

# The African Union and the New Partnership for Africa's Development: Strong Institutions for Weak States?

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In future, May 25 (officially celebrated on the continent as »Africa Day«), 2004, may be considered a historic date, since it was on that day that the African Union (AU) launched its Peace and Security Council (PSC). The current Chairman of the AU, Mozambican President Joaquim Chissano, declared at the inauguration of the PSC in Addis Ababa, Ethiopia, that the AU »has made unprecedented progress in setting up our organization's structure«<sup>1</sup> in the three years since the AU was founded. According to its main promoter, South African President Thabo Mbeki, the New Partnership for Africa's Development (NEPAD) has also made considerable progress.

While African leaders congratulate themselves on what has been achieved in recent years, a look into the past reveals a much more checkered history, made up of numerous attempts to solve the continent's problems through regional cooperation and integration (Mistry, 2000). Few nowadays recall that President Kwame Nkrumah of Ghana advocated a United States of Africa as early as 1963. However, as the history of the Organization of African Unity (OAU) – which would have celebrated its 41st birthday on the very day the PSC came into existence – shows, the institutional frameworks of African integration attempted over the last four decades or so were chronically underresourced and politically marginalized. Therefore, we need to ask whether the foundation of NEPAD and the AU improves the chances of a new era dawning for the continent, or whether the well-known gap in Africa between great expectations and high-flown rhetoric on the one hand, and low capabilities and inertia on the other, can be narrowed.

The main purpose of this article is to assess the progress NEPAD and the AU have made since their foundation (in 2001 and 2002, respectively). Since a complete assessment of the many facets of both the AU and NEPAD will not be possible, we shall focus on the process of institution- and

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1. Quoted in *Cape Times* (May 26, 2004).

capacity-building within both organizations, which we regard as crucial for achieving their ambitious goals. Although there are many similarities between NEPAD and the AU – both founding documents identify respect for human rights, democratic principles, good governance, and peace as essential preconditions for development – the institutional connections remained unclear at first. The AU's decision in 2002 to adopt NEPAD as a development program subordinated NEPAD to the AU. The competences and responsibilities of their various institutional branches are not yet clearly defined.

Our general hypothesis is that both NEPAD and the AU can be regarded as unprecedented developments in Africa, whether Sub-Saharan or North. They are continent-wide, indigenous initiatives providing the continent with a vision for Africa in the twenty-first century. However, realization of these ambitious projects is hampered by a general lack of resources, leading to weak institutions and insufficient capacities.

## **From Nkrumah to Gaddafi: Short Overview of the History of Pan-Africanism**

As already mentioned, the Ghanaian President Kwame Nkrumah famously advocated a United States of Africa in 1963, only five years after the Treaty of Rome which gave birth to the European Economic Community had been signed. Nkrumah committed his country to becoming a state within a continental federation. Prominent in his vision was African and continental prestige, and unified armed forces that could liberate the settler and colonial regimes in Southern Africa. Not one other head of state got behind this initiative; they agreed to found only the Organization of African Unity (OAU). This, in both name and substance, was similar to the older Organization of American States. Its constitution emphasized sovereignty, meaning non-interference in the domestic affairs of member states, with the sole exception of those under white rule. It was effectively a multilateral conference for heads of government, meeting only a few times a year. The organizing principle was clearly intergovernmental, and consensus was required to make decisions. A secretariat, which lacked powers of its own, serviced this executive-focused institution. From the 1970s, member governments one after another fell into financial distress and became unable to continue paying their contribution. The absence of resources in general and the lack of political will on the

part of many members weakened also the Mechanism for Conflict Prevention, Management and Resolution, which was established in 1993. Although the Mechanism led to a more active role for the OAU in respect of election monitoring and (mostly) diplomatic conflict interventions, the organization failed to deal with the growing number of violent conflicts on the continent throughout the 1990s. In retrospect, the OAU can be regarded as a child of its time, the era of decolonization: it made the principle of national sovereignty sacrosanct, guaranteed the borders of the newly independent states, and fought against the remaining colonies and apartheid South Africa.

It soon became evident that the OAU was unable to transform itself into an efficient organization capable of promoting peace and security in Africa. From a historical perspective the record of the OAU was disappointing (El Ayouty, 1994). Its failure to address the core problems or to serve the interests of the African peoples led to it acquiring the widespread negative image of a »club of dictators« – as the Kenyan James Kariuki called it in a recent article in the South African »Sunday Times« (May 25, 2004) – both among African intellectuals and in the Western hemisphere. This explains why many Africans perceive regional organizations more or less as paper tigers and mistrust the grandiose rhetoric of current African leaders. In 1999 »Brother Leader« Gaddafi of Libya revived the essence of Nkrumah's proposal for a United States of Africa with a continental federal constitution and unified armed forces. This met with the same immediate rejection by other presidents. This time, however, influential African leaders – including South African President Mbeki – seized the opportunity to lobby energetically to salvage as much as was practical. They proposed a synthesis of EU- and UNO-type institutions and procedures, and won support from a majority of governments and at least acquiescence from the rest.<sup>2</sup>

