme under the guise of supporting the AUBP.²⁸

As of early 2022, the AUBP no longer existed in the new AU organisational structure. This is one way in which external funding of AU

programmes has led to the re-interpretation of the programmes to reflect the interests of the funders. While it is reasonable for the AU to seek external sources of finance to pursue its projects, it should not abandon its core goals in the process.

In pursuit of knowledge, the AU also launched the Pan-African University (PAU) in 2011, whose statute was approved by the AU Assembly in January 2013. Its revised statute was approved by the AU Assembly in January 2016. The PAU's primary objective is to 'develop continent-wide and world-class graduate study programmes in science, technology, innovation, humanities, social sciences and governance.'²⁹ It also seeks 'to enhance the mobility of students and academic staff among African universities' and to 'contribute to the capacity building needs of present and future stakeholders' of the AU.³⁰ One of the PAU's core principles is to promote 'inter-disciplinary and multidisciplinary research programmes integral to policy making processes in Africa.'³¹

The PAU, with its rectorate in Yaounde, Cameroon, provides its training through five institutes, located in each of the five African regions. The thematic institutes are: Institute for Basic Sciences, Technology and Innovation in Kenya, hosted by the Jomo Kenyatta University of Agriculture and Technology; Institute for Governance, Humanities and Social Sciences in Cameroon, hosted by the University of Yaounde II; Institute for Life and Earth Sciences in Nigeria, hosted by the University of Ibadan; the Institute for Water and Energy Sciences in Algeria, hosted by Abou Bakr Belkaid University of Tlemcen; and the Institute for Space Sciences is to be based at a South African university. It is expected that at full operational capacity, the PAU will have 50 centres of excellence affiliated with the five institutes.

The AU has also invested in the generation of peace and security-related knowledge through the Africa Peace and Security Programme (APSP), which is a joint venture with the Institute for Peace and Security Studies (IPSS) of Addis Ababa University. The IPSS was established in 2007 as a tripartite arrangement among Addis Ababa University, the Danish embassy in Ethiopia and the University of Peace Africa Programme. Since its inception, the IPSS has focused on training and research in peace and conflict prevention, management and resolution, with a strong bias towards the Horn of Africa.

The fact that it has close links with the Danish government and the University of Peace has assured it of a high profile and regular funding. Moreover, its involvement with the APSP shows that it is associated with the AU's peace and security agenda, which is itself heavily influenced by external funders. The IPSS also signed a memorandum of understanding with the International Committee of the Red Cross (ICRC) in 2019, which will facilitate greater research into humanitarian issues. However, there is a possibility of the ICRC's tradition of neutrality limiting the capacity of IPSS and APSP to align consistently with the concept of 'African solutions to African problems.'

Furthermore, one of the AU's efforts in peace and security have revolved around the 'Silencing the Gun in Africa by 2020' project, which the AU launched in 2013 as part of its Agenda 2063 flagship projects.³² This requires socio-economic transformation of African societies, strengthening of democratic institutions and political accountability, and respect for the rule of law and human rights. The fact that Africa witnessed at least four military coups between April 2021 and January 2022 suggests that the AU has failed to 'silence the guns' and needs more knowledge that is relevant to its goals.

Challenges of knowledge generation in Africa

Challenges of knowledge production in Africa may be viewed from what Edward Said described as contrapuntal awareness.³³ In this chapter, a contrapuntal perspective is used in two senses. In the first sense, it underlines the awareness of belonging to multiple worlds both culturally and academically. Thus, some African scholars may, on reflection, identify themselves as simultaneously belonging to Africa and the Western world academically and culturally. In the second sense, contrapuntal awareness underlines the assumption that most ideas and theories come in the form of a snowball, having undergone substantial changes as they have rolled from one society to another, and from one time period to another.

An example of this is sovereignty, which has evolved from the absolutist norm under the 1648 treaties of Westphalia, through the monarchical norm enacted during the Congress of Vienna in 1815, through the predominantly territorial norm after World War II, to what

looks like the democratic norm, through which former UN Secretary-General Kofi Annan redefined popular sovereignty in 1999.³⁴ Despite these different incarnations of sovereignty, some people describe it as if it has never changed since 1648.

In the first sense of contrapuntal awareness, Said claimed that ‘Out of the imperial experiences, notions about culture were clarified, reinforced, criticized, or rejected.’³⁵ He further argued: ‘One of imperialism’s achievements was to bring the world closer together, and although in the process the separation between Europeans and natives was an insidious and fundamentally unjust one, most of us would now regard the historical experience of empire as a common one.’³⁶ I posit that challenges of generating knowledge in Africa are underpinned by at least two intertwined and overlapping forces: the first is African-driven, and the other is systemic or derived from international society. However, the two forces are connected and co-constitute each other.

African-driven forces may be further divided into at least three factors: leadership, institutional capacity, and political-legal frameworks. Africa needs to leverage these factors to generate appropriate knowledge. The roles of these factors are explained in reference to the data provided in the United Nations Educational, Scientific and Cultural Organization (UNESCO) 2021 Science Report.³⁷

UNESCO’s 2021 report shows that Africa’s share of global expenditure on R&D remained at 1.01% between 2014 and 2018, but in sub-Saharan Africa, it increased from 0.49% to 0.51%. South Africa recorded the highest R&D expenditure in Africa, rising from 0.77% to 0.83%, with Egypt taking second position after increasing expenditure from 0.64% to 0.72% over the same period.³⁸ Failure to meet the 1% contribution to R&D is partly due to poor leadership and governance, especially corruption and the lack of accountability. In some countries, corruption is endemic, but it is often abetted by external actors.

On the subject of the density of researchers, the report says sub-Saharan Africa increased its share of researchers from 0.6% in 2014 to 0.7% in 2018. This represented a rise in the density of researchers per million inhabitants from 102 to 124 over the same period.³⁹ Egypt’s researcher density increased from 675 to 687 while South Africa’s went up from 432 to 518.

According to this report, a few African countries increased their researcher density phenomenally, as follows: Mauritius 86.3%, Ethiopia 67.8%, Madagascar 45.4%, Togo 26.3%, South Africa 21.4%, and Uganda 15.8%. While historical disadvantage may have played a role in this situation, it is primarily due to misguided policies and the lack of vision, clear strategies and inspiration on the part of the political leadership.

Regarding the global share of scientific publications, Africa's contribution increased marginally from 2.81% in 2015 to 3.5% in 2019. Over the same period, sub-Saharan Africa's contribution grew from 1.41% to 1.8%.⁴⁰ This has to be explained partly in terms of the refereeing process in journals which ensures that only knowledge framed in certain ways is accepted for publication. This often leads to the production of Western-centric knowledge. Western scholars may also ignore research outputs of Africans or re-invent them with a few changes.

On patents, UNESCO's 2021 report claims that the number of active tech hubs and incubators in Africa doubled between 2016 and 2020 to 744, and nearly 50% of them were located in five countries: Nigeria 101, South Africa 91, Kenya 70, Egypt 55, and Morocco 41. While the number of patents doubled, it has been suggested that 'only 18.4% originated from local residents.'⁴¹ The low level of patents is largely due to high costs and the unfairness in the international system.

A good illustration of this is the case of an Ethiopian scientist who, in the 1990s, tried to isolate a soap ingredient for commercial exploitation from a soapberry plant, but gave up due to lack of government support and left for an American university. The American researchers he worked with not only discovered that the ingredient had other potentials, but deliberately failed to share their findings with the Ethiopian scientist. They then developed the ingredient into a rich anti-bilharzia treatment, patented it and sold it to a pharmaceutical company for millions of dollars.⁴²

While the above data may provide a bird's eye view of Africa's performance in R&D compared to the rest of the world, they do not tell the whole story. To understand why Africa is where it is and to design a strategy on how it should improve its position, it is necessary to understand Africa's historical disadvantage, governance structures, including corruption at the AU and national levels, and the policy relevance of research. It is also

necessary to understand the historical advantages of the developed world and its epistemological hegemony.

The systemic forces that affect Africa may be divided into at least two types: financial and normative. Walter Rodney's book, *How Europe Underdeveloped Africa*, suggests that it was African resources that helped Europe acquire its financial power.⁴³ Even when it comes to brain power, including normative issues, African researchers have contributed to the knowledge that Europeans use to enhance their hegemony. Therefore, one of our challenges is to recognise the contributions that Africans have made in re-shaping the so-called European-dominated disciplines. If we do not recognise and reclaim these ideational contributions, they will be appropriated by Europeans and African scholars will continue to lament that these disciplines have not made room for non-Westerners.

For example, Ali Mazrui is credited with inspiring Hedley Bull, one of the founders of the English School of International Relations. Following Bull's death in 1985, Miller and Vincent argued that 'Hedley Bull's contact with stimulating people like Ali Mazrui, caused him to ask questions about the direction in which the Third World might be heading.'⁴⁴ This was part of the stimulus for Bull's continued exploration of the nature of international society, taking into account the developing world's demands for equality and justice. Earlier, in his review of Mazrui's *Africa's International Relations* for the Times Literary Supplement, Bull had written:

Ali Mazrui is not only the most distinguished writer to have emerged from independent Black Africa, and the most penetrating and discriminating expositor of the ideology of the Third World, but he is also a most illuminating interpreter of the drift of world politics.⁴⁵

Bull further observed: 'The issues that interest [Mazrui], the audience to whom he addresses himself, even the values he embraces are not simply black or African or Third World but global.'⁴⁶ Moreover, Mazrui's other contribution to the expansion of international relations theory through 'creative eclecticism' has not been given the acknowledgement it deserves.⁴⁷ He was the first political scientist to utilise eclecticism since Kuhn's articulation of paradigms in 1962.⁴⁸

However, when Susan Strange used ‘eclecticism’ in 1991, she made no reference to Mazrui.⁴⁹ Starting from the year 2000, several scholars used the term ‘analytic eclecticism’ as a theoretical approach, but they made no reference to Mazrui.⁵⁰ It is possible that these researchers did not know of the existence of Mazrui’s pioneering article, but, by not referring to him, they may have inadvertently contributed to rendering his publication invisible. Our challenge is to remind the world of its existence.

As a net consumer, rather than producer, of knowledge in STI, Africa suffers several disadvantages. First, the AU and its members apply knowledge that was shaped by forces that have no interest in helping the organisation pursue ‘African solutions to African problems.’ The producers of this knowledge may be African or non-African, but the issue in contention is that their knowledge might not be geared towards meeting the AU’s goals.

It is generally accepted that knowledge production is a social and political process that reflects the historical, cultural and institutional milieu of its producers. Knowledge is constructed for a social, scientific or political purpose. In interpreting data, researchers are influenced by their cultural, ideological or ethical values. In disseminating their findings, researchers emphasise some facts and ignore others, depending on their preferences. Moreover, all knowledge is contestable and sometimes transient, and Africa is disadvantaged because it plays a minimal role in the adjudication of knowledge claims. The transient character of knowledge implies that while society may accept today’s scientific findings, the same findings may be challenged later.

A good example of successful contest of established knowledge was the challenge to claims by medical science that peptic ulcers were caused by excessive acidity in the stomach. For a long time, antacids were prescribed, but in 1982, a study in Western Australia found that the cause of stomach ulcer was not acidity, but bacteria called *helicobacter pylori* (*H. pylori*). Excessive acidity was the symptom, not the cause. The study established that ‘100 percent of patients with duodenal ulcer and 80 percent of those with gastric ulcer’ had *H. pylori*.⁵¹ This was a threat to the pharmaceutical companies that manufactured antacids, and they challenged this finding using internationally respected gastroenterologists and histopathologists to try to discredit Barry Marshall and Robin Warren (winners of the Nobel prize for medicine in 2005) who had discovered *H. pylori*.

However, it is now accepted that *H. pylori* 'is the cause of most gastric and duodenal ulcers, with elimination of the organism leading to healing of the ulcers and a significant reduction in the incidence of recurrence.'⁵² The implication of knowledge contestations is that Africa receives only knowledge which the knowledge brokers in the developed world consider to be socially and politically palatable.

To participate effectively in the contestation of knowledge, African researchers need excellent facilities for investigation. Although STISA-2024 and the PAU have started the process of creating a reasonable research environment, the AU still has no research facilities that can challenge Western intellectual dominance. Moreover, while science benefits from the accumulation of data, the AU does not maintain proper records. When senior officials fail to keep records, they make it difficult for researchers and their successors to build on what they have done. Even peacemaking requires an accumulation of data so that the wheel is not repeatedly re-invented.

The peace and security challenge

Whatever the AU accomplishes through its focus on STI, it will not realise the Agenda 2063 goal of creating 'An integrated, prosperous and peaceful Africa, an Africa driven and managed by its own citizens and representing a dynamic force in the international arena' unless it achieves peace and security on the continent. Moreover, without peace and security, the AU will not achieve its goal of 'Silencing the Guns in Africa' which is already behind schedule. The 'Silencing the Guns' project is itself predicated on the enhancement of democracy, respect for the rule of law, achievement of gender equality, and respect for human rights. Therefore, the benefit of STI will be realised only after STISA-2024 and its successors have accomplished many of their goals, including human security.

Security is here regarded as the protection of people and the preservation of their norms, rules, values and means of livelihood, in the face of military or non-military threats. While this definition is people-centric, it is broad enough to include the preservation of the AU, its members and the structures on which they are anchored, but only to the extent that the protection of the AU and its members is not privileged over the African people.⁵³

Knowledge has been at the centre of peace and security for a long time. For example, Article 1 of UNESCO's constitution states that the 'purpose of the Organization is to contribute to peace and security by promoting collaboration among the nations through education, science and culture in order to further universal respect for justice, for the rule of law and for human rights.'⁵⁴ It also states that 'since wars begin in the minds of [people], it is in the minds of [people] that the defences of peace must be constructed.'⁵⁵

UNESCO's activities since its inception have showed not only how STI relates to peace and security, but also how culture shapes international politics.⁵⁶ Thus, UNESCO's constitution serves as a reminder that there is a vital link between education and security.

However, it is doubtful whether the AU's failure to prevent conflicts is entirely due to the lack of accurate information. One important AU mechanism that operates under its Peace and Security Council (PSC) is the Continental Early Warning System (CEWS), which is designed to generate knowledge used to anticipate and make recommendations for measures to prevent conflicts. The fact that it is not yet fully operational suggests that there is no political will to render it operational. CEWS, when fully operational, will make a huge difference to the reduction of human insecurity.

Another mechanism, the African Peer Review Mechanism (APRM), which assesses African states' political and economic performance, predicted the post-election violence in Kenya in 2007, but no action was taken to prevent it. There is also the Committee of Intelligence and Security Services in Africa (CISSA), which was established in 2004 to provide intelligence to the AU that can be used to promote security by identifying threats and suggesting possible intervention measures. However, as noted in chapter 5 of this book, CISSA has not been integrated into the African Peace and Security Architecture and the Political Affairs, Peace and Security Department under whose umbrella are the CEWS, and the divisions of defence and security and conflict prevention. These issues raise questions about the AU's political will to utilise the knowledge that it has acquired.

While writing this chapter, different parts of Africa faced threats to peace and security, and most of these threats came from regular military forces.

For example, the military took power in Chad in April 2021 after President Idriss Déby was killed while leading a military offensive against rebels. Four other coups followed: Mali in May 2021, Guinea in September 2021, Sudan in October 2021 and Burkina Faso in January 2022. There has also been unrest and an unsuccessful coup attempt in Niger.

In addition, as highlighted in chapter of 5, security remains unpredictable in other countries, including the Central African Republic, Mozambique and Somalia. At the same time, there has been unrest in Tunisia since July 2021 and a serious civil war in Ethiopia since November 2020, while Uganda intervened militarily in eastern Democratic Republic of Congo (DRC) in December 2021. Without its own 'lessons learnt unit,' the AU approaches these problems as if it is facing them for the first time.

The AU's failure to take decisive measures to restore peace and security stems from several factors: incompetence within the AU Commission, the AU's apparent inability to understand the situation on the ground, the AU's loss of control over its agenda, inadequate financial resources and, most importantly, the AU's unwillingness to use knowledge and STI to design appropriate policies. Unless the AU takes knowledge seriously and seeks advice from security experts who see value in its agenda, it will fail to pursue the goal of finding 'African solutions to African problems.'

Knowledge and the development challenge

STISA-2024 programmes are concerned with the achievement of Agenda 2063, most of which are about development. In addressing Africa's development challenges, mentioned in chapter 10 of this book, STISA-2024 would need to reset its goals and provide milestones against which it can be assessed after 10 and 20 years. Instead of promising to eradicate hunger and ensure food and nutrition security, it should provide projections of what percentage of Africans will be free from hunger. Instead of promising to prevent and control diseases, STISA-2024 needs to say what percentage of Africa's population will benefit from this measure after 10 and 20 years.

Also, instead of promising to facilitate physical communications, STISA-2024 should state exactly how many people will be impacted by this measure in the next 10 and 20 years. And, rather than claim that it

will facilitate wealth creation, STISA-2024 should state how many Africans will emerge out of poverty as a result of this measure in the next 10 and 20 years. Similarly, other mechanisms, such as the PAU, NEPAD and the AfCFTA, need to state how their contributions to addressing Africa's development challenges will be assessed in the next 10 and 20 years.

In *An Agenda for Development*, former UN Secretary-General, Boutros-Ghali, argued that development 'can only succeed if it responds to the needs of the people, and if it articulates these needs into a coherent policy framework.'⁵⁷ In *Development as Freedom*, Amartya Sen argued that freedom was both the basic end and the fundamental means of development.⁵⁸ These two perspectives bring into focus the relationship between knowledge, empowerment and development. In a fundamental sense, development is a process through which human beings are empowered by knowledge to overcome obstacles to their personal, family, community or national progress.

What options does the AU have in the next 10 to 20 years? The first is to make the conditions for research more flexible and attractive by redesigning political and legal mechanisms that are accommodating to all fields including science, technology, engineering, and mathematics (STEM), the social sciences and humanities. It is through such measures that Africa can benefit from a highly skilled and mobile workforce and develop appropriate knowledge economies. These appropriate structures should be able to tackle the need for flexibility in the workforce and reform taxation rules, especially those relating to the importation of equipment associated with knowledge creation.

The second step is to provide a mechanism for integrating STI adequately into development plans. Many African states are interested in the benefits of STI, but some of them are unwilling to integrate them sufficiently into development objectives. This may be blamed partly on the lack of strategic leadership, the shortage of skilled personnel, the nature of governance structures and the reluctance to keep accurate records. Some critics have raised legitimate questions about genetic engineering, which is relatively new and may be fraught with uncertainties. This issue needs to be addressed by the scientific community, including biotechnologists, ethicists and environmental specialists.

The third step is to accelerate STISA-2024's plans to design governance frameworks that take account of both global forces and indigenous contributions. The new governance structures need to reflect as much as possible the progressive values, norms and standards in Africa. As Okolie has argued, Africa's institutions of higher learning and research can help the African people participate in the generation of appropriate knowledge 'by becoming true centres of critical inquiry into knowledges and ways of knowing, including non-hegemonic knowledges and ways of knowing in the West.'⁵⁹

As the 2021 UNESCO Science Report has shown, one of the politico-economic reasons for Africa's fragile capacity in STI stems from the minuscule expenditure on R&D. Indeed, some African universities and training institutes have been mismanaged, starved of research funds and neglected to the extent that they offer few answers to Africa's needs for knowledge.

Due to the lack of funding from national governments, African research centres almost fully rely on foreign donations, making them producers of knowledge that serves the interests of the donors. Without foreign support, African research centres could not survive. However, this situation means that African scientists have to promote the research agenda of those funding them. The AU needs to ensure that in the next 10 to 20 years, these institutes are able to produce knowledge that can serve African needs.

Another reason for Africa's fragility in innovation is said to be the emigration of scientists. There have been reports about a rise in African migration to the developed world, which some people have described as a brain drain, but which I regard as a brain gain.⁶⁰ There is no accurate figure about how many specialists the African continent loses to the developed world per year. Firsing quotes former South African president Thabo Mbeki as claiming in 2016 that Africa was losing 20 000 specialists per year.⁶¹ Most of these are said to be highly trained professionals such as doctors, engineers and other scientists.

The brain drain is said to produce 'brain strain' on development by depriving Africa's economies of their best human resources and through the hiring of expatriates at an estimated cost of US\$5.6 billion a year.⁶² While there could be some truth in this, the 'brain drain' is possible because

of the AU's poor policies. If they designed accommodative policies in the coming 10 to 20 years, they could turn the 'brain drain' into a 'brain gain' by inviting Africans in the diaspora to participate in development. Africans in the diaspora are willing to participate in the development of their countries of birth without losing their status as citizens or permanent residents of their adopted countries.

To address some of the above problems, the AU needs to utilise the PAU and other mechanisms to engage in intensive capacity building. The term 'capacity building' is often used to refer to a range of activities related to learning and acquiring knowledge. For example, the UN Environment Programme has defined capacity building as 'the strengthening and/or development of human resources and institutional capacities. It involves the transfer of know-how, the development of appropriate facilities, and training in sciences related to safety in biotechnology and in the use of risk-assessment and risk-management.'⁶³

One professional area in which the AU needs capacity building urgently is the record-keeping and archiving of official documents. If it sets a particular figure for the archivists it needs in the next 10 to 20 years, it should be achieved. However, it should be noted that proper record-keeping is likely to threaten the power of those who seek to abuse power or avoid responsibility.

One of Africa's priorities in the next 10 to 20 years should be to ensure that high quality research moves out of research centres into government ministries. It is by doing so that Africa can make use of knowledge and STI to effectively address the increasing development challenges.

Conclusions

This chapter has addressed the need for an Africa-centric paradigm in the generation of knowledge. Such a paradigm goes beyond the view that knowledge generated by Africans is necessarily Africa-centric. It urges African researchers to recognise the contributions that Africans have made to the growth of their academic disciplines globally. It also calls for knowledge that recognises the needs, aspirations and hopes of the African people. Above all, it emphasises the desire to pursue knowledge that is consistent with the AU's concept of seeking 'African solutions to African problems.'

While malpractices within the AU might stand in the way of achieving the core AU goals, African researchers should look beyond corrupt officials and do what is good for Africa. In a nutshell, this chapter addresses the need to combine what is best in Africa with what is best in the global village.

The knowledge and STI mechanisms that the AU has established are important and have the potential to produce the desired goods and services. However, this chapter cautions that if these mechanisms are reinterpreted and manipulated by those who fund them, they will fall short of delivering the goal of seeking 'African solutions to African problems.' Seeking foreign funding for African projects is, in itself, neither good nor bad. What matters is how it is utilised to serve the goal of 'African solutions to African problems.'

This chapter has also stressed the need for proper record-keeping. It is these records that show where the AU has failed or succeeded, and why. Moreover, science makes progress largely through the accumulation of facts. An organisation that is interested in using STI to improve its performance has to keep records of its previous performance. It is the archives and records, as well as the lessons learnt, that should guide policy on what to do next. As Vale has claimed: 'sound policy options often follow new understandings.'⁶⁴

Notes

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Chapter 12

Role of women and youth at the AU

Muneinazvo Kujeke, Liezelle Kumalo and Elizabeth Sirengo

Introduction

The transformation of the Organisation of African Unity (OAU) into the African Union (AU) in 2002 prompted high expectations of improvements in the rights of minorities and vulnerable populations in Africa. While the OAU prioritised decolonisation of the continent, it generally paid ephemeral attention to the role and contribution of the African people, particularly women and the youth, to the promotion of human security and the implementation of the African integration project.

Twenty years after its establishment, the achievements that the AU is celebrating could not have been attained without the contributions of African women and youth. During this period, African women and youth not only participated in formulating continental policies but also in their implementation. Women and the youth have become indispensable to the promotion of human security and key stakeholders in the implementation of the AU's Agenda 2063. It is also notable that the AU and its member states are increasingly rolling out policies and programmes targeting women and the youth and including them in the implementation thereof.

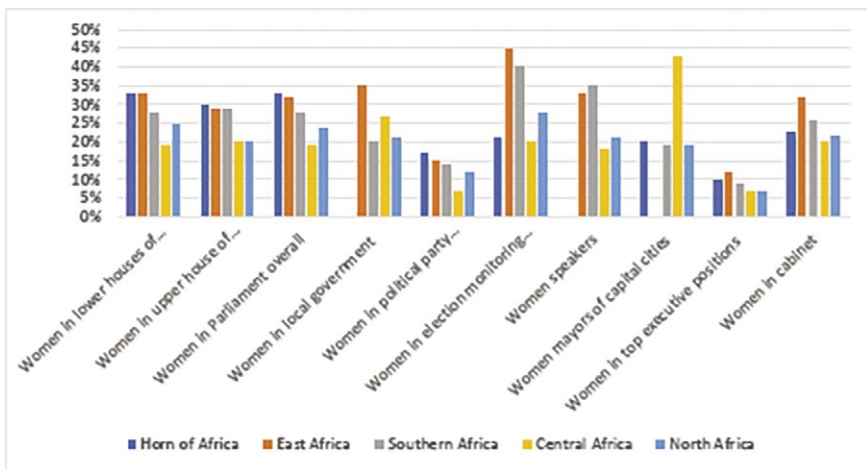
Even though for most of the AU's history, women and the youth were unrepresented or grossly under-represented, particularly in leadership,¹ there has been an overall increase in women involved in politics, leadership and decision making in Africa. The current average for women in parliament in sub-Saharan Africa, for example, is 24.4%, with Rwanda having the highest representation at 53.6%.² The percentage of women serving in national parliaments has improved (see Figure 12.1), with some African countries outperforming their European counterparts.

