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HUMAN RIGHTS, HUMAN DEVELOPMENT, AND PEACE:

INSEPARABLE INGREDIENTS IN AFRICA'S QUEST

FOR PROSPERITY

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No. 0202056E

Thesis submitted in partial fulfilment of the requirements for the award of the degree of Doctor of Philosophy (PhD) in the School of Law, Faculty of Commerce, Law & Management

University of the Witwatersrand

Johannesburg, South Africa

January 2008

Declaration

I declare that this thesis is my original and unaided intellectual work. It is being submitted for the award of the degree of Doctor of Philosophy (PhD) at the University of the Witwatersrand, Johannesburg, South Africa. To the best of my knowledge, it has not been submitted before for any degree or examination in any other university here in South Africa or anywhere else in the world.

Candidate:	**Supervisor:**
Robert Wundeh Eno	Prof. Shadrack B.O. Gutto
Signature: ……..	**Signature:** ……..
Date: …….	**Date**:……..

Dedication

To my wife:

Eno Ngwi Née Tafah

&

Two sons:

Wundeh Edokat Eno

Abanda Itambi Eno

Acknowledgements

While I bear responsibility for conceiving this thesis, I cannot claim the work would have been complete without the generous spiritual, moral and material support of many individuals - relatives, friends, colleagues and institutions - to whom I feel enormously indebted.

Foremost, is my supervisor, Professor Shadrack B.O Gutto, who I must thank in a very special way for his time and the constructive exchange of ideas we had throughout the writing of this thesis. His thought-provoking comments and challenging legal mind immensely sharpened my thoughts and broadened my perception on how to approach the issues that form the basis of the Thesis. Hopefully, the completion of this Thesis will not signal the end of our relationship.

I am equally thankful to Professor Carlson E. W. Anyangwe, of the School of Law, University of Zambia (UNZA), for his continuous encouragement and for taking time to read and comment on the first chapter and the final draft of this thesis.

I equally want to thank my wife, children and entire family for their patience and understanding. I especially thank my wife for her endurance, moral support and for withstanding moments of 'isolation' to enable me pursue this goal. I promise to make it up to her now that it is all over. I also recognise the moral support of my good friend and brother, Dr. Asaah Aba'ade Thomas, famously known as 'Dr. T'. The moral support and friendship of Dr. Francis Nguendi Ikome is also highly appreciated. The completion of his thesis in 2004 spurred me to work even harder. The encouragement and support of other relatives and friends is equally acknowledged. In this regard, I wish to thank my cousin, Mr. Carlson Aba'ade Ifughe, my brother, Mr. Julius Angono Eno, Mrs. Irene Akiy Ifughe, Ms. Mantso Ningo, Ms. Mirabel Nyamboli, and Mr. and Mrs. Mbi Mbappe.

I am grateful to my former colleagues at the South African Human Rights Commission (SAHRC) for their support. In this regard, I must recognise the encouragement from Professor Barney Pityana, then, Chairperson of the SAHRC. His frank advice and analysis of issues convinced me to abandon my original research topic. I feel indebted to him for this. I also recognise the support and encouragement from Professor Leon Wessels, Member of the SAHRC, who would come to my office every morning to remind me that I have a PhD thesis to write; and linked me up with the Max Plank Institute for Comparative Public and International Law, where I was offered a one year scholarship to pursue my PhD programme. Unfortunately, for personal reasons, I wasn't able to accept the scholarship offer. I also wish to recognise the encouragement from my very good friend Ms Pat Lawrence with whom I shared most of my ideas during the early stages of this project.

I am also grateful to my colleagues at the Secretariat of the African Commission on Human and Peoples' Rights, who have given me a lot of moral support. I have had occasion to discuss certain concepts and conclusions in the thesis with some of them, notably, Ms Fiona Adolu, Mrs. Annie Rashidi Mulumba, and Mr. Robert Kotchani. They might not have appreciated how our informal discussions and debates helped me but I learnt a lot from them. I wish also to recognise the support of Mr. Jan Jalloh, the former Documentation Officer, and his assistants. They made sure I got all the latest books and articles related to my area of research. I am grateful to my former colleagues at the Department of Law, University of Buea, who constantly kept in touch to encourage me to work hard. I would like to thank all other persons and institutions who contributed either directly or indirectly to this work but whose names, for one reason or another, have not been mentioned here. I value all your contributions.

Posthumously, I wish to note the encouragement from my late cousin, Dr. Wunde John A Karl, who had jokingly made my obtaining a PhD a condition for my return to Cameroon, and for getting married to my current sweetheart. By the time I completed the PhD, he had answered the Lord's call. May his soul rest in perfect peace.

Above all else, I give glory to the Lord Almighty for granting me good health and the wisdom to pursue this programme to the end.

Table of contents

Title page…….…….…….. i
Declaration…….…….…….. ii
Dedication ……...iii
Acknowledgements ……..…… iv
Table of content……..……..... vii
List of Acronyms…….…….... xi
Abstract ……..... xv

Chapter One: Introduction, scope of the study, problem statement, and methodology

1.1 Introduction…….....1
1.2 Scope of the study……..9
1.3 Problem statement……11
1.4 Methodology……..12
1.5 Data sourcing…….13
1.6 Brief summary of Thesis……..14

Chapter Two: Literature review and conceptual and theoretical framework on human rights, human development, and peace

2.1 Literature review…….…….…….16
2.2 Theoretical and conceptual framework on human rights, human development and peace ……..…....20
2.2.1 The concept of human rights……..25
2.2.1.1 The African Charter on Human and Peoples' Rights: a symbol of the African notion of human rights……42
2.2.2 The concept of human development…….47

2.3 The triangular relationship between human rights, human development, and peace–indispensable nexus……..54

2.4 Summary and conclusion of Chapter two…..……..60

Chapter three: Human rights, human development and peace – from slave trade to post independence era

3.1 Introduction……....62
3.2 Slave trade era……..72
3.2.1 The slave trade and human rights, human development, and peace in Africa…….....66
3.3 Colonial era……73
2.3.1 Colonialism and human rights, human development and peace in Africa……...74
3.4 Post colonial or contemporary Africa…….81
3.5 Summary and conclusion of Chapter three..…….....89

Chapter Four: The Organisation of African Unity: correcting the past and laying the foundation of the future

4.1 Introduction……92
4.2 Origin and establishment of the OAU……94
4.3 Purposes and institutional structure of the OAU……...103
4.4 The OAU – Achievements……106
4.5 Weaknesses of the OAU……...113
4.6 The OAU and human rights……..114
4.7 Peace and development – the focus of the AU.....122
4.8 Summary and conclusion of Chapter four……..128

Chapter Five: The African Union: old wine in new wine bottle?

5.1 Introduction……..131
5.2 Background to the AU……132
5.3 Was there a need for change?.....136
5.4 Objectives, principles and structures of the AU……140
5.5 Differences between the OAU and the AU……145

5.6 Challenges facing the AU……..153
5.7 The AU compared with other similar regional organisations……...158
5.7.1 the Organisation of American States……...162
5.7.2 the European Union……168
5.8 Mainstreaming human rights, human development, and peace: the AU's approach……175
5.9 Summary and conclusion of Chapter five……...181

Chapter Six: The New Partnership for Africa's Development (NEPAD) – achieving African renaissance through the realisation of human rights, human development, and peace

6.1 Introduction……..184
6.2 Context and background……186
6.3 Origin of the NEPAD……..196
6.4 Structure of the NEPAD……216
6.5 Relationship between the NEPAD and the AU…….....219
6.6 How is the NEPAD different from past African initiatives……....225
6.7 The NEPAD and the international community……236
6.8 Criticisms of the NEPAD……243
6.9 The MDGs and the interface with the NEPAD……...253
6.10 Challenges facing the NEPAD……256
6.11 The place of human rights, human development, and peace in the NEPAD initiative……...261
6.12 Summary and conclusion of Chapter six

Chapter Seven The African Peer Review Mechanism (APRM) – the sharpest tool in the NEPAD toolbox?

7.1 Introduction……..268
7.2 The APRM – definition, origin and structure…….....269
7.2.1 Definition……..269
7.2.2 Origin……....274
7.2.3 Structure……...280
7.3 APRM – Scope and processes…….283
7.4 Case Studies: APRM implementation in Ghana and Rwanda……285
7.5 Challenges faced by these countries…… 287
7.6 Benefits and lessons learned by these countries…….288
7.7 Peer Reviews in other jurisdictions……..291
7.8 Challenges to be overcome…….....292
7.9 Criticisms of the APRM…….....297
7.10 Benefits of the APRM…….297
7.11 Factors that will influence the success of the APRM……299
7.12 The APRM and other similar organs of the African Union – harmonising the AU and the NEPAD structures……..……..302
7.13 Summary and conclusion of Chapter seven…….305

Chapter eight: Summary and conclusion of findings......310

Bibliography…….322

List of acronyms

AAF-SAP	African Alternative Framework to the Structural Adjustment Programme for Socio-Economic Recovery and Transformation
ACJ	African Court of Justice
ACM	African Common Market
ACHPR	African Commission on Human and Peoples' Rights
ACP/EC	African Caribbean and Pacific/European Community
ACTHPR	African Court on Human and Peoples' Rights
AEC	African Economic Community
ALF	African Leadership Forum
AMCHR	American Convention on Human Rights
ANC	African National Congress
APPER	African Priority Programme for Economic Recovery
APRM	African Peer Review Mechanism
AU	African Union
CAT	Convention Against Torture
CEDAW	Convention on the Elimination of all Forms of Discrimination Against Women
CERD	Convention on the Elimination of Racial Discrimination
CHR	Commission on Human Rights
CRC	Convention on the Rights of the Child
CSOs	Civil Society Organisations
CSSDCA	Conference for Security, Stability, Development and Cooperation in Africa
DGICCP	Declaration on the Granting of Independence to Colonial Countries and Peoples
DMS	Development Merchant System
DRC	Democratic Republic of Congo
DRD	Declaration on the Right to Development
EC	European Commission
ECHRFF	European Convention on Human Rights and Fundamental Freedoms

ECJ	European Court of Justice
ECOSOC	Economic and Social Council
ECOWAS	Economic Community of West African State
EEC	European Economic Community
EU	European Union
FAL	Final Act of Lagos
GATT	General Agreement on Tariff and Trade
GDP	Gross Domestic Product
GEAR	Growth Employment and Redistribution
GNP	Gross National Product
HIPC	Highly Indebted Poor Countries
HRDO	Human Rights Development Office
HSGIC	Heads of State and Government Implementation Committee
IBRD	International Bank for Reconstruction and Development (World Bank)
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICJ	International Commission of Jurists
IFIs	International Financial Institutions
IGAD	Intergovernmental Agency for Development
ILO	International Labour Organisation
IMF	International Monetary Fund
IPEP	Independent Panel of Eminent Persons
MAP	Millennium African Development Programme
MDGs	Millennium Development Goals
NAFTA	North American Free Trade Area
NAI	New African Initiative
NAM	Non-Aligned Movement
NEPAD	New Partnership for Africa's Development
NGOs	Non-Governmental Organisations
NIEO	New International Economic Order
OAS	Organisation of American States

OATUU	Organisation of African Trade Union Unity
OAU	Organisation of African Unity
ODA	Overseas Development Assistance
OECD	Organisation for Economic Co-operation and Development
OPEC	Organisation of Petroleum Exporting Countries
OSCE	Organisation for Cooperation and Security in Europe
PAC	Pan African Congress
PANA	Pan African News Agency
PAP	Pan African Parliament
PAPU	Pan African Postal Union
PATU	Pan African Telecommunication Union
PSC	Peace and Security Council
RECs	Regional Economic Communities
RENAMO	Mozambican National Resistance
RUF/SL	Revolutionary United Front of Sierra Leone
SADC	Southern African Development Community
SAPs	Structural Adjustment Programmes
SCSA	Supreme Council for Sports in Africa
SHD	Sustainable Human Development
TNCs	Trans-national Corporations
TRIMS	Trade Related Investment Measures
TRIPS	Trade Related Intellectual Property Rights
UAR	Union of African Railways
UDHR	Universal Declaration of Human Rights
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
UNESCO	United Nations Education, Scientific and Cultural Organisation
UNGA	United Nations General Assembly
UNICEF	United Nations Children Fund
UNITA	Union for the Total Independence of Angola

UN-NADAF	United Nations New Agenda for the Development of Africa
UN-PAAERD	United Nations Programme for Africa's Economic Recovery and Development
URTNA	Union of African National Television and Radio Organisation
WCHR	World Conference on Human Rights
WHO	World Health Organisation
WSSD	World Summit on Sustainable Development
WTO	World Trade Organisation
WWI	World War One – First World War
WWII	World War Two – Second World War

Abstract

Despite decades of foreign aid, abundance of natural and human resources, and numerous development initiatives, the African continent remains largely underdeveloped, marginalised and excluded from major decision-making processes that shape today's world. The purpose of this research is to examine the reasons for the continuous underdevelopment and marginalisation of the African continent and to advance pragmatic measures to be put in place to reverse the situation.

The thesis demonstrates that Africa's underdevelopment and marginalisation cannot be divorced from the effects of centuries of exploitation, domination, and exclusion through the slave trade, colonialism, and neo-colonialism on the one hand, and decades of poor socio-economic and political governance that have characterised the continent since independence, on the other. One of the main findings of the research is that, over the years, African leaders have consciously or unconsciously failed to recognise the fundamental link between human rights, human development, and peace as a foundation for development, and this failure has resulted in their inability to craft sustainable development initiatives for the continent.

Given the prominent place human rights, good governance, democracy, peace and stability occupy in both the Constitutive Act of the African Union (CA-AU)[1] and the New Partnership for Africa's Development[2] (referred throughout this thesis as the NEPAD Document), the thesis further demonstrates that there is an intrinsic relationship between human rights, human development, and peace which is necessary for development. It analyses the extent to which this relationship has been taken into account in

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1 The Constitutive Act of the African Union, OAU Doc. CAB/LEG/23.15, was adopted 11 July 2000 in Lomé, Togo and entered into force May 26, 2001.

2 The New Partnership for Africa's Development (NEPAD or the NEPAD Document) 2001. The NEPAD is an economic development program of the African Union. The NEPAD was adopted at the 37th Session of the Assembly of Heads of State and Government in July 2001 in Lusaka, Zambia.

the conception, formulation, and implementation of the objectives of both the AU and the NEPAD; and concludes that the NEPAD and the AU initiatives provide a strong foundation and offer an excellent opportunity for Africans to begin to reverse centuries of exploitation, domination, and decades of socio-economic and political exclusion, as well as re-orientate the governance and development strategy of the continent.

The thesis is premised on the realisation that respect for human rights, the promotion of human development, and the consolidation of peace, coupled with good political and economic governance are conditions *sine qua non* for any meaningful development. It further reveals that respect for human rights provides a foundation upon which rests the political structures of human freedoms. The achievement of human freedom generates the will as well as the capacity for economic and social progress. The attainment of economic and social progress provides the basis for durable peace.

The thesis concludes that human rights, human development, and peace are interdependent, interrelated, indivisible and mutually reinforcing, and thus inseparable ingredients in Africa's quest for prosperity.