## **A New Beginning: The Birth of the African Union**

On July 8, 2002 the OAU ceased to exist and the AU was born at a summit in Durban. The basic principles and objectives of the AU are laid down in

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2. The only holdout was the Moroccan king: the Moroccan government boycotted the founding of the AU in 2002 because the latter supported the right of the Sahara Arab Democratic Republic to independence.

the Constitutive Act.<sup>3</sup> The scope of the OAU's successor organization is broad: the AU is devoted to the promotion of peace, security and stability, democracy, popular participation and good governance (Art. 3). Although the principle of non-interference in matters of state sovereignty is reaffirmed, in cases of genocide and war crimes it is henceforth possible for the AU to intervene with all necessary means, including force. The Constitutive Act also states in Art. 30 that governments which seized power unconstitutionally, for instance as the result of a coup, cannot participate in AU structures and will not be recognized. Most important of all, the AU incorporates the Treaty of Abuja of 1991, which commits member states to work towards an African Economic Community (AEC).<sup>4</sup>

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The institutions mirror EC/EU structures: the Assembly of Heads of State and Government is the supreme organ, and the Executive Council consists of the foreign ministers or other ministers. The Committee of Permanent Representatives, the African Court of Justice, the Pan-African Parliament, the Commission and various advisory and technical bodies for social, economic and cultural matters complete the institutional framework. Compared with EU institutions, two main differences are important. First, the AU Commission has only the function of a secretariat and so far has no powers of its own: it is not a supranational institution. Second, decisions by both the Executive Council and the Assembly can be made by a two-thirds majority. In contrast, the right of veto is a core element of the European Council, and in the Council of Ministers states still have a veto on many issues.

On the one hand, the AU regulations could increase its effectiveness by making possible quicker decisions than in the EU, where the search for consensus, often according to the lowest common denominator, is the daily reality. On the other hand, there is a danger that states will not sup-

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3. See [www.africa-union.org](http://www.africa-union.org).

4. The AU and AEC advocate rationalizing the Regional Economic Communities (RECs) into five, each of which should be strengthened to become free trade areas by 2011. These five main RECs are nominally scheduled to merge to form a continental single market by 2021.

port an AU action when they are outvoted. This could lead to the paralysis of the organization in cases where bigger and more powerful states will not respect a decision against their interests and therefore abstain. Sovereignty, the core principle of the OAU, is not curtailed by supranational institutions but by the mode of decision-making.

The AU Commission remains in Addis Ababa, the seat of the former OAU. The agreement is that no more than one organ should be situated in any of the five African regions. This means that a distance vastly greater than the commuting time between Brussels, Strasbourg, and Luxembourg will separate the AU's Parliament, Civil Service, and Court of Justice.

In contrast to NEPAD the AU has adopted the statutes of an Economic, Social and Cultural Council (ECOSOCC) which is designed to be a forum for civil society. Its 150 members will consist of two from each of the 53 AU member countries, 24 representatives from transnational organizations, and 20 representatives of the African diaspora. The selection procedure is not yet clear, except that 50 percent of the members should be women.

One of the key problems facing the AU is lack of financial resources. At the Summit in Addis Ababa in July 2004 the AU calculated that it would need 1.7 billion US dollars to transform itself into an effective institution, but the organization is already in the red: only 12 million US dollars came in out of a budget of 43 million US dollars for 2003. Currently, South Africa, Algeria, Nigeria, and Libya pay 40 percent of the AU's annual budget.<sup>5</sup> Since many countries cannot or are not willing to pay for their membership the economically stronger states will have to contribute larger shares of their national budgets. They now propose a »solidarity fund« of approximately 0.5 percent of the national budget.

The Constitutive Act also mentions briefly that a Pan-African Parliament (PAP) should be established, ensuring the participation of Africa's peoples. Initially, it will meet twice a year. Currently, there is equal representation, with five MPs for each country – whether Nigeria or the Seychelles – resulting in a democratic inequality in terms of the value of each vote of more than 1000:1. The requirement of a two-thirds majority to

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5. South Africa currently plays a crucial role in all regional institutions. The acceptance of South Africa's leading role in African institutions by other African states cannot be taken for granted. There is also the danger of overstressing the capacities of South Africa and other leading African powers. This could hamper their ability and willingness to encourage the more reluctant African states with extra or side payments.

pass any bill or recommendation is an alternative way of protecting the interests of smaller countries.