Further progress has been recorded as a result of the growing demand for gender and age diversity in decision making in both civilian and military populations. Citizens in AU member states are increasingly conscious of the vital role that women and the youth play in development, particularly human security.

This chapter reflects on the mainstreaming of women and the youth in the AU over the past 20 years in the context of the diversity and inclusion imperatives highlighted in the Constitutive Act of the African Union (CAAU). It illustrates that despite significant progress, it is urgent, particularly for human security efforts on the continent, for strategies to exist to cement their inclusion and participation in ongoing and future governance and peace processes.

We also discuss the importance of their roles and contributions to Africa’s post-colonial integration and offer thoughts on the future of these within the ambit of the vision for women and the youth in the CAAU. As a backdrop to the discussion, we present a short reflection on the status of women and the youth in today’s African society. The chapter concludes with recommendations for the next 20 years of planning for the AU’s quest to achieve inclusive human security.

Figure 12.1: Women’s political participation across Africa’s regions in 2021



Source: Data from “International IDEA, 2021”

Challenges faced by Africa's women and youth

Challenges facing women

The AU Peace and Security Council (PSC) reiterated at its 987th meeting 'the imperative of ensuring women involvement and inclusion in peace processes, ... to ensure that women's needs and security are sufficiently addressed and comply with the AU and universal frameworks on human rights and gender equality.'⁴ Notwithstanding this express realisation within African policy circles, African women have to navigate various hurdles in their efforts to contribute to preventing and to managing conflict on the continent.

In relation to political leadership, there is a growing trend of violence against women contesting elections for political positions. A joint study by UN Women and United Nations Development Programme (UNDP) found a growing trend in attempts to humiliate and bully women running for political office in online spaces. This is particularly in terms of 'harassment and aggression in various media,' 'intimidation and sexual and physical violence against women in public life,' 'forcing women leaders to resign,' and unnecessary 'public scrutiny of women candidates' with a tendency to focus on their appearance rather than their capacity to serve in positions.⁵ Such situations have had an impact on the number of women involved in political processes.

Socio-economically, African women are disproportionately affected by poverty.⁶ Currently, 74% of women in sub-Saharan Africa are employed in low-paying jobs, with low job security, and are excluded from policy support programmes.⁷ Compared to two-thirds of African men being employed in the formal sector, it is clear that there is a major gap in efforts to achieve gender equality.⁸ It is estimated that Africa will take 95 years to close the current gender gap.⁹

According to the AU, 'African women, though unable to secure adequate business subsidies, account for 70% of the informal cross border traders.'¹⁰ Efforts to support the greater involvement of women in the economic sector of any country is, thus, a major boost to the overall improvement in the labour force, the national economy and the sources of livelihood of households.

Hunt and Samman maintain that the growth of economies in the world, including many African countries, owes a significant part of their strides to the initiatives targeting an expansion of women's roles in production, trade and entrepreneurship.¹¹ South Africa has one of the most substantive commitments to equality by uniquely blending grounds for exclusion and discrimination, for example, pregnancy, sex, gender and sexual orientation. Morocco made deliberate use of pronouns (she, he, woman and man) to demonstrate that the laws are applicable to all, not just men.

Women in Africa are also the most likely to be killed by an intimate partner or family member compared to other parts of the world.¹² During the COVID-19 pandemic, sexualised violence and femicide rose: Liberia reported a 50% increase in gender-based violence; in Kenya, almost 4 000 schoolgirls became pregnant during the lockdown.¹³ This highlights the fact that most women and girls are unsafe in their own homes. East Africa and Southern Africa have the highest rates of sexual violence against women and girls.¹⁴

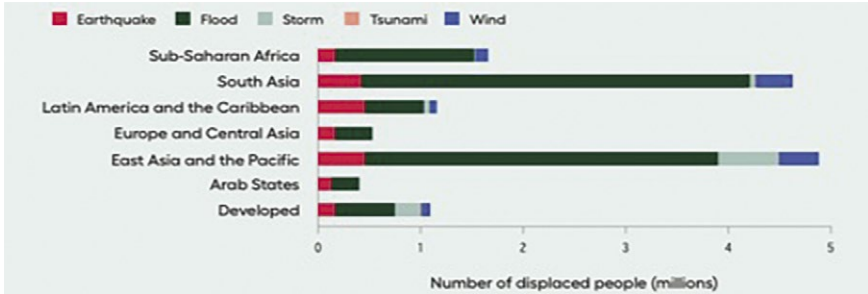
In 2019, Sierra Leone declared a national emergency due to the widespread incidents of rape and sexual assault taking place across the country.¹⁵ The lack of security for women in African countries is significant because violence against women occurs not only in situations of conflict but also in times of peace. The rise in the number of cases of sexual and gender-based violence during the COVID-19 lockdowns is such that several countries, including South Africa, Kenya, Ghana, Nigeria and Cameroon, declared it a national emergency and the scourge became known as the 'shadow-pandemic.'¹⁶

Beyond their homes, women are discriminated against in situations ranging from full-blown conflict to stable democracies. The challenges women face clearly illustrate that despite policy commitments from African governments, the lack of oversight and accountability hampers implementation of policy for improving women's rights. As asserted by Desmidt, Apiko and Saevarsson,¹⁷ gender-based violence continues to be a severe problem due to 'the cultural acceptance of violence against women and the lack of legal protection for women and weak law enforcement.'

At the end of 2019, Africa hosted over 25.7 million forcibly displaced people.¹⁸ An often-neglected aspect of Africa is the humanitarian needs of

women and girls who constitute the most vulnerable people in such contexts. In East Africa, for example, about 52% of displaced people of the almost 12.8 million internally displaced are women.¹⁹ Given the projected number of displaced people expected after 2020 (see Figure 12.2), the situation of such women is expected to worsen in sub-Saharan Africa.

Figure 12.2: Number of expected displaced people after 2020



Source: UNDP²⁰

Challenges facing the youth

The meaning of youth and how society regards them varies across the globe. In the AU Youth Charter, ‘youth’ is defined as those aged between 15 and 35 years.²¹ According to this definition, the AU regards about 65% of Africa’s population as youth. Besides the age definition is a social definition of youth in Africa that takes precedence over others.

From the social perspective, youth is defined as a phase between childhood and adulthood. As much as this phase can be easily associated with bursts of creativity and innovation, in Africa, the discourse also turns to this being the phase that defines uncertainty and immaturity. This definition has been vital in branding young people in many contexts as followers and not leaders in their communities.

The transition from childhood to adulthood also has a crucial gender dimension. Youth, as a status, tends to be more relevant to boys than to girls. It is comparatively more straightforward for girls to establish themselves as adult women when they become wives or mothers. In many African societies, it is socially and culturally acceptable for youth status to be longer for young men than for young women. Additionally, young males are likely to gain much more autonomy and mobility than their female counterparts.

Across Africa, young people are generally regarded as the continent's most valuable capital, as they are the backbone of the workforce and the champions of technological advancement and innovation.²² However, according to Donaldson and Molnar, young people in Africa are highly unsatisfied with their lives. This is attributed to the lack of access to adequate education and employment opportunities.²³ For most youth, the origin of their discontent is two-fold: society has let them down, and they have let society down.

Economic development and political efforts in post-independence sub-Saharan Africa mainstreamed the youth as the hope of economic development and national liberation. Young people as transformation agents in the new Africa were, thus, the target of heavy investment through the education sector.²⁴ When the economic crises of the 1970s and 1980s led to widespread structural reforms, however, Africa's youth were the most affected group of the population.

Under pressure to downsize the public sector, African states could not sustain their focus on the youth. The youth no longer represented a national priority, and the loss of status has been evident in the collapse of several youth-empowering educational institutions since the late 1980s. Despite earlier prioritisation of education, Africa's youth today, according to the AU, despite having more access to primary and, at times, secondary schooling, are falling victim to systems with inadequate numbers of teachers, poor training, the mismatch between curricula and job market demands, and the lack of information and communication technology and other digital tools.²⁵

Connected to the issue of education is the problem of youth unemployment in Africa. According to an African Development Bank report, 10 million to 12 million African youth enter the labour force every year but only three million join the formal job market annually.²⁶ A lot of young men and women, including university graduates, struggle to find paid employment in Africa. There are insufficient opportunities for young people to earn a living and that has become a major barrier to adulthood.

An analysis of International Labour Organization (ILO) statistics points to the fact that the rate of unemployment among young people, aged between 15 to 24, is three times higher than adults.²⁷ For the youth, such levels of unemployment signal a confirmation of their status as a lost generation.

According to ILO statistics, the unemployment rate in Africa has gradually decreased from 10.8% in 2019 to 10.6% in 2021.²⁸ Despite this, however, one in every five African youths is not employed, in education or in training. The majority of the youth in employment are working in informal sectors, while many are underemployed with very low wages.²⁹ If appropriate strategies and policies are not implemented effectively, the African youth bulge, mixed with heavy economic disempowerment, will constitute a major threat to social cohesion and the stability of states.

The AU continues to aspire to reach a demographic dividend. However, this requires getting more youth into productive employment and income-generating activities. Investing in the youth may strengthen meaningful progress achieved recently in mainstreaming the needs of vulnerable populations within the AU's policy frameworks. Investing in Africa's youth entails addressing, systemically and sustainably, the multidimensional challenges posed to youth. This includes, for example, an education system that does not match labour market requirements, poverty, and access to adequate healthcare and housing.

Empowerment of women

There is a noticeable trend towards increased visibility of women and the youth in continental policies and frameworks. This trend has its foundation in the CAAU's preamble which states that the AU is to be guided by 'a partnership between member state governments and all segments of civil society, in particular women, youth.'³⁰ Against this backdrop, efforts have been made at continental, regional and national policy levels to chart a course to empower women and the youth. Key in these are the following major frameworks, their notable provisions and associated efforts to realise their goals in the past two decades of the AU's existence.

Discrimination against women

Appreciation of the central role of women in Africa's development has led to improved attempts to institute frameworks and policies aimed at protecting their rights. Key in these frameworks is the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women

in Africa (the Maputo Protocol). The protocol, which was adopted in 2005, commit African states to combat all forms of discrimination against women.

This is to be achieved through the enactment of appropriate legal instruments and institutional frameworks, among others. National legislative acts and constitutional amendments are required to include issues of gender equality while efforts are also made to correct discrimination against women. Article 10 of the Maputo Protocol provides for women's involvement in the structures and processes aimed at preventing, managing and resolving conflicts. Article 11 calls for protection of women in the application of international humanitarian laws during armed conflicts.

Gender parity in decision making

The 2004 AU Solemn Declaration on Gender Equality in Africa (SDGEA), which promotes gender parity in decision making on the continent, also called on African states to include women in processes to prevent, manage and resolve conflicts as well as in rebuilding societies emerging from violent conflicts.

Gender equality

The 2009 AU Gender Policy reaffirmed Africa's and global commitments on gender equality and women's empowerment. The implementation of this policy is guided by an action plan for member states. The policy includes expectations of commitment from member states towards gender equality and the increased participation of women in peace processes.

To ensure that more women are included in peace processes as required by policy, the AU in 2014 decided to give women more prominent roles in settlement of conflicts. This led to the creation of the Network of African Women in Conflict Prevention and Mediation (FemWise-Africa) in 2018. In 2014 in Malabo, Equatorial Guinea, the AU Heads of State and Government declared 2015 as the year of 'Women Empowerment and Development toward Africa's Agenda 2063,'³¹ while 2017 was declared the year of 'Harnessing the Demographic Dividend through investment in the Youth.'

Both these developments are an indication of the AU commitment to improve the role and status of women and the youth on the continent.

However, this commitment is not matched in member states, many of who lack the political will to streamline women and youth issues in national processes.

The AU Strategy on Gender Equality and Women Empowerment (2018 to 2028)³² is another instrument that attempts to empower women. The strategy contains a plan to realise Aspiration 6 of Agenda 2063, which seeks the attainment of ‘an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth and caring for children.’³³

Additionally, Article 3 of the African Charter on Democracy, Elections and Governance (ACDEG) and Article 9 of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol) recognise the rights of women to participate in political and electoral processes. These provisions reinforce the central role of women in efforts to achieve sustainable development in Africa and the need to improve their social, economic and political status through accountable governance.

Women in peace and security

In recognition of the impact of armed conflicts on women and children, the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol) requires training of peace support personnel in international humanitarian law to particularly emphasise the rights of women and children.³⁴ In assisting societies emerging from violent conflicts, the AU pays special attention ‘to vulnerable persons, including children, the elderly, women and other traumatized groups.’³⁵ Overall, Article 20 of the PSC Protocol encourages ‘women’s organizations ... to participate actively in the efforts aimed at promoting peace, security and stability in Africa.’

There have also been attempts to domesticate global norms empowering women and the youth. The United Nations Security Council (UNSC) Resolution 1235 is considered the blueprint for women, peace and security. This resolution was the first UN resolution aimed at empowering the role of women in contributing to peace and security. It provides for increased involvement in all peace processes, action against gender-based violence, and an end to war crimes and crimes against humanity.

Since its promulgation, the spirit of UNSC Resolution 1325 has informed several national, regional and continental legal instruments.³⁶ National Action Plans for the implementation of the resolution have been developed in about 30 African countries.³⁷ In line with the promotion of the women, peace and security agenda in Africa, the AU also has a continental results framework for monitoring progress.

The implementation of the various policies and UNSC Resolution 1325 in Africa are not sufficiently linked up with various initiatives taking place in parallel. All eight regional economic communities (RECs), however, have developed regional action plans to implement UNSC Resolution 1325. They also have worked towards advancing the equal participation of women in decision making.

While efforts to promote the development of national action plans have led to increased funding for women's organisations, focus is mostly on the development process and the implementation of the national action plans themselves. There is also the risk that funded projects will be dominated by urban and middle-class women rather than the disadvantaged population sub-groups.³⁸

Empowering the youth

Adoption of youth policies

The significance of youth inclusion and participation in peace and security is acknowledged by the AU, its regional economic communities/regional mechanisms (RECs/RMs) and their member states. Africa's regional and continental institutions have since the 1990s worked towards the establishment of appropriate legal and normal frameworks as part of efforts to address the needs of young people in many sectors of development, including peace and security.

Young people have been a policy target by the AU and RECs/RMs via their inclusion in major initiatives such as the 'Silencing the Guns in Africa' initiative, the African Governance Architecture (AGA) Platform, the Youth for Peace Programme, civil society organisations (CSO) engagements under the auspices of the AU Economic, Social and Cultural Council (ECOSOCC), the adoption of the youth-related AU theme of the year in 2017, and the

programme of work for the Youth Division of the AU Commission and the discussion of youth issues at the level of the AU PSC, as happened at its 807th meeting in November 2018.

Mainstreaming youth in the AU system

The AU has developed several policy and institutional frameworks to ensure that the continent benefits from its youth demographic dividend. Key to this is the 2006 African Youth Charter (AYC)³⁹ which aims to protect young people from discrimination and spells out their responsibilities in Africa's development. The adoption of the Charter was an express commitment by the AU to the integration of the youth in all its continental agendas.

The AU adopted the AYC in 2006 to aid in the socio-economic and political development of the continent's youth. The document entered into force in August 2009. At present, 42 member states of the AU have signed the Charter, 38 have ratified, and three have yet to sign and ratify. Youth mainstreaming in AU policies, though weak, has footprints in various normative frameworks that promote human security, some of which came into effect before the adoption of the AYC. These include the CAAU and Agenda 2063.

In a bid to respond to the challenges confronting the youth, the AU, in its Strategic Plan of 2004–2007, outlined steps to bring about youth empowerment and development. The framework paved the way for a more meaningful discourse on the youth and their roles in contributing to Africa's development.

The AU also took a bold step by dedicating 2009–2018 as the decade of youth. The move was an acknowledgement that African youth are a resource that needs to be mobilised, equipped and integrated into Africa's peace and development efforts. The accompanying plan of action is aimed at supporting the development of national and regional plans of action to serve as the framework for the realisation and coordination of regional and continental efforts.⁴⁰

The adoption of the AYC in Banjul, The Gambia, followed by the Decade of African Youth, was furnished with a Decade Plan of Action (DPoA). The DPoA was a framework for multi-sectoral and multidimensional engagements towards achieving the goals and objectives of the AYC.

A notable achievement of the decade was the establishment of the AU Youth Volunteer Corps (AU–YVC) as an African development initiative aimed at facilitating the deployment of African youth volunteers to work in AU member states. According to the AU, the programme’s primary goal is to promote volunteering to deepen the status of young people in Africa as critical participants in delivering Africa’s human development targets and goals. The programme’s concept is in line with the tenets of the AYC and the 2010 decision of AU Head of States and Governments to set up a continental volunteer initiative.

Impact of mainstreaming the youth in AU agenda

At the close of the decade of youth in 2018, significant strides were made towards mainstreaming the youth in the AU’s affairs. A cohort of young people from across the continent were appointed to various leadership positions, including the six Saleema Youth Victorious Ambassadors, five Anti-Corruption Youth Ambassadors and five Youth Ambassadors for Peace.

In November of the same year, AU Commission Chairperson Moussa Faki Mahamat appointed Tunisia’s Aya Chebbi as the AU’s first-ever diplomat to represent youth issues. This appointment highlighted both the policy commitment and empowerment of young people to contribute to the achievement of the goals of Agenda 2063. The two-year term of the first envoy saw the establishment of new institutional infrastructure on youth including the Office of the Youth Envoy, and the Youth Division in the Women, Gender and Youth Directorate at the AU Commission.

In April 2019, at the second Pan-African Youth Forum held at the AU Commission Headquarters in Addis Ababa, Moussa Faki Mahamat launched the ‘One Million by 2021 Initiative’ to encourage investment in entrepreneurship, employment, education and engagement (the four Es). The initiative aimed to encourage AU member states, the private sector and development partners to create one million new opportunities for young people on the continent and in the diaspora in the areas of education, job creation, entrepreneurship and engagement.

Outside of the AU Commission, other AU organs have also recorded progress in youth empowerment. The African Peer Review Mechanism (APRM) established the APRM Youth Network in 2019. The network, which

comprises young governance and development experts from across the continent, operates to popularise the secretariat's work, mainly through its voluntary reviews with the youth population. Also, the AU Development Agency–NEPAD embarked on a skills development initiative that has been ongoing since the decade of youth.

At the level of RECs/RMs, efforts have led to policies and programmes on youth development particularly in the area of peace and security. All eight RECs have explored various ways to include the youth in their programming. RECs such as the Intergovernmental Authority on Development (IGAD) have partnered with the AU Commission and youth-led CSOs to develop a regional youth strategy. The partnership between the AU and its RECs/RMs is crucial for youth development and has catapulted thematic areas such as youth, peace and security. For instance, the AU Commission's collaboration with the Common Market for East and Southern Africa (COMESA) has enhanced intergenerational dialogues between policymakers and young men and women in the field of security.

During the AU decade of youth, the United UNSC pushed the youth, peace and security agenda to the forefront of global security debates when it unanimously adopted UNSC Resolution 2250 on 9 December 2015. Resolution 2250 recognises the role of young people in maintaining and promoting international peace and security and identifies participation, protection, prevention, partnerships, and disengagement and reintegration as key areas of action. This landmark resolution urges member states to give the youth a voice in decision making at all levels and to consider setting up mechanisms to enhance the meaningful participation of the youth in peace processes.

This resolution was soon followed by UNSC Resolution 2419 of 2018 as the second resolution by the Council on Youth, Peace and Security. The resolution urges stakeholders to consider young people's views and facilitate their equal and full participation in peace and decision-making processes at all levels.

In July 2020, the PSC also unanimously adopted UNSC Resolution 2535, which calls on all relevant actors to consider ways to include the youth in efforts to prevent, manage and resolve conflicts. Generally, as illustrated in Table 12.1 below, the AU has adopted several legal

instruments, policies, programmes and initiatives relating to peace and security in which young people have featured.

Table 12.1: Continental frameworks on youth

- AU Constitutive Act (2000)
- African Youth Charter (2006)
- AU Youth Division Programs
- Silencing the Guns in Africa by 2020 Initiative
- AU's Engagement with Civil Society
- AU Theme on Youth (2017)
- African Governance Architecture (AGA) Platform
- Youth for Peace (Y4P) Africa Programme
- Interfaith Dialogue on Violent Extremism
- African Union Youth Envoy Action Plan 2019/2020
- One Million by 2021 Initiative

Source: Continental Framework on Youth Peace and Security (2020)

Since the establishment of the Youth 4 Peace (Y4P) Africa programme in September 2018, youth issues have frequently featured in PSC discussions. Particularly notable is the adoption of November as the AU PSC youth month. The programme was launched to achieve the goals of Aspiration 4 and Aspiration 6 of Agenda 2063 and the 'Silencing the Guns in Africa' initiative. It now engages organised groups in promoting peace and security across all five geographical regions of the continent and the diaspora. In essence, Y4P Africa is attempting to fulfil the aspirations of Article 17 of the AYC and UNSC Resolutions 2250, 2419 and 2535.⁴¹

Critical decisions on youth, peace and security by the AU PSC have included the call for the AU Commission through the Y4P programme to appoint five regional African Youth Peace Ambassadors to work with the AU Youth Envoy and RECs, to launch of the Continental Framework on Youth Peace and Security, and to conduct a study on the roles and contributions of the youth to peace and security in Africa.

The AU continental framework on youth, peace and security solidifies youth, peace and security as an urgent policy matter in the AU. It acts as a roadmap for collaboration between the AU, its RECs/RMs, member state governments and the youth. It is anchored on Article 11 and Article 17 of the AYC and the UNSC Resolution 2250 of December 2015. The framework proposes the enhanced understanding of the grievances of young

peacebuilders while proposing five priorities for all of the aforementioned stakeholders.

Through its first 10-year action plan, the sensitisation of policy-/decision-makers and the youth is prioritised along with the urgent need to develop national action plans in an inclusive manner. It is expected that the framework, through its 10-year action plan, will guide the development of continental and regional strategic plans but, most importantly, the development and implementation of national action plans on YPS.

Areas for improvement

Despite the positive achievements and the strides made in the inclusion of women and the youth in decision making and in frameworks, concerns over their marginalisation and invisibility remain. Addressing this requires the implementation of measures and mechanisms that are capable of robustly responding to existing gaps and sustaining progress made. There is also the need for fully committed visionary leadership capable of intentional actions towards making gains in the inclusion of youth and women in all aspects.

It is not just about the numbers that attention should be paid to but also institutional practices and norms, especially in the current changing political, social, economic and technological spheres. A lot is being done but more needs to be done to anticipate the changing dynamics and realities of women and the youth in Africa to cushion them from emerging vulnerabilities.

Women

Although African women are involved in peacemaking, efforts to fully integrate and benefit fully from their inclusion are still behind. Despite the efforts, only 8% of negotiators, 5% of witnesses and signatories of peace agreements, and 2% of mediators were women between 1990 and 2017.⁴² This is despite ample evidence suggesting the need to increase the involvement of women. Agreements are 35% more likely to last more at least 15 years⁴³ and roughly 65% less likely to fail when women are involved.⁴⁴

There is evidence to suggest that agreements with female signatories have more provisions for political, economic and social reform. The

involvement of women is, thus, a major panacea to the over militarisation of peace agreements. The emerging focus in Africa is also mobilising women outside of peace processes instead of including them within formal peace processes.⁴⁵

Promoting the meaningful participation of women in peace processes requires a broader understanding of the largely untapped potential of women in decision making. Women in conflict situations are often viewed through a series of stereotypes. One such view casts women as victims, and therefore as vulnerable individuals needing protection; another view presents women as natural-born peacemakers, assumed to be more conflict-averse and caring than men. Women assume a variety of roles both during and after conflicts, from caring for the wounded and performing domestic chores to less traditional ones like engaging in combat, participating in activism and advocacy, and taking on new economic roles.

Youth

The AU needs to harness the potential of its RECs and member states in making the next 20 years productive for the youth and women on the continent. First, 16 years after the adoption of the African Youth Charter (AYC), the AU needs to make sure enough attention is paid to making progress in the implementation of the youth agenda. There is the need to work with national level actions to achieve youth inclusion in leadership and decision making.

To increase continental commitment towards the youth agenda, there is a need to homogenise the role and placement of young leaders in the AU system. This can be achieved through establishing a well-designed and operative internal structure. As previously discussed, in the last five years, the AU Commission has reinforced and established numerous high-level positions for young Africans aged between 15 and 35. These have ranged from ambassadorships to advisory roles.