Chapter One: Introduction, scope of the study, problem statement, and methodology

1.1 Introduction

From 22-25 May 1963, leaders of newly independent African states met in Addis Ababa, Ethiopia, to establish a Pan-African Organisation with the primary objectives of promoting unity and solidarity among African states, defending their sovereignty, territorial integrity and independence, and eradicating all forms of colonialism from the continent. At the end of the four day conference, the thirty-two African Heads of State and Government that met in Ethiopia signed the Charter of the Organisation of African Unity (the OAU Charter)[3], thus creating the continental body.[4]

For almost four decades of its existence, from 1963 – 2002, the OAU evolved and witnessed African states gain independence. It also witnessed the creation of new states through war, such as Eritrea in 1991, and contributed to the defeat of colonialism in Africa and the dismantling of apartheid in Southern Africa. The OAU also faced serious challenges throughout its brief history: civil and inter-state conflicts, famine, droughts, diseases, and political changes through *coups d'état* - which besieged the continent, leading to some of the founding fathers of the organisation being deposed,[5] and African people

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[3] Charter of the Organisation of African Unity (OAU), 479 U.N.T.S. 39 (1964), entered into force September 13, 1963,

[4] At present, there are 53 member states of the Organisation, which since 9 July 2002, became known as the African Union under a new treaty – the Constitutive Act of the African Union. The Sahrawi Arab Democratic Republic was admitted to the OAU, in February 1982, following recognition by 26 of the (then) 50 member states of the OAU but its membership was disputed by Morocco and other States. Morocco withdrew from the OAU with effect from November 1985 and is the only African state which is not a member of the African Union. See also <http://www.dfa.gov.za/for-relations/multilateral/treaties/oauchart.htm>.

[5] Between 1960 and 1969 about twenty *coups d'état* took place on the continent deposing most of the independent Presidents and the founders of the OAU. The *coups d'état* included Congo-Kinshasa, 1960- General Mobutu seized power temporarily; Togo, January 1963- coup deposed President Sylvanus Olympio, who was killed in the process; Congo-Brazzaville, August 1963- the Government of Abbe Youlou was overthrown; Dahomey (now Benin), December 1963- Colonel Sogho overthrew President Hubert Maga; Gabon, February 1964- *coup d'état* occurred but

experiencing and witnessing some of the worst atrocities, including the genocide in Rwanda in 1994.

During the thirty-eight years of its existence, the OAU endeavoured to promote African unity and solidarity, co-ordinate and intensify co-operation among African states, achieve a better life for the peoples of the continent and promote international co-operation.[6] Amongst other initiatives, the organisation adopted the African Charter on Human and Peoples' Rights (ACHPR)[7] in June 1981, aimed at enhancing the promotion and protection of human and peoples' rights on the continent, and it adopted the Treaty Establishing the African Economic Community (AEC)[8] in June 1991, aimed at fostering the economic, social and cultural integration of African countries and securing a framework for peace and sustainable development.[9]

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was reverted by French forces; Algeria, June 1965- Colonel Boumedienne overthrew President Ben Bella; Dahomey, December 1965- a second coup is staged; Burundi, October 1965 - the monarchy is overthrown by Army officers; Central Africa Republic, January 1966 – President David Dacko is ousted by Colonel Jean Bedel Bokassa; Upper Volta (now Burkina Faso), January 1966- Colonel Lamizana deposed President Yamego; Nigeria, January 1966 - General Ironsi is installed after a coup led by young officers; Ghana, February 1966- President Kwame Nkruma is overthrown by the military led by General Ankrah; Nigeria, July 1966 - General Gowon overthrows General Ironsi; Burundi, November 1966 - Captain Micombero took over in another coup; Sierra Leone, March 1967 - President Margai deposed by Lieutenant Colonel Juxon-Smith; Algeria, December 1967 - a second coup attempt is made; Sierra Leone, April 1968 - a coup from the ranks overthrew Lieutenant Colonel Juxon-Smith, civilian government re-installed under President Siaka Stevens; Mali, November 1968 - young officers, led by Lieutenant Moussa Traore, deposed the government of President Keita; Sudan, May 1969 - Free Officers' Movement seized power; Libya, September 1969- the monarchy is deposed; Somalia, October 1969 - a revolutionary Council led by the military overthrew the government.

6 OAU Charter (note 3 above) preambular paras 5-9.

7 African [Banjul] Charter on Human and Peoples' Rights, adopted in June 27, 1981, in Nairobi, Kenya, OAU Doc. CAB/LEG/67/3 Rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986.

8 The Treaty Establishing the African Economic Community, also referred to as the Abuja Treaty, was adopted in June 1991 by OAU member states and entered into force in 1994.

9 Article 4 (1) of the Abuja Treaty provides that the objectives of the Community shall be: (a) to promote economic, social and cultural development and the integration of African economies in order to increase economic self-reliance and promote an endogenous and self-sustained development; (b) to establish, on a continental scale, a framework for the development, mobilisation and utilisation of the human and material resources of Africa in order to achieve a self-reliant development; (c) to promote co-operation in all fields of human endeavour in order to raise the standard

However, amidst all these initiatives, massive human rights violations coupled with diseases, poverty, and conflicts have created obstacles to sustainable development and peace. Sustainable development and peace would have helped alleviate the suffering of the people and contributed to promoting 'equality, freedom, and human dignity essential for achieving the aspirations of the African peoples'.[10]

The continent has had an unenviable human rights history and genuine democracy, peace and development have eluded her for many centuries. Africa is the second largest continent[11] after Asia, and is home to about 915,210,928[12] people of diverse backgrounds, cultures, races, nationalities and religions (they include blacks, whites, coloureds, Asians, Atheists, Animists, Christians, Hindus, Jews and Muslims); it is a continent of fifty-four independent states with capitalists, socialists, Marxist-Leninists, military, one-party, multi parties, democratic, dictatorial and monarchical regimes. In spite of its rich diversity, and though endowed with enormous resources, it is today still ranked as the poorest continent and often termed the Dark Continent, where most people live with endemic diseases and in misery, poverty and underdevelopment.[13]

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of living of African peoples, and maintain and enhance economic stability, foster close and peaceful relations among member states and contribute to the progress, development and the economic integration of the Continent; and (d) to coordinate and harmonize policies among existing and future economic communities in order to foster the gradual establishment of the Community.

10 OAU Charter (note 3 above), preambular para 3.

11 The approximate sizes of the continents are as follows: Asia - (44,579,000 sq km), Africa - (30,065,000 sq km), North America - (24,256,000 sq km), South America - (17,819,000 sq km), Antarctica - (13,209,000 sq km), Europe - (9,938,000 sq km), Australia/Oceania - (7,687,000 sq km). See in this regard <http//www.worldatlas.com/aatlas/world/htm.>

12 The estimated population by continent as at 2006 stood as follows: Asia - (4, 148, 948, 000), Africa - (984, 225, 000), Europe - (719, 714, 000), North America - (348 139, 000), South America - (594, 436, 000), Australia/Oceania - (34, 821, 000), Antarctica - (0). See <http.//www.wikipedia.org/wiki/World_population>.

13 TR Pochari 'From the Dark Continent to the forgotten continent: Black Africa's 500 years of economic distress, isolation and rejection' *World Affairs Monthly,* (February 2003) 22. According to the UNDP Human Development Report 2002, 10 -11, 20 countries in sub-Saharan Africa, with more than half of the region's people are poorer

Africa's overall record of respect for human rights, stability, and socio-economic development has been disappointing. This could be explained partly by the fact that Africa had for decades suffered under the humiliating and dehumanising slave trade and colonialism and that the effects and legacies of these practices still affect the socio-economic and political development of the continent. It has also been suggested that Africa attained political independence as a fragmented continent, with many small states that offered neither large enough internal markets nor the physical or institutional infrastructure to endanger industrialisation and development.[14] Ikome argues further that

> Africa remains underdeveloped because it was incorporated into the global economy from a disadvantaged position, as supplier of raw material to the industries of the North and as a market for their finished goods within the logic of an already established global economic division of labour[15]

Thus, although Africa is well endowed with natural resources, such as gold, oil, diamond, uranium, timber, and a variety of flora and fauna, it is a continent in distress. European colonial rapacity left the continent in disarray and in a deplorable shape at the time of independence. However, independence appears to have simply resulted in rapacious exchange of roles. Today, Africans suffer and die needlessly due to the brazen and reckless looting and hoarding of the public treasuries by greedy and unconscionably corrupt public officials.[16] Corruption has compounded the injustice of the colonial legacy,

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now than in 1990 – and 23 are poorer than in 1975. During the 1990s the number of people in extreme poverty in sub-Saharan Africa rose from 242 million to 300 million. Of the over 22 million people living with HIV/AIDS, 90% are from developing countries and 75% from sub-Saharan Africa.

14 FN Ikome *From the Lagos Plan of Action (LPA) to the New Partnership for Africa's Development (NEPAD): the political economy of African Regional initiative* PhD Thesis, Department of International Relations – University of the Witwatersrand, (December, 2004) 1.

15 Ibid.

16 E Iheukwumere & C Iheukwumere 'Colonial Rapacity and Political Corruption: Roots of African Underdevelopment and Misery' in *Journal of International & Comparative*

severely impoverished the average African, left the few infrastructures in ruins, and robbed the populace of the benefits of their national resources. These vices have left the continent economically and politically weak, making it unable to make any meaningful contribution in the new international world order.

Against this backdrop, African leaders[17] have come up with new initiatives such as the establishment of the African Union and the adoption of the New Partnership for Africa's Development, which, if successfully institutionalised and implemented, are supposed to aid the transformation of the continent towards socio-political and economic development, respect for human rights, and the promotion of durable peace.

Thus, beginning with the decision to transform the continent into a union of independent States[18] and followed by the development of what today is being referred to as the NEPAD,[19] Africa's statement to the larger world is that, 'we are resolved to taking our own destiny in our hands'.[20]

Law, (Spring 2003) 1. It is believed that due to mismanagement, corruption and lack of transparency, leaders such as Mubutu Sesse Secko, Eduardo dos Santos and Sani Abacha amassed wealth for themselves at the expense of their countries.

17 It is believed the establishment of the AU is the brainchild of the Libyan leader, Colonel Muammar Ghaddafi, while the NEPAD was championed by Thabo Mbeki of South Africa, Olusegun Obasanjo of Nigeria, Abdoulaye Wade of Senegal, Abdelaziz Bouteflika of Algeria, and Hosni Mubarak of Egypt.

18 The African Union was launched in Durban, South Africa on 9 July 2002 and President Thabo Mbeki of South Africa was its first Chairperson. In its decision, the Sirte Summit of 9 September 1999 specified that the legal requirements for the Union would have been completed upon the deposit of the 36th instrument of ratification of the Constitutive Act of the African Union. It was furthermore decided that the OAU Summit to be held in Lusaka, Zambia from 9 to 11 July 2001 should take the necessary decisions pertaining to the transformation of the OAU into the AU, and the preparation of necessary draft protocols relating to the Organs and Institutions of the Union. There are debates currently going on within the AU on how to establish a union government for Africa as a step towards concretizing African unity.

19 See also P Bond '*The New Partnership for Africa's Development – an annotated Critique',* (January 2002). <http://aidc.org.za/NEPAD/nepadannotatedcritique.pdf>.

20 I Tukombo 'NEPAD and African women: Mechanism for Engagement, Input and Ownership' (2002) paper presented at the *Regional Conference on African Women and the New Partnership for Africa's Development (NEPAD)* organized by the Africa Leadership Forum, ALF in collaboration with the United Nations Educational Scientific

The re-introduction of democracy in the later part of the 1980s in many African states, the dismantling of apartheid in South Africa in the early 1990s, and the transformation of the OAU to the AU, coupled with the adoption of the NEPAD in 2001 have all been seen as important steps towards ending the massive and gross human rights violations caused by decades of slave trade, colonialism, poverty, mismanagement, bad governance, socio-economic and political exclusion. They are seen as important initiatives aimed at restoring peace to a continent devastated by decades of civil and inter-state conflicts, and as bold moves towards restoring political stability necessary for human and economic development.

The AU and the NEPAD initiatives in particular, at least theoretically, extend and deepen Africa's regional commitment and determination to pursue democracy, human rights, sustainable human and economic development, peace and security on the continent with greater vigour and determination. They also signal to the international community, to the African peoples, as well as to African leaders themselves, that it can no longer be business as usual.[21]

With these developments, the continent is beginning to acquire a sense of hope from its people and sympathisers. Some are propagating an African renaissance in the third millennium.[22] This new expression in the lexicon of African politics is raising hopes and capturing imaginations across the continent.

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and Cultural Organisation, UNESCO, convened at the ALF Secretariat, in Ota, Nigeria from 3 – 5 February 2002.

21 C Akukwe. 'Africa and NEPAD: Are All Bases Covered?' *The Accra Daily Mail,* April 15, 2002.

22 D Nabudere 'NEPAD: Historical Background and its Perspectives' (2002) paper presented at the *African Forum for Envisioning Africa*, held in Nairobi, Kenya, 26 – 29 April 2002.

Although the Ugandan President, Yoweri Museveni, refers to it as a 'decade of awakening',[23] South African President, Thabo Mbeki's catch phrase 'African Renaissance'[24] has won more headlines. These are words that forecast new leadership, resurgent African economies, more democracy, peace, respect for human rights, and a significant new role for Africa on the world political stage. As President Mandela once explained:

> The vision expressed in the idea of the African Renaissance is that of the reconstruction and development of an Africa in which people's lives are constantly and rapidly improving toward standards broadly in line with the best in the world[25]

However, despite the nobility of effort and the seemingly good intentions, the devil is always in the details, and the AU and the NEPAD initiatives do not present any exceptions. There is still a looming pessimism from some political analysts, cynics,[26] and pragmatists about the success of these initiatives,

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23 Address by H.E. Yoweri Kaguta Museveni, President of the Republic of Uganda to the Republic of South Africa's Parliament, Cape Town, South Africa - 27 May 1997.

24 President Mbeki, prior to the crafting of the NEPAD, made a ringing call for an 'African Renaissance'. He proclaimed an African renaissance in several forums including a speech, delivered at the United Nations University on *9 April 1998,* entitled 'the African renaissance, South Africa and the world'; a statement he issued on SABC entitled 'The African Renaissance Statement of Deputy President, Thabo Mbeki', on 13 August 1998; a speech he delivered at the launch of the African Renaissance Institute in Pretoria, 11 October 1999; and a statement at the African Renaissance Conference in Johannesburg, 28 September 1998.He also called the 21st century 'an African century'. These calls and claims have made South Africa, and Mbeki in particular, the central focus for an African rejuvenation. It is not surprising, therefore, that South Africa has become one of the major contributors to the NEPAD and the African Union. As a reward for these contributions, Mbeki was made the first Chairperson of the African Union when it was inaugurated in July 2002 in Durban.

25 Transcript of speech made by Nelson Mandela at the London School of Economics and Political Science on the theme 'Africa and Its Position in the World Today', 6 April 2000. <http://www.lse.ac.uk/collections/LSEPublicLecturesAndEvents/events/2000>; *Al-Ahram Weekly,* 13 - 19 July 2000, Issue No. 490. and *Socialist Affairs Online* or <http//www.socialistinternational.org/9SocAffairs/affairs.html>.

26 See E Squire 'Governance, NEPAD and the G-1/8' reproduced from *SEATINI Bulletin* (Vol. 5, No. 14, 31 July 2002); see also *Third World Economics* No. 286 (August 2002) 1-15. Squire charges that 'the official NEPAD document (adopted in October 2001) contains bold rhetorics suggesting, on the surface, that it seeks to redress the tremendous inequities of the Africa/industrialized world relationship and to

especially in promoting human rights and human development, and restoring durable peace and stability on the continent.