The PAP's first task will be to lobby for national governments to derogate powers to it. After a transitional period of five years with only advisory and consultative powers the PAP should evolve into an institution with full legislative powers. Article 11 (1) and (4) indicate that oversight and strengthening of the regional and African Economic Community and possibly NEPAD could be early PAP priorities. At the inauguration of the parliament in Addis Ababa in March 2004, the Chairperson of the African Union Commission and former President of Mali Alpha Oumar Konoré stated that »human rights protection, consolidation of democratic institutions, popularization and promotion of good governance«<sup>6</sup> should be another focus of attention of the PAP. However, when the PAP starts its first working session in September 2004, and comes to deal with human rights or democracy issues, it will face the problem that many of its MPs are not democratically elected. It is therefore questionable whether the PAP will be able to work properly as an advocate of the peoples of Africa. Even if the two initially envisaged functions of the PAP – oversight over regional institutions, including NEPAD, and promoter of human rights, democracy, and good governance – turn out to be overambitious, the PAP can function as a forum for discussion and the exchange of views for African leaders from over 40 countries, together with media and civil society groups which will lobby around the PAP. Since, besides UN institutions, there are few opportunities for African leaders to meet, this is also important, even if more modest than proponents of the PAP would like.

The Parliament will be situated at Midrand, close to Pretoria, the South African capital. It is characteristic of the political climate – not only in South Africa – that the public debate in South Africa immediately concentrated on the cost of the building. Since the AU declared that the organization could not find the 18 million US dollars requested by the President of the PAP, Gertrude Mongella of Tanzania, for operating costs, and funds pledged by the EU recently will not be sufficient, it is very likely that South Africa will have to finance the lion's share of those costs.

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6. PAP opening speech, in *New Agenda* (14) (2004, 2nd quarter): 11–13.

## The Peace and Security Dimension

By ratifying the protocol<sup>7</sup> of the Constitutive Act of the AU, the Peace and Security Council (PSC) of the African Union was established on May 25, 2004. The African leaders recognize that peace and security are, as Joaquim Chissano, outgoing chairman of the AU, believes, indispensable conditions for Africa's socio-economic development (Cape Times, May 26, 2004).

According to Article 4 of the Protocol establishing the PSC this institution has wide-ranging responsibilities for prevention, management, resolution of conflicts, and post-conflict peace building. The promotion of democracy, rule of law etc. are regarded as part of conflict prevention. Article 4 also states that the Assembly can – with a two-thirds majority, as already mentioned – decide to intervene »in grave circumstances, namely war crimes, genocide and crimes against humanity« (Art. 4J). Furthermore, member states have the right to request intervention by the AU, and sanctions against unconstitutional changes of government are made possible. In a longer perspective the AU aims at a common defense policy. Decision-making should ideally be by consensus, but if consensus cannot be reached a decision can be made by a two-thirds majority of PSC members (Art. 8). The birth of the PSC means a reversal of one of the key principles of the OAU, sovereignty: in the words of AU Peace and Security Commissioner, Said Djinni, »we are replacing the principle of non-interference with the principle of no indifference« (Business Day, May 25, 2004).

The PSC is a permanent organ and will have 15 members, ten of which will serve for two years and five for three years to strengthen continuity. A chairperson, appointed on a monthly basis, will head the closed meetings. In March 2004 the AU appointed South Africa, Nigeria, Algeria, Ethiopia, and Gabon – representing all five regions of Africa – to serve for three years. In contrast to the UN Security Council there is no right of veto. The protocol states that the PSC will be assisted by a »Panel of the Wise«, an advisory body of highly respected persons representing the different African regions who will be appointed by the Chairperson of the PSC. In addition – and more important – a Continental Early Warning System, an African Standby Force, and a Special Fund for Peace-Keeping Operations are to be created. The standby force should by 2010 consist of 15,000 soldiers deployed at five regional bases.

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7. See <http://www.africa-union.org/home/Welcome.htm> (July 10, 2004).

The PSC is one of the most ambitious projects on the war-hit African continent, but at the moment it is ill equipped for its Herculean tasks. There is an overall lack of resources. Whereas the UN has approximately 2.3 billion US dollars for peacekeeping – and even that is insufficient – the AU had only six million US dollars in its Peace Fund in 2003. It is therefore no surprise that the most important current missions – in the Democratic Republic of Congo (DRC), Burundi, and Sudan – are underfinanced. Since the AU could raise only 23 million euros out of the annual 123 million euros needed for the Burundi peacekeeping mission, the UN had to take over the mission on the very same day the PSC was launched (This Day, May 26, 2004).

Despite its chronic lack of resources the AU has already started to intervene in the DRC and, most recently, in the Darfur conflict in Sudan. Reluctantly accepted by the Sudanese government, the AU has sent 270 troops from four African countries to protect the 120 members of the AU Ceasefire Monitoring Unit. This small force will not be capable of guaranteeing the security of the African population in the Darfur region, which is being attacked and murdered by militias supported, pogrom-style, by the Sudanese government. The attacks, which have been categorized as ethnic cleansing or even genocide, have not only killed around 30,000–50,000 villagers but have also created a severe humanitarian crisis with around one million refugees in camps. The AU has declared that in case of ongoing violence the number of troops could be increased to 2,000. Although the AU force is much too small and the organization is dependent on external airlift capacities, the intervention in Sudan marks an important departure from the OAU's handling of such conflicts, which was characterized by inertia. The AU commitment to the Sudan crisis includes also mediation efforts between the Sudanese rebels and the government, which started in July 2004.