Since 2018, in addition to the appointment of an envoy, an advisory council and ambassadorial positions have indeed been created. It is commendable that young leaders such as Anti-Corruption Youth Ambassadors and AU Youth Ambassadors for Peace were selected at the recommendation of the AU Advisory Board on Corruption and through the PSC, respectively, to act as links to the youth population. This gave young

people a seat at the decision-making table. The impetus created by having such young leaders championing the values of the AU should be strengthened as the AU continues to roll out its reforms. If not, it will be easy to view young leaders at the AU Commission as individuals serving a ceremonial rather than a functional purpose.

At an institutional level, as Nsongurua Udombana points out in chapter 4, the co-ordination framework needs to be improved. In this regard, the AU Commission needs mechanisms to ensure a clear delineation of oversight roles, responsibilities and accountability. Description of internal structures must address where the responsibility for oversight of youth leadership lies.

To date, different departments of the AU Commission, including the Office of the Chairperson, seem to run individual youth-related initiatives. They nominate and recruit young leaders to boost the impact of ongoing long- and short-term programmes. If this is to be maintained, the structure must also define how all the different youth-focused undertakings fit together and how they will be coordinated and synchronised as a single youth strategy. For example, youth ambassadors for anti-corruption and those of peace and security should be able to regularly harmonise their work.

A litmus test for the AU commitment to the youth agenda is the allocation of human and financial resources to maintain and sustain the agenda. Essentially, mandates for young leaders should be pre-furnished with earmarked human and financial resources. In 2018, the first envoy of youth commenced her duties with no physical office or dedicated funding. The first 12 months of her two-year term were spent assembling a staff, including those not based in Ethiopia's capital. She had to delve into a rigorous fundraising campaign that resulted in her office budget going from US\$0 to +US\$500 000 by the end of 2020.

It is also important to have some individuals in the AU Commission solely devoted to youth leadership structures, working within a designated unit that focuses on co-ordination between departments and capacity building. This ensures a visible organisational location for youth leaders.

The Charter calls for the adoption of national youth policies and the creation of national youth councils that complement the work of government ministries on youth. Though national youth policies are a key tool for the implementation of youth policies, not all AU member states have

kept these documents up to date and functioning. This is most common in fragile countries like the Central African Republic and Libya. Some member states like Tunisia have not created a national youth council at all. This is a weakness on the part of member state governments that the AU and its organs are failing to address.

Noticeably, in 2018, the AU Commission renounced the Khartoum-based Pan-African Youth Union (PYU), an umbrella body for Africa's national youth councils, following allegations of electoral fraud during the annual congress of the PYU.⁴⁶ This has interrupted their communication and collaborations with youth-led civil societies across the continent. This remains a missed opportunity for the young leadership to promote the youth agenda.

Going forward, it is in the AU's best interests to adopt a reformist approach to save its youth agenda. The AU Commission, youth ministries, national youth policies as well as CSOs should map out actions to coordinate youth leadership to reflect their voices at all levels.

Conclusion

In this chapter, we explored the major opportunities and challenges that are likely to influence the achievement of the AU aspiration to enhance the inclusion of women and the youth in decision making considering the impact of these developments on human security on the continent. We argued that the AU's policy frameworks have significantly increased the discourse on inclusion and participation over the past two decades because the AU, with significant support from African civil society and other stakeholders, has invested in establishing and developing a roadmap for the visibility of these vulnerable groups. As a result of this investment, Africa is now on a path to having a youthful and gender-sensitive continental governance system.

Although facing similar marginalisation and discriminatory practices, the experiences of the youth and women slightly differ. The biggest challenge facing the youth is the lack of employment opportunities, while the obstacles to the inclusion of women include restrictive laws, discriminatory cultural practices, institutional barriers and disproportionate access to quality education. Thus, the approaches to mitigating these challenges

should be tailor-made to the specific needs of women and the youth, separately.

When the AU was designed and established, it had little experience of empowering women and the youth. Over the last decade, the AU has established various legal and policy frameworks and supported those of its RECs. In addition to contributing technical expertise for member states, the establishment of the AU Peace Fund will likely boost its efforts. The fund has the potential to support programming that will boost grassroots initiatives by women and youth groups across the continent to create peaceful communities.

The AU will also have to critically reflect on what it means by 'participation.' Does the AU want women and the youth to merely have seats at various peace and security discussions, or does it want their active and meaningful engagement? This question can be answered by ensuring that AU reporting instruments include sections that monitor and assess gender and youth issues. For instance, the annual reports such as the one on the implementation of the AU's Post-Conflict Reconstruction and Development Strategic policy should give adequate attention to youth's and women's issues.⁴⁷

The AU will have to establish accountability mechanisms to ensure that women and youth empowerment strategies are implemented by member states. The AU could, like the UN's Convention on the Elimination of All Forms of Discrimination against Women, require that member states provide periodic country reports on women and youth empowerment strategies through a central online portal. The Convention's portal provides guidelines on reporting as well as recommendations for implementation. A similar approach would also ensure that more data is provided on the challenges bedeviling women and the youth in Africa.

The increased capacity and willingness of the AU to play a greater role in women and youth empowerment is seen as a positive development that opens the door to the possibility of faster and more effective policy implementation in its member states. However, the AU, its member states and RECs still face several challenges in mainstreaming women and youth in decision-making. As recommended by Désiré Assogbavi in chapter 15, the AU needs to refine its civilian engagements, especially those with youth- and women-led CSOs to better address these kinds of challenges.

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Chapter 13

The AU as global actor

Paul-Henri Bischoff

Introduction

Over the last two decades, the African Union (AU) has grappled with several global challenges affecting Africa. The continental body has increasingly become more recognisable on the global stage than its predecessor, the Organisation of African Unity (OAU). This is because the AU is made up of a set of institutions and legal instruments founded on a broad set of strategic goals that have enabled it to articulate Africa's needs in the global arena. This has also allowed the AU to pursue a more uniform approach to Africa's relations with the rest of the world.

Global recognition of African agency on the international stage has, consequently, emerged from the projection of Africa's normative actions, collective identity and defence of common positions informed by continental interests and global realities. A fragmenting contemporary international order, however, suggests that the AU is likely to increase its global presence. While doing that, Africa is expected to gain more influence in international politics.

Notwithstanding notable achievements, major holdbacks to the AU's actions and the full realisation of its potential as a global actor include a challenge in consensus building within African multilateral platforms due to differences in norms and values around topical issues, among Member States. A fragmenting contemporary international order, however, suggests that the AU, alongside other regions of the world, needs greater cohesion to respond to the ongoing demands for a greater global presence.

This chapter questions how the AU has established its relevance globally, the key areas around which its actions have centred and the challenges to the full realisation of its potential on the global stage. It argues that if the AU wishes to have a greater global influence, it needs to build a more coherent, representative, results-based and innovative multilateral

order to be able to represent Africa on the global arena. The promise of the AU becoming even more relevant in the world lies in it achieving a transformative kind of multilateralism or ‘complex multilateralism’.

Such multilateralism is one that accommodates non-state public actors and draws them into partnerships to achieve substantive policy innovation. This implies that member states allow the AU as an organisation greater autonomy in crafting and negotiating common proposals. For this to happen, as highlighted in chapter 15 of this book, AU institutions that represent Africa’s citizenry and civil society must obtain greater decision-making powers and the space to function as an active norm entrepreneur capable of initiating wide-ranging policy dialogue, helping to effect palpable change. Further, the AU, with the regional economic communities (RECs), must show that they can effectively implement the commitments they have made since 2002 to attract and keep strategic partners needed to achieve its overarching goals.

The chapter is organised into six sections. Section one identifies the imperatives for the AU’s global actions in the context of prevailing realities and the demands of the international order. This is followed by a thorough discussion, divided into four sections, about the inherent dynamics, achievements and challenges to the AU’s projection of relevance. Before concluding, the chapter analyses how, in pursuit of Africa’s interests, the AU defends Africa’s common position in relation to the world, acting as a norm entrepreneur on the global stage and furthering the global public good.

Imperatives and approaches for the AU’s global actions

The origins of the AU, as highlighted in chapters 1, 6 and 7 of this book, lie in the decades preceding its founding in 2002. During this time, domestic and external events that could not be ignored made it apparent that the AU’s predecessor, the OAU founded in 1963, was no longer fit for purpose. Internally, the struggle against colonialism and apartheid, which had sustained Pan-African unity under the OAU was about to end. The continent’s struggles from the effects of the economic conditionalities imposed by the Bretton Wood Institutions on indebted African states,

faltering economies and popular demand for democratic accountability accompanied emergent endemic conflicts that began to affect whole regions. Consequently, Africa remained the only continent with an overall increase in poverty among its people.¹

Externally, with the end of bipolarity and the Cold War in 1990, Africa lost its global strategic value in the new configuration that greeted the world order. The global preoccupation with greater globalisation and regionalism issues, the unfettered rise of market forces and rapid technological advances found the continent at the bottom of the global agenda in a global hierarchy of actors. The integration of the post-Communist world into a world order led by a unipolar United States (US) and the incapacity of the UN to ensure peace and security in Africa also played a part.²

There was, thus, a collective African need to respond and help shape both a new regional and world order and to manage its numerous challenges. At the 26th Session of the OAU in 1990, African heads of state reflected on the urgent need for Africa to collectively respond to the prevailing imperatives and to take advantage of momentous changes in the world. This was to enable Africa to face off the challenges posed by globalisation as there was a need for a 'unique framework' to guide Africa's 'collective action in Africa and in ... relations with the rest of the world.'³

In this, the OAU, meant to uphold stability and unity and to advance Africa's welfare in the world, was found wanting. It also lacked the capacity to reposition itself towards delivering on those goals. The statist nature of the OAU, described by Basil Davidson as an expression of 'a narrow, negative and artificial form of postcolonial nationalism',⁴ was no longer as relevant. This was because anti-colonialism efforts had diminished and the challenges had morphed into other forms. In the search for options, it was evident that focus on regionalism with its attendant economic, security, political and social dimensions to integration were the major drivers of Pan-African unity and solidarity.

The idea of a formal integration under a new, broader participative continental organisation with which Africans would easily identify and support emerged. In a seminal speech by Thabo Mbeki in 1997, he predicted the rebirth of Africa in the 21st century in what was to become the plea for an 'African Renaissance.'⁵

A fraught process of what shape the new organisation should take (South Africa and Nigeria ended in competition with Libya on this) resulted in the Constitutive Act of the AU (CAAU) in 2002. While the AU retained features of the OAU, it marked the endeavour to take a broader view, promote self-reliance and dissipate external prescriptiveness on the content and shape of African development. Moreover, according to the Preamble and Article 3(d) of the CAAU, the new organisation was meant to become a global actor to represent Africa's interests and to help shape global governance and thinking.

In pursuit of the latter and driven by the domestic and external context within which it was birthed, the AU has acted variously in its relations with the world to pursue the fulfilment of Africa's goals. It has also asserted Africa's common position on major issues, the projection of African norms on the global stage and contributed to the attainment of global public good. The subsequent sections discuss the forms and dynamics of the AU's actions and the lessons learnt in establishing the organisation as a global actor.

Acting in pursuit of continental goals

The AU is the formal continental representative of 55 states encompassing 1.26 billion Africans. The goals of the AU are to extract benefits from existing treaties and obligations, to develop relations with foreign governments and international organisations, to forge partnerships and to respond to international situations capable of affecting the continent. These goals have shaped the formation of many continental initiatives aimed at promoting economic development on the continent such as the Agenda 2063 and the notion of 'African solutions to African problems.'

Accordingly, for the AU to enhance Africa's human security, as stipulated in Article 3(n) of the CAAU, it has to use a multilateral approach and 'establish the necessary conditions that enable the continent to play its rightful role in the global economy and in international negotiations (Article 3(i)) of CAAU.' This helps to strengthen the position of otherwise weak actors and is, thus, preferable to bilateralism. Within this context and in an attempt to move away from donor-recipient relations under a dated North-South rubric, the AU has responded positively to invitations

for various forms of partnerships. Key among those are the partnerships and relations with the European Union (EU) and China.

Partnership with EU

While the EU had identified the OAU as a regional organisation important for a more orderly world, converging trade and aid relations allowed its successor, the AU, to be designated its strategic partner. AU–EU relations since 2000 centred around economic and security matters discussed through the use of summit diplomatic platforms, held every three years. AU–EU summits have been held in 2001, 2007, 2010, 2014, 2017 and 2022.

The attempt to foster an intercontinental relationship between the two partners, however, has always been a European-led process.⁶ Following the establishment of the AU, for instance, the EU was the first to formulate a strategy for Africa in 2005. The strategy subsequently led to an institutionalised relationship with the AU at the Lisbon summit in 2007 and gave rise to the first Action Plan to implement a strategic EU–AU plan.⁷ Such unilateral moves by the EU and the AU’s concomitant struggles with the generation of consensus on particular issues among member states, have created multiple challenges and hampered the building of a partnership from which Africa can reach its goals.⁸

African relations with European states are often tainted by African sensitivities around perceptions of imperial overhang, paternalism or neo-colonial machinations. As such, what overshadows AU–EU summits have been disputes such as whether former presidents Mugabe of Zimbabwe or al-Bashir of Sudan could attend respective summits.

From the point of the AU, the EU’s partnership with the AU needs to become more credible.⁹ Currently, EU unilateralism and the lack of a common AU position complicate the building of a symmetric partnership. The EU’s Economic Partnership Agreements (EPAs), for example, are held to have disrupted the AU’s own regional integration efforts.¹⁰ In 2014, this matter, together with the dispute over the International Criminal Court (ICC), brought about a tension-filled AU–EU Summit.¹¹ President Macron himself, has also called for a complete overhaul of the relationship since the present arrangement is bureaucratised and “tired”. In the event, the 2022 summit remained declaratory.¹²

The AU also finds itself challenged by its inability to present a united front on key issues vis-à-vis the EU. This is because often a common consensus based on mediation, intra-African political dialogue and strong relations with the RECs is not to be found.¹³

On security, as pointed out above, relations with the EU have been less fraught with challenges than on the political front. Nonetheless, in 2005 the EU formulated a security strategy targeting Africa on the assumption that by capacitating the African Peace and Security Architecture (APSA), both parties shared a strategic interest in addressing emerging transnational security threats. APSA, which is highlighted in chapter 5 of this book, is the axis around which the implementation of the EU–AU security framework turns. But the EU’s recent move to end channelling funds through the AU’s African Peace Fund and rather to directly fund EU military missions re-establishes asymmetry and diminishes the AU in its partnership with the EU.¹⁴

For the AU–EU partnership to develop, ‘any security cooperation between these two multilateral actors should be able to take cognizance of the socio-cultural mix of the two continents, the nature, and dynamics of conflicts facing the two continents.’¹⁵ Europe (and the West in general) needs to become more open to African-led and nuanced suggestions on what African voices on the ground need and demand.¹⁶

Relations with China

Similar to its relations with the EU, the AU’s relations with China mirror a relationship of dependence accompanied by rhetoric.¹⁷ But then, unlike with Europe, the historical memory of relations with China are far more positive. There is a common history of both having been subject to imperialist-induced humiliation. Additionally, China provided political and military support for national liberation and Africa’s economic freedom (exemplified by China’s generous loans in the 1960s and the building of the Tanzania Zambia Railway Authority (TAZARA) railway line. In the 1970s, China’s startling success at modernising, becoming the world’s second largest economy and a considerable economic player on the continent, positively colours the relationship with Africa.

Massive and escalating demand for African commodities and resources starting in the 2000s boosted African incomes and made a real difference

to the fortunes of the African middle class. China's commitment to funding African infrastructure, long neglected by Western donors, cemented by Western swipes at China's presence, have helped put the relationship on a sustainable footing.

Initially, there were concerns about the structure of Africa's relationship with China. China did not regard the AU as a partner to engage with. It rhetorically supported but largely skirted channelling investment through the New Partnership for Africa's Development (NEPAD) – the AU's own initial investment gateway.¹⁸ Instead, the establishment of the Forum on China–Africa Cooperation (FOCAC) in 2000 meant having a separate regular summit platform in which China, mostly bilaterally, negotiated with FOCAC member states on aid and investment.

The AU's dialogue with China began in 2008. China's construction of the AU headquarters in 2012 and provision of new Chinese financial support followed. At this time, the AU became a full member of FOCAC in 2012. China set up a permanent mission to the AU in 2015 while the AU had its own ambassador to Beijing by 2018.

With the AU a member of FOCAC, the hope was that the AU would be able to negotiate on behalf of its members instead of the 50-odd members bilaterally talking to China. This was in order to prevent only the most powerful African members from managing to substantively negotiate with China. However, a common African strategy continues to be undermined by bilateral relations setting the tone. For instance, eSwatini not being recognised by the Peoples' Republic of China (PRC) and the dispute over the status of the Sahrawi Democratic Republic within the AU weakens the AU in that it cannot be seen representing all its members when dealing with China and others, abroad. Moreover, the African co-chair at FOCAC summits has difficulty coordinating 50 countries' positions.¹⁹

The continued emphasis on bilateral relations therefore bears risks of China cherry picking investment opportunities and individual countries overextending themselves and becoming indebted to China.²⁰

New structures after 2015, such as the AU–China strategic dialogue mechanism and other initiatives, strengthen regional options and offer starting points for the AU to coordinate the various African interests. The AU has China incorporate elements of Agenda 2063 into its sixth FOCAC Action Plan.²¹ However, Chinese initiative does not intend to build supranationalism

and give the new mechanisms decision-making powers for the AU.²² China's African policy focuses on bilateral industrialisation and agriculture projects and is not committed to any Pan-African vision. There is little engagement with the AU's concern for regional infrastructure development.²³

In all of this, African engagements and partnerships remain a response to a radically unequal global power hierarchy.²⁴ The challenge is to make nominal partnerships work substantively. To address this, President Kagame, as chair of the AU, in 2017 proposed a common continental approach to international partnerships.²⁵ In the face of deep asymmetries in the projection of wealth and power between developed regions and Africa, there is a clear attempt within Africa to move away from donor–recipient relations. The truth is that it is simply difficult to achieve equivalence. However, partnerships at the very least do imply consent and buy-in from African actors.²⁶

Defending common African positions

The AU's Constitutive Act tasks the AU with defending the sovereignty, territorial integrity and independence of its member states, promoting and defending the interests of the continent and encouraging international cooperation, among others.²⁷ Against this backdrop, the AU then credibly acts on behalf of Africa when it interacts with the rest of the world in the areas of its remit. The chair of the AU and its various representatives interact with the world in Africa's interests or raise its collective voice in a number of areas of global governance by challenging established hegemonial behaviours of external forces.²⁸

Global governance: reform of the UN Security Council

Even when issues of peace and security affecting Africa have taken up much of the business of the UN Security Council (UNSC), Africa is not permanently represented at the level of the UNSC. In line with international efforts aimed at broadening the representativeness of the UN body, AU members produced a common African position (CAP), the Ezulwini Consensus, in 2005.²⁹

In calling for UN reform, the AU's Ezulwini Consensus held that the UNSC should be a guarantor of broader notions of security. A reconstituted UNSC should thus uphold 'Freedom from want, freedom from fear and

freedom to live in dignity,' and, as such, be more than a responder and enforcer of international peace and security.³⁰ Nigeria, South Africa and Egypt were the three main contenders for a permanent seat, with Senegal, Kenya and Algeria also interested. An AU summit in August 2009 failed to reach a compromise with Germany, Japan, Brazil and India, the so-called G4 countries (similarly contenders for permanent seats on the UNSC). This was after they had proposed the AU forego the veto for new permanent members and any fifth non-permanent seat.

The African proposal failed because of African divisions on the matter. States intent on stopping South Africa and Nigeria becoming permanent members of the UNSC insisted on the original Ezulwini Consensus position and thus put paid to the joint AU–G4 compromise proposal.³¹ Africa was the only continental bloc to endorse a unified position on UNSC reform and this CAP is considered an achievement in unifying the continent. However, it was declaratory and unsuccessful, an 'unrealistic obsession with unity and cohesion'³² signifying the failure of African politics and diplomacy at regional and global levels.

Climate governance

Africa is the continent most vulnerable to climate change but the least responsible for causing it. This gives it a strong moral position in global climate change diplomacy.³³ The AU needs to have outside players brought to the point where they recognise and incorporate African plans for the integration of the continent. Internally, the AU records several advances in garnering regional support for a common position on the global response needed to mitigate the effects of climate change on African development. It has successfully done this by generating an effective narrative that talks to equality, transparency and greater inclusiveness in global governance when Africa was poorly represented in the processes of the Intergovernmental Panel on Climate Change.³⁴

The creation of the Committee of African Heads of State and Government on Climate Change (CAHOSCC) was aimed at federating Africa's voice in international climate negotiations by crafting a common political outlook in line with Pan-Africanism. Under the aegis of the AU, CAHOSCC assisted the African Ministerial Conference on the Environment (AMCEN). Out of this process came the Nairobi Declaration on the African Process for Combating Climate Change and the Algiers Declaration on Climate Change. These

declarations enabled Africa to speak with one voice at COP 15³⁵ and solidified the African voice, something that had begun in 2006 when Africa had first taken its own stance, separate from that of the G77.³⁶

By the time of COP 15, the Copenhagen Climate Conference in 2009, the continent was sufficiently advanced on agreeing to have one negotiator and spokesperson, Prime Minister Meles Zenawi of Ethiopia. Despite criticisms and opposition to the compromises Zenawi agreed to, the AU exceptionally accepted his proposals. The Africa Group was recognisable for having a strong moral case. It made use of its large numbers within the UN Framework Convention on Climate Change (UNFCCC) to push for positionality and having the leaders of South Africa and Ethiopia assume prominent diplomatic roles.³⁷

Importantly therefore, Africa was able to have key demands such as obtaining financial compensation for climate change, setting emission and temperature targets, and establishing an African climate change fund, globally accepted. Nevertheless, there were also deep splits within Africa, with South Africa, for instance, hiving itself off in a coalition with Brazil, China, India and the US.³⁸ But African unity and African agency on climate change was carried forward when Africa's hosted COP 17 in Durban in 2011.³⁹

Institutionally, the AU continued to strengthen itself on a climate change response. In 2014, the AU went on to create the African Risk Capacity (ARC), a specialised agency to complement existing multi-level disaster reduction capacities and the African Adaptation Initiative (AAI) to function alongside the African Group of Climate Negotiators (AGCN).⁴⁰ Many AU members lack policy and institutional frameworks to address the damages arising from climate change. Thus, the AU, through CAHOSCC and AMCEN, needs to design common policies to articulate to the world about the responsibilities the developed world needs to assume for the loss and damages on the continent incurred through climate change.

Africa's efforts in this regard, alongside those of others, allowed for the inclusion of Article 8 at COP 21 in the Paris agreement of 2015,⁴¹ which gave recognition for Africa's global case for redress. Overall, the global deal struck in Paris indicated that global responsibility had to consider sustainability issues for vulnerable countries, like those in Africa. Here, the financial support to Africa to date remains a key point of negotiation for the African Group of negotiators.⁴²

Challenging global governance: the International Criminal Court

When the International Criminal Court (ICC) indicted and issued an arrest warrant for former president of Sudan Omar al-Bashir in 2009, the AU opposed the ICC on the grounds that its actions undermined the sovereignty of African states.⁴³ The chair of the AU, Jean Ping, characterised the actions by the ICC as a form of judicial imperialism aiming to ‘civilise Africa.’⁴⁴ Apart from former President al-Bashir, former President Uhuru Kenyatta of Kenya was separately indicted by the ICC. Both presidents managed to enrol members of the AU and politicise the ICC’s interventions. Thus, it became a Pan-African issue⁴⁵ when the AU was instrumentalised to protect African leaders accused of international crimes.

Given a critical mass of members’ active support, the AU undertook several steps. The AU Peace and Security Council (AU PSC) asked the UNSC to defer the warrant of arrest. An African high-level panel was constituted to generate a CAP. The 2009 AU Summit, despite divided opinion, dismissed the warrant and in 2012 openly condemned the ICC and opposed any further actions by the body. The AU asked its member states not to cooperate with the ICC and sought an advisory opinion from the International Court of Justice (ICJ) regarding the principle of immunity for heads of states.

In a challenge to global governance, the AU launched a campaign to neutralise the ICC’s jurisdiction on African matters by regionalising the prosecution of war crimes and crimes against humanity. Ways were sought in which the African Court of Justice and Human Rights (African Court) could be reconstructed to serve as a practical alternative to the ICC and empowered to try serious international crimes itself.⁴⁶

The AU proposed to expand the mandate of the African Court to circumvent future interventions by the ICC. It was a call to regionalise prosecutions of those who committed war crimes or crimes against humanity and amounted to a call for Pan-African self-reliance.⁴⁷ At the same time, these actions indicated an expression of discontent with the lack of UN reform as proposed by the AU in 2005. Additionally, the AU considered the continued pervasive influence of the permanent members of the UNSC, especially those of the US, the UK and France, regarding the workings of the ICC as it affected the continent.