While it is not the purpose of this thesis to align with either school of thought (the optimists and the pessimists), the research attempts to place into context the current political and economic initiatives being undertaken by African leaders to jumpstart the continent's development in the 21st century. The research seeks to demonstrate that for African states to develop to the level of the industrialised North they must adopt concerted efforts to incorporate human rights, human development, and peace in both national and continental programmes and policies. The thesis argues further that for the African Union and the NEPAD initiatives to make any meaningful dent into Africa's development paradigm, the following interrelated developmental ingredients are indispensable and need to be pursued simultaneously:

- the continent must commit herself unequivocally to the principles of the respect for human and peoples' rights of all;

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empower Africans. But getting down to the nitty-gritty, we find that what the NEPAD really advocates is a heavy emphasis on attracting more Foreign Direct Investment via a liberalized trade and financial framework. It talks about instituting transparent legal and regulatory frameworks for financial markets, which means, ensuring that capital interests take legal precedence over social and environmental ones'. At the World Economic Forum held in Durban in June 2002, protesters castigated the NEPAD as re-colonisation of Africa. Zoubair Ayoob of the *Natal Witness* charged that 'the NEPAD is little more than re-colonisation of Africa and is just an extension of the Growth, Employment and Redistribution (GEAR)'. Ashwin Desai of the *Concerned Citizens' Group,* for his part, believes the name NEPAD is a myth, adding that 'there is nothing new about it. It is just GEAR for Africa and, just as GEAR resulted in the loss of one million jobs in South Africa, so too will the NEPAD further plunge Africa into poverty. The NEPAD will leave African economies at the mercy of Western powers. The NEPAD will deliver in Africa, but only to the elite. The poor will just get poorer'. Professor Dennis Brutus of *Jubilee South Africa* concurred and said, 'we regard the NEPAD as a new form of colonisation with the consent of African leaders. The essence of the document is that Africa promises to obey all requests from the West and will submit to their demands, particularly in the area of investment. Africa will be enslaved to satisfy the demands of the West. The NEPAD will lead to privatisation of basic services which will then be sold back to Africa at a profit'. Richard Pithouse from the *University of Natal* criticised the NEPAD's aim of opening African markets to the West: 'the NEPAD is not an African concept and will not benefit Africa' he said, adding, 'the NEPAD will leave African people and their resources open to exploitation'. See *the Natal Witness,* 6 June 2002.

- decision-makers on the continent must invest in and create an atmosphere conducive for *human development*;
- there must invariably be a stable political environment favourable for investment, growth and *durable peace; and*
- there must be an established open and democratic society where there is respect for the rule of law, accountability, transparency, separation of powers, *(good governance).*

The thrust of the thesis is to develop and explain the intrinsic link that exists between *human rights, human development, and peace* on the one hand and the indispensability of good economic and political governance on the other, and how they are likely to serve either as pre-requisites for the success of Africa's quest for socio-economic and political development or pose a threat to that quest. In particular, it examines the extent to which these development concepts have been incorporated within the new initiatives, ie the AU, the NEPAD, and the African Peer Review Mechanism (APRM),[27] as African leaders attempt to tackle the continent's social, economic and political problems.

1.2 Scope of the Study

The thesis is divided into eight chapters. Chapter one is the introductory chapter that situates the politico-economic evolution currently unfolding on the continent and analyses necessary measures that are envisaged and are to be put in place to consolidate this evolution. It provides the background and scope of the study and identifies the problem that prompted the researcher to

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[27] The African Peer Review Mechanism is a mutually agreed instrument voluntarily acceded to by the member states of the African Union as a self-monitoring mechanism. The mandate of the APRM is to encourage conformity with regard to political, economic and corporate governance values, codes and standards, among African countries and the objectives in socio-economic development within the New Partnership for Africa's Development..

undertake the study, and further describes the methodology used in the study. The chapter finally provides a concise summary of the whole thesis.

In chapter two, the study proceeds to review the relevant literature, capturing the works of other authors in the area of human rights, peace, and development and the limitations of these works that this study seeks to address. The chapter further provides a general description of the three concepts, *human rights* (including an appraisal of the African notion of human rights), *human development,* and *peace,* and examines, amongst others, the theoretical and conceptual issues that underpin their relationship, demonstrating, in particular, their connection as catalysts for Africa's socio-economic and political development.

Chapter three presents an overview of the relationship between human rights, peace, and underdevelopment on the continent, from the slave trade era to the post-independent period. In this chapter, the thesis seeks to demonstrate that the backwardness of the continent characterised by gross human rights violations, poverty, disease, social, economic, political underdevelopment, and perpetual instability, which cannot be divorced from the humiliating slave trade and colonialism inflicted upon the continent by Europe and America. The neo-colonialist/imperialist attitudes and policies of engagement adopted by Europe and America after most African countries gained independence exacerbated the situation.

Chapter four looks at post-independent Africa, examining, in particular, the origin of the quest for black consciousness, emancipation, equality, social justice, and political and economic development in Africa. It traces the origin of the OAU and its role in either fostering or undermining *human rights*, *human development,* and *peace* in order to revamp a continent paralysed by centuries of slave trade, colonialism, and socio-economic and political exploitation, exclusion and mismanagement. It thus examines the successes and failures of the OAU in this regard.

Chapter five examines the shift from political independence to economic emancipation. It traces the origin of the AU and provides a comparative legal and institutional analysis of the OAU and the AU on the one hand, as well as, the AU and other regional and like arrangements, such as the European Union (EU) and the Organisation of American States (OAS) on the other. This chapter draws from the experiences of these other bodies in the field of human rights, human development, and peace with a view to drawing lessons that could be used to strengthen the AU.

Chapter six is devoted to a critical examination of the New Partnership for Africa's Development, focusing in particular on the efforts made to incorporate *human rights, human development,* and *peace* within this initiative, while chapter seven examines the relevance and effectiveness of the African Peer Review Mechanism, established within the NEPAD framework. The focus here is on examining the practicality of the APRM and the role of and relationship between the APRM and other similar bodies within the AU, such as the African Commission on Human and Peoples' Rights (ACHPR), the African Court on Human and Peoples' Rights (ACTHPR), the Pan African Parliament (PAP), the African Court of Justice (ACJ), and the Peace and Security Council (PSC), in enhancing the work of the APRM.

Chapter eight, the final chapter, provides a summary/conclusion of the thesis. This chapter indicates the central contribution that the study makes to knowledge in the relationship existing between human rights, human development, and peace within the context of the new African political and economic dispensation. It also provides practical proposals on measures that should be put in place to ensure the success of both the African Union and the NEPAD initiatives.

1.3 Problem statement

In spite of its enormous mineral and other natural and human resources, Africa is still ranked as the least developed continent and African countries, with very few exceptions, have regressed rather than progressed since most

of them gained independence almost half a century ago. Africa continues to be exploited, marginalised and excluded from contributing to major decisions that affect the lives of its people. The continent is characterised by conflicts, poverty, underdevelopment, corruption, dictatorship, diseases and many other problems that seriously undermine its development.

But why is this so, when Africa is the second largest continent on earth? Why Africa is still regarded as the poorest and least developed continent in spite all the development aid and the enormous natural and human resource endowments of the continent? Why does Africa still remain the most marginalized, backward and unstable continent and unable to make any meaningful contribution to shape the new world order? Can the new African initiatives, that is the African Union and the NEPAD, including its peer review mechanism, reverse the backwardness and underdevelopment on the continent?

These are salient research questions that this study seeks to answer, particularly in light of the establishment of the African Union and the adoption of the NEPAD as strategies for overcoming Africa's development challenges. This research aims at beginning to answer these questions with the hope of enhancing the understanding of Africa development dilemmas and seeking appropriate solutions to them.

This thesis identifies two major interrelated problems that the researcher believes are responsible for the continuous marginalization and underdevelopment of the continent. The first relates to the continuous effects of the slave trade and colonialism on Africa's economy, and the second to the poor socio-economic and political governance of the continent, characterized by corruption, maladministration, lack of transparency and human rights violations. Both problems have resulted in Africa's inability to craft sustainable development programmes that would stand the test of time.

Fundamental to these problems is the complete disregard by African leaders, of the vital link between human rights, human development and peace as

essential instruments for meaningful and sustainable growth and development.

Using the new African initiatives in the form of the African Union, the NEPAD and the African Peer Review Mechanism as benchmarks, the study seeks to demonstrate that the existing paradigm of underdevelopment in Africa, whose causes have been external and internal, can be reversed if these initiative are implemented judiciously.

1.4 Methodology

From the statement of the problem above, the thesis examines how African historical perspectives have influenced her quest for prosperity and how human rights, human development, and peace have featured in the different historical epochs. Using this approach, the study proceeds by illustrating how slavery and colonialism contributed to the current underdevelopment of the continent, demonstrating how the effects of slavery and the legacies of colonialism still dictate the socio-economic and political machineries of the continent.

In the post-colonial era, the study looks at the measures taken by Africans and the international community to reverse centuries of marginalization and exploitation of the African race. Proceeding from the premise that the OAU dedicated most of its time to fighting colonialism and paid lip service to issues of human rights, human development, and peace, the study analyses the legal and institutional differences between the OAU and the AU, in particular, in embracing the intrinsic relationship between human rights, human development, and peace as ingredients for prosperity.

From comparing how Africa fared during the different historical epochs, the study attempts to trace the origin of the shift in approach and in particular examines the reasons for the transformation from the OAU into the AU. It further traces the processes by which African leaders recognized the link between political reforms and economic development, and in this regard,

gives an account of the African diplomacy and politics involved in the establishment of the NEPAD.

With regards to the shift in approach, the study examines the legal and institutional structures put in place through the new African initiatives (the African Union and the NEPAD), to be able to address the problem of marginalization, exclusion, and underdevelopment on the continent. This is followed by a critical analysis of one of the most innovative structures established under the new dispensation - the African Peer Review Mechanism - looking in particular at the benefits of this mechanism as an instrument for promoting respect for human rights, peace, and development.

1.5 Data sourcing

The thesis uses both primary and secondary sources of data. The primary sources included basic documents such as Statutes and Declarations, treaties and communiqués, official circulars and publications by relevant government departments and speeches and declarations by key political figures, For example, the NEPAD Document, the APRM Base Document and the African Charter.

The bulk of the thesis is based on research conducted from secondary sources. This included archival library research and the use of books, monographs, the internet, journal articles, magazines, conference and seminar proceedings and reports. Materials and documentation were also sourced from the offices of international bodies, particularly the Secretariat of the African Commission on Human and Peoples' Rights in Banjul, The Gambia and the African Union Commission in Addis Ababa, Ethiopia.

Archival library research consisted of sourcing for data from books, journals, newspapers, classified documents bearing on the relationship between human rights and peace or human rights and development. Data from these sources were used to analyse the history of past development initiatives in Africa. This data was particularly useful in giving an account of the processes

and circumstances that led to the formulation and demise of the OAU, and the origin of the AU. It was also used to analyse the measures put in place by the African Union to deal with centuries of exploitation, marginalization, and bad governance on the continent.

1.6 Brief summary of Thesis

Since independence, African governments have operated within very difficult politico-economic environments, dictated by events that are sometimes well beyond their control. Development initiatives have very often been frustrated by developments in the developed countries and the policies of international financial institutions. For these reasons, Africa has not been able to come up with any sustainable development programme capable of dealing with the problems of underdevelopment synonymous with the continent.

It is recognised that the development dilemma of Africa is not caused by external factors alone. Internal factors within the continent such as corruption, dictatorship, inter and intra state conflicts, poor political and economic governance have all had their share in ensuring Africa remains underdeveloped.

By transforming the OAU into the AU and adopting the NEPAD, African leaders are signalling that they intend to pursue a different developmental agenda. Thus, the recognition by both the AU and the NEPAD initiatives of the intrinsic relationship between human rights, human development, and peace as indispensable ingredients for prosperity provides hope to the people of Africa that, at least, things will be done differently.

The thesis is premised on the emerging discourse regarding the relevance of human rights and peace in development, but its principal contribution is in establishing a link between these three concepts, especially from an African perspective. The thesis thus argues that development is impossible in a context of insecurity and lack of respect for human rights, and establishes that Africa's continuous underdevelopment lies not only on the devastating effects

of slavery and colonialism, but also in its failure to govern according to international human rights norms, in a manner that would guarantee durable peace and security necessary for development.

The research thus provides a framework to empower the African continent to deliver itself from the legacy of slavery, colonialism, and neo-colonialism and to situate itself on the global stage as an equal and respected contributor to, as well as beneficiary of, all the achievements of human civilization. It emphasizes the point that this can be achieved only on a firm foundation built on respect for human rights, the promotion of human development, and durable peace.

Chapter Two: Literature review and theoretical and conceptual framework of Human rights, human development, and peace

2.1 Literature review

The thesis seeks to inquire into and to demonstrate the important link between human rights, human development, and peace. Further, it seeks to demonstrate that human rights, human development, and peace are mutually reinforcing, interrelated, interdependent and indispensable to the development of the African continent as well as to the success of the AU and the NEPAD initiatives.

Several works and studies have been published in the area of human rights, peace, and human development over the years. Academic institutions and International organizations, including UN agencies, have undertaken extensive research on the relationship between human rights and development on the one hand, and development and peace on the other.

Babashola, Oladipo, & Kamaluddeen, in their research for instance, found out that industrialised countries have for a long time demonstrated a preference for keeping issues pertaining to human rights distinct from those of development.[28] Other institutions and researchers believe human rights and human development go hand in hand, and also that there can be no development without peace.

Limited reference to human rights was made in the Rio Declaration on Environment and Development[29] and Agenda 21 in 1992. However, in the

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[28] B Chinsman, E Oladipo & K Kamaludeen 'Conceptual Issues in Human Development and Human Rights - interdependence and interrelationship among civil, political, social, economic and cultural domains', in *Human Development and Human Rights* (1998) Report on the Oslo Symposium held from, 2-3 October 1998.

[29] Often shortened to Rio Declaration, this was a short document produced at the 1992 United Nations Conference on Environment and Development (UNCED), informally

decade since 1992, the normative and conceptual links between human rights and sustainable human development have been clearly identified, and the use of human rights as strategic tools to realize sustainable human development objectives has been repeated in subsequent UN Conferences. For example, at the World Summit for Social Development,[30] held in 1995 in Copenhagen, governments reached a new consensus on the need to put people at the centre of development.

UN Human Development Reports have also established the link between human rights and development. The Human Development Reports of 1994,[31] 1995,[32] 2000,[33] and 2002[34] restate this fact anew. In its report, the World

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known as the Earth Summit. The Rio Declaration consisted 27 principles intended to guide future sustainable development around the world.

30 The World Summit for Social Development was held in Copenhagen, Denmark, from 6-12 March 1995, and the Governments adopted a Declaration and Programme of Action which represent a new consensus on the need to put people at the centre of development. The largest gathering yet of world leaders - 117 heads of State or Government - pledged to make the conquest of poverty, the goal of full employment and the fostering of stable, safe and just societies their overriding objectives.

31 See UNDP Human Development Report - New dimensions of human security, (1994) New York, United Nations. The 1994 Report introduces a new concept of human security, which equates security with people rather than territories, with development rather than arms. It examines both the national and the global concerns of human security.The Report seeks to deal with these concerns through a new paradigm of sustainable human development, capturing the potential peace dividend, a new form of development co-operation and a restructured system of global institutions.It proposes that the World Summit for Social Development approve a world social charter, endorse a sustainable human development paradigm, create a global human security fund by capturing the future peace dividend, approve a 20:20 compact for human priority concerns, recommend global taxes for resource mobilization and establish an Economic Security Council.

32 See UNDP Human Development Report (1995) - Gender and Human Development, New York, United Nations. The report note that human development, if not engendered, is endangered. That is the simple but far-reaching message of Human Development Report 1995.