Although the ongoing missions are relatively small there is a danger of overstressing the military capacities of the members, especially South Africa, the country with the most resources in this respect; the country currently has 3,000 troops on peacekeeping missions, mainly in Burundi and the Democratic Republic of Congo (DRC). Due to the necessary six-monthly rotation of troops, health problems with malaria, and HIV infection, the South African Defense Forces (SADF) are generally lacking in experienced troops. Internal criticism is mounting concerning the cost of foreign peacekeeping, particularly in light of the inadequate policing of the ongoing domestic crime wave and other mammoth social challenges.

## The Reaction of the Donor Community

The reaction of the donor community towards the AU and, especially, the PSC was cautiously optimistic. Most of the multi- and bilateral donors officially welcomed the AU but expressed concerns about realization of this ambitious project. Ratification of the PSC protocol and its subsequent implementation was regarded as a major step forward. The donor community regards the spread of conflicts during the 1990s as a major reason for Africa's severe problems. Conflict prevention and management has therefore become one of the key priorities of the West. At the last summit, at Sea Island, Georgia, USA, the G-8 also made it clear that, in contrast to African leaders, they are not committed to NEPAD infrastructure projects.<sup>8</sup>

Both the EU and the USA emphasize the importance of African ownership: »African solutions for African conflicts« is the guiding principle. The only exception was the European mission to Eastern Congo. This intervention, named Operation Artemis, was on a small scale and of a temporary character and the mission has since been handed over to the UN. The last G-8 meeting pledged in the context of its Action Plan to finance the training and equipping of 75,000 peacekeepers, including police forces, up to 2010. The participating African leaders were requested by the G-8 to give detailed information concerning their logistic needs. The EU offered 250 million euros in support of African Peacekeeping in reaction to the founding of the PSC. This amount would be enough to finance only two years of the Burundi mission. In contrast to the EU the US favors a bilateral approach. Most recently the US offered to equip and train two battalions of the SADF.

Stronger and more comprehensive support for the new African institutions is not very likely as long as the AU remains quiet about the ongoing violations of democratic principles and human rights, alongside economic meltdown (inflation is over 500 percent), in Zimbabwe. African institutions with a strong human rights and democracy rhetoric in this way lose credibility in the West. In addition, the so-called »quiet diplomacy« of South African President Thabo Mbeki has been sharply criticized by civil society representatives, opposition parties, and the media in Zimbabwe:<sup>9</sup> since no tangible results have been forthcoming the West

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8. »G8 to NEPAD: Brigades Not Bridges«, *This Day* (the new South African daily newspaper funded by a Nigerian business group) (June 16, 2004).

9. See for a critical discussion of Mbeki's position Olivier (2003).

perceives it as a failure. The situation in Zimbabwe has not been on the agenda of the AU so far. Indeed, the organization is trying to avoid any discussion<sup>10</sup> since this could lead to conflict within it; in any case, Zimbabwe could react by simply withdrawing from the AU.

At the last AU summit in Addis Ababa the organization seemed to take the first steps to alter its position on Zimbabwe. At the summit the African Commission for Human and Peoples' Rights handed to the African Union Executive Council a report condemning human rights violations in Zimbabwe and criticizing the government for harassment of members of the opposition. The government of Zimbabwe will have to respond to the report soon, at the latest within six months. Although the Zimbabwean government was able to prevent the report from being published and discussed at the meeting, developments could make it possible for Thabo Mbeki to alter his policy without losing the support of other African leaders.<sup>11</sup>

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It is characteristic of the diplomatic style at AU summits that, despite the human rights and democracy rhetoric, it was left to UN General Secretary Kofi Annan to speak out clearly against long-standing dictators. Annan said that the »days of indefinite one-man or one-party governments are behind us«, and continued that African leaders should know »when to pass the torch to a new generation« (This Day, July 7, 2004). His speech, which avoided naming names, can be interpreted as a critique of such long-standing dictators as Omar Bongo in Gabon or Togo's President Eyadema, both of whom had been in power for 37 years by 2004.

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10. The donor community's common position is that a clear statement condemning the government of Zimbabwe from the AU and NEPAD is necessary. However, the question of more sanctions remains very controversial among Western countries.

11. Robert Mugabe still enjoys much respect in Africa, particularly South Africa, partly because of his role in the struggle against apartheid.

member states, the West will be reluctant to increase support for the new institutions. The same goes for NEPAD, as a development program based explicitly on the principles of democracy and human rights.