This stand-off with the ICC demonstrated the strength of the AU when promoting interests of the members of the Assembly through various actions. For instance, in 2014 the AU adopted the Malabo Protocol, which extended international criminal jurisdiction to the proposed African Court. The crimes covered by the Rome Statute – genocide, war crimes, crimes against humanity and the crime of aggression – were to be dealt with by the African Court. This makes it the first regional court with international criminal jurisdiction.

While this was a demonstration of independent African agency, there was also the view that the protocol was simply the outcome of a political tug of war aimed at ‘further delegitimising the ICC.’⁴⁸ It also suggested perpetuating impunity. The Malabo Protocol contains a controversial provision (Article 46(A)(bis)) that grants African leaders and ‘other senior state officials based on their functions, during their tenure of office immunity from prosecution.’⁴⁹ Such an exclusion palpably weakens any attempt to use the African Court in the pursuit of accountability.

For some, with African states constituting nearly a third of the ICC’s membership, the AU could have done more within the ICC to seek the accommodation of African interests. This could have been achieved while pursuing ‘positive complementarity’ – a nuanced approach in the fight against impunity.⁵⁰ Amidst the politics surrounding the Malabo Protocol, divisions on the matter have meant that a common position on the issue has remained inconclusive. Since its adoption, the Malabo Protocol has been signed by a mere 15 of the AU’s 55 members; hence it is short of the ratification threshold.

COVID-19 and health diplomacy

The COVID-19 pandemic in 2020, as pointed out in chapter 9 of this book, provided the AU with an opportunity to rally the continent and project a common approach to a global issue with far-reaching repercussions to Africa. Under its chair, President Cyril Ramaphosa, the AU, working with international partners, coordinated Africa’s response efforts. Through its Africa Centres for Disease Control and Prevention (CDC), the AU engaged in pandemic diplomacy that ensured Africa did not unnecessarily suffer from the adverse effects of Coronavirus.⁵¹

With a financial fallout from the pandemic beckoning for African states, the AU sought external financial assistance to alleviate the economic

burden falling on member states. As such, a meeting of AU heads of state caucused before Ramaphosa met with G20 leaders asking for debt relief and emergency funding. The AU Chair appointed several eminent African former ministers of finance as AU special envoys to mobilise international financial support. The IMF, World Bank and African Development Bank were asked to help mitigate and provide relief from the pandemic.

There was engagement with the World Health Organization (WHO) and a partnership between the AU and the United Nations Development Programme (UNDP) was instituted.⁵² The Ethiopian president, Sahle-Work Zewde, together with the presidents of Ecuador, Germany and Singapore and the King of Jordan, called for a global alliance to deal with the virus. They all opposed the inadequacy of adopting simple national response strategies or engaging in geo-politicking in dealing with a global pandemic.⁵³

In the face of vaccine nationalism, charges of vaccine apartheid and global corporate profit-seeking, Africa called for greater global solidarity in getting sufficient vaccines to the continent. South Africa and India pressured the World Trade Organization (WTO) to lift intellectual property rights to allow the continent to obtain and to manufacture vaccines. This was followed up by the AU supporting calls to waive intellectual property rights.

As noted in chapter 9, the AU was able to put in place a credible continental response strategy supported by relevant policies and implementation processes. It demonstrated how, in the face of the inadequate unilateral actions by the industrial and corporate world, Africa could appeal to the need for international solidarity and collective action to rationally deal with the global pandemic. It also showed the potential for the AU when it is given the space to demonstrate resolve and unity. In the pandemic, amidst growing nationalism in the world, the AU stood for progressive internationalism,⁵⁴ solidarity and strengthening multilateral cooperation.

Furthering the global common good

There are two fronts through which the AU has facilitated African multilateralism to influence global norms and to advise global peace and security. This is evident in the contribution to the global norms on responsibility to protect (R2P) and global peacekeeping efforts.

The AU as a global norm entrepreneur: non-indifference and R2P

In the spirit of transformative multilateralism, the AU has come to project significant contribution in the formulation of the global norms on R2P or transitional justice and generating narratives on global climate governance. Lacking a global military or industrial presence, it is the normative power to accept, reject, adapt or export norms, to have diplomacy play its part in making normative projections happen, that gives the AU its international profile. Importantly, the AU formulates its own norms and attempts to export these to a global level.⁵⁵ This is a source of normative rather than structural power.⁵⁶

The CAAU was the first international treaty to give an organisation the right to intervene militarily in response to crimes committed by governments and to provide civilian protection.⁵⁷ It indicated that the sovereignty of states was not inviolable. The AU is the only regional organisation to have overtly recognised the right to intervene in a member nation on humanitarian or human rights grounds. In instituting a progressive sovereignty regime with its own principles, rules and regime, the AU was ahead of all other international organisations. The R2P principle at the global level was instituted only after the AU had adopted its policy of non-indifference.

In Article 4(o), the CAAU mandates respect for the sanctity of human life, and stands against impunity, political assassination, and acts of terrorism and subversive activities.⁵⁸ However, despite the AU aggressively dealing with unconstitutional changes of government as noted in chapter 7, it has not invoked ‘non-indifference’ clauses in the CAAU. AU member states have become more defensive of their sovereignty and reluctant to allow interventions that will classify them as failing or failed states.

Contribution to global peace and security

The AU’s global actions on peace and security over the last 20 years have been around its relationship with the UN on the matters of peacekeeping and with its evolving relationship with NATO. Since the founding of the AU, there have been periodic tensions over the top-down, hegemonic relationship with the UN, particularly the UNSC.⁵⁹ African leaders say the UNSC treats Africa with contempt while the US, France and the UK in turn

decry Africa's lack of unity and resolve.⁶⁰ These tensions revolved around peacekeeping and issues to do with African security. They are not helped by the different views held by different African members at the UN in times of crisis affecting the continent.⁶¹

The absence of a united African voice at the UN comparable to the heyday of the African caucus in the late 1960s and early 1970s is noticeable. However, the AU in New York supports the Group of African States, which usually addresses the UN General Assembly.⁶² The three African non-permanent members of the UNSC, the A3, compensate for this in part. Having their own foreign policy agendas at times, where they give preference to strategic partnerships with powerful countries outside the continent, they only periodically choose to adopt AU positions.⁶³

At the same time, pragmatic reasons drive what has been a developing relationship and increased cooperation with the UN. To some extent, it is the result of greater collective African agency around the AU's vision on achieving peace and security, buttressed by Agenda 2063 and the 'Silencing the Guns in Africa' initiative.⁶⁴ This is a formalised multilateral partnership, an example of strategic inter-regionalism. In making a hybrid partnership with the UN on peacekeeping work, this should be a mutually enriching relationship that is collaborative and based on dialogue.

The original call for self-reliance at the time of the AU's founding, encapsulated in the phrase 'African solutions to African problems,' included setting up a standby peacekeeping force. The African Standby Force (ASF) is to reduce the role for the UN in keeping peace in Africa. Since the ASF is yet to be operational, Africa has continued to rely on extra-continental actors like the UN. This reliance, as pointed out in chapter 5, has caused the AU to struggle with implementing its ambitious peace and security agenda.⁶⁵

The AU, cognisant of its own agency within these parameters (according to Article 16(1) of the PSC Protocol), has managed to stress African ownership and the primacy of African leadership vis-à-vis the UN in African peacekeeping.⁶⁶ There have been several efforts to enhance partnership between the AU and the UN in peacekeeping operations (e.g. the United Nations–African Union Mission in Darfur).

Both organisations have also established liaison offices in each other's host city. In 2010, the UN set up an office to the AU to 'enhance the partnership' between the two organisations. This was intended 'in the area

of peace and security,' to 'provide coordinated and consistent ... advice' to the AU in 'operational support matters.' Additionally, the UN aimed to 'streamline' its 'presence in Addis Ababa to make it cost-effective and efficient in delivering [its] ... assistance to the AU.'⁶⁷ This partnership has led to an increase in consultation, diplomatic support, operational support, co-deployment and joint operations.⁶⁸

The CAP on UN Peace Operations of 2015 emphasised African ownership and the need for defined complementarities with the UN on peacekeeping. In the same year, the AU also decided that within five years it would fund 100% of its budget (operating costs), 75% of programme funding and 25% of its peace and security budget.⁶⁹ By 2021, these goals remained to be achieved: of the AU's total approved budget for 2021, 32% was financed by member state contributions and 65% by external partners.⁷⁰ If key countries, arguably South Africa, Nigeria, Senegal or Kenya, have the necessary political will to fund peacekeeping operations, then the AU technically has the ability to fund and undertake limited Chapter VI observer missions.⁷¹

Issues of international peace and security, however, rely on the adherence to international law upheld by the UN Charter. This involves recognition for the sovereignty of member states and for regional bodies such as the AU.

Challenge of acting on the global stage: The AU in Libya

Libya in 2011 marks an instance where the AU was meant to uphold the continent's sovereignty but was sidelined and marginalised by a coalition of actors from outside the continent acting outside the confines of the UN. This violated the integrity of Africa's sovereignty. For the AU, the issue meant the unenviable choice between showing support for a dictatorship or imperialism. The choice was whether to have the AU apply its own principle of non-indifference and support the Benghazi-based rebels or whether it should invoke the Common Defence and Non-Aggression Pact and treat non-African participants to the conflict as aggressors.⁷²

In Libya's civil war, the intention was that the AU's own diplomatic road map was to take centre stage in beginning to resolve the conflict. The AU

sent a delegation to address the UNSC on the PSC's disagreements with the UN. Military intervention in Libya was seen as a provocation of Africa and only a political solution was seen as appropriate.⁷³ In the event, the AU road map was elaborate and took time to implement. The AU's diplomatic effort was eventually overtaken by local events and the impatience of external actors.

Moreover, the AU's own legitimacy in representing all of Africa was challenged by the Arab League of States' call for intervention. The AU isolated itself by refusing to participate in the first international conference on Libya, organised by the Libya Contact Group. In doing so, it denied itself the opportunity to influence decisions on Libya's future. The AU initially refused to recognise Libya's National Transitional Council, meant to replace the Ghaddafi government.⁷⁴

AU diplomacy proved itself insufficiently adaptive to the crisis at hand. The AU acted in character with its rejection of the use of outside military force against individual sovereign African states and the insistence on consensus decision-making. True to character, the AU assumed a similar position in the crises in Zimbabwe (2002 to 2007) and Côte d'Ivoire (2011), where the UK, the US and France, respectively, sought change using military means.⁷⁵

The AU and NATO after Libya: strictures placed on NATO

In Libya in 2011, NATO worked with the League of Arab States to sideline the AU. This obstructed African leaders from flying to Libya to mediate and the African view took hold that NATO exceeded its brief regarding UN resolution 1973 over a no-fly zone over Libya (intending regime change). Thus, the relationship with US-led NATO is a sensitive one and mirrors the successful African opposition led originally by Ghaddafi's Libya, Libya, South Africa, Algeria and Nigeria to oppose the physical presence of the United States Africa Command (AFRICOM).⁷⁶

Relations between the AU and NATO have existed since 2003, but it was only in 2014 that a technical agreement came about and NATO set up a technical liaison office. This sensitivity is reflected in the terms that the technical agreement spells out. The agreement puts the AU in charge and prevents NATO from setting its own agenda in relation to the AU. There are conditionalities on how and what kind of cooperation can take place. Only the AU can initiate requests for assistance and support by NATO. These are

to be based on an African solutions framework that ought to fall within a broader ambit of coordination with those of other international organisations and partners.⁷⁷

Conclusion

Twenty years in building the AU into a broad-based continental organisation with global clout is a relatively short period of time. The organisation's resource constraints are endemic, as is its dependence on the outside and the itch by external powers to prescribe. At the same time, there is the constant and urgent need to respond to extraordinary shifts in world events.

The AU is incrementally gaining ground as it endeavours to promote self-reliance, dissipate external prescriptiveness and shape African development. Relations with the UN in keeping global peace or with NATO on its remit for cooperation show how African interests are successfully advanced. The ability to establish a division of labour on peacekeeping with the UN, and in doing so obtain recognition for regional decision-making, or have NATO agree to follow African initiative on cooperation mark successes in the endeavour.

Recognition of the need to have the AU function as lead negotiator with the outside world reduces the scope for bilateral negotiations where powerful states and international institutions engage in asymmetrical negotiations. This demonstrates that outside actors can be constrained and a collective African interest can be asserted. The politics of bringing greater equivalence and equity to international partnerships is real and ongoing while there is also the ability to exercise soft power.

Global norm entrepreneurship is shown by the principle of non-indifference enshrined in the CAAU, a precursor to the R2P principle taken up at the global level. African diplomacy on issues of climate change and combatting of COVID-19 succeeded in the adoption of positions that speak to global cooperation, solidarity, historical accountability and compensation. But there are examples of a demonstrable lack of AU success or where its authority has internationally been fundamentally challenged. The issue of the dispute with the ICC and the challenge by the Arab League of States and NATO regarding Libya are cases in point.

The AU remains limited by a lack of continental sovereignty.⁷⁸ Despite declarations for civil-society involvement at the founding of the AU, policy is determined by the narrow and parochial concerns of member states whose governments often do not reflect the popular will. While the number and range of CAPs have increased, no unanimity on building a more inclusive, participatory and popular transformative, in short 'complex multilateralism', exists. The AU at its core remains an inter-governmental body whose member states have lost the momentum towards subscription to norms they have contributed to as members of the international community. This has dented the image of the AU as a global entrepreneur.

As highlighted in chapters 2, 4 and 15, there is too little open policy debate at the centre of the AU, and civil-society actors are kept from contributing to the decision-making process. There is great resistance on the part of member states in surrendering any sovereignty to the AU. This takes away from any organisational dynamism. It detracts from a transformative innovative multilateral agenda that would give the AU greater legitimacy, credibility and global political influence.⁷⁹ Given the difficulty of finding common ground amidst diverse state interests and the inability to proactively accommodate civil society views in turn limits the number of CAPs and collective foreign policymaking.

Consensus is most easily found in traditional values to do with the defence of state sovereignty and territorial integrity and seeking forms of redress from industrial nations. If the AU is to become more of a notable global actor, its culture needs to change to one that is not consensus but results based.⁸⁰

Resource constraints and a dependence on relationships and policy narratives structured and formulated by powerful outside interests, as pointed out in chapter 14, add to the constraints on African agency. In the face of the AU's financial and budgetary dependence on donors, AU diplomacy here continues to walk a fine line on plausibly asserting agency.

The AU's global presence fluctuates with changes in the global context. Maintaining multilateral cooperation and a rules-based order is vital for African states. Regional organisations acting as building blocks of multilateral cooperation need to defend a multilaterally based order. With the re-emergence of big power rivalry and the prevalence of war outside the strictures of the UN as a means of conducting foreign policy, negatively

affects international stability. In the face of the existential need for addressing the climate crisis and in the face of COVID-19 and other impending global health risks, the AU is called on to play an ever-increasing role as a global actor in defence of vital African interest. For this, multilateralism needs to be strengthened and reformed.

For Africa to have a greater say in international institutional rulemaking structures, the present, Western-led global governance structures need to be opened. Building on the Ezulwini Consensus, African allies are needed in securing reform at the UN. The AU, however, can only positively affect global governance if it is united, adopts realistic positions and is able to enlist the support of influential global players.⁸¹

In skirting contemporary big power rivalry, renewed ideological contestations and the greater use of war to effect foreign policy, Africa ought to commit to reassert the right to national self-determination. Additionally, it ought to commit to the adherence to international law under a reformed UN and to redefine non-alignment to prioritise planetary security while positing an Africa-centred global order that makes use of its unique continental maritime position.⁸²

Consequently, the following recommendations are made: that the AU's most democratic members robustly commit to further strengthening African multilateralism by enriching it with civil-society participation in the AU activities. This will in turn increase the legitimacy and import of the AU in global affairs. Further, the AU Commission must increase and strengthen the platforms needed to conduct dialogues on policy innovation, coordination and implementation.

In addition, the AU's profile must be assertively raised as a continental gatekeeper to lessen the divisive impact of national sovereignty. AU diplomacy needs to robustly persuade outside donors that as partners they need to tailor their self-interest to the expressed needs of African-driven programmes. This can be achieved by implementing the recommendations in the Kagame Report that only the leadership of the AU and the RECs represent the continent at summits with foreign powers. Moreover, cohesion, collaboration and coordination between the AU and the RECs must be increased. The AU's role as a global norms entrepreneur needs to be rapidly developed by analytically, politically and diplomatically investing in and building on formulated norms such as on UN reform. Lastly, the AU

needs to strengthen multilateral cooperation through measures that encourage greater equity and inclusiveness, broad-based conflict resolution, non-alignment and redressive climate change.

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Chapter 14

The AU's international partnerships

Tshepo Gwatiwa

Introduction

The African Union (AU) has been an important actor in collective diplomacy and multilateralism for the past 20 years. The continental organisation has become the face of Africa and represents the continental interest when it negotiates and implements international agreements on trade, law, security and other critical issues. As a relatively new organisation in international affairs, made up of the world's youngest nation-states (in terms of state making and nation-building),¹ however, the AU has had to seek and depend on external partnerships in its efforts to promote or represent the interests of its member states.

Prior to the emergence of the AU, Africa's orientation towards external partnerships in the 1960s and 1970s was reflected in the signing of agreements such as the Africa-Arab League Partnership of 1975/1976. Africa's international partnership fever, however, receded over time and only resurged under the auspices of the African Union. Constitutive Act of the African Union (CAAU), in Articles 3(e), 3(i) and 3(n) and the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol), in Article 7(k), highlight the significance of international partnerships.²

Although the two instruments initially envisioned partnerships with the United Nations (UN), this vision changed in two ways. First, from the late 1990s, the range of partners broadened as partnerships proliferated under a clear mantra of 'African ownership and leadership.' Second, African states and leaders decided to improve their collective bargaining power by placing most of the partnerships under the auspices of the AU Commission (AUC), to reduce transaction costs, facilitate information sharing and distribute the expected benefits.

Between 2003 and 2019, a wealth of partnerships were established, including different forms of agreements between the AU and the European Union (EU), the League of Arab States, the South America Cooperation Forum, China, Japan, Brazil, Turkey, India, the United States (US), South Korea, the UN, Norway, the North Atlantic Treaty Organization (NATO), Russia and others. In this pursuit, there have been different types of partnerships. The most common, and perhaps most significant, are strategic partnerships covering a wide range of issues such as peace and security, development, trade, technology, energy, education, and cultural exchanges.

This chapter discusses how Africa's partnerships have fared over the last two decades, taking into consideration factors that have driven the partnerships and successes over the years. The chapter argues that the outcomes of these partnerships over the last 20 years have been mixed. Among other things, the AU faced the challenge of having to reconcile its aspirations and interests with those of its external funders and supporters.

The chapter is organised into three parts. The first part contextualises these partnerships as an expression of African agency and analyses them in light of coloniality and imperialism. The second part examines the role of agents driving the partnerships, with special attention paid to the Assembly of Heads of State and Government and the office of the chairperson of the African Union, and describes the processes through which various actors seek to exert agency. The third part examines the performance of the partnerships in the last two decades. Finally, the chapter offers some key conclusions and recommendations.

AU international partnerships as an expression of agency

Although agency is not the central focus of this chapter, it merits a discussion given its relevance to the discourse on partnerships. Agency has been defined as the 'faculty or state of acting or exerting power.' A more nuanced notion of agency has been called for that can accommodate 'a variety of entities ... differentiate between them, and can locate agency in relation to the social contexts from which it arises and which shape, enable and constrain it.'³ This implies purposeful action, which, among other things, is representative. Yet structurally, Africa is on the periphery of the

international order and thus has to emulate or depend on other regions and powers in international affairs.⁴

African agency has several characteristics. First, agency is a political trait expressed through both rhetoric and action.⁵ In an international political space and with limited resources, rhetoric (however soft) plays an important role, greater than material considerations, in African agency. A key example is the popular rhetoric of ‘African solutions to African problems’ – the basis for negotiations with the UN on the modalities of peacekeeping, for instance – and concomitant attempts to build institutions, which some consider anti-imperial phantoms.⁶

Second, the anti-imperialist posture and anti-colonial intellectual activism around, for example, Pan-Africanism and an African Renaissance are meant to spur African agency in the immediate and long terms. This is evinced by the promulgation of Pan-African positions (often backed by intellectual activism) in efforts to co-design and disseminate norms and regimes in global politics.⁷

Third, for the AU, exerting power as an international actor is currently an aspiration rather than a reality. Africa was a relative latecomer to international politics, which is largely driven by actors and continents with which it has an acrimonious past. Hence, the AU has inadvertently been drawn into partnerships designed mainly by non-Africans but meant to build up the institution and achieve reconciliation with thriving international organisations. As a corollary, it has limited latitude to exert agency based on its own interests.

The AU’s quest for African agency is not only a question of contestation but also one of overcoming coloniality and of making positive contributions to international cooperation. Africa’s search for agency in international relations occurs under the shadow of empire, postcoloniality⁸ and networks of patronage.⁹ The power differential lent by the logic of coloniality incites a form of political resistance, through agency slack, shirking and slippage.

It is difficult to locate the role of African identity in the AU’s international engagements because, as Stephen Okhonmina points out in chapter 4 of this book, African multilateralism lacks ideational and structural authenticity. In most cases, African bureaucrats find themselves transliterating ideas and initiatives from elsewhere. This can be partly attributed to external funding,

but it is also an African problem. As noted by Nsongurua Udombana in chapter 4, Africans have virtually deferred a significant portion of institutional design to external actors, even when they have the capability themselves. The OAU tended to permit dependency and mimicry to the extent that it decided to develop Africa using a 'tripartite approach ... involving Arab money, African resources and Western technology.'¹⁰

Even where common African positions are held to be signifiers of agency,¹¹ these are often similar to those at the EU or UN. This creates a binary challenge for the AU and its partners: African policies lack authenticity, and these inauthentic policies create structures through which it becomes difficult to obtain traction and implement programmes in countries with different histories, systems, and aspirations. The direct manifestation of this challenge is the way that some AU member states have sometimes criticised AU instruments or declarations, because they do not align with their national or subregional aspirations.¹²

African multilateralism is so bereft of identity that even the ideologies that seek to give its international institutions meaning are not African-grown. Pan-Africanism, the hallmark of African discourse and rhetoric, is an imported ideology, the brainchild of Henry Sylvester-William (a Trinidadian) and others who suffered racism and oppression outside Africa.¹³ Yet the power and reach of Pan-Africanism should not be underestimated. Doubtlessly, the ideology served as an effective rallying point for greater African agency in the struggle for independence immediately after the Second World War and drove early African multilateralism.¹⁴ On another level, it provided a somewhat African-centred view of the world. However, as Okhonmina notes in his chapter, Pan-Africanism has not been sufficiently refined to match the aspirations of the AU.

Schisms tend to affect African integration and periodically appear to trump shared norms and values. Sub-regional loyalties play a crucial role in African identity and collective action. As noted by Muhammad Gassama, sub-regional loyalties become evident:

... when it comes to matters such as the hosting of new institutions, offices and projects and the election of the Chairperson, his/her Deputy and Commissioners as well as selection of candidates for positions in the UN System.¹⁵

African leaders are aware of the impact of identity on Africa's agency in the world. The sub-regional schisms are not just a question of identity but seemingly a premise for African agency. African integration is strongest at the subcontinental level. Some perceive the relatively new AU project as secondary to Africa's sub-regional integration. This is shown by the way various regions approached the proposal to transform the AU into a United States of Africa government.

Foreign interference in Africa's international relations also presents a challenge. The reason subregional organisations jealously guard their sovereignty is that neo-imperial meddling is more prevalent in some regions than others. For instance, due to the post-colonial agreements that Charles de Gaulle forced on former French colonies,¹⁶ French influence is much stronger in West and Central Africa. It has been feared that French meddling would find its way into the AU, as it did in the OAU.¹⁷ In the author's discussion with the strategic advisors of France and the US to the AU, they denied any intrusion.¹⁸ Yet, the author's research shows that South Africa supported Nkosazana Dlamini-Zuma to become chair of the AUC with the intent to limit French and overall European influence. This has not diminished the importance of solidarity as an aspect of both national and African collective diplomacy.

Actors and processes driving AU partnerships

Collective positions and diplomacy form the pivot for Africa's engagement with the rest of the world. The most significant actor in AU's international partnerships is the Assembly of Heads of State and Government, which often initiates these partnerships. Most partnerships with the EU, the UN, the US and South America Cooperation Forum were the result of work by two key heads of state, Presidents Thabo Mbeki of South Africa and Olusegun Obasanjo of Nigeria, working alongside a handful of others.¹⁹ However, the bargaining also requires the active involvement of the chairperson of the AUC.