33 UNDP Human Development Report (2000) - Human rights and human development, New York, United Nations. The report emphasise the importance of human rights in development,noting that human rights and human development share a common vision and a common purpose—to secure, for every human being, freedom, well-being and dignity. Divided by the cold war, the rights agenda and development agenda followed parallel tracks. Now converging, their distinct strategies and traditions can bring new strength to the struggle for human freedom. Human

Bank acknowledges that creating the conditions for the attainment of human rights is a central and irreducible goal of development.[35] In his 2003 Millennium Report, Kofi Annan made this relationship even clearer when he noted that the best way to prevent conflict is to promote political arrangements in which all groups are fairly represented, combined with human rights, minority rights, and broad-based development.[36]

In May 2003, a number of core UN agencies made notable step toward formally recognizing human rights as an important instrument in development when they issued a 'Common Understanding on a Human Rights-based Approach to Development Cooperation'.[37] It was subsequently incorporated by the United Nations Development Group (UNDG) into operational guidelines for UN country teams in preparing both country assessments and UN development assistance frameworks.

Development Report 2000 looks at human rights as an intrinsic part of development—and at development as a means to realizing human rights. It shows how human rights bring principles of accountability and social justice to the process of human development.

34 Human Development Report (2002) - Deepening democracy in a fragmented world, New York, United Nations. The report recognises the link between governance and development and notes that politics matter for human development. Reducing poverty depends as much on whether poor people have political power as on their opportunities for economic progress. Democracy has proven to be the system of governance most capable of mediating and preventing conflict and of securing and sustaining well-being. By expanding people's choices about how and by whom they are governed, democracy brings principles of participation and accountability to the process of human development.

35 Development and Human Rights: the role of the World Bank - Report in commemoration of the 50th Anniversary of the Universal Declaration of Human Rights, September (1998) 9. See <http//www.worldbank.org/html/extdr/rights/hrintro.htm>.

36 Press Release, GA/9704 of 3 April 2000 entitled 'we the peoples: the Role of the United Nations in the 21st Century' on the Millennium Report to be presented to UN General Assembly by Secretary-General , Kofi Annan.

37 M Krennerich 'Human Rights in Developing Countries: How can Development Cooperation contribute to furthering their Advancement' (2002) in InWEnt - Internationale Weiterbildung und Entwicklung (Capacity Building International, Germany. See <http://.www.inwent.org/index.en.shtml >.

Elaborating on the links between human rights and development, Stephen Marks sheds light on the right to development as a concept and makes a compelling case for its practical contributions to a more equitable and fair distribution of the benefits of development.[38] According to Arjun Sengupta, a rights-based approach to development which defines poverty as a denial of basic human rights would also promote greater accountability on the part of policymakers and responsible agents by reminding them of their international obligations as duty bearers.[39]

On his part, Jean-Pierre Chauffour compares and contrasts two different views on the causal relationship between development and human rights.[40] He takes a critical look at a rights-based approach to economic growth and concludes that ensuring economic freedom, rather than promoting positive economic and social rights, is the most central element to successful development strategies.[41] In contrast, Daniel Kaufmann notes that corruption and misrule of law are associated with an absence of civil and political rights, which in turn obstructs the attainment of economic, social, and cultural rights. He argues that since improved governance and civil liberties are not an automatic result of economic growth, active interventions to promote human rights are necessary to achieve positive development results.[42]

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38 SP Marks 'The Human Rights Framework for Development: Seven Approaches' *Working Paper No. 18*, (2003) 2-17; See also SP Marks 'Obstacles to the Right to Development' *Working Paper No. 17,* (2003) 7-13.

39 A Sengupta 'The Human Right to Development' in *Oxford Development Studies*. Volume 32 (June 2004) 179-203.

40 See JK Ingram & D Freestone 'Human Rights and Development' in *Development Outreach* (November 2007) 1.

41 Ibid.

42 D Kaufmann 'Human Rights and Governance: The Empirical Challenge', in P Alston & M Robinson (eds.), *Human Rights and Development: Towards Mutual Reinforcement*, Oxford University Press, Oxford, (2005) 352-402. Also available at <http://www.worldbank.org/wbi/governance/pdf/humanrights.pdf> .

On the relationship between peace and development, competing views exist regarding the links between these two concepts. The exclusivist approach considers them two distinct stages of a phased process that must be undertaken separately and under different conditions. The inclusivist approach, meanwhile, argues that they are mutually reinforcing and capable of operating simultaneously. Current literature in these areas reveals that the inclusivist approach is gaining ground, and it contends that it is a more appropriate way of addressing the problems of development.

James Gustave Speth, UNDP Administrator (1993 – 1999) for instance, recognises the relationship between peace and development and argues that if we want a UN for peace, we need a UN for development.[43] In 1999 Speth warned that if humankind really wants a secure world, North and South, it is important to invest today in peace and sustainable human development.[44] Jean-François Rioux and Robin Hay believe that, in the past, political violence was usually considered no more than a hindrance to development, an inconvenience that would disappear once economic growth took root and removed the underlying causes of conflicts.[45]

The above studies have attempted to demonstrate that there is a link between human rights and development, or between development and peace, or between good governance and development and peace. However, none of these studies sought to demonstrate the relationship between human rights, human development, and peace as inseparable, interdependent, and interrelated components necessary for prosperity. None of the previous studies focused on the simultaneous incorporation of human rights, human

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43 JD Whaley & B Piazza-Georgi 'The Link Between Peacekeeping and Peacebuilding' in *Monograph No. 10*, *Conflict Management, Peacekeeping and Peace building,* ISS Pretoria (1997) 14.

44 JG Speth. 'Building Peace through Development' *UNDP Today*, (June 1998), United Nations Development Programme, New York.

45 R Jean-François & R Hay 'Development, Peace and Security: the Possibilities and Limits of Convergence' in *Development Express, No. 06*, (1996) International Development Information Centre (IDIC), a publication of the Canadian International Development Agency. <http//:www.acdi-cida.gc.ca>.

development, and peace into development initiatives as a means of achieving sustainable development in Africa. None of the studies have analysed the extent to which human rights, human development and peace informed the conception and formulation of the new African initiatives, that is, the African Union and the NEPAD, and how these ingredients are indispensable to their success.

This relationship between human development, peace, and human rights as three interrelated and indivisible elements necessary for prosperity has, for the most part, been understudied. In their academic and practical aspects, these concepts have developed and been applied separately from each other with only a cursory appreciation of their links.

This thesis seeks to demonstrate the link between human rights, human development, and peace on the one hand and show how it is important, first to recognize this link, and secondly, to put in place measures to support this relationship as a means of ensuring prosperity on the continent of Africa. It also cautions that recognising this link in itself is not enough. The African leadership has to establish open societies and introduce measures to encourage good governance to check against corruption and maladministration. It is hoped that this study will serve to raise greater awareness on the links between human rights, peace, and development, and stimulate debate among the relevant actors involved in the international development agenda of the continent.

2.2 Theoretical and conceptual framework of human rights, human development and peace

> Different historical contexts have generated different pre-occupations, different pre-occupations have generated different emphasis[46]

The 20th century was a century of growth and expansion of economic, social and political opportunities. The spread of democracy, the integration of national economies, and revolutions in technology, all point to greater human freedoms and greater potential for improving people's lives.[47] Legal and institutional reforms aimed at protecting the individual from government excesses and upholding the dignity of the human person also signalled some of the striking achievements of the century.[48] All these have made an enormous impact on the way human beings see themselves.

But in too many countries, freedom seems to be under ever-greater threat. The problems of poverty and underdevelopment, oppression and wars, that were so much part of the 20th century, have found no solution. In fact, poverty, misery, disease, and more alarmingly, inequality and wars seem not to show

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46 SE Finer. *Five Constitutions*, (Sussex, Harvest Press 1979), 22.

47 UNDP Human Development Report (note 34 above) 2.

48 Starting with the establishment of the League of Nations, through to the United Nations and more recently the International Criminal Court, the 20th Century has seen the development of international law and institutions than in any other period in human history.

any signs of abatement.[49] If the world, and indeed Africa, is to overcome these problems, it must be through a concerted effort, determined to embrace *human rights, human development,* and *peace.*

The inter-dependence of peace, development, security, and human rights is not a recent discovery and was recognised at the time the UN was established. The UN Charter[50] sets out in its preamble three closely interrelated goals of peace, development, and human rights. The UN emphasises a global vision of peace as the basis for development, with a special focus placed on 'fundamental human rights, the dignity and worth of the people, equal rights of men and women, and of nations large and small'.[51]

In addition to the preamble, the text of the UN Charter itself contains two principal references linking peace and security to human rights. The first is in Article 1, which sets forth the purposes and principles of the organisation. The purposes of the United Nations are

> (1) To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace; (2) To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; (3) To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character, and in

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49 Report of an International Seminar organised by the World Social Forum in Porto Alegre, Brazil, on the theme '*Globalising Human Dignity: The Challenge for a Rights-Based Approach*', 1-2 February 2002.

50 Charter of the United Nations, (UN Charter) 59 Stat. 1031, U.N.T.S. 993, 3 Bevans 1153, signed at San Francisco on 26 June 1945, entry into force on 24 October 1945.

51 Id. preambular para 2.

> promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion[52]

The second reference can be found in Article 55 of the UN Charter, regarding the establishment of the Economic and Social Council (ECOSOC), and reads 'with a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations…the United Nations shall promote universal respect for, and observance of, human rights and fundamental freedoms.[53]

Furthermore, the linkage between peace, security, and human rights is reinforced in Article 2 (3) of the Charter, which encourages member states to settle their disputes by peaceful means, and Article 2(4), which requests them to refrain from the 'use of force against any territorial integrity or political independence of any state or in any other manner inconsistent with the purposes of the United Nations,' which, in Article 1, includes 'promoting and encouraging respect for human rights and fundamental freedoms for all…as well as the maintenance of 'international peace and security'.

The preamble of the UN Charter further expresses these aspirations in a clear and unambiguous manner, noting that

> we the peoples of the United Nations, determined to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and to promote social progress and better standards of life in larger freedom, *and for these ends,* to practice tolerance and live together in peace with one another as good neighbours, and to unite our strength to maintain international peace and security, and to ensure, by the

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52 UN Charter (note 50 above) Article 1 (1) and (3).

53 Id. Article 55.

> acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and to employ international machinery for the promotion of the economic and social advancement of all peoples[54]

This linkage between human rights and peace is also articulated in the preambles of the three major instruments of the International Bill of Human Rights, that is, the Universal Declaration of Human Rights (UDHR),[55] International Covenant on Economic, Social and Cultural Rights (ICESCR)[56] and the International Covenant on Civil and Political Rights (ICCPR).[57] The preambles of the ICESCR and ICCPR also recognise the inter-linkage between both families of rights on the one hand, and the maintenance of peace and security on the other by, acknowledging 'the equal and inalienable rights of all members of the human family [as] the foundation of freedom, justice and peace in the world…',[58] and further that

> the ideal of free human beings enjoying civil and political freedom and freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his civil and political rights, as well as his economic, social and cultural rights[59]

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54 Id. preambular para. 8.

55 Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. T.S A/810, 71 (1948). The Declaration was adopted by United Nations General Assembly (UNGA) Resolution 217A (III) on 10 December 1948. See in particular preambular paragraphs 1-3.

56 International Covenant on Economic, Social and Cultural Rights U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3. The Covenant was adopted by UNGA Resolution 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) 49, and entered into force January 3, 1976.

57 International Covenant on Civil and Political Rights, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171. The Covenant was adopted by UNGA Resolution 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) 52 and entered into force March, 23, 1976.

58 See ICESCR and ICCPR (note 56 and 57 above) common preambular para.1.

59 See ICESCR and ICCPR common preambular para. 3.

An explicit link between human rights, development, and peace is found in the preamble of the UDHR, which states that the 'recognition of the inherent dignity and of the equal and inalienable rights of all member of the human family is the foundation of freedom, justice, and peace in the world…'[60]

In Africa, the first regional human rights instrument to expressly recognise the right to national and international peace and security is the African Charter on Human and Peoples' Rights.[61] On its part, the Grand Bay Declaration and Plan of Action goes further to specifically link conflict and the deterioration of human rights.[62] Although this Declaration is of no binding legal effect, it placed human rights at the heart of African affairs and laid emphasis on the fact that 'respect for human rights is indispensable for the maintenance of regional and international peace and security'.[63] This normative symbolism was renewed in the Kigali Declaration that was adopted by the First AU Ministerial Conference on Human Rights in Africa[64] and is viewed by the African Union Commission as forming 'the basis of the revised agenda of the AU on human rights in Africa'.[65]

Having recognised the significance of human rights in relation to peace, it is not surprising, therefore, that the Constitutive Act of the African Union incorporates human rights as a crucial component of the peace strategy of the AU. Therefore, AU member states, conscious of the effects of the scourge of conflicts in Africa, have avowed the 'need to promote peace, security, and

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60 See Universal Declaration (note 55 above) preambular para.1.

61 African Charter (note 7 above) Article (23).

62 Grand Bay Declaration and Plan of Action, CONF/HRA/DECL (I), adopted by the First Ministerial Conference on Human Rights in Africa, held from 12-16 April 1999 in Grand Bay, Mauritius, preambular para 8 (d).

63 Id, preambular para. 7.

64 Kigali Declaration and Plan of Action, MIN/CONF/HRA/Decl.1 (I), adopted at the First AU Ministerial Conference on Human Rights in Africa, on 8 May 2003 in Kigali, Rwanda, preambular para 3.

65 See AU Commission, Political Affairs Department, available at http://www.africa-union.org/home/Welcome.htm.

stability as a prerequisite for the implementation of our development and integration agenda'[66] and expressed the determination 'to promote and protect human and peoples' rights'.[67]

Article 3 of the Constitutive Act lays out the objectives of the AU to include promotion of peace, security, and stability on the continent,[68] as well as, the promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.[69] Moreover, Article 4 requires the AU to carry out its functions in accordance with the principles of peaceful resolution of conflicts amongst member states and respect for human rights.[70]

From the foregoing, it can be argued that African leaders have realised that processes and activities of development that do not respect human rights are indeed perverse, and without peace there can be no development, and systematic violation of human rights inevitably leads to conflict and breach of the peace.

2.2.1 The concept of human rights

The discipline of human rights is a colourful field with various perspectives and experiences. Some argue that the quest for human rights has been present 'at every stage of human history',[71] while others see the discipline as a more recent phenomenon.[72] However, it can be argued that the conscious

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66 Constitutive Act (note 1 above) preambular para 8.

67 Id. preambular para.9.

68 Id. Article 3 (f).

69 Id. Article 3 (h).

70 Id Articles 4 (e) and (m). See also A Abbas & M Baderin 'Towards Effective Collective Security and Human Rights Protection in Africa: An Assessment of the Constitutive Act of the New African Union' in *Netherlands International Law Review* ((2002) 1-38.

71 R Ishay *The Human Rights Reader: Major Political Essays, Speeches, and Documents from the Bible to the Present* (1997) xiii.

72 Ibid.

process of internationalising human rights began with the adoption of the UDHR in 1948.

The UDHR was drafted by the UN Commission on Human Rights in 1947 and 1948. The Declaration is one of the first major achievements of the UN. It is linked with at least seven founding texts.[73] Before the adoption of the Declaration, attempts had been made to internationalise human rights.

The UDHR was adopted by a resolution of the UN General Assembly and thus not a legally binding document.[74] Nevertheless, it has gained considerable authority as a general guide to the content of fundamental human rights and freedoms as understood by members of the international community. It also provides an important link between the concepts of human rights in different parts of the world.