## **An African Development Strategy: The NEPAD Program**

The New Partnership for Africa's Development, NEPAD, was born on October 23, 2001 in Abuja, Nigeria. Its progenitors had been different initiatives from Senegal, Algeria, South Africa, and Nigeria, which were now fused into one program. At the outset NEPAD had been an initiative of a few powerful African heads of state. The long and detailed founding document<sup>12</sup> gives the impression of an extensive shopping list since nearly all aspects of development are tackled: for instance, a list of sectoral priorities is given and the prevention and management of conflicts are prominent. NEPAD urges governments to plan to attract foreign investment of 64 billion US dollars per year, while also mobilizing local capital. Furthermore, it urges priority should be given to building a continental infrastructure of transport, ICT, energy, and water.<sup>13</sup> Renewed investment in Africa would end the continent's marginalization and reintegrate Africa into the globalized world (Schmidt, 2003). Objectives are a seven percent annual growth rate, a four percent share in world trade and – as foreseen in the UN Millennium goals – a reduction of poverty by half by 2015. NEPAD can be interpreted as a comprehensive program addressing most of the impediments to Africa's development.<sup>14</sup>

The economic and developmental goals seem to be over-ambitious. Set against the current state of African economies they seem unrealistic or even utopian. Similar to the UN Millennium goal of reducing poverty by half by 2015 the NEPAD aims must be understood as a political com-

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12. The document can be downloaded from [www.nepad.org](http://www.nepad.org).

13. NEPAD prioritized as its first economic project »Grand Inga«. This is a four-decade-old engineering project to build on the Congo River the world's largest hydro-electric power station, delivering energy through a continental grid. Should NEPAD persuade the corporate sector to build and operate this, it would be the single largest business opportunity for the world's energy industry. The same can be said of proposals to construct pan-African tarred highways from Dakar to Djibouti, and from the Cape to Cairo.

14. The document remains brief and vague on two of the most burning issues in Southern Africa: HIV/AIDS and the land question.

mitment. The danger of both NEPAD and the UN is that expectations will be high and disappointment with results could negatively affect support.

A new feature of the document is that it advocates a new partnership with the more developed world, but also stresses Africa's responsibility for development. Although colonialism, unfair trade practices, or, more recently, globalization are identified as reasons for Africa's poor state of development NEPAD also recognizes that »failures of political and economic leadership in many African countries« have also impeded development (NEPAD, 2001: 13). The will to take the fate of Africa into its own hands and self-criticism make NEPAD an exceptional document.

Another major achievement of the NEPAD document is that it identifies respect for human rights, democratic principles, good governance, and peace as essential preconditions for development. These principles, together with economic good governance, will be assessed by the African Peer Review Mechanism (APRM).

### The African Peer Review Mechanism (APRM)

The most innovative element<sup>15</sup> of NEPAD is the APRM. It is described by NEPAD as a voluntary self-monitoring system for AU member states to ensure that policies and practices are in line with the principles agreed in the NEPAD document.<sup>16</sup> A team of five to seven eminent persons from African countries conducts the country review. The APR Forum, consisting of the heads of state and government of participating states, is the highest APRM institution. It is currently not identical with the NEPAD Heads of States and the Government Implementation Committee since not all states have signed the APRM document. Additional institutions are the Panel of Eminent Persons with oversight functions over the whole process and the secretariat providing technical support.<sup>17</sup>

In August 2004 the following 24 states had ratified the APRM: Algeria, Angola, Benin, Burkina Faso, Cameroon, Congo (Brazzaville), Egypt,

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15. The concept of peer review has a long history and is practiced by other international organizations, for example, the OECD (see Pagani, 2002).

16. To be more precise: the APRM checks commitments made by participating countries which have ratified the Democracy and Political Governance Initiative.

17. See for more details Cilliers (2003). Currently, the Eminent Persons review panel is chaired by the Senegalese activist and former UN official Angélique Savane and includes Chris Stals, former South African Reserve Bank Governor, and Graca Machel, former education minister of Mozambique and wife of Nelson Mandela.

Ethiopia, Gabon, Ghana, Kenya, Lesotho, Mali, Malawi, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Tanzania, Uganda, and Zambia. The member countries are highly heterogeneous with respect to their social, economic, and political situations and performances. With the notable exception of Botswana, the vanguard of democracy in Africa – Benin, Ghana, Kenya (since 2002), Mali, Mauritius, Mozambique, Nigeria, Senegal, South Africa – are members. The other members are mostly authoritarian states (for example, Ethiopia) or semi-authoritarian states (for example, Egypt). Political instability still prevails in Algeria, Sierra Leone, Congo, and, to a certain extent, Rwanda.

The review mechanism unfolds in five stages:<sup>18</sup>

1. A report based on documentation prepared by the APRM secretariat and various regional and international organizations is drafted and circulated. In response to this report the government of the country under review produces an action plan.
2. The APRM team visits the country and conducts background interviews with government officials, representatives of civil society, and political parties. It checks whether the action plan addresses the main challenges.
3. A draft report is discussed with the government of the country under review and its responses integrated into the report.
4. The report is handed over to different APRM institutions and finally discussed by the Heads of State and Government.
5. Six months later the report is discussed in AU forums, such as the Pan-African Parliament.