During the AU's early years, the leading heads of state and government worked closely with then Chairperson Alpha Konare to successfully oversee common African positions. Konare, a former Mali head of state, was a particularly astute diplomat who oversaw robust partnerships with NATO

and the EU, where African agency directly expressed itself on matters of norms and principles – evinced by the Cairo and Lisbon summits of 2000 and 2007, respectively.

However, over the years, such AU diplomacy has not been supported by proper structures and agents. Different strategic partnerships are managed by different departments and units. For instance, as of early 2022, the US-Africa Strategic Partnership (established 2013) was managed by the office of the deputy chairperson, and the partnership agreement with NATO was loosely co-managed by the then Peace Support Operations Division and the Office of Legal Counsel. Although the Partnerships Management and Coordination Division was in place, it had difficulty bringing the management of these partnerships under a single umbrella.

Thus, the success of African collective diplomacy in international partnerships depends on the skills and strength of the AUC chairperson, who is essentially the chief diplomat.²⁰ Correspondingly, the 2002 PSC Protocol mandates the chairperson of the AUC to initiate and pursue partnerships for peace and security. For this reason, Konare worked with then NATO Secretary-General Jaap de Hoop Scheffer to sign the first AU-NATO partnership in 2005.

When the tenure of Jean Ping as AUC chair started, major partnerships with the EU, UN, NATO, South America Cooperation Forum and China were already in place. The US-Africa Partnership was negotiated during his term but signed during the tenure of Nkosazana Dlamini-Zuma. Although the press often alleged, reasonably, that Dlamini-Zuma became chairperson of the AUC to limit her domestic political influence,²¹ communication with her campaign team pointed towards the need for a less Francophile chairperson. Ping had proven less effective in the face of Western aggression in Libya and other instances, in violation of existing partnership agreements.²²

Dlamini-Zuma, although less charismatic than her two predecessors, proved more astute regarding partnerships. Two of her signature goals were to reduce donors' access to AU meetings and to impose a moratorium on the signing of new partnerships. The former effort backfired due to AU over-reliance on donor funding. The latter was partly successful. During her chairship, Dlamini-Zuma (together with Commissioner Smail Chergui) increased efforts, begun under Ping, to encourage China to play a greater role in African security.²³ During the moratorium on new partnerships,

Dlamini-Zuma permitted the signing of a new strategic partnership with Norway. Moussa Faki Mahamat's tenure has been relatively modest and has primarily overseen the AU's continuing subaltern position.

The foregoing is not intended to compare chairpersons but to highlight the fluctuations in the chairperson's role in international partnerships. The modest effectiveness of all chairpersons reflects their political limitations. Although the PSC Protocol and the CAAU assign the AUC chairperson the responsibility to initiate and pursue international partnerships, the Assembly of Heads of State and Government retains a significant role in those partnerships' viability.

In recent years AUC chairpersons have had a harrowing time getting African countries to adhere to African common positions in international affairs. In 2006, AU member states signed the Banjul Formula, whereby they agreed to harmonise their bilateral preferences through the AUC. This was intended to enable the AUC to speak and act on behalf of the continent – especially in forums such as the Forum for China-Africa Cooperation, the Tokyo International Conference on African Development and Korea-Africa Economic Cooperation. However, AU member states have shown increasing reluctance to abide by the Banjul Formula, because the majority of small member states felt that their bilateral interests were being neglected in favour of those of the major member states.

Overall, however, interstate bargaining and the negotiations of the 1990s shaped the notion of leadership within Africa's collective diplomacy. During this period, Nigeria and South Africa emerged as *de facto* lead states. In order to isolate Libyan strongman Muammar Gaddafi, as well as to create an *ad hoc* burden-sharing formula, the two states signed a memorandum of understanding that exhorted their ministries of foreign affairs to compare notes before representing the continent in international affairs. Both states had something to offer: 'while South Africa under Mbeki brought a sense of urgency to African diplomacy, Nigeria ... brought history and diplomatic experience, as well as a sense of legitimacy to South Africa's post-apartheid role in Africa.'²⁴ Two other members of the Big Five, Algeria and Egypt (but not Libya) appeared less interested in this continent-wide influence. The arrangement did not last.

African leadership during the early 2000s evinced continental agency in international politics. However, the present trend portends a reduction in

Africa's agency. Nigeria, Libya, Senegal, Algeria, Ethiopia and South Africa have taken less interest in strengthening the AU and its agency towards the outside world, mostly for domestic reasons.²⁵ South Africa played a key role, with Nkosazana Dlamini-Zuma at the helm of the AUC from 2012 to 2017, in actualising the AU's Agenda 2063.²⁶ Recently, President Paul Kagame of Rwanda played a key role in actualising the African Continental Free Trade Agreement.²⁷

In spite of these accomplishments, when taking stock of the role of major states in Africa's international partnerships – including those that style themselves as hegemon – there is a general lack of consistent commitment to improving Africa's standing in international partnerships. 'Hegemony' connotes leadership. Ideally, a regional hegemon should meet the following five criteria: membership in a defined region with political, economic and cultural links; willingness and preparedness to assume regional leadership; possession of material and ideational capacity to influence the region; provision of collective public goods for the region; and acceptance by other states in the region.²⁸

Based on these criteria, there is no African state that empirically qualifies as a regional hegemon, at least continent-wide – even though Nigeria, Ethiopia, and South Africa clearly harbour such ambitions. If anything, these states have failed to accentuate Africa's role in its partnerships beyond the habitual hortative rhetoric and press releases issued when partners abrogate provisions of partnerships.

As such, the early prominence given to the AU as an international actor, which was initially supported by bigger member states, did not last. Perhaps most important, the AU and its processes remain personality-driven. While human agents always play a pivotal role in diplomacy, the continued dependence of African agency on individual personalities – especially at the level of the Assembly of Heads of State and Government – has a far-reaching effect on the viability of Africa's international partnerships.

AU record on international partnerships

AU declarations form an important aspect of African agency. One scholar recently argued that African agency in international affairs largely depends on common African positions and declarations.²⁹ This suggests that

common African positions are an important element of the AU's diplomatic engagement in that they set the tone and terms of that engagement. Lack of unity among African states has sometimes affected the AU's ability to formulate durable collective foreign policy positions.

Although African agency has been an anthem at the AU, encapsulated in the phrase 'African ownership and leadership.' By the time Africa renegotiated the Lomé Agreement with Europe in the late 1990s, the OAU was concerned with the salience of African agency in this inter-regional partnership. The negotiating team was advised that '[it] is important that there is no Eurocentric perspective of these essential elements. The African, Caribbean and Pacific (ACP) must give their perspective of these elements which takes on board the social, cultural, historical, political and economic specificities of our states.'³⁰

In the resulting Joint Africa-EU Strategy of 2007, the two parties highlighted the enhanced status of African agency by stating the need to 'move away from a traditional relationship and forge a real partnership characterised by equality and the pursuit of common objectives.'³¹ Accounting for the largest share of African inter-regional relations, the Africa-EU partnership set a precedent for subsequent partnerships by promoting the notion of African leadership and ownership.

Although African experts had considerable input in the initial documents meant to guide the framing and implementation of the African Peace and Security Architecture, it was, as noted in chapter 5 of this book, mostly reconceptualised by donors. Moreover, the European Commission often reluctantly, paid attention to the objections of its African counterparts. Although the Africa-EU partnership has longstanding challenges relating to coercion, and currently exhibits more problems than promises,³² the partnership has evolved into a better measure of agency and efficacy.

Partnerships with the Asian economic powerhouses China, Japan, India and South Korea seem to provide leeway for African agency. An internal evaluation of the AU's international partnerships³³ ranked these above the Africa-EU partnership. The partnerships were ranked in terms of their efficiency and outputs and received high marks for high-level diplomatic engagement, managerial complexity, and preference and interest linkages, as well as resource disbursement and directionality. This efficiency derives partly from these partners' lack of colonial history in Africa as well as from a

shared history in South-South cooperation – especially in the case of China, India and South Korea.

This does not apply in the case of Africa's partnership with the EU. This has become uneasy due to the Economic Partnership Agreements, which disrupted the AU's own regional integration schemes and became a source of political division among AU members states, especially Southern African Customs Union (SACU) and Southern African Development Community (SADC) states.³⁴ A general perception emerged of a resurgence in neocolonial impulses by a number of lead EU states, such as France, Britain and to a lesser extent Italy.

In fact, France's interference in African multilateralism has become ever more palpable in the areas of security and economics. This is traceable to the history and politics of French decolonisation in Africa. Prior to decolonisation, France divided its African sphere of influence into three zones with different strategic priorities. The top priority was the Active Zone, stretching from Senegal to the Republic of the Congo; second was the Passive Zone, comprising former Belgian colonies; third and final was the Mixed Zone, comprising former colonies along the Mediterranean Sea and Red Sea.³⁵

Since the inception of this system, African states have been run through 'ad hoc structures in Paris ... [rather] than ... normal diplomatic channels' and 'many aspects [are] kept out of public or parliamentary view.'³⁶ Interestingly, these zones currently constitute the most unstable and conflicted regions of the continent, accounting for a majority of AU political and security missions.

The Africa-Arab League Partnership should be the most thriving partnership, given that it is the oldest and closest geographically. The formation of the League of Arab States was somewhat different from that of the OAU, and it had different priorities. Despite Britain's attempts to hijack the project, integration based on positive self-consciousness originated in the Fertile Crescent.³⁷ The League was formed earlier (March 1945) than both the UN (June 1945) and the OAU (1963). While most OAU documents aimed to be consistent with the UN Charter, this was not necessarily the case for the Arab League. One scholar described Arab unity in the 1960s as 'the sacred cow of the League: it gives little nourishment, but no one dares kill it.'³⁸

Regarding a partnership with the more politically oriented OAU, the Arab League was less motivated to engage.³⁹ Initially, African states were enthusiastic about such a partnership because of the oil and petroleum fortunes made by the Arab and Gulf states. As a result of these different priorities, the Arab League minimised efforts to engage in any partnership. There were efforts to revive the partnership in 2015, but they did not result in tangible benefits.

The AU's failure to capitalise on partnerships with great potential can also be seen in the relationship with the South American Cooperation Forum, which, since signing in 2006, has delivered little beyond Brazil's involvement in maritime issues. Even in instances where Brazil became involved, it leaned towards Angola and Mozambique. Much has not materialised despite opportunities in areas of energy, industrialisation, aeronautics and agriculture.

There are other partnerships, such as that with South Korea, where the AUC's efforts would not make much of a difference. The Republic of Korea has been aware of its limitations in dealing with a large continent, and has exercised pragmatism.⁴⁰ The AUC has fairly handled Africa's partnership with Turkey. In 2021, the author attended a few virtual seminars on Turkey's growing influence in Africa. Yet, like most press reports,⁴¹ these virtual discussions did not meticulously address the role of the AUC, much less African agents, in this partnership.

The partnership between Africa and China has been the most important and beneficial. The Forum on China-Africa Cooperation has resulted in large volumes of economic transactions between the two partners, comprised of infrastructure aid, foreign direct investment and substantially increased trade between China and many African countries. The partnership has attracted its share of controversy. There have been claims that China seeks to entrap African states in debt through unsustainable development loans.⁴² However, most of this rhetoric comes from Western countries which were replaced by China as Africa's largest trading or economic partners. The partnership with China, despite its shortcomings, has grown significantly and shown promise.⁴³

What is lacking on the part of Africa is its fair share of diplomacy, policy coherence and fortitude. There have been instances where China sent more than two score negotiators to meet a handful of African negotiators.

This imbalance shows different levels of commitment and seriousness. Yet, in some cases, China has shown significant patience and moderate restraint even when Africa's contributions to the partnership are faltering.

Conclusion and recommendations

In the last 20 years of AU international partnerships, agency has been a crucial and driving concept, which is often couched in rhetoric such as 'African ownership and leadership.' The AU has formed or maintained major partnerships with the EU, the US and China as well as some emerging powers. Both AUC chiefs and individual heads of state have played important roles in these partnerships with varying success.

Problems in the way African diplomacy in international partnerships is conducted include the politicisation of the partnerships' initiation and implementation. The lack of political will and leadership from major states also affects the viability of these partnerships. The AU's over-reliance on donor funding affects programmatic undertakings within the partnerships. This has also made the AU susceptible to manipulation by states, such as France, which seek to coerce Africa or continue their imperial undertakings. The AU has also not taken full advantage of partnerships, such as that with the League of Arab States, which have immense potential.

For Africa to address the challenges regarding partnerships, the following recommendations need to be considered.

Africa must come to terms with its complex identity. Currently, Africa has a problem of negative self-consciousness.⁴⁴ This is compounded by a sense of European consciousness, which results in incongruence between policy prescriptions and empirical challenges.⁴⁵ Africa's penchant for imported ideologies, institutions, and policies in the name of institutional reconciliation is likely to become increasingly corrosive. This also applies to its appetite for external support. Dealing with this complex issue will help produce continental policies that are resonant with continental challenges. It is currently difficult to speak of African interests and preferences – partly due to the geographic size and political diversity of the continent, but also in part due to the scant attention identity has received over the decades.

Correspondingly, the AU should shed the old tropes of African solidarity and instead gravitate towards unity. Solidarity is a looser principle than

unity, which offers stronger and more binding commitments. The focus on solidarity, rather than unity, partially accounts for the tepid trajectory in Africa's international relations. This arid principle has failed despite the Banjul Formula because it does not inspire commitment. Unity, a much stronger principle, can serve as a stronger basis for collective diplomacy if coupled with positive self-consciousness.

The AU must also invest in its diplomatic machinery. It is beyond comprehension that the AUC, charged with international diplomacy, still struggles to put together a team of capable negotiators. There are specialists and capable negotiators in different African countries. Yet their deployment is a matter of interstate/regional politics – with negotiators seconded from different AU departments or from different member states – and this has yielded fluctuating diplomatic outcomes.

The AUC should also prioritise its goals selectively rather than pursuing a broad array of strategic partnerships. Otherwise, these partnerships may become unmanageable. It makes little sense to maintain both AU-level and member-state-level partnerships simultaneously, as is currently the case with the EU and the League of Arab States. The AUC should dissuade member states from establishing bilateral partnerships, and persuade its international partners to desist from practices that are clearly designed to minimise African gains in international cooperation.

Most states exploit the African collective to aggrandise their political economies. It is, thus, important that the AUC review its engagements with the so-called middle powers and partnerships with little benefit to the continent. This will avoid situations where Africa might find itself in unbeneficial partnerships in the next 30 years. At a minimum, the AUC should establish a priority order for partnerships; this would help with maximisation of benefits.

Notes

- 1 This is to differentiate the process of state formation and nation building in Africa from the emergence of independent Eastern European states from the Soviet Union and the independence of states in Asia and the Pacific, where nation building and state formation had a longer history. This does not imply that postcolonial experiences in Europe and Asia were less significant than those in Africa.
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- 3 W Brown, A question of agency: Africa in international politics, *Third World Quarterly* 33:10, 2012, 1889–1908: 1894.
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- 5 W Brown, A question of agency: Africa in international politics, *Third World Quarterly* 33:10, 2012, 1889–1908.
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- 9 The literature is awash with explanations of the formation of the African state as a postcolonial entity. For instance, see C Clapham, *Africa and the international system: the politics of state of survival*, Cambridge, Cambridge University Press, 1996. This also explains how coloniality influenced the way African states typically approach international relations – see A Mbembe, Provisional notes on the post-colony, *Africa*, 62:1, 1992, 3–37; A Mbembe, *On the postcolony*, Berkeley, Los Angeles and London, University of California Press, 2006. Galtung posits that there are networks between elites in the developed and developing states which support a political economy of patronage – J Galtung, A structural theory of imperialism, *Journal of Peace Research*, 8:2, 1971, 81–117.
- 10 M Gassama, *From the OAU to the AU: the odyssey of a continental organization*, Banjul, The Gambia, Fulladu, 2013, 25.
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- 12 See T Gwatiwa, *The AU and African agency in international politics*, London and New York, Palgrave Macmillan, 2022, 110–114.
- 13 See G Shepperson, Pan-Africanism and ‘Pan-Africanism’: some historical notes, *Phylon*, 23:4, 1962, 346–358: 349. Other advocates of Pan-Africanism include Kwame Nkrumah, Marcus Garvey, Sékou Toure, WE Du Bois, and Julius Nyerere.
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- 17 See M Gassama, *From the OAU to the AU: the odyssey of a continental organization*, 2013.
- 18 See T Gwatiwa, *The AU and African agency in international politics*, London and New York, Palgrave Macmillan, 2022, 46, 188.
- 19 African Union, *Evaluation of the Africa's strategic partnerships draft final revised report*, Addis Ababa: UNDP and African Union, 2014.
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- 22 See T Gwatiwa, *The African Union and African agency in international politics*, 172.
- 23 African Union, Consolidated briefing note: visit of Ambassador Smail Chergui, commissioner for peace and security to China 27–29 October 2014, Addis Ababa, October 2014.
- 24 C Landsberg, An African 'concert of powers?' Nigeria and South Africa's construction of the AU and NEPAD, in A Adebajo and AR Mustapha (eds.) *Gulliver's troubles: Nigeria's foreign policy after the Cold War*, Pietermaritzburg, South Africa, University of KwaZulu-Natal Press, 2008, 205.
- 25 The capacity for effective hegemony is encumbered by the aspirants' competition in global politics. In spite of the 'twin hegemony' of the 2000s, the aspirants succumbed to temptations of grandeur and influence through candidature for a permanent (non-veto) seat on the United Nations Security Council. According to Landsberg (*ibid.*, 205), South Africa was initially not a strong contender for this seat but enjoyed support from US statesmen and diplomats such as Henry Kissinger, Gwendolyn Mikell, and Princeton Lyman. This implies that South Africa was 'encouraged' to augment its global ambition at the expense of regional imperatives. As a result, competition between South Africa, Nigeria and Egypt intensified. Adebajo (*ibid.*, 26) states that the three contenders 'entered a Byzantine contest ... Cynics dismissed Nigeria as too "anarchic," Egypt as too "Arab" and South Africa as too "albinocratic.'" This competition revealed a key weakness in African states' individual and collective foreign policy – a poor ordering of priorities.
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- 39 O Ojo, The relationship between the Organization of African Unity and the League of Arab States, *Africa Spectrum*, 16:2, 1981, 131–141: 133.
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Chapter 15

Building the African Union of the people

Désiré Yetsowou Assogbavi

Introduction

The main objective of independent African states in creating the Organisation of African Unity (OAU) in 1963 was, among others, to eradicate all forms of colonialism, ensure all African states became independent, defend the sovereignty and territorial integrity of the newly independent states, and promote unity and solidarity among member states. From the start, therefore, the OAU was state-centric in its composition and agenda. Consequently, the involvement of African citizens, non-state entities and the totality of its civil society was neither envisaged nor recognised within the framework of the OAU's declared objectives.

However, several developments in the early 1990s led to a shift in the way the role of African citizens was perceived in Africa's integration and development efforts. First was the realisation after the liberation of South Africa from apartheid that continental efforts towards the complete political independence of the continent had met the bulk of its goals. However, the OAU as a framework was no longer adequate to address the subsequent ambitious development aspirations of the continent, hence the need to rethink the way forward.

The second development was the rise in the demands for democracy, rule of law and human rights across Africa in the early 1990s, which forced a rethink of the nature of governance on the continent and resulted in many challenges as well. These developments led to the realisation among African leaders that the numerous challenges the continent was confronted with required a new way of doing business – an innovative approach that should include building partnerships between various sectors of African society and governments. This idea, in turn, informed a push for a

consideration of actors beyond official states representatives, which included a role for and full involvement and participation of Africa's citizens and civil society.

The transformation of the OAU into the African Union (AU) in 2002, therefore, provided the opportunity to actualise the goal to involve African citizens in the development process of the continent. In putting this into operation, the Constitutive Act of the African Union (CAAU) provided for African governments to embark on greater integration of new fundamental values, including democratic governance, human rights, and 'the participation of citizens in the Union's affairs.'¹

By adopting the latter as one of its key principles, the AU made a radical shift from the OAU, which had been a club of African leaders, by assuming the right to intervene in a member state to protect civilians.² This commitment is reflected in the Preamble of the CAAU that states its founders were guided by the 'the common vision of a united and strong Africa ... to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion amongst the various aspects of the AU.'

Provisions were also made in the establishment of policy organs and institutions to allow for increased involvement of citizens in continental decision-making. Bodies such as the Pan-African Parliament (PAP) and the Economic, Social and Cultural Council (ECOSOCC) as well as the Citizens and Diaspora Organizations' Directorate (CIDO), among others, were established as concrete avenues and channels for increased citizen involvement in continental policymaking and implementation. Major continental frameworks, such as Agenda 2063, also made specific provisions for citizen-centred involvement.

One of the seven aspirations of the AU's Agenda 2063 is to build an Africa whose development is people-driven and relies on the potential of African people, especially its women and youth. In the context of these, the AU Commission and other organs of the Union have actively engaged African civil society in its efforts and in diverse settings. This move reflects one of the fundamental differences between the OAU and its successor, the AU.

From a point of the non-involvement of Africa's civil society in continental integration and stabilisation efforts, the AU committed to involve African

citizens and the African Diaspora in fulfilling its goals. By this, as pointed out in chapter 1 of this book, the AU ceased to be an organisation of just governments and also included the African people. As a result, citizens' involvement became key in implementing the agenda of the Union that now claimed to be a people-driven organisation as opposed to its predecessor, the OAU, which was seen as a 'mutual protection club' of African leaders.³

Two decades after this significant shift in the involvement of African citizens and civil society in its affairs and the pursuit of continental aspirations, this chapter assesses how the relationship between the African people and the AU has been managed and why, despite all these organs and mechanisms claiming to facilitate people's involvement in the Union's life, citizens' participation is still not at the expected level in the continental body.

The chapter draws heavily from my observations and experiences as a civil society practitioner when I engaged with continental policy institutions and actors over the last 20 years. The chapter notes that even though the AU has most of what it needs to fulfil its goal of creating a prosperous, peaceful and stable continent, progress towards its realisation is hampered by many challenges, key among which is its weak engagement and involvement of the African people in its activities.

Despite being identified as major stakeholders and recognising the important role that the African people play in the development efforts of the continent, civil society actors still struggle to gain access to policy-making organs of the AU. This, however, needs to be addressed since Africa cannot realise the aspirations of Agenda 2063 without multifaceted engagement with and the genuine participation of its citizens and their organisations.

The chapter is organised into four major sections. The first section outlines the imperatives for active citizen participation in regional and continental policymaking. This is followed by a discussion of the prerequisites for understanding the AU from the perspective of the limited nature of access to the continental organisation and the need to facilitate access. Section three discusses existing avenues for citizen engagement with the AU and the various modalities associated with that in the context of efforts to enhance access to the continental organisation. The final section discusses the challenges African people face in dealing with the AU from

the perspective of its uniqueness before concluding with recommendations on improving citizen–AU relations.

Active citizenship and an effective AU

The vision of the AU is that of: ‘An integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena.’⁴ The AU undoubtedly represents one of the greatest assets of Africa today. It has become an unavoidable instrument in efforts to manage and resolve the various challenges that the continent and its people face. In addition, the AU remains the perfect theatre and channel by which the continent has been trying to position itself to gain the necessary acceptance among the comity of states globally.

Notwithstanding, realising an integrated, peaceful and economically developed Africa cannot be done without the full involvement of all segments of African society. As such, the conduct of national, regional and continental affairs should make room, both institutionally and informally, for citizens’ participation both at the levels of the individual and their formations. The inclusive economic development that Africa aspires to achieve requires a vibrant civil society and citizens making the necessary contribution to continental efforts through participatory engagements in decision-making. Active citizens are a fundamental prerequisite for an effective AU.

Citizens’ engagement with their leaders improves the delivery of inclusive, accessible and responsive public services, such as the provision of healthcare, safe water, quality education, decent jobs, etc. In the midst of the many challenges Africa faces currently, supporting democratic accountability and participation in a people-driven development has never been more urgent. It is the only means of sustainable development and change, which can only happen when African citizens are informed, empowered and enabled to influence policies and practices as well as utilise existing mechanisms to hold leaders accountable.

In July 2007, during the Union Government debate in Accra, Ghana, the Assembly of the Union acknowledged ‘the importance of involving the African peoples (as well as the African Diaspora) to ensure that the AU is a Union of peoples and not just a ‘Union of states and governments’, in the

processes of economic and political integration of our continent.⁵ The Peace and Security Council (PSC) Protocol also acknowledges and encourages ‘non-governmental organizations, community-based organizations and other civil society organizations, particularly women’s organizations, to participate actively in the efforts aimed at promoting peace, security, and stability in Africa.’⁶

The contribution of civil society to national and continental policymaking does not diminish the relevance of governmental or inter-governmental processes, it rather enhances their role and informs it. In the area of human security, for example, the involvement of civil society organisations (CSOs) has contributed immensely to the implementation of various forms of peacebuilding and social cohesion initiatives. In conflict-affected areas, African CSOs and formations have shown capacity to lead in the collection, analysis and evaluation of first-hand information and have been key actors in the overall management of various crises.