The Declaration, which some have called the international *Magna Carta* of mankind',[75] represents an expression of a collective desire to value, among

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73 The *Roosevelt Declaration*, also known as the 'declaration of four freedoms', which declares that 'freedom is the existence of human rights everywhere'. The *Atlantic Charter* (signed in August 1941 by the United States and Great Britain) explained the objectives of the war and reaffirmed the four freedoms: the 'freedom of opinion, of expression, of religion and the right to basic needs'. The *Declaration of the United Nations* (December 1 1942), signed by the allies, affirmed their belief that 'a complete victory' against their foes was essential in order to 'preserve human rights and justice in their own countries and for all nations'. The *Declaration of Philadelphia* (the International Labour Organisation Constitution of May 1944) set forth the concerns of member states and their citizens regarding human rights. The draft agreement of the *Dumbarton Oaks Conference* (7th October 1944), which became the Charter of the United Nations, states that 'the respect of human rights and fundamental freedoms' depends on the return of peace. The *Act of the Chapultepec Conference* (February 21- March 8, 1945), where 21 States of the American Continent met and affirmed the equality of all rights for all men 'whatever their race or their religion'. and The *San Francisco Conference adopted the Charter of the United Nations* (June 26 1945), which refers seven times to human rights. The Charter proclaims the faith of the United Nations in the dignity and value of the human person, in the equal rights of men and women and of nations large and small, and establishes conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained without distinction as to race, sex, language, or religion.

74 L Levin *Human Rights: Questions and Answers* (1981) 17.

75 P Lauren *The Evolution of International Human Rights: Visions Seen*, (1998) 237.

others, human life and preserve its dignity and development. Together with the 1966 Covenants on Civil and Political Rights, and Economic, Social and Cultural Rights, the Declaration represents the basic standards for the protection and development of human rights regardless of race, religion, gender, or class, and together, they constitute the International Bill of Rights.[76]

What began therefore as mere common aspirations is now hailed as an authoritative interpretation of the human rights provisions of the UN Charter and established customary international law, having the attributes of *jus cogens* and constituting the heart of a global bill of rights. Through repeated practices of states, it is now generally held to have crystallised into a binding instrument.[77]

The Universal Declaration was intentionally linked to the UN Charter, since it shares a common aspiration.[78] As its fundamental premise, it affirms that the recognition of the innate dignity of all members of the human family and the equality and inalienability of their rights is the foundation of liberty, justice, and peace in the world. All the subsequent international instruments on human rights declare this truth anew, recognizing and affirming that human rights stem from the inherent dignity and worth of the human person. The Declaration is clear, it acknowledges the rights which it proclaims but does not confer them, since they are inherent in the human person and in human dignity. Defence of the universality and indivisibility of human rights is

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76 The International Bill of Human Rights, (1996) *UN Fact Sheet No.2* (Rev.1).

77 J Humphrey *No Distant Millennium: The International law of Human Rights,* (1989) 154-166. See also Articles 31 and 32 of the 1964 Vienna Convention on the Law of Treaties, 1155 U.N.T.S. 331, 8 I.L.M. 679, entered into force January 27, 1980. See also *The University of Toronto Law Journal*, Vol. 20, No. 1 (1970) 18-47 for a full text of the Convention.

78 Preambular paragraph 5 of the Declaration states that 'Whereas the peoples of the United Nations have in the Charter reaffirmed their faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom'.

essential for the construction of a peaceful society and for the overall development of individuals, peoples, and nations.[79]

In its mandate, the League of Nations, the first intergovernmental organisation created after the First World War in 1919, did not mention human rights. However, the League attempted to undertake the protection of human rights through international means (eg, the rights of national minorities and a few social protection rules). The International Labour Organisation (ILO), based in Geneva, was created the same year and established standards determining the conditions of industrial workers. Addressing the meeting of the League to present his fourteen points on how the world should conduct its affairs after WWI, President Woodrow Wilson of the United States of America said,

> We entered this war because violations of rights had occurred which touched us to the quick and made the life of our own people impossible unless they were corrected and the world secure once for all against their recurrence. What we demand in this war, therefore, is nothing peculiar to ourselves. It is that the world be made fit and safe to live in; and particularly that it be made safe for every peace-loving nation which, like our own, wishes to live its own life, determine its own institutions, be assured of justice and fair dealing by the other peoples of the world as against force and selfish aggression. All the peoples of the world are in effect partners in this interest, and for our own part, we see very clearly that unless justice be done to others it will not be done to us. The programme of the world's peace, therefore, is our programme; and that programme, the only possible programme, as we see it, is this…[80]

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79 Vienna Declaration and Programme of Action, 1993, UN GA Doc A/CONF.157/23, 12 July 1993, provides in paragraph I (5) that 'all human rights are universal, indivisible and interdependent and interrelated. The international community must treat human rights globally in a fair and equal manner, on the same footing, and with the same emphasis. While the significance of national and regional particularities and various historical, cultural and religious backgrounds must be borne in mind, it is the duty of States, regardless of their political, economic and cultural systems, to promote and protect all human rights and fundamental freedoms'.

80 AS Link (eds.) *The Papers of Woodrow Wilson* vol. 45 (1984), 536.

Even though his 14 points did not specifically deal with the internationalisation of human rights, it was aimed at ensuring a peaceful world, a condition *sine qua non* for respect for human rights and development.

Human rights thus inhere in the human person, across cultures, across civilizations, across centuries. They are based on respect for the dignity and worth of all human beings and seek to ensure both freedom from fear and freedom from want. Rooted in ethical principles and usually inscribed in a country's constitutional and legal framework, they are essential to the well being of every human being. Premised on fundamental and inviolable standards, they are universal and inalienable.

The rights enshrined in the International Bill of Rights and other human rights instruments adopted by the UN over the past half-century have served as a road map for humanity to understand its place and identity on our planet. They have served us to define relationships between persons and between societies. Today, they are inextricably linked to us and we carry them as a treasured inalienable belonging.[81]

Having developed over several centuries of legal thought and practice, the field of human rights contains numerous debates that shed light on some important characteristics of human rights. Central amongst them is the concern of how human rights are defined. There are two schools of thought in this regard: the universalist school and the specific school. The universalist or the modern concept of human rights maintains that human rights exist in one form only and are universal to all societies irrespective of social structure; while the specific school of thought holds that human rights exist in the context of societal structure, that is to say, members of each society enjoy

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[81] T Taillant 'A rights based approach to development', presentation to the World Social Forum – Seminar on *Globalisation and Human Dignity*, Porte Alegre, March 2000.

human rights depending on how the society is structured, be it socially, economically, politically or otherwise.[82]

Human rights have traditionally been restricted to civil and political rights – such as the right to life, liberty and security of the person; the right not to be discriminated against on the basis of race, colour, sex, language, religion, political opinion or social origin; the right to vote by universal suffrage; the right to be free from arbitrary interference with one's privacy, family, or home; and legal rights such as the right to due process of law and the presumption of innocence until proven guilty in a court of law.[83]

Increasingly, however, this traditional view is being challenged on the basis of it being too limited in scope. It is argued instead that a more multi-dimensional and holistic approach to human rights must be taken.[84] Thus, to civil and political rights are added what are considered crucial social, economic and cultural rights, enshrined in the ICESCR and the African Charter on Human and Peoples' Rights.[85] Even though the ICCPR and the ICESCR were adopted at the same time, they provide for different categories of rights and impose different obligations on states in the realisation of these rights. The African Charter is the first regional human rights instrument that incorporated

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82 RW Eno. 'The African Commission on Human and Peoples' Rights as an instrument for the protection of human rights in Africa' *LLM Dissertation*, University of South Africa, (1999) 18.

83 These rights can be found in the International Covenant on Civil and Political Rights, the International Convention on the Elimination of All Form of Racial Discrimination; Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment and the African Charter on Human and Peoples' Rights.

84 *Human Rights and Sustainable Human Development,* a report prepared in consultation and collaboration, by the Management Development and Governance Division (MDGD) of the Bureau for Development Policy, and the Human Development Report Office (HDRO) and The Emergency Response Division (ERD) of UNDP, November 1997.

85 African Charter (note 7 above) Articles 14 -18.

all the three generations of human rights and imposes the same degree of realisation of these rights.[86]

The UN has adopted this holistic approach in determining what human rights are. The international community has also repeatedly affirmed the interdependence and interrelatedness of both categories of human rights.[87]

It is also important to recall the historic environment in which the Universal Declaration was born. Adopted three years after the end of World War II, and on the eve of a Cold War that would divide the world's people for nearly half a century, the Declaration gave steadfast promise to the idea that every man, woman and child has fundamental values and shares inalienable human rights and freedoms.[88]

The purpose of human rights is therefore to protect the full range of rights required for people to have a full, free, safe, secure and healthy life and thus live a dignified life.[89] However, a dignified life cannot be led if the basic and essential ingredients of such a life are not met. Some of these ingredients, other than civil and political rights, are work, food, housing, health care, education and culture, collectively referred to as economic, social and cultural rights. For human rights to be fully realised therefore, a comprehensive process directed towards the full realisation of all human rights and fundamental freedoms (human development) is essential.[90]

2.2.1.1 The African Charter on Human and Peoples' Rights - a symbol of the African notion of human rights

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86 Under the African human rights system, two other instruments, the African Charter on the Rights and Welfare of the Child adopted in 1991 and the Protocol to the African Charter on Human and PEOPLES Rights relating to the rights of women in Africa, adopted in 2003, also provide a similar kind of protection like the African Charter on HUMAN AND Peoples' Rights.

87 Vienna Declaration (note 79 above) para 1 (5).

88 Development and Human Rights (note 35 above) 2.

89 The Committee on Economic Social and Cultural Rights, *UN Fact Sheet* No. 16, at 3.

90 *Integrating Human Rights with Sustainable Development*, A UN Policy document by UNDP, (January 1998) viii.

The dominant Western human rights movement has not found a welcome reception in Africa. Some African governments have viewed the Western human rights movement as a covert attempt by the West to maintain an ideological hegemony over the continent. They view the western concept of human rights as neo-colonialism and an attempt to divide the African people.[91]

The main argument is that the universal human rights movement has no relevance to Africa because the culture and the requirements of the continent are unique and thus call for different solutions (the so-called 'African solutions for African problems' argument).[92] Some arguments advanced for an African concept of human rights include the evolution of the international system through history - the fact that violations of human rights in Africa are mainly the result of historical and systematic economic exploitation.[93] Hence, African scholars and leaders argue for human rights values relevant to, and capable of, addressing the problems of the continent, and in this light prioritise the right to development and group rights over individual rights.[94]

Opening the first meeting of African Government Experts assembled to draft the African Charter on Human and Peoples' Rights, in Dakar, Senegal in 1979, Leopold Sedar Senghor, first President of independent Senegal, reiterated the need to preserve African values. While cautioning the experts not to produce a Charter for 'the African man,'[95] he acknowledged that

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91 Y Lydie 'Human Rights and Cultural Relativism – An African Perspectives' *International Law of Human Rights,* (1999) 11. See also <http://www.jullep.free.fr/lydie/lydiehr2.htm>

92 Ibid.

93 Lydie (note 91 above) 22.

94 Lydie (note 91 above) 25.

95 CR Mahalu *Africa and Human Rights* , address delivered by HE Mr. Leopold Sedar Senghor, President of the Republic of Senegal, on 28 November 1979, 121-124.

> this does not mean that we have to give up thinking by ourselves and for ourselves... Europe and America built up their systems of rights and freedoms by referring to a common civilization: to their respective peoples and to specific aspirations…As Africans, we shall neither copy nor strive for originality, for the sake of originality. We must show imagination and effectiveness. We could get inspiration from our beautiful and positive traditions. Therefore, you must keep constantly in mind our values of civilization and the real needs of Africa[96]

Such arguments formed part of the background to the drafting of the 1981 African Charter. The arguments run through the preamble of the Charter and could be seen throughout the substantive provisions of the Charter itself. The drafters of the African Charter kept in mind that even though the Charter had to reflect African values, its contents had nonetheless to comply with international standards of human rights.

The uniqueness of the Charter lies in the originality of its normative content. In the words of Glele, '[l]*a charte africaine est un texte unique, original et novateur. Elle allie les valeurs traditionnelles de la civilisation africaine avec les apports du monde contemporain, en particulier par leur expression ou formulation dans le droit moderne'.*[97] (The African Charter is a unique, original and innovative text. It links the traditional values of African civilization with the norms of the contemporary world, in particular, through its expression or formulation in contemporary law) *(My Translation).*

Since most African states had already committed themselves to respect a broad range of human rights, why was an African Human Rights Charter deemed necessary? Okoth-Ogendo attempts an answer and argues that it is because many African leaders felt the

> need to develop a scheme of human rights norms and principles founded on the historical traditions and values of African

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96 Ibid.

97 M Glele 'Introduction à la Charte Africaine des Droits de l'Homme et des Peuples' *Etudes Offerts à CA Colliard,* Pedone, Paris, 1984.

> civilizations rather than simply reproduce and try to administer the norms and principles derived from the historical experiences of Europe and the Americas[98]

The African Charter therefore both resembles and departs from the other regional conventions – the European Convention on Human Rights and Fundamental Freedoms (ECHRFF)[99] and the American Convention on Human Rights (AMCHR).[100]

Articles 3-17 of the African Charter list a fairly typical array of individual rights, including the rights to equal protection of the law, to life and security, to due process, to education, to own property, to work under equitable and satisfactory conditions, to enjoy the best attainable state of physical and mental health, and to associate and assemble with others. These provisions also promise individuals freedom of expression, movement, conscience, religion, and political participation.

These individual rights are followed by a catalogue of peoples' rights. The Charter grants 'all peoples' the rights to equality,[101] to self-determination, and to freely determine their political status and economic development.[102] In addition, all peoples shall have the right to national and international security[103] and the right to a general satisfactory environment favourable to their development.[104]

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98 HWO Okoth-Ogendo 'Human and Peoples' Rights: What Point Is Africa Trying to Make?' in R Cohen, G. Hyden, & W. Nagen, (eds)., *Human Rights and Governance in Africa*, (1993) 76.

99 Convention for the Protection of Human Rights and Fundamental Freedoms, (European Convention), 213 U.N.T.S. 222, entered into force Sept. 3, 1953, amended by Protocols Nos. 3, 5, 8, and 11 which entered into force on 21 September 1970, 20 December 1971, 1 January 1990, and 1 November *1998* respectively.

100 Organisation of American States (O.A.S). Treaty Series No. 36, 1144 U.N.T.S. 123 entered into force July 18, 1978, reprinted in Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 25 (1992).

101 African Charter (note 7 above), Article 19.

102 Id. Article 20

Additionally, the Charter lists obligations of states, including the obligation to eliminate every form of discrimination against women and also ensure the protection of the rights of women and children as stipulated in international declarations and conventions;[105] the obligation to eliminate all forms of foreign and domestic economic exploitation of natural resources;[106] the obligation to promote and ensure the Charter;[107] the obligation to guarantee the independence of the courts;[108] and what is especially African, the obligation to 'assist the family which is the custodian of morals and traditional values recognized by the community'.[109]

Articles 27 to 29 spell out the duties that an individual has towards his family and society, the state, and other legally recognized communities and the international community. More specifically, these include duties to exercise rights and freedoms with due regard to the rights of others, collective security, morality, and common interest; to respect fellow beings without discrimination; to respect the family and parents at all times, and to maintain [parents] in case of need, to serve the national community, both physically and intellectually; not to compromise the security of the state; to preserve and strengthen national solidarity, independence and territorial solidarity; to pay taxes; to preserve and strengthen positive African values; and to promote African unity.