With respect to the findings of the APRM team, two scenarios are most likely: if the government under review is willing to reform, NEPAD promises assistance and will also urge donor agencies and countries for support. If a government refuses to change, a dialogue is begun, but it is left open whether more pressure will follow. The absence of explicit punitive mechanisms for governments violating the NEPAD principles gives the impression of a »velvet« mechanism. Mainly African proponents of NEPAD stress that the aim is a non-adversarial and collegial process, but

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18. NEPAD distinguishes between four types of review; country review within 18 months of a country becoming member of the APRM; periodic reviews every two to four years; review at the request of a country; crisis review. This article focuses only on the first type; the other types have not been elaborated further by NEPAD.

should stipulate learning. This approach, as is often argued, is more in line with the African tradition of dialogue. This understanding of the APRM differs vastly from that prevailing among donor countries, which perceive the mechanism as an instrument for enforcing good governance (see below).

The APRM focuses on four areas: 1. democracy and political governance; 2. economic governance and management; 3. corporate governance; 4. socio-economic development.

The review of democracy and political governance<sup>19</sup> (which includes human rights issues) will be oriented towards the various documents of the African institutions, treaties such as the Constitutive Act of the African Union, and various OAU documents signed by countries under review.<sup>20</sup> The indicators developed by NEPAD therefore refer to different standards, which are codified in the various documents and formulated in the form of a set of questions or »indicative indicators«. This checklist approach is a method widely used to assess the state of democracy and good governance. Although the detailed list of indicators is impressive, no weightings or scales which would allow clear judgment are given. This is in marked contrast to most international comparative assessments and rankings which use qualitative (for example, »fully or nearly realized«, and so on) or quantitative (numerical), or a combination of both methods of judgment.<sup>21</sup> Indeed, it is questionable whether African politicians are really interested in receiving comprehensive and clear indicators and a final positive or negative judgment. If such criteria were available this could reduce the willingness to submit to review; it could also curtail the political leverage of the institutions.

In the wake of several NEPAD and AU meetings over the last two years the Heads of State and Government agreed at a high-level meeting that the APRM process on democracy and political governance would be guided and supervised by AU institutions. In contrast, the review of economic and corporate governance and development practices will be re-

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19. See NEPAD, »Objectives, Standards, Criteria and Indicators for the APRM,« (March 9, 2004) download: <http://www.nepad.org/documents/I10.pdf>, (downloaded July 13, 2004).

20. Some of the documents mentioned are problematic since their definitions are often very vague.

21. See the recently released Bertelsmann Transformation Index, for instance, which used both qualitative and quantitative indicators and measures of economic and political governance and performance ([www.bertelsmann-transformation-index.de](http://www.bertelsmann-transformation-index.de)).

viewed by the NEPAD secretariat until appropriate AU institutions have been created.

For the review of the three non-political – or less political – APRM dimensions, NEPAD will borrow technical expertise from international organizations with oversight experience. In the longer term, it is envisaged by the AU that the NEPAD secretariat should be absorbed into the Commission of the African Union (Cilliers, 2003: 12). The political dimension of the APRM therefore relies to a large extent on institutions that are not yet in place, or on existing but weak AU institutions – such as the Pan-African Parliament – which are in the process of establishment and will need years before they are fully effective (Cilliers, 2003: 8). It is difficult to imagine how the complex APRM process can work smoothly under these unfavorable institutional conditions. Besides the unfinished institutional structure the lack of resources is another obstacle: for instance, the NEPAD secretariat, modestly staffed with only 47 persons, was made only possible because a NEPAD Business Group seconded corporate staff to it. Whereas reviews as such will not require substantial resources the reforms recommended by the review team will depend largely on external funding.

In June 2004, after months of delay, the first review panel under the leadership of Chris Stals started in Ghana. Besides Ghana, Kenya, Mauritius, and Rwanda are under review in 2004. After the reviews have been completed and the results published in December 2004 a second group of states, including South Africa, Mozambique, Nigeria, and Benin, will be reviewed in 2005.

## Reactions and Critique

NEPAD has been criticized from different angles. From the political left it has been repeatedly argued that the project has »sold out« Africa to neoliberal market ideology. Others criticize NEPAD for its lack of a coherent strategy and central leadership. Another perspective views NEPAD as a top-down process, initiated by the Heads of State and Government without prior consultation of civil society (Keet, 2003).

An innovation to broaden NEPAD beyond an inter-governmental organization are the two NEPAD business groups.<sup>22</sup> One is based around Nigerian corporations, the other around South African companies. These are now increasingly coordinating their activities.

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22. See [www.isupportafrica.com/nepad/index.htm](http://www.isupportafrica.com/nepad/index.htm).

However, the exclusion of civil society since NEPAD was launched in 2001 continues. Repeatedly, leaders of the South African trade unions and the South African National Civic Organization (SANCO) have demanded inclusion in NEPAD and APRM structures.