The AU Agenda 2063 recognises that people’s ownership, support, and mobilisation are critical enablers to concretising Africa’s aspirations. So, for a prosperous and democratic society, the states/inter-governmental bodies and a well-organised civil society should be seen as the two sides of the same coin in that they complement each other. Civil society must be seen as a reservoir of good will needed to spur national, regional and continental development.

Need to understand the AU

There is a very low level of knowledge of African citizens about the AU. Apart from a small number of non-governmental organisations (NGOs) and government elites that constantly engage with the AU, it is largely unknown to African citizens. This is compounded by the fact that most, if not all, citizens and organisations working in or with the AU at national, regional or continental levels grapple with a weak information flow from the AU and its organs, particularly from the AU Commission.

In spite of this, there are various digital technologies and platforms available through which the AU could enhance its outreach to the citizens of the continent, and, where necessary, involve them in decision-making. In the minds of ordinary African citizens, therefore, the AU is unknown, lacks relevance and

remains essentially a club of leaders disconnected from citizens' needs.

Even at the level of intermediary NGOs, working with the AU is a huge challenge due to limited access to the institution, its meetings and information. Physical access to the premises of the AU Commission, for instance, is very restricted unless the organisations have regional liaison offices in Addis Ababa. Organisations wishing to engage with member states at AU summits also often encounter difficulties acquiring accreditation to gain access to public sessions of the summit meetings.

Furthermore, the website of the AU is nearly always incomplete or not updated. Even the annual calendar of events and meeting programmes of the organs remain a mystery until after the events. This situation obviously prevents citizens' effective engagement and participation in continental decision-making processes. How can people participate in the AU if they don't know about it? But whose responsibility is it to bring the AU to the people of the continent?

Some efforts have been made to lessen this challenge but remain woefully inadequate to date. The first comprehensive publication that attempts to explain what the AU is, how it operates and what the opportunities for people's involvement entail, the *African Union Compendium*,⁷ was published in 2014 by the Oxfam International Liaison Office to the AU. This was before the AU Commission, with the support of the government of New Zealand, started publishing the *African Union Handbook*.

This challenge explains why connecting with the African citizenry remains unachieved and is one of the five focal areas of the AU reform agenda. Consequently, this justifies the need for more robust AU engagement with African citizens as the AU seeks to achieve the goals of Agenda 2063.

Avenues for AU–citizen engagements

In efforts to 'build a partnership between governments and all segments of civil society to strengthen solidarity and cohesion among peoples and make Africans both the actors and beneficiaries of the structural changes engendered by development,'⁸ several avenues and spaces have been created and/or exist through which citizens and their formations are able

to engage the AU. These are categorised into three major avenues, depending on how they came about. Below is a discussion of the nature and means by which these avenues can be utilised to increase AU–citizen engagement.

Institutional and invited spaces

The aspiration of the AU founders to build a partnership of ‘all segments of civil society’ was codified in Article 4(c) of the CAAU and institutionalised in ECOSOCC and CIDO. These two structures provide the framework for mainstreaming civil society engagements and African Diaspora participation in the AU’s work.

Windows created for African people’s participation in the affairs of the AU include the establishment of the PAP, which offers an avenue for indirect participation through citizen representatives, and the adoption of frameworks such as the Livingston Formula, updated by the Maseru Conclusions, for the involvement of CSOs in the work of the PSC. The African Governance Architecture (AGA) and the African Peer Review Mechanism are among other platforms that offer the African people participation implementing AU agendas.

Operationally, these structures are avenues through which CSOs are generally invited to participate and/or engage in AU activities, depending on the various areas of expertise. This usually takes place at the level of experts, ambassadorial and ministerial gatherings throughout the year or during thematic conferences. While organs such as the Assembly of the Heads of State and Government, the Executive Council and the Permanent Representatives Committee do not allow citizens to directly participate in their affairs, ECOSOCC, PSC and the African Commission on Human and Peoples’ Rights do have provisions.

Invitations for such engagements originate from thematic departments or the organs themselves. This avenue for engagement faces two main challenges: first, CSO invitations to engage in an upcoming event usually reach invitees late. The second challenge relates to the lack of comprehensive databases of organisations to facilitate invitations and engagements based on areas of expertise.

Notwithstanding the fact that the AU's institutional spaces recognise engagements with African citizens and their formations, the politicisation⁹ of some of these institutional frameworks and the existence of heavy bureaucracies in the functioning of the various AU organs coupled with an inefficient communication strategy, CSOs' engagement with the Union has remained largely informal and sporadic.

Engagements are also dominated by international non-governmental organisations (INGOs) with the capacity to establish liaison offices in Addis Ababa and be able to build the requisite informal networks to facilitate their engagements. Initiatives to create and maintain a solid continental network of CSOs, such as the Centre for Citizens' Participation in the AU (CCP-AU), have not been sustainable due to lack of funding and poor management.

According to a report by Oxfam and the CCP-AU, a growing number of African countries have imposed increased control of and undue restrictions on the formation and the activities of CSOs over the last decade.¹⁰ This trend has found its way to the AU with the closure of AU Summits to observers and CSOs. Nevertheless, some regional and national CSOs have often succeeded in engaging the continental body with the goal of influencing decisions through various adaptive advocacy and engagement strategies.

Joint spaces

Apart from the invitations to AU spaces, some spaces are jointly created through a partnership between citizens and their formations and relevant AU organs or departments. The best avenues to proactively influence AU policies and practices are mostly through the initiative of Addis Ababa-, Arusha-, South African-, and Banjul-based INGOs such as the Institute for Security Studies (ISS), the Pan-African Lawyers Union (PALU), OXFAM and International Crisis Group (ICG).

For this space to be useful and legitimate, INGOs should systematically collaborate with and bring in local organisations and affected populations from regional and national levels to serve as channels for rich debates by and engagement with all levels of African society. This is a great way to give exposure to the work of CSOs working at the national level.

Collaboration between African and INGOs enhance the capacity of both to support the work of the AU. INGOs are usually better resourced and

have a greater presence in Addis Ababa which gives them a competitive advantage in their work/engagement with the AU. These are, therefore, usually more visible while national NGOs coming into the Addis Ababa space require a lot of networks and relationships to succeed. Some African CSOs think that much of the policy positions from INGOs are dominated and informed by Western opinions, so they believe, as pointed out in chapter 11 of this book, that there is a need to promote the production of knowledge required to inform and shape the debate based on African contexts.

One of the critical concerns of African CSOs is the lack of financial support for long-term engagement with the AU. African CSOs also lack support to interact with others beyond specific project activities. Donors usually fund projects but not the related institutional costs. As a result, they push for advocacy engagements along the lines of Western capitals.

Autonomous spaces

Autonomous spaces are created independently by CSOs and citizen formations with a focus on AU issues and processes. These are usually concentrated on themes such as peace and security, democracy and good governance, economic justice, women's rights, and freedom of movement, among others. Reports of such gatherings are usually shared with AU policy-organ actors who become beneficiaries of the rich discussions emanating from those autonomous spaces.

Since the AU is made up of member states, robust and impactful engagements usually take individual member states into consideration. This implies that engaging AU organs and Commission should include member state representatives.

Achieving an AU of the people

Establishing and evolving a democratic culture and meaningful citizen participation in public affairs requires investment in relationships and processes that raise the African peoples' voices, perspectives and interests to demand the delivery of key political, social and economic rights and freedoms. Informing and empowering citizens to demand implementation of commitments made by state delegates demonstrates to politicians and

civil servants that continental standards have national and local political relevance.

Despite some encouraging progress over the last 20 years, citizens' participation in the affairs of the AU has not been consistent, systematic and well organised. It remains largely dominated by INGOs and principally informal, depending sometimes on whom you know and how much your organisation can spend on joint projects.

For the AU's decisions and actions to fully reflect the most important needs of the African people, as planned in its objectives and *raison d'être*, it is necessary that the following institutions and mechanisms created to make the AU a people-driven institution be reviewed and adjusted to be fit for purpose.

Pan-African Parliament

PAP was established as an advisory and consultative body to the AU. Located in Midrand, South Africa, it aims to promote popular participation and representation of African people in discussions and decision-making about challenges on the continent. The establishment of PAP was inspired by a vision of African Heads of State and Government to provide a common platform for African people and their grassroots organisations to be more involved in discussions and decision-making on the problems and challenges facing the continent.

The aim of PAP is to evolve into an institution with full legislative powers, whose members are elected by universal suffrage. Its creation was potentially a result of a renewed confidence in Africa of the ability of parliaments to uphold good governance. PAP has 230 members and exercises only advisory and consultative powers.

According to its founding document, the functions of PAP include: facilitating the effective implementation of the policies and objectives of the AU; working towards the harmonisation or co-ordination of the laws of member states; making recommendations aimed at contributing to the attainment of the objectives of the AU and drawing attention to the challenges facing the integration process in Africa as well as the strategies for dealing with them; promoting programmes and objectives of the AU in the constituencies of the member states; and encouraging good governance, transparency, and accountability in the member states, etc.

PAP further aims to familiarise the people of Africa with the objectives of and policies for integrating the African continent and promote the co-ordination and harmonisation of policies.

However, PAP still faces some obstacles to achieving its mandate. It cannot enforce its decisions or recommendations, and its influence is limited to consultative and advisory powers. PAP members are not directly elected but nominated from the national parliaments (five per country, two of which must be women, two must be opposition party parliamentarians).

In 2014, the AU adopted the Malabo Protocol to give some legislative powers to PAP. At the time of this analysis, only 12 members had ratified the protocol out of the 28 ratifications needed for its entering into force. The slow pace of ratification is testament to the low level of importance member states attach to issues regarding PAP. At this rate of ratification, it is likely going to take up to ten more years to reach the required threshold as African countries do not seem to accept a body to challenge their esovereignties.

In recent times, challenges associated with electoral rotation, leadership contestation, and financial accountability¹¹ have highlighted the deep-seated nature of the challenges faced by PAP and the need for urgent reform to be able to maintain relevance. If the many issues can be fixed and PAP gets to legislate and supervise member states' implementation of AU decisions, it will create an opportunity for partnerships with African coalitions, alliances and social movements.

PAP is consciously developing new relationships and gradually bringing civil society actors into its discussions. Providing space for an autonomous civil society to connect with policymakers is a precondition for installing and deepening a democratic governance culture in Africa. All stakeholders should then invest further in engagement with PAP.

Economic, Social and Cultural Council

ECOSOCC is an advisory organ comprising different social and professional groups of the member states of the Union. It was established in 2005 to build partnerships between African governments and civil society. The General Assembly of ECOSOCC was launched in September 2008. ECOSOCC was born of the idea that continental integration should

be a people-driven exercise built upon a community-based partnership between governments and all civil society sectors.

The structure, objectives, and functions of ECOSOCC are stipulated in its Statutes. The fundamental mandate of ECOSOCC as an advisory organ is to provide high-level technical input into the programmes and policies of the AU. The General Assembly is the highest decision and policymaking body of ECOSOCC, comprising all members.

To be a member of ECOSOCC, the AU demands, among other requirements, that: applicants' objectives and principles be consistent with the objectives and principles of the AU; applicants be registered in a member state of the Union; and they show a minimum of three years proof of registration as either an African or an African Diaspora CSO prior to the date of submission of application, including evidence of operations for those years. Even though AU member states and the Union itself receive and function largely on foreign funding, the AU restricts membership to ECOSOCC only to citizen formations that demonstrate that at least 50% of their budgets is derived from contributions of the members of the organisation.

The statutes of ECOSOCC provide for a 150-membered General Assembly – two CSOs from each AU member state, 10 CSOs operating at the regional level and eight at the continental level, 20 CSOs from the African Diaspora as defined by the Executive Council, and six CSOs, in an ex-officio capacity, nominated by the Commission based on special considerations in consultations with the member states. However, ECOSOCC has never had representatives from all 55 member states in the General Assembly.¹²

If fully functional, ECOSOCC would be the space for African citizens to occupy and take part in the affairs of their Union. It's evident that ECOSOCC has struggled to find CSOs that meet all the stringent requirements found in its statutes. Expecting African CSOs to demonstrate that 50% of their finances are locally generated is a considerable obstacle whose effect has blocked CSOs from qualifying for ECOSOCC membership.

If adequately built and managed, ECOSOCC could be an influential forum to inform policies and practices of the AU. It could help concretise the vision of the AU to establish a people-centred continental body and

close the gap between continental policies and the actual needs of people. ECOSOCC could be the continental champion and guarantor of civic space at all levels and empower citizens to claim accountability for implementing AU decisions at the national level.

A few years ago, the Executive Council of the AU (Ministers of Foreign Affairs), by its decision EX.CL/Dec.849 (XXV), ordered an in-depth study of ECOSOCC regarding its functioning since its inception to interrogate the organ's efficiency and effectiveness. This exercise aimed to provide appropriate recommendations on ways and means to revamp the operations of the organ that is supposed to ensure civil society contribution within the AU policymaking process.

The preliminary outcomes, which are not yet public, point to the need for significant reforms at multiple levels, including a revision of the statutes, a re-definition of the membership criteria to guarantee the technical capacity of members, and increased budgetary support to enable the effective participation of the organ across the full spectrum of AU programming. The harmonisation of the Secretariat staffing structure to make it consistent with other AU organs.

For ECOSOCC to perform better, a number of factors need to be taken into consideration. These include the need for regular and systematic consultation of the broader civil society based on capacity. ECOSOCC is not expected to have all the knowledge; instead, it has the vocation to find and coordinate knowledge. This will need a continental thematic database to be maintained regularly.

It is understood that ECOSOCC is not for INGOs, but the 50% budget criteria for eligibility is exaggerated and should be removed since it is oxymoronic. According to its 2020 budget, 59% of AU programmes are funded by external partners. Why does the AU not want CSOs to be funded by the same donors who fund it?

The ECOSOCC policy/advisory space needs to be clearly defined and AU organs sensitised about it. Before policymakers' debates are held, social, economic and cultural issues should be systematically tabled to ECOSOCC. Capacity and competency should be robust criteria in choosing cluster members and their leadership.

Livingston Formula and Maseru Conclusion

Article 20 of the PSC Protocol states that CSOs working in conflict-affected areas may be invited to participate in PSC discussions. In 2008, the AU PSC adopted the Livingston Formula as a framework for better interaction with CSOs. Still, unfortunately, the Formula gave a gatekeeping role to ECOSOCC that impeded its implementation.

On certain rare occasions, some NGOs and affected populations have taken advantage of the Formula to influence the PSC: For example, in 2010 and 2011, women survivors of conflict-related sexual violence from Côte d'Ivoire, the Democratic Republic of Congo (DRC), Guinea, Kenya, Somalia, South Sudan, Uganda and Zimbabwe had the opportunity to address the AU PSC on the issue of women and children in armed conflict during an open session.

But, five years down the line, the Formula has shown its limits to truly facilitating CSOs' involvement in the work of the peace and security organs of the AU in a consistent manner. While there have been some interactions between CSOs and the PSC, several claw-back clauses of the Formula worked to discourage and disqualify many CSOs from engaging with the Council. Equally, many assumptions and conditionalities inserted in the Formula have defeated the spirit, purpose and underlying principle of Article 20 of the PSC Protocol.

Many of the outlined qualification criteria in the Livingstone Formula were impossible to meet by several CSOs, especially at the grassroots level. For example, the Formula provided that CSOs intending to interact with the PSC should meet the membership criteria provided in Article 6 of the statutes of ECOSOCC. These include drawing at least 50% of their resources from their membership. In addition, not many African CSOs, especially in the grassroots areas, have the knowledge or ability to seek accreditation with the AU or regional economic communities (RECs), another condition imposed by the Livingston Formula to engage with the AU.

Pushed by NGOs such as Oxfam and its local partners in Sudan, Somalia and the DRC, the AU moved to discussing and adopting an improved version of the Livingston Formula named the Maseru Conclusion. The Maseru Conclusion is a better arrangement that allows a wider interaction between the Council and non-state actors to more effectively promote peace and security in the continent.

One of the reasons the AU is still failing to ‘silence the guns in Africa’ is the weak engagement with CSOs with local knowledge and experience from the conflict-affected areas.¹³ The continental body has not been tapping into the vast resources that NGOs, including community-based organisations, could offer, from early warning to contextual and conflict analysis to recovery and rebuilding. Humanitarian NGOs and other categories of civil society often have first-hand information and solid comparative advantages in dealing with conflicts. Still, they have had limited access to the peace and security organs of the AU. On the other hand, affected populations do not have adequate structures, links and interlocutors that could communicate their issues to the continental and regional organs to inform their decisions.

Challenges facing citizen engagement

The major concerns that CSOs have in contributing to implementation of Africa’s peace and security agenda include the lack of support for long-term engagement with the AU. The diplomatic rhythm for engaging AU organs (within Addis Ababa) differs from policy engagements in other capitals. As such, advocacy and influence in Addis Ababa are necessarily different and peculiar. Unfortunately, many donors do not recognise and accept this uniqueness. They, therefore, push for advocacy engagement mostly tailored along the lines of New York and Brussels.

African CSOs also lack the support to interact with others beyond specific project activities. Donors fund new projects but not the related institutional and human resource costs. It appears, as pointed out in chapters 5 and 14 of this book, that the policy objectives of donors and the AU are usually not aligned.

A related example is that of the donors supporting social media and technology-based engagement by youth movements. The funding direction is more informed by donor surveillance cultures than a genuine desire to empower the population of young people in Africa to contribute to development, build resilient societies and constructively engage regional and continental organisations like the AU, for which social media is not yet a significant platform for policy engagement. The available funding does not adequately support the people-to-people connections necessary to

advance a CSO agenda of the AU. On the contrary, much of the budgets for CSOs is driven by the visibility imperative, which appears important to donors and CSOs.

Conclusion and recommendations

Today, the AU has adequate legal instruments and institutional frameworks to realise its goals of a prosperous and united continent as prescribed by the CAAU. Notwithstanding, the realisation of the continental quest for peace, stability and development does not seem to be happening. Steps are too slow, with many stops and backward movements. The weak results are many, but a crucial one is the inability to engage and to productively involve citizens of the continent in the AU's activities.

Africa has a proud history of civic activism. Social movements and activists were a vital component of most independence struggles, and civil society was a driving force behind the democratisation wave in the late 20th Century and the transformation of the continent into one of the fastest growing regions in the world. Of course, promoting civic space does not tacitly imply that civil society should be unregulated and free from government oversight. On the contrary, reasonable regulation is both legitimate and necessary and can enhance effectiveness and accountability in the sector. Yet regulations must not be overly burdensome, driven by political motives, and designed to shoot down independent voices.

At the regional level, civil society and coalitions targeting regional and Pan-African institutions have an important role to play as a complement and a backup to national groups. In many cases, they can really contribute, influence and pressurise member states through regional and continental bodies on regional policy issues. It is then important that the AU and the regional economic communities take steps to reverse the trend of shrinking civic space nationally and continentally because the fundamental transformation of the OAU into an AU is justified by the participation of citizens in the development process. To achieve the goals of citizens' involvement, however, the following considerations are important for both CSO and policy actors at all levels.

Reopening the national and continental civic space

We must first push for a moratorium on restrictive CSO laws in Africa so as to enable CSOs to effectively operate at regional and Pan-African levels. A few progressive member states should table the issue in the regional and the Pan-African debates. Countries with significant regional and continental soft power and influence such as Botswana, Ghana, Nigeria, Senegal, South Africa and Zambia, for instance, could play a leading role. There are strong reasons to do so. Africa cannot become the Africa we want, the Africa envisioned in the Agenda 2063, without a multifaceted and genuine participation of citizens and their formations.

There is the need for an independent continental task force to be commissioned by the AU to look into the situation, to review laws and regulations that affect CSOs, and to report to the Assembly of the Heads of State and Governments for a progressive decision. Besides that, an advanced and elaborated procedure for civil society participation in the AU's policy process should be adopted.

Building capacity of civil society organisations

There is a need to strengthen the capacity of African coalitions and alliances to engage with AU organs as important institutions for governance and socio-economic development of the continent. As recommended in chapter 12, this could boost the the monitoring and implementation of AU decisions at all levels. CSOs should seek to better resource the participation of grassroot organisations, social movements and civil society coalitions of national and regional organisations.

Monitoring AU decisions at the national level

Citizens should constantly monitor the implementation of treaties, decisions, resolutions and declarations adopted by various AU organs at the national and regional levels, and publish reports with recommendations. At national levels, people and their formations could hold their governments accountable for their commitments to continental norms and statutes by disseminating, analysing national laws and policies made to domesticate them.

Engaging the AU the right way

To be successful, CSOs' advocacy at the AU must include three major sets of targets: the AU member states and their representatives, AU organs including the AU Commission as well as other organs based in or out of Addis Ababa, and the RECs/RMs. In addition, influencing strategies must be built on the entire decision-making process, starting from problem identification, agenda-setting and policy proposals to the Permanent Representatives Committee's and Specialised Technical Committees' (at technical experts and ministerial levels) deliberations until the final adoption by the Summit of Heads of State and Governments or other mandated organs of the Union such as the PSC. An efficient influencing strategy must include power analysis and an effective engagement of the specific departments holding thematic portfolios.

African peer pressure provides an effective way to bring change in countries where governments are not respecting principles of democratic governance and human rights. African CSOs and the African Diaspora should rethink, re-group and claim their space in the AU by understanding and acknowledging that the AU is their institution that they need to engage with the objective to influence decisions made to achieve the Africa we want. CSOs at all levels (grassroots, national, regional and international) need to build the chain and ensure that the AU remains firmly on their agenda as a primary beneficiary of their policy engagements if they aim to influence policymaking at all levels so as to achieve the desired results.

Notes

- 1 See Article 4(c) of the CAAU.
- 2 SM Makinda, FW Okumu and D Mickler, *The African Union – addressing the challenges of peace, security, and governance*, London, Routledge, 2015, 13–32.
- 3 Ibid.
- 4 African Union Commission Strategic Plan 2009–2014.
- 5 See Decision of the Assembly of the African Union (Assembly/AU/Decl.2(IX)), Ninth Ordinary Council, 1–3 July 2007.
- 6 See Article 20 of the PSC Protocol.
- 7 Oxfam International Liaison Office with the African Union, African Union Compendium, *Oxfam International*, 16 April 2014, www.oxfam.org/en/research/african-union-compendium.
- 8 Commission of the African Union, Commission of the African Union Strategic Plan 2004–2007, May 2004, <https://archives.au.int/handle/123456789/6265>.
- 9 Some of these organs, such as ECOSOCC, in view of their restrictive membership requirement, seem to deliberately impede the genuine participation of experienced NGOs and only allow a figurative role of weak organisations.
- 10 Oxfam, Putting citizens' voice at the centre of development: Challenging shrinking civic space across Africa, *Pan Africa Policy Brief*, November 2016, https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file_attachments/oxfam-policy-brief-civil-society-nov16_en.pdf.
- 11 For CSO perspectives on these issues, see Press Statement: African CSOs statement on the recently postponed PAP elections of the Fifth Parliament, 18 June 2021, www.chrup.ac.za/dce-unit-news/2588-press-statement-african-csos-statement-on-the-recently-postponed-pap-elections-of-the-fifth-parliament.
- 12 Economic, Social and Cultural Council (ECOSOCC).
- 13 See W Okumu, *Conflict prevention from the ground—Opportunities and challenges for closer cooperation between AU, RECs and civil society on conflict prevention in Eastern Africa*, Addis Ababa, Friedrich-Ebert-Stiftung, 2020; and FW Okumu, A Atta-Asamoah and RD Sharamo, *Silencing the Guns in Africa by 2020: Achievements, opportunities and challenges*, Pretoria, Institute for Security Studies, 2020.

Chapter 16

Political leadership of the African Union

Thomas Kwasi Tiekou and Nordiah Lavita Newell

Introduction

As the African Union (AU) marks its 20th anniversary as Africa's premier political organisation, it is an opportune time to explore the kinds of political leadership that have shaped the Pan-African body in the last two decades and the types of leaders that can steer its integration and human security agenda. This analysis should put the reader in a good position to make educated inferences regarding the types of leadership that can help the AU achieve its lofty goals in the next 20 years.

There are many ways to map political leadership. Management and organisation scholars tend to emphasise leadership styles.¹ The conventional thinking in management studies is that there are four types of leaders: visionary leaders, commanders, democratic leaders and transactional leaders.²

Visionary leaders can mobilise a critical mass of people to support a major cause.³ They tend to act as magnets and as mobilisers-in-chief for a cause. Classic examples include Nelson Mandela and Kwame Nkrumah. Commanders demand immediate compliance and obedience. They are often charismatic but mobilise people through fear and threats. Many African military leaders have fallen within this category. Examples of commanders include Ghana's Jerry Rawlings, Burundi's Pierre Buyoya and Chad's Idriss Déby Itno.