Spelling out a citizen's duties to the state distinguishes the African Charter from other regional human rights conventions and has earned it serious criticism. Some critics have warned that politicians might use these duties to the state to trump individual human rights and freedoms when the two sets of obligations are in conflict. Donnelly, for example, points out that the former

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103 Id. Article 23.

104 Id. Article 24.

105 Id. Article 18.

106 Id. Article 21.

107 Id. Article 25.

108 Id. Article 26.

109 Id. Article 18.

Soviet Union, a totalitarian state, frequently used duties to abrogate individual rights.[110] Although he does not disagree with critics such as Donnelly, Mutua argues that those duties to the state enshrined in the African Charter 'are inspired by the continent's history of domination and occupation by outside powers… [and] represent an extension of the principle of self-determination' by demanding citizen loyalty as a shield against foreign exploitation.[111] According to Mutua,

> the duty to place one's intellectual abilities at the service of the State [for example] is a legitimate State interest, for the 'brain drain' has robbed Africa of massive intellect...the Charter [also] asks individuals to promote African unity, an especially critical role given arbitrary balkanisation by the colonial powers[112]

The African Charter is therefore an embodiment and a reflection of the notion of African law and African notion of human rights, summarised by L.S Senghor as follows: l*e droit en Afrique emprunte la forme du rite auquel il faut obéir parce qu'il commande. Il est inséparable des obligations dues à la famille et aux autres communautés.* [113] (The law in Africa takes the form of a ritual to which one is obliged to obey because it's an order. It is inseparable from the obligations due to the family and to other communities) (M*y translation)*.

2.2.2 The concept of human development

> Poor people around the world, and the organizations that represent them, see poverty as an injustice, a

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110 J Donnelly *Universal Human Rights in Theory and Practice (19*89) 55-57.

111 M wa Mutua 'The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties' in *Virginia Journal of International Law*, vol. 35, (1995) 372.

112 Ibid.

113 J Matringe 'Tradition et modernité dans la Charte africaine des droits de l'homme et des peuples : étude du contenu normatif de la Charte et de son apport à la théorie du droit international des droits de l'homme » *Bibliothèque des sciences humaines et socials, Droit-Science politique* (1996) 572.

> denial of freedom from want. In their efforts to lift themselves out of the poverty trap, they are claiming their right to development[114]

Today we live in a world that is in many ways more promising than that of the 20th century. In the 1980s and 1990s, the world made dramatic progress in opening up political systems and expanding political freedoms.[115] By the end of the 20th century, some 81 countries took significant steps towards democracy, and today over 140 of the world's nearly 200 countries hold multiparty elections[116] - more than ever before.

After the end of the Cold War, the international community looks forward to a new world with the intention of lifting a large number of the world's poorest people from absolute poverty, to ending harmful child labour, to ensuring that every family in every city has safe drinking water and adequate nutrition, and to building a world in which we are truly neighbours.[117]

But the euphoria of the end of cold war has given way to the somber realities of the 21st century politics.[118] None of the above expectations is guaranteed. Conflict and violence continue to afflict dozens of countries and millions of people. Global economic integration will not open doors to people if they remain illiterate and cut off from knowledge and technology.

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114 JG Speth, former UNDP Administrator, Stockholm, November 1997.

115 See Statement by Mark Malloch Brown, former UNDP Administrator entitled: 'Democratic Governance: Linking the Security and Development Agenda' at a meeting on the theme 'The State of Democracy in the World: A Seminar of the Community of Democracies' United Nations, New York, 10 March 2005. See also 'The Search for Values in an Age of Transition', a *Statement of the Bahá'í International Community on the Occasion of the 60th Anniversary of the United Nations,* New York, USA, October 2005.

116 C Landsberg & S Mackay 'Southern Africa post-apartheid: The search for democratic governance', a publication of the Centre for Policy Studies (CPS), Institute for Democracy in South Africa (IDASA) and the Netherlands Institute for Multiparty Democracy (NIMD), Johannesburg, September, 2004.

117 Development and Human Rights (note 35 above) 2.

118 UNDP Human Development Report (note 34 above) 1.

As early as 1977, the UN Commission on Human Rights (UNCHR), understanding the interdependence between the realisation of human rights and economic and social development, requested the Secretary-General to undertake a study on the international dimensions of the right to development. This process culminated in the adoption by the UN General Assembly in 1986 of a Declaration on the Right to Development, which affirms that

> Development is an inalienable human right, by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realised[119]

The recognition of the right to development as a human right was later re-emphasised in the Vienna Declaration and Programme of Action, in which the 171 states that gathered in Vienna for the 1993 World Conference on Human Rights (WCHR) reaffirmed the right to development, as established in the Declaration on the Right to Development; as a universal and inalienable right and an integral part of fundamental human rights,[120] and emphasised that

> the efforts of the United Nations system towards the universal respect for, and observance of, human rights and fundamental freedoms for all, contribute to the stability and well-being necessary for peaceful and friendly relations among nations, and to improved conditions for peace and security as well as social and economic development, in conformity with the Charter of the United Nations[121]

In his opening address to the meeting of Government Experts of the Organisation of African Unity assembled in Senegal for the first meeting to draft the African Charter on Human and Peoples' Rights (28 November - 7

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119 Declaration on the Right to Development, 41 U.N. GAOR Supp. (No. 53) 186, U.N. Doc. A/41/53 (1986). It was adopted by UN GA Res. 41/128 of 1986.

120 Vienna Declaration (note 79 above) para 10.

121 Ibid

December 1979), the former President of Senegal, Leopold Sedar Senghor, outlined the foundation on which human rights should be based. He argued that

> our overall conception of human rights [should be] marked by the right to development since it integrates all economic, social and cultural rights, and also civil and political rights. Development is, first and foremost, a change of the quality of life and not only an economic growth required at all costs, particularly in the blind repression of individuals and peoples. It means the full development of every man in his community, in the way freely chosen by the latter. The definition my friend Malcolm Adieseshish proposed to us corresponds to our conception of development: 'a form of humanism; a moral and spiritual fact, both material and practical; an expression of man as a whole, meeting his material needs (food, clothes, shelter) as well as his moral requirements (peace, compassion, freedom, charity)…[122]

The above statement suggests that development must be all embracing, covering cultural, human, social, environmental, economic and political development.

However, until very recently, the traditional view of development placed an inordinate amount of emphasis on creating physical infrastructures and on providing goods and services to people. There was a tendency to assess the success of development interventions in terms of the number of modern buildings, multi-lane roads, houses, schools, and hospitals found in a city or community. The major concern of government and public planners during this era was to deliver products and resources to their citizens.[123]

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122 Mahalu (note 95 above) 121-124. See also draft report of the Meeting of Experts in Dakar, Senegal, from 28 November to 8 December 1979, CAB/LEG/67/1. See also address delivered at the opening of the Meeting of African Experts preparing the draft African Charter in Dakar, Senegal, 28 November to 8 December 1979, reprinted in I G Shivji *The concept of human rights in Africa* (1989) 121.

123 B Chinsman, E Oladipo & Kamaludeen (note 28 above) 3.

It was the emergence of the concept of *Human Development* in the 1980s that provided the impetus for the general acknowledgement that not only are development and human rights intertwined, but also that development cannot take place without respect for human rights. The global conferences in Rio in 1992,[124] Vienna in 1993,[125] Cairo in 1994,[126] Copenhagen in 1995,[127] Beijing in 1995,[128] Durban in 2001,[129] and Johannesburg in 2002[130] highlighted in

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[124] The Earth Summit in Rio de Janeiro was unprecedented for a UN Conference, in terms of both its size and the scope of its concerns. Twenty years after the first global environment conference, the UN sought to help governments rethink economic development and find ways to halt the destruction of irreplaceable natural resources and pollution of the planet. The two-week Earth Summit was the climax of a process, begun in December 1989, of planning, education and negotiations among all member states of the United Nations, leading to the adoption of Agenda 21, a wide-ranging blueprint for action to achieve sustainable development worldwide.

[125] In 1989, the General Assembly, in its Resolution GA/RES/44/156 of 15 December 1989, called for the convening of a world meeting that would review and assess progress made in the field of human rights since the adoption of the Universal Declaration of Human Rights, and identify obstacles and ways in which they might be overcome. The first global meeting on human rights had taken place in Tehran in 1968.

[125] The main objectives of the conference included: the socio-economic and political challenges facing the international community; population growth and the demographic future; the relationship between the conference and other conferences; the relationship between population and sustained economic growth within the context of sustainable development; internal and international migration; quantitative and qualitative goals for population and development.

[126] At the World Summit for Social Development, held in March 1995, in Copenhagen, governments reached a new consensus on the need to put people at the centre of development. The Social Summit was the largest gathering ever of world leaders at that time. It pledged to make the conquest of poverty, the goal of full employment, and the fostering of social integration overriding objectives of development.

[127] The Fourth World Conference on Women held in 1995 was to advance the goals of quality, development, and peace for all women everywhere in the interest of all humanity (see Beijing Declaration and Platform for Action Fourth World Conference on Women, 15 September 1995). A/CONF. 177/20 (1995) and A/CONF. 177/20/ADD.

[128] In 1997, the General Assembly decided, in resolution 52/111, to convene a World Conference on Racism, Racial Discrimination, Xenophobia and Related Intolerance. The conference had five main themes, namely: sources, cause, forms and contemporary manifestations of racism, racial discrimination and related intolerance; Victims of racism, racial discrimination and related intolerance; measures of prevention, education and protection aimed at the eradication of racism, racial discrimination and related intolerance at the national, regional and international levels; provision for effective remedies, recourses, redress, [compensatory] and other measures at the national, regional and international levels; and strategies to achieve full and effective equality, including international cooperation and enhancement of the United Nations and other international mechanisms in combating racism, racial discrimination, and xenophobia.

particular the crucial links between *human rights, human development, and peace*.

Human development therefore emerged as an alternative to the view that equates development exclusively with economic growth. It recognises that development is not just about objects or simply about figuring out ways of distributing resources and products, but is ultimately about people. Development is something that people must do for themselves and the primary responsibility for initiating the process lies with the individual. The state has to create a favourable environment suitable for such development, for instance, the provision of basic education, health care, clean environment and stability.

From this perspective, the ways that people think, feel and react, which are attributes of their culture and social milieu, are just as important as providing them with goods and services.

Development, especially Sustainable Human Development (SHD), is a key strategy for achieving the progressive realization of human rights, notably the right to an adequate standard of living.

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130 At the 1992 Earth Summit in Rio de Janeiro, the international community adopted Agenda 21, an unprecedented global Plan of Action for sustainable development. Agenda 21 was a landmark achievement in integrating environment, economic and social concerns into a single policy framework. It identified three components of development–social development, economic development, and environmental development–as interdependent and mutually reinforcing pillars. The 2002 World Summit on Sustainable Development provided the international community with the opportunity to review progress on the implementation of Agenda 21 and to reactivate a global commitment to sustainable development, and build on the international development and human rights goals set by the Millennium Summit and Declaration of 2001. Limited reference to human rights was made in the Rio Declaration on Environment and Development, often shortened to Rio Declaration, and Agenda 21. (Agenda 21 is a programme run by the United Nations (UN) related to sustainable development. It is a comprehensive blueprint of action to be taken globally, nationally and locally by organisations of the UN, governments, and major groups in every area in which humans impact on the environment. The number *21* refers to the 21st century). However, in the decade since 1992, the normative and conceptual links between human rights and sustainable development have been clearly identified and the use of human rights as strategic tools to realize sustainable development objectives has better been understood.

The concept of sustainable human development refers to a form of growth which satisfies society's needs in terms of well-being in the short, medium, and above all, long term. Sustainable human development raises the issue of transferring an equivalent amount of resources to the future generations which would permit them to live at least as well as today's generation. It is founded on the assumption that development must meet today's needs without jeopardising the prospects of future generations.

Sustainable human development thus places people at the center of the development process and makes the central purpose of development that of creating an enabling environment in which all people can enjoy a long, healthy, and creative life. The *Human Development Report 1994* defines human development as follows:

> Pro-people, pro-jobs, and pro-nature. It gives the highest priority to poverty reduction, productive employment, social integration, and environmental regeneration. It brings human numbers into balance with the coping capacities of societies and the carrying capacities of nature…[131]

According to the 2000 Human Development Report,[132] human development is a process of enhancing human capabilities – to expand choices and opportunities so that each person can lead a life of respect and value.[133]

It is now generally acknowledged that the 'product-centred' approach to development was a failure. The reappraisals of the strategy that ensued generally concluded that people must be engaged actively in their own development, if activities to improve living conditions are to have meaningful impact. It was evident that no amount of material goods is by itself sufficient to bring about tangible improvement in people's well being.

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131 Human Development Report (note 31 above) 4.

132 Human Development Report (note 33 above) 7.

133 Ibid.

From the foregoing, human development could be seen as an all-embracing concept. It does not purport to provide the individual with the ability to live forever, but rather provides the capability to live long (without being cut-off in one's prime) and to have a good life while alive (rather than a life of misery and despair). These are qualities that are generally valued and desired by human beings. Development has to be more concerned with enhancing the lives we lead and the freedoms we enjoy.

2.3 The Triangular Relationship - Human Rights, Human Development, and Peace – an indispensable nexus for prosperity

Since the early 1990s, the issue of human rights has been given a prominent place in international politics and development cooperation. The end of the Cold War provided added impetus for national and international organisations and governments to ensure that all people enjoy their human rights. Concomitant with this phenomenon has been the heightened importance given to linking human development with human rights and a stable or peaceful environment. Human development, it is increasingly being realised, enhances a country's ability to protect and promote human rights; and conversely, the respect for human rights greatly contributes to creating an enabling environment for human development and durable peace.

Human development and human rights have for a long time been approached from different perspectives and subjected to different interpretations.[134] Even so, many attempts have been made in the past to link the two concepts.

The definition of human rights favoured by the industrialised countries focused on its civil and political dimensions. In essence, human rights were considered to be limited to a set of rights covering the rights to life, liberty, safety, due process, and freedom from arbitrary arrest, free press, and freedom of expression - rights that have more or less become synonymous and indistinguishable from those existing within Western civilisation and

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134 Ibid.

democracy. The European Convention for the Protection of Human Rights and Fundamental Freedoms, for example, provides for only civil and political rights. In a separate instrument, the European Social Charter,[135] non-justiciable economic, social and cultural rights are guaranteed. Developing countries, for their part, called into question this limited definition for failing to recognise the right to development as a fundamental human right.[136]

Although perceptions and inconsistencies reinforced divergent views over the links between human development and human rights, on closer examination the impasse was more intricately related to the restrictive interpretations and definitions that had been ascribed to development and human rights. It was not until a more holistic definition of development began to emerge that the linkage between human development and human rights became more widely accepted.

There are important conceptual similarities between human rights and human development, but the most important one is the concern with human dignity as the purpose of development. While human rights discourse refers to human dignity, human development is defined as expanding people's choices by enlarging their capabilities and functioning, which gives freedom to lead life, as a person would wish.[137] Human development then focuses on those capabilities that are most fundamental in life, without which many other choices would be foreclosed. These are the capabilities to lead long and healthy lives, to be knowledgeable, and to enjoy a decent standard of living, also inclusive of these capabilities are the respect of self and the respect of others, as well as political freedom.

For the purposes of mainstreaming human rights in development, it would be more useful to build on their common elements, and to enlarge the two

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135 European Social Charter, 529 U.N.T.S. 89, *entered into force* Febuary 26, 1965.