On the side of the donor countries and international institutions, the initial reaction to NEPAD was very positive, sometimes enthusiastic. The German government even appointed a special NEPAD representative in the Ministry of Economic Co-operation and Development (BMZ). The donor countries and the G-8 welcomed NEPAD as an indigenous African initiative with the potential to cure the continent's chief ills. The APRM mechanism received most attention. In contrast to vague statements from African leaders about possible consequences of the APRM, the donor community has already announced it will link APRM outcomes to the further disbursement of aid. The APRM reviews will therefore become an element of donor conditionality (practiced since the early 1990s). This is also recognized by NEPAD itself. The Chairperson of NEPAD, economics professor Wiseman Nkhulu, stressed at the launch of the African Investment Initiative in November 2003 that investors and donors in general would penalize states with a poor human rights record and extensive corruption (This Day, November 20, 2003). This expected punitive reaction by the donor community is probably one reason why African leaders do not see the necessity of sanctions in case of a negative review outcome.

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Meanwhile, a more realistic view of NEPAD and sometimes even disappointment have characterized the views of donors.

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NEPAD's greatest success so far is to have put Africa high on the international agenda. G-8 meetings have always had a strong focus on Africa since the birth of NEPAD. The G-8 leaders regularly discuss the situation in Africa with African leaders and pledge support. Six African leaders, including Thabo Mbeki and Olusegun Obasanjo, were invited to the last summit in Sea Island in June 2004. Although not all promises for increased aid have been kept, the financial support from developed countries increased between 2000 and 2002, from roughly 16 billion US dollars to 18.6 billion (Cape Times, February 18, 2004). In contrast to the reluctance of most bilateral donors, international agencies are willing to fund NEPAD projects. The World Bank alone has pledged over 500 million US dollars for each of NEPAD's agricultural and infrastructural programs.

Complaints from many African intellectuals about the reluctance of donors to support NEPAD more vigorously and NEPAD's failure to attract more support are misleading. Budget constraints in many European countries, such as Germany and France, and a general perception of Africa as a »lost continent« where aid fails to achieve results, lead to donor fatigue and reduce the ability and will to increase development aid. It is a major success of NEPAD to keep Africa on the international agenda and even attract additional funds.

Meanwhile, a more realistic view of NEPAD and sometimes even disappointment have characterized the views of donors. There are at least two reasons for this change in perception. First, the unwillingness of NEPAD – like the AU – to deal with the human rights violations and the disregard for democratic principles in Zimbabwe. Although Zimbabwe was not made the »litmus test« of NEPAD's stance towards democracy and human rights, NEPAD's inertia was widely perceived as wrong.

The second and main reason for skepticism was the decision by the Heads of State and Government to give AU institutions responsibility over the political dimension of the APRM, while NEPAD retained responsibility only over economic governance (Cilliers, 2003: 2). Due to the historical experience with the OAU and the strong position of Gaddafi in the AU, the decision was seen as watering down the APRM. The donor community was particularly afraid that the APRM would face a similar fate as the African Commission on Human and Peoples' Rights and become a »toothless tiger«. The African Commission on Human and Peoples' Rights, based in Banjul (The Gambia) remained ineffective due to the lack of political support from some heads of state and government. Many states did not even send reports to the Commission.

Between the drafting of the NEPAD core document and 2003, NEPAD stagnated and the donor community's attention shifted more to the AU and security issues. It was not only the donor community which became more and more disappointed and impatient with NEPAD; strong opposition came from within NEPAD, from the business community. Open criticism from the business side was articulated at the AU Maputo summit in May 2004 towards the AU's handling of the APRM. The NEPAD business group, chaired by the chairman of South Africa's electricity giant ESKOM, Reuel Khoza, stated that business »would be much happier with the mechanism being a little more robust« (Business Day, May 31, 2004). In various statements members of the NEPAD business group have publicly criticized the APRM as toothless and pointed to the lack of clear indicators.

They even threatened the AU that they would introduce their own rating system in parallel with the APRM. Against the mounting criticism both from donors and from the business sector the AU summit »expressed concern at the slow pace of implementing NEPAD's APRM« (Cape Times, May 24, 2004).

The support of the donor and business communities strongly depends on the results of reviews and possible consequences. In case of negative findings the willingness of the relevant government to change its policy will be decisive for external support. If a government refuses to introduce reforms most likely it will face a reduction of external aid and also (informal) market sanctions because private investors would shy away from it. In some cases, especially when countries do not have significant mineral or agricultural resources for export, the exclusion or isolation of these countries could result. In contrast, countries with a positive review would most likely be »rewarded« by increased aid and stronger political support. The reviews could also create a dilemma for NEPAD in general: on the one hand, it is possible that clear results and recommendations, especially in case of a negative review, would dampen the willingness of countries to be reviewed; on the other hand, soft, ineffective, or meaningless reviews will undermine the credibility of NEPAD and the AU. In the long run, the APRM could contribute to enhancing the emerging dividing line between good performers/willing reformers and bad performers/reform-averse states.