Democratic leaders try 'to create an emotional relationship with followers, in which the leaders affect their values, beliefs, and goals.'⁴ They work to build consensus and encourage participation in decision-making. They often promote a deliberative culture among followers and are more inclusive in their approach to leadership. The former Ghanaian president John Evans Atta-Mills is a classic example.

Finally, transactional leaders have a task-focused leadership style characterised by quid pro quo relationships: their followers receive tangible

material rewards, while non-followers receive punishment or deprivation.⁵ Their decisions are motivated by the desire to maintain and strengthen their hold on power. The literature on African politics suggests Uganda's president, Yoweri Museveni, is classic transactional leader.⁶

Another way to think about political leadership – often used by political scientists, policy studies scholars, and journalists – focuses on ideology and highlights three main types of ideology: conservatism, liberalism, and Marxism.⁷

Conservatism's core ideas are ordered liberty, respect for traditions, the free market, and limited government involvement in the affairs of citizens. It emphasises a limited form of liberty that provides some freedom from control by governing elites. This 'self-imposed restraint' is what makes up a good society, according to conservatism.⁸

Liberalism advocates for the protection of economic freedom and individual liberty. It prioritises human agency, economic individualism, and market regulation.⁹

Marxism is both a political and economic ideology. It emphasises collectivity, especially collective ownership of material forces, and critiques the effects of capitalism on social reproduction, labour, economic production and political communities. It argues that the exploitative nature of interactions between owners of the means of production and wage workers leads to class struggle, perpetual conflicts and even revolution.¹⁰

Without discounting the importance of political ideologies and leadership styles, this chapter suggests that the best way to map out political leadership in the AU in the last 20 years is to look at it through the prism of worldviews. Worldviews are the cognitive paradigms that people take for granted that enable them to identify, perceive and interpret events.¹¹ Four main leadership worldviews have shaped the AU in the last 20 years and will likely continue to do so in the future: continentalism (often seen as interchangeable with Pan-African ideology), regionalism, liberal internationalism, and statism.

Continentalists see Africa as indivisible and seek a continent-wide union as well as closer links between resident Africans and the diaspora. Statists believe that colonial-era boundaries, however erroneous, are worth preserving; they resist the involvement of international bodies like the AU in state affairs, and seek only loose forms of cooperation between states.

Regionalists promote cooperation between states in large regional blocs; they are willing to cede national control to international bodies to a greater extent than the statist but to a lesser extent than the continentalists. Liberal internationalists are similar to regionalists in their level of willingness to cede national control to international bodies, but they place more emphasis on liberal values like democracy, civil rights, and humanitarianism.

This chapter discusses how the four worldviews have shaped the evolution of the AU over the last two decades and their respective implications on the future of the organisation. It argues that the creation of the AU was a direct result of a clash between these four worldviews, and the AU now draws its foundational principles, norms, and rules from all four worldviews.

The numerical dominance of statist leaders ensures that the AU leans heavily towards intergovernmentalism or statism. The assertiveness of the liberal internationalists in the early days of the AU enabled key liberal ideas to enter the AU agenda, especially in its first 10 years. The influence and persistence of a vocal minority of continentalists gave the AU its aspirations and long-term goals. Finally, the influence and diplomatic manoeuvring of the regionalists pushed the AU leaders to make African regional economic communities (RECs) the building blocks of the Union.

In the next 20 years, if the AU remains dominated by statist leaders, it is likely to take a conservative, intergovernmental, and elitist approach to addressing Africa's challenges. If a significant number of continentalists are elected as leaders of African countries, their influence may transform the AU into a more effective political organisation that is attentive to the needs of the broad mass of Africans. If more regionalist leaders emerge, the RECs are likely to have the greater say in African integration. And if the liberal internationalists dominate, the AU will be an agent of free trade, a close ally of Western governments, and the darling of the Western donor community.

The text that follows first describes the four worldviews in more detail and then places them in historical context. Next, their influence on the development of the AU in the last 20 years is discussed. Finally, the chapter explores how the AU might continue to develop depending on which worldview gains prominence in the future.

Four worldviews shaping the AU

This section outlines key tenets of the four worldviews shaping the AU – continentalism, statism, regionalism, and liberal internationalism.

Continentalism

Continentalist leaders see Africa as one indivisible continent. Africans on the continent and in the diaspora are seen to have a shared history, identity and culture, the development of which was interrupted by the transatlantic slave trade and colonialism. Therefore, the group sees the division of Africans into states with various forms of government, and the lack of a single political system that brings together Africans in the diaspora and those on the continent, as the main impediments to Africa's progress.

Continentalism, which is influenced by Pan-African and in particular by Marcus Garvey's Back to Africa movement, holds that the inhabitants of Africa should be organised within a continent-wide political framework with 'a unified economic planning, a unified military and defence strategy, and a unified foreign policy and diplomacy.'¹² A continent-wide union would provide tools for African people to resist foreign domination and oppression while providing the space for the continent's leaders to unify Africans and ensure economic sovereignty.¹³

Thus, continentalists regard the African state system as illegitimate and problematic and call for a new form of political community with an African flavour to replace the state system that they inherited from European colonial rule. The central political objective of the continentalist leaders is to dissolve the state system into a United States of Africa and to provide a homeland for Africans in the diaspora.

The attraction of the continentalist idea has led several African leaders, most of whom do not genuinely hold that view, to deploy it as a rhetorical tool, making it difficult sometimes to separate genuine continentalists from the rest. The best way to judge whether leaders are genuine continentalists is to gauge the extent to which they are prepared to surrender the sovereignty of their own state in favour of a United States of Africa.

Indeed, every African leader in the last 20 years seems to be continentalist until they are challenged about their willingness to give up

state sovereignty. Then, the leaders whose continentalism is mainly rhetorical respond that the continentalist goal is unachievable at the moment, or too ambitious, or that Africans are not ready for it. The leaders who also say they are gradualists, or prefer to take a step-by-step approach to continental integration, usually hold a worldview other than continentalism.

Statism

At the other end of the spectrum are the statist leaders, who consider the division of Africa into states a useful organising principle. Many are openly critical of colonial rule; they consider the boundaries created by colonial authorities artificial but believe that those boundaries are worth preserving.

Statists can be further divided into native statist and transnational statist. Native statist are not only inward-looking leaders, they seek to strengthen colonial ties within the African state system. They advocate for the protection of colonial boundaries, values, and beliefs, and often think Africa belongs only to current resident Africans. They think that intergovernmental organisations such as the AU should reinforce the colonial state system and not become involved in state affairs.

Transnational statist are willing to reinforce colonial boundaries while cooperating with other African states. They argue that the maintenance and protection of the state system in Africa ought to be the guiding principle of the AU. They think interstate cooperation in Africa should take the form of loose relationships of economic exchange or coordination on issues of mutual interest.

Statist leaders tend to think of sovereignty as a single indivisible artifact whose integrity should be preserved, maintained and defended at all costs. They are often described in the literature as regime survivalists, neo-patrimonialists or clientelists.¹⁴

Regionalism

Regionalist leaders tend to lead countries that are, or consider themselves, regional powers or hegemons. They see Africa as divided into five distinct regional identities: East, Central, North, West and South. They think about state sovereignty in a disaggregate way. Unlike statist, they are willing to

compromise state sovereignty on so-called low-politics issues or matters that are non-existential to the existence of the state.¹⁵ But unlike continentalists, they are unwilling to cede sovereign prerogatives on core issues such as security. Regionalist leaders are often strong advocates of the RECs.

Leaders within a region do not always get along. Sometimes the tension between regionalist leaders in a particular region is stronger than the tension between them and leaders outside the region. Yet they are willing to cooperate with their regional counterparts more than leaders outside of their region. For example, the contentious relationship between Uganda's Museveni and Rwanda's Paul Kagame is well documented. Despite this tension, they consider themselves brothers within the East African family.¹⁶

Liberal internationalism

Liberal internationalist leaders hold views similar to those of the regionalists, but are committed to the Enlightenment vision of open societies and a rules-based progressive international system in which 'sovereign states – led by liberal democracies – cooperate for mutual gain.'¹⁷ This worldview emerged with the rise of the West but spread to the rest of the world at the height of British power in the 19th century and American hegemony in the 20th century. Liberal internationalists are staunch defenders of post-1945 multilateralism and seek to build alliances among states to champion democracy, political and civil rights, neoliberal economic development, and other liberal ideas.¹⁸

In Africa, liberal internationalists seek to lay to rest the victimhood mindset. Instead of blaming others, especially the West, for Africa's problems, they take responsibility for these challenges and try to own the discourse and take control of African affairs. The viral December 2017 speech of Ghana's president, Nana Addo Dankwa Akufo-Addo, calling for Africa to end its dependency on aid and the West, reflects this approach to African politics. As he put it: 'Our concern should be what do we need to do in this 21st century to move Africa away from being cap in hand and begging for aid, for charity, for handouts.'¹⁹

African liberal internationalists also seek to demand good behavioural standards from African governments.²⁰ They see themselves as the apostles of humanitarian intervention, civil rights, and free trade on the

continent. Some liberal internationalist African leaders were human rights lawyers or advocates before becoming leaders of their countries. They also see themselves as the disciples of liberal internationalist leaders in the West, and are often the darling of liberal international organisations such as the World Bank, International Monetary Fund and United Nations (UN).

Historical evolution of the worldviews

In understanding the evolution and influence of the worldviews in Africa, it is important to understand their respective histories and influences from a more global perspective.

Continentalism

The continentalist worldview, the focus of chapter 2 in this book, is a product of African history and the Pan-African movement, which began in the 19th century. The first wave occurred before 1930 and primarily aimed to raise the consciousness of the world about the plight of Black people. This phase is known for the campaigns to end dehumanisation practices against Black people such as slavery and apartheid.

The second wave can be dated roughly from the 1940s to 1960s; it sought to mobilise people of African descent to decolonise the continent and to create a united Africa to replace the colonial state system. This wave led to the formation of the Organisation of African Unity (OAU). The third wave, in the 1990s and 2000s, involved a campaign to replace this organisation with a union government and led to the creation of the AU.

Although continentalism is influenced by the spirit of Pan-Africanism as articulated since the 19th century, it has some distinctive features. It is cosmopolitan in orientation and inclusive of all races, unlike the first wave of Pan-Africanism, which was race-centric. As articulated by Mali's Alpha Konare, the continentalists are more interested in 'hastening Africa's integration into a powerful united entity that could set its own agenda and effectively play leading role in world affairs.'²¹

That said, remnants of the 19th century Pan-African ideology shaped the continentalists' worldview through a series of conferences that the first generation of African leaders attended. Through other mainstream socialisation mechanisms such as education, sustained interaction

between African political elites and their counterparts in the diaspora generated a small but very vocal pool of continentalists, especially in the 1960s and 1970s.

Because there were few ways to promote the Pan-Africanist approach, most Africans did not adopt it. Even powerful Pan-Africanists like Nkrumah were unable to educate and socialise a significant number of Africans into the continentalist worldview, because the control that colonial authorities and their surrogates had over African education made it impossible to include any substantial mention of this worldview in most African school curricula. Statism had been mainstreamed into the African curriculum from primary school to the university level before the first generation of continentalists became leaders of their states.

As a latecomer and radical idea, continentalism needed many strong advocates and long-term commitment to stand a chance of competing with, let alone displacing, the dominant worldview. Continentalist African leaders have not had that opportunity. The overthrow of leaders such as Nkrumah and the killing of Libya's Muammar Gaddafi are to a large extent a reflection of the way that continentalist-oriented African leaders have been treated by supporters of mainstream worldviews such as statism and liberal internationalism.

Statism

Statism, which is the predominant worldview in Africa, can be traced to the 17th century with the emergence of countries in Western Europe as global powers. Many political scientists trace the emergence of statism to 1648 and the formation of European states, although the idea of the state emerging exclusively in Europe has been challenged.²²

European political elites used colonial rule to globalise the statist worldview, entrenching it through a carrot and stick method.²³ The 'carrot' involves incentives including foreign aid, technical assistance, and strong political support for supporters of statism. African leaders who showed a strong commitment to statism are handsomely rewarded, while those who challenge the statist worldview are vehemently opposed and undermined. The 'stick' is manifested in material aid and military support to domestic groups attempting to overthrow non-statist African leaders. A classic example is the material support that the coup plotters of Nkrumah's regime

received from outside of Africa, and the enthusiasm with which Western governments welcomed Kofi Abrefa Busia's statist-oriented government.

In many cases, the carrot and the stick were mixed in a nuanced way in the promotion of statism in African continent. It is much more evident in the African educational system, where the promotion of statism is at its zenith. The singing of the national anthem, the national pledge, the design of textbooks, and the hiring of instructors are all geared towards socialising Africans to accept statism as the only organising principles for politics in Africa. Those who dare to imagine alternative ways of political organisation are often severely punished both physically and mentally, or are met with overwhelming epistemic violence by teachers, supervisors, school administrators, government officials, and donors.

Academic freedom is often encouraged as long as it does not undermine the statist framework that was packaged by colonial authorities and delivered to Africans. Although colonialism has officially left the continent, the statist worldview that was bequeathed to Africans is regulating itself on the continent, as postcolonial scholarship has demonstrated convincingly that the colonial worldview, ideas, and practices are self-regulated.²⁴

Regionalism

The modern version of regionalism is an offshoot of post-1945 Western politics. The Western world did not invent regionalism. But the success of regional integration in Europe and North America, and the limited threat regionalism poses to the statist project, have allowed Western leaders to promote this worldview on the African continent.

Even before they became involved in Africa, United States (US) political elites cultivated regionalism in Europe as part of the grand American political strategy,²⁵ in order to build peace on the continent, counter potential hegemonic aspirations of Western European states, and minimise the influence of the Soviet Union.

Because the version of regionalism that America supports is consistent with the capitalist economic system, American public officials have promoted it as a means to counter communism and other non-capitalist ideologies in Africa. European political leaders also encourage regionalism as a means to spread their own values and influence. They do so through

the European Union (EU), foreign policy apparatuses, and African education systems – including EU centres of excellence and support for regional integration courses and research centres in African universities. The strategic promotion of regionalism has led to the emergence of African elites who are strong believers in regionalism and see the AU as an instrument for promoting the regionalist agenda.

Liberal internationalism

The liberal internationalist worldview is closely tied to the foreign policy of middle powers such as Canada and Norway, the work of international institutions, and the attitudes of American elites towards the African continent. Since US President Woodrow Wilson's 1918 Fourteen Points speech outlining his goals for the post-World War I international order,²⁶ the US has seen liberal internationalism as an important foreign policy goal on the African continent – part of its effort to spread its influence and to undermine its competitors on the continent, such as Russia and China.²⁷

The US sees the embrace of liberal internationalism by African elites not only as a rejection of non-liberal ideals, but also as one of the best ways to bring Africa into its orbit. American elites think that the more liberal in outlook African elites are, the more America will be able to influence them. As a result, the US has deployed various tools, especially in the education system, to cultivate the emergence of liberal internationalist leaders in Africa.

Middle powers such as Norway and Canada have also nurtured the liberal internationalist worldview in Africa as part of a broad strategy to promote a rules-based international order, which gives them enormous advantage over non-liberal states such as China and Russia. It also creates the opportunity' for them to manage their relations with liberal superpowers such as the US.²⁸

International organisations including the UN and the international financial institutions have prioritised the promotion of the liberal internationalist worldview in Africa in part because it reflects their organisational interests and because their key donors such as the US, EU, and major middle powers encourage them to do so. Donors see these international organisations as important for spreading liberal values on the African continent. International organisations such as the UN have always

been major conduits for spreading the liberal worldview, Western values, and colonial practices.²⁹

Neoliberalisation of the African educational system from the 1980s gave these international organisations and their major donors the opportunity to promote liberal internationalist values in key public and private institutions across Africa.³⁰ It is therefore not a surprise that a critical number of members of the African political elite are now major promoters of both liberal ideas and liberal internationalism. African political leaders have seen the AU as a key instrument for the promotion of liberal internationalism.

Many of the foundational principles of liberal internationalism – such as elections, free trade, civil and political rights, and humanitarian intervention – made their way into the Constitutive Act of the African Union (CAAU) and other key AU instruments as a result of their promotion by African political elites during the late 1990s and early 2000s.³¹ Key AU documents such as the African Charter on Democracy, Elections and Governance,³² the Protocol Relating to the Establishment of the Peace and Security Council of the AU, Agenda 2063, New Partnership for Africa's Development (NEPAD), African Continental Free Trade Area (AfCFTA) and the Conference on Security, Stability, Development, and Cooperation in Africa (CSSDCA), are liberal in outlook because of the influence of these African liberal internationalists.³³

Influence of the four worldviews on the AU

Of these four worldviews, liberal internationalism, statism and regionalism have had the most influence on the AU in the last 20 years, with continentalism a distant fourth. Together, these worldviews formed the foundation for the creation of the AU and informed its founding treaty and supporting legal instruments. Among the proponents of these views, liberal internationalists were led by the then South African President Thabo Mbeki and Nigerian President Olusegun Obasanjo. Statists were led by President Museveni of Uganda and Chadian President Idriss Déby. Regionalists were led by Ethiopian Prime Minister Meles Zenawi, Algerian President Abdelaziz Bouteflika, and Senegalese President Abdoulaye Wade. The continentalists were led by the late Libyan Leader Muammar Gaddafi.³⁴

The clash between these four schools of thought led to the formation of the AU. The AU that emerged from negotiations leaned towards the liberal and statist worldviews. The continentalists, however, scored an important victory by pushing the three other schools to compromise on their positions on state African sovereignty and give the AU the power to intervene in the internal affairs of African sovereign states. While the continentalists were very small in number, their strong advocacy led to the amendment of the CAAU. They also pushed African leaders to organise the second grand debate on the possible formation of a union government for Africa in Accra in 2006.³⁵

The election of a continentalist, the former Malian President Alpha Oumar Konare, as the first chairperson of the AU Commission, made the organisation more activist and interventionist in the first five years of its existence. It kept the dream of transforming the AU into a union government alive. It was largely the advocacy of the few continentalists that made the African leaders agree to transform the African Union Commission into the African Union Authority and to audit the AU in 2009.³⁶

However, the overwhelming majority of statist enjoyed in the AU leadership and bureaucracy enabled them to effectively block most of the work of the continentalists. The decision to transform the AU Commission into an AU Authority was never implemented. Neither was the key recommendation of the audit report implemented, nor was Konare allowed to implement his elaborate mission and vision. He was frustrated at both the political and technical levels, prompting him not to seek a second term.

Domestic political problems for the leader of the continentalists, Gaddafi, and his subsequent assassination in 2011 cleared the slate for the other groups to shape the future of the AU. The departure from office or death of leading liberal internationalists by 2010 made the influence of this worldview wane considerably. By 2012, the AU had become an organisation of statist and regionalists.

A new fault line emerged between statist and regionalists, with the regionalists seeking to refocus the AU on issues of economic development and strategic global cooperation. This push to refocus on narrow bread-and-butter issues led to the decision to reform the AU in 2016. Although the regionalists and the statist agreed on the importance of protecting sovereignty, they disagreed on the extent to which the AU should be given the

authority to manage African affairs. The statistes wanted national governments to have firm control over every decision made by the AU, while the regionalists did not mind delegating some authority to the AU on economic issues.

This has been the major dividing line within the AU leadership for the last 10 years. The consensus on sovereignty explains why the AU reform has taken a conservative approach to continental integration and has clawed back some of the powers that the continentalists enabled AU bureaucrats to acquire. The AU is increasingly becoming a conservative, risk-averse, and elitist organisation that is more interested in protecting the governing elite in Africa than anything else. The dominance of the statistes has also weakened the AU's commitment to the liberal values of democracy, human rights, and the opening of AU decision-making spaces to civil society. Thus, the AU leadership is currently committed to statism writ large, and regionalism to a limited extent.

Implications and conclusion

The AU has been shaped by leaders who subscribe to the worldviews of statism, regionalism, liberal internationalism, and continentalism. Like every worldview, these groups have subtle internal differences. Some proponents of statism are absolute statistes who loathe any attempt to cede even a tiny portion of sovereignty to the AU. Regionalists are usually willing to cede sovereign economic prerogatives to regional organisations. Some regionalists want the AU to be a coordinating body for the RECs, while others do not like to delegate any major decision-making powers to the AU.

Liberal internationalists differ in the extent to which they will cooperate with states outside of Africa, and the extent to which they are prepared to promote liberal values and rules-based international order outside of their states. Some are more interventionist in their approach and seek to be apostles of liberal values, while others are more cautious, fearing they will be tagged as Western agents, neocolonialists, or compradors. Continentalists differ subtly in the kind of organisation that they want to replace the Westphalian state system, with some preferring a federation and others a confederation.

These worldviews have formed the foundation of the AU and informed its work in the last 20 years. The continentalists and liberal internationalists had some sway in the AU in its first 10 years. Their influence began to wane in

2009, and by 2012, they had lost any meaningful influence on the direction of the AU. Continentialist leaders had left the African political scene by 2012.

Liberal internationalists such as Ghana's Nana Addo, who replaced more assertive colleagues, ceded influence to the statist and regionalists; their influence on the AU in terms of its direction and programming is very limited. This has allowed the latter groups not only to claw back any intervention powers given to the AU, but also to reform the AU and bring it firmly into their orbit.

Unless a new generation of continentalists, or more assertive liberal internationalists, emerge on the African political scene, the AU will likely take on a more conservative outlook, becoming more intergovernmental and losing touch with ordinary Africans. It will likely be an organisation of mostly old people pretending to understand the needs of a continent whose population is largely young. The main value of such an AU would be as a talk-shop, regime-praising agent, document-producing centre, and continental body that talks big but acts very little. This AU will be valuable to the African political elite, but almost useless for addressing the day-to-day concerns of many Africans.

If, on the other hand, a new generation of liberal internationalists emerges, or if the current generation becomes more assertive, the AU will likely be more interventionist, liberal in its outlook, humanitarian in its core programming, and democracy- and human-rights-oriented, and will likely have a strong relationship with external donors.

If continentalists establish a more powerful presence, there is likely to be a fundamental reform of the AU, with a loosening of the grip of national governments on the organisation. Like the 1960 and 1990 waves of continentalist activism, the election of a few vocal proponents as presidents of African states would likely lead to another heated debate, and possibly the transformation of the AU into a much stronger organisation. Or the AU could be pushed to implement the more transformative part of its agenda.

The more continentalists emerge on the African scene, the more ambitious the AU will be. The more statist leaders become presidents of African countries, the more conservative and toothless the AU will become. The future of the AU in the next 20 years will depend on the worldviews of African leaders, and the kind of worldview African educational institutions will nurture in those years.

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Chapter 17

Lessons learned, conclusions and recommendations

Andrews Atta-Asamoah and Wafula Okumu

Introduction

Through the chapters of this book, authors of diverse backgrounds have discussed in depth some of the many themes that have preoccupied the African Union (AU) since its formation in 2002. More than 15 themes are covered, including the role of Pan-African ideals in directing African integration, the development of African legal norms and the building of AU institutional capacity. Also explored are continental responses to human security challenges, involvement of the African people, particularly women and youth, in promoting AU agendas in continental decision-making, and AU responses to complex emergencies.

Additional themes are how the AU has forged partnerships to promote Africa's human security and the role of leadership in steering the organisation and the continent towards deeper integration and development. Lastly, there is the AU's role as a global actor and representative of African interests on the international stage. These issues have been critically interrogated through various lenses to reveal key achievements and identify significant challenges and obstacles. Recommendations are made on how the AU can perform better to meet the aspirations of the African people in the decades leading to 2063.

From insights in the chapters, it is clear that any attempt to assess an organisation with as broad a focus as the AU needs to consider several essential factors. First, although the AU may not have achieved all its objectives, there is no denying that the roles it has played have surpassed those of its predecessor the Organisation of African Unity (OAU). These include contributing significantly to promoting human security, facilitating continental integration and offering a platform for the practice of rigorous

African diplomacy. This is notwithstanding the retrogression in some key aspects of the continent's peace and security situation, particularly the notable spread of activities and impact of violent extremist groups with phenomenal implications for state stability and human security in the Horn of Africa, the Sahel and the other parts of the continent.

Even though the AU's generic relevance can be appreciated by even its fiercest critics, the extent of the organisation's contribution to Africa's overall progress towards the achievement of the 'Africa we want vision' is difficult to assess. This is due in part to the dynamic context in which the organisation functions and the evolving nature of threats it seeks to address. It is also because of the ease with which insecurity worsens on the continent. Given the nature of the context within which the AU operates, it is the case that any gain in advancing peace and stability is an incomplete assessment unless seen against the extent to which a retrogression or relapse has been prevented in the same context.

The second factor to be considered in assessing AU achievements and impact is that gains and progress assessments in Africa are not binary. The contexts in which different solutions and interventions are rolled out need to be adequately considered in understanding both the AU's wins and failures.