136 Babashola , Oladipo & Kamaluddeen (note 28 above) 17.

137 S Fukuda-Parr 'Human Rights and Human Development: Conceptual issues in human development and human rights - is human development an operational development approach that achieves human rights?' in *Human Development and Human Rights*, *Report on the Oslo Symposium*, (2-3 October 1998) 20.

concepts of human development and human rights. There would appear to be little if any tension between these two concepts of human dignity and human capabilities. The incorporation of human dignity within the definition of human development would enrich the concept.

Human development and human rights are therefore directly related, consistent and mutually reinforcing. Both are concerned with development that is people-centred. For both, respect for human dignity and human life is the guiding principle.

The relationship between human rights and human development may not, however, be seen as linear. It is more complex in the sense that the achievement of each is linked to the achievement of the other. Poverty, for instance, is in itself a violation of human rights and is seen as a denial of human development. The relationship can rather be seen as circular, with human development promoting human rights and the realisation of human rights achieving human development.

The dialectical relationship here is self-evident in that one is enriched by the other, and in that there can be no understanding of one unless there is understanding of the other. Therefore, to dwell on the distinctions between the two can be confusing, misleading and unnecessary.

Human development can be seen as practically synonymous with human rights and the differences tend to be found in terminology, as well as, in the means and instruments that the two perspectives emphasise. The two perspectives focus on the same ends (human life and human dignity), and on the same processes and key characteristics (people-centred, participatory, equitable, non-discriminatory and empowering). Only the means and instruments tend to differ.

The human rights approach focuses on norms and standards, legal instruments, responsibilities and obligations, and on the notions of entitlement of the rights-holders, accountability of the duty bearers, and the rule of law and respect for rights. The human development approach focuses on meeting

basic needs for all, poverty eradication, investing in human capabilities, equitable economic growth and democratic governance. Combining these two sets of means and instruments will strengthen the process of achieving the *human right to human development* for all.[138]

In this new century we must start from the understanding that peace belongs not just to states and peoples, but also to every member of those communities. The sovereignty of states can no longer be used as a shield for gross violations of human rights. Peace must be made real and tangible in the daily existence of every person in need. Peace must be sought, above all, because it is required so that every human being can live a life of dignity and security. Indeed, one lesson of the 20th century is that where the dignity of the individual is trampled or threatened - where citizens do not enjoy the basic right to choose their government, or the right to change it regularly - conflict too often follows, with innocent civilians paying the price in lives cut short and communities destroyed.[139]

Cooperation at different levels – from local to national, to sub-regional, to regional, and to international – peace represents the key to unlock many opportunities for sustainable development. Conflict can only continue to exacerbate the problems faced in the region, as it impacts directly on economic potential and human well-being, shattering the very foundations of society. The data and information on the impacts of conflict in Africa are staggering: since 1970, more than 30 wars have been fought in Africa, seriously undermining regional efforts to ensure long-term stability, prosperity and peace. More than 350 million people in Africa live in countries that are affected by conflict. This has multiple implications for the real opportunities available to people, and it undercuts their capability to lead lives that they value. There is a strong negative correlation between conflict and human

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138 Ibid.

139 A Kofi 'Special Contribution to the Human Development Report', *Human Development Report - Deepening democracy in a fragmented world*, (*2002*) 14.

development: in 2005 for instance, most of the countries with the lowest Human Development Index (HDI) rankings were also those immersed in conflict or had recently emerged from it.[140]

The relationship between development, peace, and human rights has, for the most part, been understudied. In their academic and practical aspects, the concepts have developed and been applied separately from each other with only a cursory appreciation of their links. In the past, for instance, political violence was usually considered no more than a hindrance to development, an inconvenience that would disappear once economic growth took root and removed the underlying causes of conflicts.[141]

In the words of James Gustave Speth,

> The UN's work in development is essential to the success of the United Nations in its various non-development missions. Most important are the links between development and peace ... Many critics of international assistance have not paused to think about the underlying causes of the conflicts in which the UN and others are becoming involved. Degrading poverty, diminishing material resources and increasing joblessness all feed ethnic and social tensions. It is from this cauldron that crises boil over ... Of 82 significant conflicts in the last three years, 79 are within nations, not between nations. 90% of the casualties have been civilians, not soldiers. These conflicts require development upstream, not soldiers downstream, acting preventively, landing development now, instead of peacekeepers tomorrow[142]

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140 Of the ten African countries with the lowest human development index in 2005 – Sierra Leone, Burkina Faso, Guinea Bissau, Niger, Mali, Mozambique, Central African Republic, Chad, Ethiopia and the Democratic Republic of Congo, at least seven of them were emerging from conflicts.

141 R Jean-Francois & R Hay (note 45 above).

142 JD Whaley & B Piazza-Georgi (note 43 above) 17.

The interdependence of *human rights, human development,* and *peace* can thus be described using the metaphor of a triangle. Although human dignity is the over-arching goal, it cannot be achieved without also respecting human rights and promoting peace. Each side of the triangle is linked to, and mutually supports, the others. Without one, effective realisation of the other two is not possible. Together, these three goals take humankind towards the fulfilment of our human needs.

To talk of interdependence is not to deny the differences between each of these goals. Each is an end in itself rather than merely a means of supporting and furthering the others. Each has a different focus and places emphasis on different values. As such, the image of the triangle suggests the intersection not the integration of these three goals.

Recent developments have underscored the reality that human rights are indispensable to the promotion of peace, security, economic prosperity, and social equity. Governments increasingly recognise that respect for human rights as a condition for political stability and socio-economic progress.[143]

When the promotion of the dignity of the human person is the guiding principle, and when the search for the common good is the overriding commitment, then solid and lasting foundations for peace are laid. However, when human rights are ignored or scorned, and when the pursuit of individual interests unjustly prevails over the common good, then the seeds of instability, rebellion and violence are inevitably sown.

2.4 Summary and conclusion of Chapter two

> We must do more to prevent conflicts happening at all. Most conflicts happen in poor countries, especially those which are badly governed or where power and wealth are very unfairly

143 Reviewing the United Nations: A Programme for Reform. Part Two, Report of the UN Secretary General, October 1997. <http//www.un.org/reform/track2/focus.htm>.

> distributed between ethnic or religious groups. So the best way to prevent conflict is to promote political arrangements in which all groups are fairly represented, combined with human rights, minority rights, and broad-based development[144]

There is therefore no denying the fact that respect for human rights is a necessity for human development and peace, and that they are complementary and mutually reinforcing. The human rights situation of any country has a direct impact on the socio-economic and political development of the country.

Countries with relatively satisfactory record of human rights enjoy stability, development, a rather good image, and favours from the international community - a favourable response from both multilateral and bilateral donors. Encouraging trends in the democratic process tend to reassure the national and international community and attract investors. Such trends also promote the participation of the population in the management of the community and encourage the people to support indispensable change and reform. Without such widespread support, any reform will be doomed to fail. In countries where there is disregard for human rights, lack of democracy and the rule of law there is always bound to be instability, civil strife, corruption, etc, which hinder effective development.

It is thus axiomatic that in the absence of respect for human rights, there is very little that can be achieved in terms of development; and without development, there can be no peace and security; and without peace and security there can be no prosperity.

It is therefore important that in order to attain sustainable human development and true peace, humankind must emancipate itself not only from war and the

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144 See Statement of the UN Secretary General, Kofi Annan when presenting the *Millennium Report*, to the UN General Assembly, April 3, 2000.

threat of war, but also from poverty, scarcity, illiteracy, oppression, overpopulation, ethnic hatred, and disease.[145] When people are without hope, desperate, marginalised politically and socially, they are more likely to take up arms to solve their problems. They are more susceptible to claims of opportunistic leaders that conflict is the only way to achieve social justice, equity, and political empowerment. When governments are viewed as illegitimate or irresponsible or even grossly ineffective this adds fuel to the fire. When control of the state is the only way to achieve status and a good life, then control of the state will be contested, often by violent means. All African governments should commit themselves to making all human rights a reality for all people, through protective and promotional activities encompassing all policy areas.

If we can overcome doubts and fears, and build on shared values, the 21st century can be one of human development and human security - a century of human rights at the heart of peace.[146]

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145 Rioux and Hay (note 45 above) 12.

146 Address by Mrs. Mary Robinson, former UN High Commissioner for Human Rights, at the Sydney Peace Prize Lecture, 6 November 2002, on the theme 'Human Rights at the Heart of Peace'.

Chapter Three Human rights, human development and peace in Africa – from slave trade to post-independence era

3.1 Introduction

In Chapter two, the researcher analysed the theoretical and conceptual framework underpinning human rights, human development, and peace, explaining in particular how each component is necessary for the realization of the other and how the absence of one will render the others redundant. The research further established, in Chapter two, that the relationship between human rights, human development, and peace is universal and applicable irrespective of the level of socio-economic or political development of a people.

In this chapter, the researcher examines, on the one hand, the effects of the slave trade and colonialism on Africa's approach to the promotion of human rights, human development, and peace, and on the other, the extent to which human rights, human development, and peace were incorporated into the socio-economic and development initiatives in Africa during these three historical epochs – the slave trade era, the colonial era, and the post-independence era. Understanding the approaches adopted in the past provides the researcher with an opportunity to explain the present, in order to adopt appropriate measures to deal with the future.

3.2 The Slave Trade era

Slavery and the slave trade have been age-old institutions and practices in almost every continent in the world. Orlando Patterson argues thus:

> There is nothing notably peculiar about the institution of slavery. It has existed from before the

> dawn of human history right down to the twentieth century, in the most primitive of human societies and in the most civilized. There is no region on earth that has not at some time harboured the institution. Probably there is no group of people whose ancestors were not at one time slaves or slaveholders[147]

From North to South, and from East to West, the African continent became intimately connected with slavery both as one of the principal areas in the world where slavery was common, and as a major source of slaves for ancient civilizations, and the medieval period, in all the continents of the modern era.[148]

In North Africa, slavery was practiced in the Sahara desert and its southern border lands, as well as in the region of modern Western Sahara, Morocco and Algeria (among the Berbers).[149] In the Central Sahara and in the sub-desert areas further south, the Tuaregs practiced slavery.[150] In Northeast Africa, the Ethiopians, Somalis, Egyptians and the people of the Sudan were all familiar with the institution of slavery.[151] In West Africa, slavery was known among the Wolof and Serer of Senegambia, the Mende and Temne of Sierra Leone, and virtually all the states and societies in Guinea, Ghana, Ivory

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147 O Patterson *Slavery and Social Death -A Comparative Study* (1982) vii.

148 A Perbi 'Slavery and the slave trade in pre-colonial Africa', paper delivered on 5th April 2001 at the University of Illinois, U.S.A. see also <http://www.afrst.uiuc.edu/SEMINAR/perbi.rtf.>

149 Ibid.

150 Among the Tuaregs and the Berbers of North Africa, slaves were regarded as part of the family. See J Derrick, *Africa's Slaves Today*, (1975) 24-40.

151 See, for example, JM Jok (2001) *War and Slavery in Sudan*. L Bernard (1992), *Race and Slavery in the Middle East*. P Manning (1990). *Slavery and African Life: Occidental, Oriental, and African Slave Trades.* R Pankhurst (1997). *The Ethiopian Borderlands: Essays in Regional History from Ancient Times to the End of the 18th century*. A Ahmad (1996), *Slaves Into Workers: Emancipation and Labor in Colonial Sudan.*

Coast, Dahomey (now Benin), Mali and Nigeria.[152] In Central Africa, slavery was practiced in much of Bantu Africa, for example, among the Douala of Cameroon; the Bakongo, Bapende, Luba, and Lunda of Zaire (now the Democratic Republic of the Congo); parts of Angola; and among the Lozi of Zambia.[153] In East Africa, the Buganda state, the Nyamwezi, and the Chagga peoples practiced slavery.[154] In Southern Africa, the Cokwe of Angola, the Sena of Mozambique, and the Ngoni people scattered across East, Central, and Southern Africa were all familiar with the institution of slavery.[155]

Slavery was therefore not new to Africa when the Europeans first visited the continent. Traditionally, slavery was used as a punishment for serious crimes. However, although slavery was a punishment for criminals, slaves were, in the main, treated fairly well by their masters. According to Mia :

> The slaves in Africa held unprecedented rights. They could possess and own things, including land and their own slaves. They could also purchase their freedom and most eventually did so. A runaway slave could also become free if he made it to the sanctuary of the emperor's palace. In African slave trade and to those states who participated in the slave trade with Africa and the Americas, we have yet to see slaves accorded these types of privileges. Europeans became the first world traders in slaves and influenced many societies and cultures because of this[156]

From about 1510, Europeans had begun capturing slaves and taking them to work in the Americas. They were easily able to do this because their weapons were much more powerful than the Africans' traditional spears and shields. As

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152 MH Beaudet *From the Ancient Sahara and Americas and Into the New World* (2000) *3.*

153 M Azevedo 'Power and Slavery in Central Africa: Chad (1890-1925)' **,** in *The Journal of Negro History*, Vol. 67, No. 3 (Autumn, 1982) 198-211.

154 MD Nwulia 'Britain and Slavery in East Africa' *African Studies Association (ASA) Review of Books*, Vol. 5, (1979) 10-12.

155 J Jones 'Lecture on Southern Africa 1800-1875' in Kevin Shillington's *History of Africa*, (2nd edition), (1989) 265-274.

156 Beaudet (note 152 above) 5.

the demand for labour in the American plantations grew, the demand for slaves by Europeans also grew. They exchanged guns for slaves, and African chiefs, eager to possess guns which would give them power over rival chiefs, began inventing new crimes for which the punishment was slavery.[157] At the same time, coastal Africans were using guns to raid inland villages for the slaves that the Europeans wanted.[158] The Atlantic slave trade had begun in earnest and the slave trade had become big international business.

The Atlantic Slave Trade essentially worked like a triangle between Africa, Europe, and the Americas. The following map illustrates the trade routes and the movement of resources. It indicates how Europeans and their North American descendants would buy slaves from Africa and then transport them to sugarcane, cotton and tobacco plantations in the West Indies and the New World (America), where they produced raw materials which were then transported to European industries where the finished goods were manufactured.[159] They then took pots, pans, guns, alcohol, and horses to Africa to capture more slaves, and so the triangle remained alive.



Diagram courtesy BBC News Online, 3 September 2001 http://news.bbc.co.uk/

157 Ibid.

158 Ibid.

159 In some instances, the slave buyers also sponsored and directly participated in capturing people as well as transporting and storing them before shipping them.

3.2.1 Slave trade and human rights, peace, and development in Africa

To speak about the slave trade in Africa is not an easy task. For more than four centuries, the continent was subjected to enormous human suffering caused by brutality, increase in violence, depopulation, exploitation, loss of dignity, etc. Almost one century after the abolition of the trade,[160] its effects are still strongly felt in almost all spheres of human endeavour. This section of the thesis examines the impact of the slave trade on human rights, peace, and development in contemporary Africa.

From a human rights perspective, the slave trade was the most inhumane treatment ever meted out by one human race against another. From the very process of capturing, imprisoning, torturing, and transporting, the slaves were subjected to gross human rights violations.

Slaves were kept living in abominable conditions in dungeon fortresses along the coast of western Africa until the time that they were sent out to sea on large boats headed for the Americas. Both the slave forts and slave ships kept people in dark, dirty rooms with little to eat or drink and no room to move.[161]

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160 The first legislation to abolish the slave trade was the Slave Trade Act (also known as An Act for the Abolition of the Slave Trade) which was an Act of Parliament of the Parliament of the United Kingdom, passed on 25 March 1807.