## **Prospects for Ambitious Projects Undertaken by Weak States**

The quest for African unity reached an unprecedented height with the founding of NEPAD, the AEC, and the AU. Measured by their own goals and timetables, NEPAD and the AU are by far Africa's most ambitious program to date. After two years of stagnation the continent-wide projects, by establishing a system of new institutions, reintroduced a dynamic element. Compared with the process of European integration this has taken place extremely quickly. The greatest progress has been made with respect to the PAP and the PSC, which should become the core element of Africa's future security architecture. Most recently, the African Court of Human and Peoples' Rights was founded after 15 states signed the protocol in January 2004. In contrast to large phases of European integration, which followed the neo-functional path which can be simplified as

»form follows function«, the recent efforts for African integration fit into the federal model of integration, or »function follows form«: the African Heads of State and Government have signed new and far-reaching treaties creating an impressive legal and institutional framework, and this framework must be filled with concrete projects, deepening integration.

Compared to 1963, the situation is much more favorable for continental organizations. First, many African leaders show a real commitment to development, human rights, and democracy. Second, changes on the African continent, such as a stronger civil society in many countries, ICT, professional organizations, and networks in the corporate world, such as the Association of African Stock Exchanges, have intensified the ties between African states. Third, South Africa, which was a pariah state in 1963, became, together with other important states and regional hegemons such as Nigeria, a driving force for regional integration from the end of the 1990s.

It is too early to say how effective the AU institutions will be since they are still being operationalized, but set against the checkered record of the OAU, the divergent interests of the members, and an overall lack of resources, it remains at least doubtful whether the ambitious plans, programs, and schedules are realistic:

1. The basis for regional and continent-wide integration remains small. Protectionism, structural imbalances between states, and the minor importance of interregional trade – which made up less than 11 percent of the total – call into question the benefits of further economic integration. However, systematic lowering of both customs duties and non-tariff barriers to create broader markets, linked by improved roads, will indisputably increase cross-border trade.
2. There is a confusing proliferation of institutions, set up by mostly weak (in terms of economic performance and political stability) states. The new Pan-African executive, legislative, and judicial organs face immense challenges. They are chronically underfunded and understaffed, and their capacities are therefore low. Only where countries with both the political will and funds to substantially subsidize them host institutions – such as the Pan-African Parliament – can we be confident that they will deliver, and deliver largely on schedule.
3. Besides the problem of scarce resources the duties and responsibilities of the various institutions overlap or remain vague, as in the case of the APRM. The interlocking of these institutions is another challenge facing African unity (van Nieuwkerk, 2004).

4. Until recently, civil society was to a large extent excluded. This is hard to understand since the aims of most groups, particularly in respect of democracy and human rights, are very similar to NEPAD's and the AU's. Civil society could popularize the projects, strengthen societal support, and provide legitimacy. This is necessary since, except in countries that can be regarded as the driving forces behind NEPAD and the AU – especially South Africa, Nigeria, and Senegal – the institutions are not well known, even in intellectual circles.<sup>23</sup>
5. Most decisive for the fate of the ambitious NEPAD and AU projects will be the political will and commitment of African states for further integration, which will reduce their sovereignty. The mechanisms installed by NEPAD and the AU – especially the abandonment of a veto in the PSC – mean that African leaders have »slaughtered a holy cow«, the principle of sovereignty. This is a marked departure from the past, a revolution in thinking. The major question is, how committed, how serious are African leaders with regard to their self-proclaimed goals? One should not be too optimistic about the common political will since there are vast differences and often even distrust between the governments. If NEPAD and AU principles in the field of political and economic governance are taken seriously, major conflicts within the institutions – for example, between democratically governed and authoritarian states – can hardly be avoided. There is the danger of the AU becoming a charade.
6. The international credibility of and domestic confidence in the newly established organizations could be damaged by the fact that many of the 28 countries which have ratified the PSC protocol – for example, Zimbabwe, Sudan, Cameroon, and Libya – do not meet the basic principles of the AU, such as democracy, human rights, and good governance. It is difficult to see how those countries will guarantee respect for AU principles once elected as members of the PSC (Cilliers and Sturman, 2004: 100).

The donor community reacted positively and pledged support for both NEPAD and the AU. However, the financial support is focused in one area, namely security. In general, a wait-and-see attitude, especially with re-

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23. Compare the results of the only existing survey on »African Elite Perspectives« regarding AU and NEPAD, covering seven countries. According to this survey even African elites are skeptical about the positive impact of the APRM on governance in Africa (Kotzé and Steyn, 2003: 112).

spect to the handling of the Zimbabwe crisis and the outcomes and consequences of the APRM, prevails. Against the background of historical experiences with the OAU donor pessimism is understandable in the face of such high-flown, ambitious, even utopian aims as a single market and a single currency by 2021. On the other hand, there is also the danger that the donor community could miss an unprecedented window of opportunity since the chances for African unity have never been as good as today.

No other regional community of the developing world ever sought to strengthen and democratize itself by founding continental legislatures and courts of human rights. Even the North American Free Trade Area (NAFTA) would not consider that. If the AU succeeds it will be second in the whole world after the EU and immensely accelerate democracy and development in Africa.

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