Third, an assessment of the AU's contribution to gains in the thematic areas of its engagements is bound to elicit different outcomes depending on the assessor and measurement standard used. Hence, the question of whether the AU has performed as expected in promoting Africa's human security will remain a subject of intense debate depending on the issues discussed and by whom. In this context, the preceding chapters provide ample details from various perspectives on areas whose nuances ought to be discussed before determining the AU's actual contribution to Africa's peace and security.

AU achievements over 20 years

In Article 3 of the Constitutive Act of the AU (CAAU), its founders committed to 14 major objectives for the organisation. Included are promoting unity, solidarity, cohesion and cooperation among Africa's people and states, and promoting and defending African common positions on issues of interest to the continent and its peoples. Others were establishing conditions for Africa

to play its rightful global economic role, and promoting democratic principles and institutions, popular participation and good governance, and peace, security, and stability on the continent.

In its pursuit of these commitments, the AU has made progress in some crucial areas in the assessment of the chapter contributors. Among these areas are norm-setting, institution building and establishing legal frameworks to shape and guide AU's work. Tiyanjana Maluwa notes in chapter 3 that although the AU lacks the powers to adopt binding decisions, it has provided a forum for its members. This allows them collectively to adopt policies and positions that provide the foundation for a continental legal framework and the creation of norms on various issues. From the OAU era to date, norm-setting in Africa has 'constituted an emerging AU law framework' within which about 66 multilateral instruments have been adopted, with about 34 in force.

Similarly, as a direct outcome of its mandate to provide a unique framework for collective action, the AU has established institutional structures with which it pursues its goals. Key in these are the nine institutional organs of the CAAU, made up of the Assembly of the African Union, Executive Council, Pan-African Parliament (PAP), Court of Justice, AU Commission, Permanent Representatives Committee, specialised technical committees, Economic, Social and Cultural Council (ECOSOCC), and financial institutions. Other crucial structures such as the Peace and Security Council (PSC) and African Peer Review Mechanism (APRM) were established by later treaties in response to particular needs.

This reflects the AU's commitment to fulfilling the goals and aspirations of its founders and the agenda of the African people. Yet, Nsongurua Udombana posits in chapter 4, that 'weak institutions continue to pull Africa backward... resulting in failure to fulfil treaty and constitutional obligations.

AU efforts over the last two decades have generated numerous normative, legal and institutional frameworks to fulfil its founding objectives and promote human security on the continent. Some are complemented by notable vision-framing documents, such as Agenda 2063, which have scripted the commitment to transform Africa's future. As John Akokpari illustrates in chapter 10, frameworks such as the New Partnership for Africa's Development (NEPAD) 'reflect concerted efforts by the AU to promote economic growth and development on the continent'.

The AU's achievements in establishing norms, institutions and legal frameworks have been evident in its management of peace and security challenges on the continent. Wafula Okumu in chapter 5 notes that although concerns have been raised over the AU's ability to promote peace and maintain security, its efforts of addressing some of the conflicts have enabled it to set up institutional frameworks, to generate and articulate norms, values, and standards, to implement strategies and establish practices that encompass its peace and security architecture. However, for the AU to successfully achieve its expansive peace and security agenda, it must clearly articulate and strictly uphold the African Peace and Security Architecture (APSA) guiding principles particularly those related to working with other stakeholders, streamline APSA institutions, provide incentive for African people to own the agenda, skilfully manage its relations with external partners, properly execute its decisions, fulfil commitments made before taking on new ones, and continually assess its performance.

Ottilia Anna Maunganidze confirms that, in the quest for constitutionalism, the rule of law and human rights in Africa, recognition of peoples' rights was integral to the OAU. However, several departures in the CAAU from the provisions of the OAU Charter presented the establishment of the AU as a significant opportunity to advance, promote and entrench human rights practically. She notes in chapter 6 that the AU has 'championed a new system that centres human rights, justice and the rule of law' with support of several policies, legal instruments and frameworks. It has also registered some gains in 'advancing good governance and constitutionalism' despite relapses in some significant areas.

Khabele Matlosa observes, also in chapter 6, that 'it is clear that democratic governance has strengthened during the era of the AU'. This is as efforts to achieve governance aspirations have culminated in the 'development of a plethora of robust normative and institutional frameworks on governance and democracy'. He cites the African Charter on Democracy, Elections and Governance (ACDEG), APRM and the African Governance Architecture (AGA). In implementing these, the AU has also contributed to deploying election observation missions and 'constructive management of diversity and peaceful resolution of conflicts', noticeably reducing interstate conflict numbers amid persisting intrastate ones.

According to Ruth Adwoa Frimpong and Kwesi Aning in chapter 7, the AU, in order to implement its human security agenda, has established working relationships with member states, regional economic communities and regional mechanisms (RECS/RMs), civil society organisations (CSOs) and international organisations. This is in line with its planning, policy formulation and decision implementation for continental peace and security. In the authors' assessment, these partnerships have yielded positives in key areas. In peacebuilding and post-conflict reconstruction and development, for example, the AU-United Nations (UN) partnership helped restore political and socio-economic order in Guinea-Bissau, Liberia, Sierra Leone, Burundi and Central African Republic.

Gains have also emanated from partnerships with actors such as the European Union (EU), the United States and China, and with some emerging powers. Illustrating the benefits of the Forum on China-Africa Cooperation, for example, John Akokpari notes in chapter 10 that it 'yielded several infrastructure benefits'. These included the AU headquarters in Addis Ababa, Addis Ababa light rail transit, Ethiopia-Djibouti railway and Zimbabwe's new parliament. In chapter 14, Tshepo Gwatiwa maintains that partnerships, such as the Economic Partnership Agreements, have 'disrupted the AU's own REC integration schemes and have become sources of political division among AU members. states.'

However, the AU's footprints have been thin on the ground in managing complex humanitarian emergencies. Olabisi Dare notes in chapter 9 that operational and tactical emergency management mechanisms are insufficient and provisions for sustainable strategic solutions elusive. Nevertheless, the AU has made headway in the development of the requisite legal and institutional frameworks to guide its humanitarian actions.

Therefore, he maintains, 'recognition must be given to the progress made in the past 20 years in the codification and adoption of treaties that collectively provide the legal instruments for humanitarian action in Africa'. The Refugee Problems Convention and Kampala Convention, for example, have strongly influenced the definition of 'refugee'. They have also contributed to the development of Africa's national laws and refugee policies and the adoption of a *prima facie* approach to refugee status determination.

Muneinazvo Kujeke, Liezelle Kumalo and Elizabeth Sirengo aver in chapter 12 that the AU started with little experience in the empowerment of women and youth. However, it has gradually established policy frameworks and supported similar efforts in its regional blocks and member states, thus contributing significantly to an increase in youth and women frameworks. Therefore, it has helped in part to place Africa on the path to a youthful and gender-sensitive continental governance system.

The AU has also succeeded in promoting African interests and common positions globally. In chapter 13, Paul-Henri Bischoff appreciates the extent to which the organisation has enhanced African agency internationally and has become more recognisable worldwide than the OAU.

He attributes this partly to the visibility of AU's numerous institutions, which have enabled it to advance Africa's integration and development agenda and pursue a more uniform approach to Africa's relations with the world. These are reflected in the AU's contribution to projecting relevance by pursuing continental goals, defending Africa's common position in relation to the world and acting as a global norm entrepreneur. In so doing, it has furthered global public good, particularly peace and security, albeit with some challenges.

In chapter 15, Désiré Assogbavi reflects on AU efforts to involve African people and civil society. He argues that a significant differentiator between the AU and OAU was the shift in perception of the role of African citizens in Africa's integration and development efforts. While the OAU was essentially state-centric and did not provide for the involvement of African citizens, the AU became a union not just of governments but of the African people. Translating this has culminated in the establishment of organs such as ECOSOCC and the Citizens & Diaspora Directorate (CIDO). It has also led to the adoption of the Livingston Formula and Maseru Conclusions as frameworks for involving African civil society and citizens.

A fundamental philosophy central to Africa's integration agenda since the OAU era has been Pan-Africanism. Reflecting on its role in continental integration, Stephen Okhonmina in chapter 2 calls it the 'philosophy behind the current effort to achieve political unity in Africa through the instrumentality of the AU'. It has in the 21st century, he opines, transformed into a 'mobilising ideology and a development blueprint' contained in the preamble of the CAAU. He further notes that key integration milestones in

the AU's 20 years journey, particularly the African Continental Free Trade Area and Agenda 2063, are inspired and driven by Pan-Africanism.

Challenges and lessons from the limited gains

The AU's efforts have comprised three significant stages. First was the immediate post-OAU phase during which African leaders adopted normative, legal and institutional frameworks to express the intentions of the newly formed AU. These included the Constitutive Act, the PSC Protocol and other essential tools that have been the primary building block base for the organisation's engagements.

The second stage comprised conceptualisation and establishment of institutions and structures provided for in the significant legal frameworks, such as APSA components, to implement the peace and security agenda. Efforts were made to institutionalise adopted frameworks to guide implementation. The final phase entailed creating functioning institutions to realise the stated goals of the organisation.

Early indications of AU accomplishments in the collective quest for change in Africa fed high expectations among citizens about the organisation's potential. The primary drive initially was the commitment of the AU's founders to find new answers to continental challenges that the OAU had failed to address.

The AU, however, failed to sustain the commitment and demonstrated inertia in converting norms and frameworks into action. It has some of the most impressive norms, legal and institutional frameworks and decisions on significant global issues, yet fails to convert both goodwill and progress into tangible change for the continent. For instance, the AU failed to carry out the follow-on task of resourcing and capacitating such institutions to make a difference in the performance of their mandated roles. Instead, it is saddled with bureaucratic impediments, over-reliance on external support, lack of political will to act, weak institutional capacity, an unending institution-building loop and limited involvement of African people in decision making.

Although the transformation of the AU offered an enormous opportunity for the rebirth of African-led progress, as Nsongurua Udombana notes in chapter 4 that Africa has had many opportunities for progress. It can

reasonably be accused of squandering its past, he writes. This conclusion is drawn partly through a comparison of the AU's enormous potential and tangible delivery, and by comparing its modest gains against the enormity and urgency of the threats it needs to address.

There are clear gains in some crucial areas, as illustrated above, but there could be more. The chapters provide both context and explanations for understanding how this transpired. They serve as entry points for several lessons and mistakes to be avoided from AU's journey over the last two decades. These are outlined below.

Weakened ideological base affects collective action

As Stephen Okhonmina explains in chapter 2, part of the challenge the AU has faced over two decades is due to weakening of Pan-Africanism as the driving force for African action. As an ideology, Pan-Africanism was not just a framework for identity creation but a frame of reference for identifying African problems, designing solutions and implementing home-grown solutions. Although Pan-Africanism was a powerful force behind the formation of the OAU and its transformation into the AU, it has not been effective in guiding it to achieve its objectives of unifying and integrating Africa. This, argues Okhonmina, Tiekou and Newell, is due to the rise of sovereign nationalism over continentalism. With reduced subscription to Pan-Africanist ideals, the AU's norms and mantras such as 'collective security', 'responsibility to protect,' non-indifference and 'African solutions to African problems' have remained clichés.

It is clear from discussions in this book that AU member states need to embrace a sense of continental patriotism, commit to a shared destiny, and full subscription to Pan-Africanist ideals. The absence a continental ideology is hampering further gains in African integration and fomenting lethargy in the drive to change the continent's future. Pronouncements have been many in the last two decades, but the conversation of intentions to change the situation has lost steam in many ways. The book notes that 'the AU cannot achieve its set goals, particularly Agenda 2063, in the next 40 years with ideologies that serve state and political elite interests rather than the African continent.

Strong leadership makes a difference

Despite commitment and efforts to involve the African people in its processes and decisions, the AU remains essentially an organisation driven by its member states and its commission. Its wins usually result from the collective resolve of member efforts but are often expressed by the strong leadership of lead states. AU successes have proved more substantial when there is member state leadership or a strong coalition to drive agendas with the blessing and interest of willing others.

This was evident in the era in which institutions such as APRM and NEPAD were formed. A coalition of solid leadership under Thabo Mbeki, Abdoulaye Wade, Muammar Gaddafi and Abdelaziz Bouteflika contributed immensely towards urgent transformation from OAU to AU. A similar drive surfaced in the continental response to the Ebola pandemic and the management of the COVID-19 pandemic. When the AU lacks strong collective or individual leadership in a focal area, it has usually struggled to translate goals into actions and outcomes.

The quality of national and continental leadership in Africa has suffered over the AU's tenure. The existence of a significant leadership deficit cannot be overemphasised although the continent continues to house some of the world's longest-serving leaders. Continentally, the AU has also lacked a sustained inflow of leadership with a drive to implement agreed norms and to make member states accountable for processes.

Where lead nations have implemented significant interventions such as peacekeeping operations in Burundi, Comoros and Somalia, the strength of the AU's contribution to the achievement of Africa's vision has been evident. Countries such as South Africa and Nigeria have risen to the occasion in different circumstances. However, as Stephen Okhonmina notes in chapter 2, some other members states are reluctant to cede leadership to certain capable states. Even when this happens, there have been expectations that such countries bear the total cost of leading rather than treating it as a shared responsibility.

Suppose the continent could experience strong, new leadership driven by capable leaders with the Africa in mind and sufficiently liberal, as suggested by Thomas Kwasi Tiekou and Nordiah Lavita Newell, it could make enormous strides to realise its goals in sectors ranging from humanitarian response and peace and security to governance, human

rights and the rule of law. A similar effect could be achieved should a generation of strong Pan-Africanists emerge across the continent, as their drive for a more unified and integrated Africa could propel the AU to improve its performance.

Norm-setting is necessary but insufficient for change

The AU may not have found solutions to all Africa's challenges, but it has not failed to establish institutions and adopt frameworks expressing its commitment to do so. The organisation needs to be praised for adopting radical norms, and establishing legal frameworks and institutional structures to implement them. However, as Ottilia Anna Maunganidze argues in her chapter, the chasm between 'aspirations and reality' is daunting. In almost all crucial areas of required intervention, the AU has impressive guiding instruments as outlined by the various chapters of this book, yet lacks action.

For instance, it has several impressive governance and democracy normative and institutional frameworks rooted in human rights, justice and the rule of law, such as APRM and ACDEG. These are beneficial but are yet to be fully implemented to enhance gains. It is, therefore, not surprising that the continent's democracy continues to backslide.

Over the last two decades, the chasm between frameworks and implementation has been, perhaps, the AU's most significant shortcoming and the major cause of underperformance of some interventions. Clearly, the continent needs to translate decisions and frameworks into action. As Désiré Assogbavi maintains in chapter 15: 'Today, the AU has most of what it needs institutionally to realise its goals of a prosperous and united continent as prescribed by Agenda 2063.' Frameworks may provide strong expression to defined intentions, but they do not amount to the realisation of goals.

Thus, the continent must prioritise a shift to implementation to fulfil goals. In peace and security, for instance, the full functionality of APSA and AGA institutions is indispensable to realising a stable and peaceful continent, as chapters 5, 6 and 7 illustrate. Similarly, according to Olabisi Dare in chapter 9, a robust continental response is essential to translate continental commitments into continental tenets that guarantee stability and prosperity.

Strategic partnerships matter

Partnerships with member states, RECs/RMs, CSOs, international organisations, development partners and others allow the AU to shore up its presence, enhance its response capacity and increase resources to address challenges. There has been a proliferation of partnerships between the AU, and indeed Africa, and various regions and actors across the world. Notwithstanding achievements from its association with the UN, EU and other development partners, not all alliances have been relevant to the realisation of African goals.

Workable partnerships with external entities have contributed immensely to an over-reliance on external support and reinforced Africa's perennial dependency despite intentions to wean itself off as part of ongoing AU reforms. As Tsepo Gwatiwa points out in chapter 14, the nature of some AU partnerships has made it susceptible to influence by external actors. Overall, it has not been able to take full advantage of what these partnerships offer and to advance a mutually beneficial relationship with the parties.

The CSO situation is similar. Despite their enormous potential to contribute to the realisation of continental goals, policymakers continue to limit partnerships with CSOs and have increasingly closed avenues for CSO engagements over the last two decades due, in part, to perceptions of the role of CSOs as opposition to incumbents.

What is clear, however, is that the AU's current challenges in the area of partnerships are due largely to two factors. They are weaknesses in controlling strategic orientation of engagements and advancing priorities by establishing and capacitating a robust institutional architecture to oversee and manage partnerships in the interests of African priorities. A strong institutional architecture is vital for the AU and its partners to enjoy mutual gain, as partnerships have been central to the continental response to challenges.

African people are still out

African people matter in matters of the AU. Over two decades, its policy frameworks have increasingly opened up to the inclusion and participation of African people in decision-making. As Désiré Assogbavi rightly observes

in chapter 15, key documents such as the CAAU, the PSC Protocol, Livingstone Formula and Maseru Conclusions provide for the inclusion of Africa's people and civil society in continental decision-making. Consequently, the number of frameworks targeting women, youth and other vulnerable groups has increased. Yet the AU remains an organisation of member states rather than African people. Citizens and CSOs still do not fully participate in decision-making.

Despite rhetoric about the involvement of women and youth, chapter 12 states that it remains to be seen what 'participation' actually means as the barriers for exclusion stay firmly in place. Where some engagements exist, models to inclusion have been neither suitable nor robust enough. Inclusion cannot be achieved in isolation but as a product of conscious inclusion of the African people in decisions of concern to their wellbeing. Inability to do this has hampered AU progress. This weakness must be overcome if it has to harness the overwhelming potential of its people and civil society to address existing challenges.

How could the AU be better?

Given lesson learnt in the AU's journey and the frameworks and institutional structures constructed, the continent cannot claim to lack the essential pillars for accelerated growth and goal realisation. This is true for peace and security and other vital domains. To achieve milestones towards AU goals and the 'Africa we want', interventions must be prioritised to move to implementation rather than focus on more frameworks, norms and institutions. Some of the following key recommendations have been advanced by the authors of the chapters.

Reviving the African collective drive

Through the process that led to Agenda 2063, Africa has reflected on, conceptualised and articulated clearly where it sees itself by 2063 and how to get there. What is missing as per the analyses in this book is the ability to translate these goals into a collective resolve to stay the course of action until the agreed goals are achieved.

According to Khabele Matlosa in chapter 6, the main challenge facing the AU is the yawning 'gap that still exists between norm-setting and

norm-implementation'. Currently, however, as Stephen Okhonmina argues, the drive to ignite collective action seems to have waned. Member states are prioritising national commitments over the goals of a continent whose efforts are undermined by state weaknesses. A common sense of African patriotism and determination to improve the continent must be rekindled.

In the past, this was driven by Pan-Africanist ideals. The AU needs to spearhead the revival of this spirit. This will guide the continental orientation towards problem-solving, while shaping the urgency with which agreed norms are implemented. It will also frame how goals are tackled and set the context in which African people, including those in the diaspora, can be motivated to act.

Currently, there is resistance to the idea of an AU that wields supranationality in establishing norms and legal frameworks. If the AU could act freely within agreed norms and collective action as guaranteed by supernationalism, it would operate smoothly and increase its pace in working towards agreed goals.

Failing this, contestation between nationalism and continentalism, and regionalism and continentalism, will remain a hindrance to AU freedom to act and will confine it to member state dictates. For the AU to ensure a better future, chapters 2 and 16 of this book recommends that Pan-Africanism be repositioned as a driver for collective action.

Managing priorities

The AU's role is needed in all aspects of Africa's needs, but it must position itself strategically to lead on matters promising to maximise impact rather than spread itself across all sectors. Proper prioritisation will allow it to concentrate on essential areas, such as peace and security, to achieve the desired goal. It will also undercut habits that diminishes the judicious use of its limited resources and ultimately undermines relevance.

Nsongurua Udombana recommends in chapter 4 that the AU periodically review and adjust its priorities to where Africa should be by 2063. It should, he adds, keep reinventing itself to remain relevant in a world that is constantly changing. It must also urge its members to be sensitive to the root causes of social unrest and dislocations and correct observed anomalies, especially those of opportunity, justice and equity.

Tshepo Gwatiwa suggests in chapter 14 that the AU uphold and protect African priorities rather than pursue a broad array of engagements. Generally, the lack of both a framework to assess organisational performance and a regular review of priorities hampers continued focus on primary goals. Prioritisation has to be addressed.

Ensuring self-reliance

The AU is noted for its overdependence on external partner support, which has exposed it to foreign influence and undermined its ability to own and manage crucial processes. As various chapter authors point out, it must aim for the Pan-African tradition of self-reliance and protection of African interests by sustainably financing its peace and security institutions and activities.

The current external funding of its interventions and projects does not auger well for its commitment to the professed norm of 'African solutions to African problems'. Achieving reliance is, however, tied to the extent to which it can gain buy-in and commitment from member states in its direction and actions to guarantee provision of African resources. Amid the prevailing economic challenges and global shifts, the AU cannot continue to rely on partner support as donor priorities keep shifting and are not always guaranteed to align with Africa's.

As Samuel Makinda notes in his chapter, self-reliance must also apply, if not begin, with generation and ownership of ideas. The latter is particularly important in ensuring African intelligentsia and innovators quest to home-grown solutions to Africa's challenges. Thus, the AU must embrace and facilitate innovation and innovative thinking by Africa's research institutions and universities through the use of emerging ideas and funding African research.

Building an AU of the future

AU experience indicates that it needs the involvement and will of member states to cede part of their sovereignty in selected areas of continental importance. This is to acquire strength and develop along the lines of the EU in the formulation of binding instruments and decisions. To achieve this, Tiyanjana Maluwa and Nsongurua Udombana recommend in chapters 3

and 4, that institutions such as PAP and the African Court of Justice and Human Rights will have to be given decision-making powers with binding jurisdictions in vital areas. Maluwa adds that the effectiveness of the AU will also depend on being ‘accorded powers to enforce its decisions and the legislation adopted by its institutions.’ However, given the challenges posed by states who control the AU, such a move, appropriately done within the confines of multilateralism, will trigger incremental gains toward a stronger AU. Achieving even limited supranationality is critical in enabling the AU to take vital steps towards attainment of Agenda 2063.

Implementation is key

The AU seems to be in an institution- and framework-building loop. When institutions fail, actors recommend building more frameworks, reviewing existing frameworks and refining institutions. In their review of achievements, most chapters in this book have detailed norms, legal frameworks and institutions adopted and established over two decades. However, the presence of the frameworks alone has not been an adequate response to existing and emerging challenges, even though they have helped frame response drives.

Chapter authors refer to these as ‘the gap between aspiration and reality’ (chapter 6) and the ‘gap that still exists between norm-setting and norm-implementation’ (chapter 8). Chapter 15 describes it as ‘the gap between continental policies and the actual needs of people’. What is lacking to address this is the boldness to take action to meet needs after norms have been agreed and institutions established. Robust action is the logical solution to audit decisions and frameworks to inform actions. If the AU dedicates the years ahead to implementation, it will make enormous gains in the runup to Agenda 2063.

Accept capable leadership

The leadership deficit is not just national, but continental. Since national leaders ultimately become regional and continental leaders, strong continental leadership must be sought through good national and regional governance. Achieving high-quality leadership in African states will guarantee fewer challenges and more leadership choices continentally.

The AU should facilitate the emergence of strong nations in major areas to harness the comparative advantage of individual member states to champion crucial sectors. Where specific member states take up the leadership mantle, the AU should provide technical support and institutional capacity to enable them to lead efforts to find solutions to African challenges. The idea of member state topical issues should be encouraged at all levels, including at the PSC, so that key issues have champions and receive equal attention.

Towards 2063

Significant gains have been made in the last two decades through the efforts of the AU, but major milestones and opportunities have been missed. From the lessons and recommendations outlined in this book, the route to seize future opportunities is clear. The AU needs no more legal and institutional frameworks.

What is required to make the continent a better place for its citizens is a collective resolve to translate existing decisions and norms into outcomes through diligent action. The past 20 years have generated enough lessons that the AU can draw from to reach its goals in the next 30 years. The organisation, as pointed out in this book, has generated many valuable lessons that should be reference points instead of reinventing wheels whenever it is confronted by new challenges. Learning lessons from its experiences should be part of the agenda of the next decade. It would guarantee Africa's path towards the fulfilment of Agenda 2063. If not, a damning story will be written when the AU is assessed in 2063.

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The past two decades were supposed to transform the lives of Africa's people, with the African Union (AU) playing a crucial role. The organisation has, however, faced a myriad of challenges in fulfilling this aspiration. The AU's 20th anniversary, thus, passed with little fanfare, compared to its launch in July 2002.

This book brings together diverse African experts to critically and independently assess the AU's performance over the last two decades and proposes ways in which the organisation can serve the African people better.

It contributes to the growing body of literature on the AU and African integration. The book aims to stimulate conversations among practitioners and scholars on how to make the AU more effective. It provokes thinking about the way Africa conceptualises, creates, and runs its institutions.

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The Institute for Security Studies (ISS) is a Pan-African applied policy think-tank working in the area of human security in Africa. The Institute has offices in South Africa, Kenya, Ethiopia and Senegal from where it carries out policy research, policy development, training and technical support to national, regional and continental policy actors.

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