161 One of the most popular slave forts was the *Goree* Island, off the coast of Senegal. *Goree* Island is on the great western bulge of Africa - the nearest point on the continent to the Americas. The Senegalese people called it *Ber*. The Portuguese renamed it *Ila de Palma*. The name was changed to Good Reed by the Dutch and the French called the island *Goree* - meaning 'good harbour'. But the name did not match with what went on in this tiny island between the 16th and 19th centuries, when wooden ships sailed from here with human beings chained in their holds across the Atlantic. On the island, there is a small fort known as Slave House. This was in effect one of the slave warehouses through which Africans passed on their way to the Americas. Millions passed through the island and other similar trading posts to work in the plantations of the New World, including America. The shipping of slaves from Goree lasted from 1536 when the Portuguese launched the slave trade to the time the French halted it 312 years later. The Portuguese, Dutch, French, and British all

Slaves were chained together and marched to the coast. Sometimes, this could take many days or weeks. Slaves who did not move fast enough, or showed any sign of resistance to the traders, were whipped. Those who were too weak or sickly to complete the journey at the required pace were left to die.

During the period of the Trans-Atlantic slave trade, the African continent was robbed of her human resources via all possible routes. Her people were sent across the Sahara, through the Red Sea, from the Indian Ocean ports, and across the Atlantic. Between 1450 and 1900, more than 20 million slaves were exported from Africa through the Trans-Atlantic route.[162] The figures, even where hotly disputed, make heads spin - four million slaves exported via the Red Sea, another four million through the Swahili ports of the Indian Ocean, perhaps as many as nine million along the Trans-Saharan caravan route, and eleven to twenty million across the Atlantic Ocean.[163]

When one refers to Africa today, one thinks of it as a poor, Third World/ Dark continent, reliant on the charity of Western nations to survive. This has not always been the case. During the sixteenth and seventeenth centuries, when Europeans first began exploring the world, Africa was a rich continent, eager to trade her gold, copper, ivory, and leather goods for the white man's pots, pans, alcohol, and guns. At the beginning of the 15th century, which also marked the beginning of the Trans-Atlantic Slave Trade, the gap between the

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fought and killed each other over the trade from there. The island is just 3 km off the Senegalese coast, and its tiny size made it easy for merchants to control their captives. The surrounding waters are so deep that any attempt at escaping would mean sure drowning. With a five kg metal ball permanently attached to their feet or necks, a captured African would know what jumping into the deep sea would bring. Some 200 slaves were kept in a holding cell.

162 PE Lovejoy 'Transformations in Slavery' *Cambridge University Press, 2 ed* (2000) 93.

163 R Austen *African Economic History (1*987) 275; See also E M'Bokolo *Afrique noire-Histoire et Civilisations,* Vol. I (1995) 264; JE Inikori *Forced Migration. The impact of the export slave trade on African societies,* (1982); and PD Curtin. *The Atlantic Slave Trade. A Census,* (1969).

developed areas of Europe and Africa was not much. Kwame Nkrumah noted that:

> At the time when Europe passed into its industrial revolution, there was a considerably narrower gap of development between the continents. But with every step in the evolution of productive methods and the increased profits drawn from the more and more shrewd investment in manufacturing equipment and base metal production, the gap widened by leaps and bounds[164]

According to Walter Rodney, 'starting from the 15th century when Africa came in contact with Europe, Africa helped to develop Western Europe in the same proportion as Western Europe helped to underdevelop Africa'.[165]

The Slave Trade had enormous negative effects on the continent's ability to engage in meaningful trade with the outside world and thus seriously undermined its development process.

Many parts of Africa suffered from an increase in violence, a drain of human resources, and an economy increasingly reliant on slavery.[166] Over four hundred years of slave trade transformed the African continent, from coastal regions (where most of the trading with Europeans took place) all the way to the interior of Africa (where many slaves were captured to be sold). Fear of the slave trader led many Africans to move to remote areas where the soil was not so good and they were unable to grow enough crops to feed themselves.[167] Africa thus became a continent of violence, war, fear, and

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164 N Kwame. *Neo-colonialism: the last stage of imperialism*, (1965) ix.

165 W Rodney *How Europe Underdeveloped Africa* (1973). See in particular MA Klein's Review in *The International Journal of African Historical Studies*, Vol. 7, No. 2 (1974) 323-328; or PD Tooker's Review in *The Journal of Modern African Studies*, Vol. 13, No. 3 (1975) 548-549.

166 J Nyerere 'The Intellectual Pan-Africanist and the Question of African Unity' in *African Journal of International Affairs* Vol 5, No. (2002) 20-39.

167 <http//:www.historyonthenet.com/Slave_Trade/effectsonafrica.htm>.

famine, vices that contributed and continue to contribute to retard the continent's development.

Apart from retarding Africa's development, the slave trade also ensured not only a climate of insecurity and destabilisation for over 400 years, but also a massive depopulation of the continent. Inter-communal wars waged to procure slaves were intensely destructive of human lives. The wars and rampant kidnappings fuelled hostility and suspicion between communities. Distrust was a basic requirement for individual and communal survival. The slave trade arrested and distorted the cultural development of African societies. It affected the meaning people gave to the world and their place within it. Increased uncertainty of life gave added force to superstitious beliefs and customs. The psychological impact of the dehumanising trade was crippling. There was constant anxiety caused by perpetual fear of being captured and herded away like common animals to a place of no return.[168]

Comparing the population growth in Africa, Europe, and Asia between 1650 and 1900, one European scholar[169] has estimated the following trend must have happened:

	Population in Millions			
	Years			
Continent	**1650**	**1750**	**1850**	**1900**
Africa	100	100	100	120
Asia	257	437	656	857
Europe	103	144	274	423

Source: New Africa Magazine, October 2005.

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168 T Obadina 'Slave trade: a root of contemporary African Crisis' *Africa Economic Analysis*, (2000). See <http//www.AfricaEconomicAnalysis.org>See also < http://www.afbis.com/analysis/slave.htm>.

169 Rodney (note 165 above).

None of the above figures are really precise, but they do indicate a consensus among researchers on African population, that is, the huge African continent has an abnormal record of stagnation in this respect, and there is no causative factor other than the trade in slaves to which attention can be drawn.

The most obvious deleterious effects of the Atlantic slave trade occurred in those areas frequently raided for captives. Many areas became depopulated, often resulting in the resurgence of natural environments previously carefully managed for productive and health reasons.[170] Other areas encountered overpopulation as people sought safety and protection from the trade. This could also generate substantial, long-term environmental effects. Communities that survived despite continued raiding found themselves facing shortages of the agricultural labour and/or artisans crucial to local economies.[171]

The effects of the trade on Africa went far beyond depopulation: it caused an increase in warfare and contributed to the disintegration of African culture. When the Europeans arrived, the continent was divided into a series of stable feudal states, kingdoms and empires.

The period of slavery constituted a massive export of cheap labour, for use as a virtually cost-free factor of production. For Africa, this represented a very big loss of human capital and therefore severely undermining the capacity of the African communities to develop and/or generate wealth.[172] In a very real sense, the enrichment of the West was therefore predicated on the impoverishment of Africa. It was not simply that Africa suffered a loss of

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170 T Leedy, 'The Reparations Debate: Issues and Ideas' in *African Studies Quarterly*, Vol. 2, Issue 2, (1999). Edited transcripts of oral presentations given at the Walter Rodney International Conference held at Binghamton University, State University of New York, Binghamton, on November 6-8, 1998.

171 Ibid.

172 M Thabo 'NEPAD: a new era for Africa in a globalising world', address to UNESCO, Paris, France, 19 November 2003.

crucial labour power with the subsequent economic, demographic, and environmental results, but also that the politics of local rule became more violent than anything previously experienced.

Apart from the depopulation and the culture of violence, the slave trade was also an opportunity for the whites to nurture consciousness of racial superiority. It was during the slave trade and slavery that white people affirmed their notions and beliefs of superiority over blacks. It is not difficult to understand why white traders who bought black people for the price of adulterated brandy and packed them onto slave ships like cattle could consider themselves superior. Though most were illiterate, crude, and drunken, white slave traders were free men herding flocks of human cattle. As the centuries passed Europeans became more and more scornful of black people.

During the slave trade, Africans came to believe themselves to be inferior. They lost confidence in themselves, their culture, and their ability to develop. The late Afro-American civil rights leader Martin Luther King's comment that few people realise the extent that slavery had 'scarred the soul and wounded the spirit of the black man',[173] holds true, not only with respect to the descendants of the Africans who arrived in the New World but also the descendants of those left behind. 'The backwardness of black Africa', according to the late Senegalese President, Leopold Senghor, '...has been caused less by colonialism than by the Slave Trade'.[174]

By the nineteenth century, various theories of black inferiority were developed and used to justify the colonisation of Africa. Africa's underdevelopment was therefore inevitable.[175]

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173 Obadina (note 168 above).

174 Ibid. See also <http// www.ama.africatoday.com/legacy_m.htm>.

175 Obadina (note 168 above)

The impact and fallouts of the Trans-Atlantic slave trade profoundly affected the socio-cultural evolution of the African psyche and society. This further torpedoed a process that would have unfolded differently, had the trade in Africans not occurred.[176]

It has been pointed out that slavery was not unknown in Africa, and many other traditional societies also practiced slavery. But in the case of Africa, at the hands of the slave drivers, the greatest blow that has continued to re-echo across time, was not only the loss of its future represented by the carting off of its youngest and strongest men, women, and children across the ocean, but the heritage of inferiority complex woven by the historical implications of the slave trade and consistently reinforced and consolidated by centuries of perverse supremacist philosophy and anthropology (racism, racial discrimination, and apartheid). This heritage mis-educated many Africans to loathe themselves and see themselves as subclass human beings.

Slavery in many areas of Africa actually increased following the end of the Atlantic trade as slave prices dropped and commodity prices rose. The violence, which continued even after the Atlantic trade had been outlawed, ironically provided one of the key points used to rationalize the onset of European colonial conquest. While still nursing the wounds inflicted by the abhorrent and humiliating slave trade, Africa was plunged once again into another exploitative and dehumanising exercise, colonialism.

The Atlantic Slave Trade was therefore the single event in human history that indisputably contributed the most to the humiliation and the present situation of Africa.[177] It seriously weakened the continent, contributed to its colonisation by the Europeans in the nineteenth century, and engendered the

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176 F Ogbunwezeh 'Scandal of African Poverty' in *Global Politician*, August, 2005.

177 E M'Bokolo, 'A hundred and fifty years after France abolished slavery' *Le Monde Diplomatique,* April 1998.

underdevelopment, racism, and contempt from which Africans still suffer.[178] The international community is now alive to the socio-economic disparities, human rights violations, and underdevelopment that the slave trade occasioned on the African continent in particular.

3.3 The colonial era

> The Berlin Conference of 1884 -1885 was Africa's undoing in more ways than one. The colonial powers superimposed their domains on the African continent. By the time independence returned to Africa, the realm had acquired a legacy of political fragmentation that could neither be eliminated nor made to operate satisfactorily[179]

Unlike the nations of the northern hemisphere, the peoples of Africa did not voluntarily determine the formation of nation states and their boundaries on the continent. Rather, contrary to the African concept of kingdoms, defined in terms of peoples and their cultures, irrespective of where they choose to live or migrate to, the agents of external interest balkanised the continent, imposing inflexible and permanent boundaries.[180]

By the late 19th century and early 20th century, the trade in human beings was almost completely outlawed. Europe was experiencing an industrial revolution,[181] and to sustain this revolution, it needed labour, raw materials,

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178 Ibid.

179 MT Rosenberg *The Berlin Conference of 1884-1885 to Divide Africa (*1987) 340.

180 FN Ikome 'The Inviolability of Africa's Colonial Boundaries: Lessons from the Cameroon-Nigeria border conflict', Occasional Paper No. 47, Institute for Global Dialogue (November 2004) 5.

181 The period of time covered by the Industrial Revolution varies with different historians. Eric Hobsbawm held that it 'broke out' in the 1780s and was not fully felt until the 1830s or 1840s, while T. S. Ashton held that it occurred roughly between 1760 and 1830. The effects spread throughout Western Europe and North America

and a market to sell the produce. The scramble for colonies by European powers to sell their manufactured goods and procure cheap raw materials for their expanding industries thus exposed Africa, yet again, to some of the most humiliating indignities ever known to humankind – colonialism.[182]

Colonialism is a racially based system of political, economic, and cultural domination forcibly imposed by a technologically superior foreign minority on an indigenous majority. It relied on unfounded scientific assumptions about white superiority and that the nation state and an industrial capital economy were the most advanced forms of human organization and assumed an innate moral inferiority on the part of Africans.

3.3.1 Colonialism and human rights, human development, and peace in Africa

Colonialism was a system of conquest by force, followed by direct or indirect rule. It entailed an administration or a process of exploitation, and a production system often geared towards the creation of capitalist relations, and the economic and socio-cultural aggrandizement of the coloniser. This may be done by covert or overt, psychological, legal, and military mechanisms.

Colonialism imposed far-reaching changes on the socio-political and economic context of Africa: new boundaries, European legal systems, languages, and religions. The new boundaries and ethnic divisions permanently altered the geopolitical make-up of the continent, leaving a legacy of haphazard and irresponsibly drawn cleavages. Africa's boundaries carved out by the colonialists lack homogeneity and functional polities, and rather than contributing to peaceful relations, the colonially inherited borders

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during the 19th century, eventually affecting most of the world. The first Industrial Revolution merged into the Second Industrial Revolution around 1850, when technological and economic progress gained momentum with the development of steam-powered ships, railways, and later in the nineteenth century, the internal combustion engine and electrical power generation.

182 A Porter *From David Livingstone to King Leopold's Congo* (1991) 5.

have turned out to be a major source of conflict.[183] These borders have been described as arbitrary, vexatious and even as scandal of history, and border agreements negotiated by the colonialists have been termed ambiguous, obscure, inconclusive and illegal. Understandably, at independence and thereafter, African boundaries have triggered off complex boundary disputes.[184]

European colonialism sought to obtain mineral and agricultural raw materials at as low a cost as possible, using cheap local labour to produce these commodities, preserving the African markets as exclusively as possible for products from the colonising country. This exercise invariably did not strengthen the capacity of the African countries to expand their economies, with a lot of economic activity in these countries being enclaves that are mere extensions of the economies of the metropolitan countries. Colonialism was a system of exploitation, whose principal purpose was to repatriate the resources and profits to the so-called 'mother country'. This meant the development of the motherland was part of the same dialectical process in which Africa was underdeveloped.

Colonialism also inhibited the development of indigenous technology in Africa to a large extent. Colonial domination brought with it a shift into a cash crop economy and de-stabilized some of the existing processes of technical growth.[185] According to Udumbana, it

> subverted hitherto traditional structures, institutions, and values or made them subservient to the economic and political needs of the imperial powers. It also retarded the development

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183 Ikome (note 180 above) 6.

184 Ikome (note 180 above)17.

185 G Emeagwali 'Colonialism and Science: The African Case' a paper presented at the Conference on Matrices of Scientific Knowledge, Oxford University, UK, March 7, 1998.

> of an entrepreneurial class, as well as, middle class with skills and managerial capacity.[186]

In the French Equatorial Africa, for example, the French officials banned the Mandja people in now Congo Brazzaville from hunting so that they would engage solely in cotton cultivation. This ban was enforced by the French although there was little livestock in the area and hunting was the main source of meat for the peoples' diet.[187]

Another effect of colonialism on the development of Africa could be seen in the educational sector. Walter Rodney points out that:

> the main purpose of colonial school system was to train Africans to participate in the domination and exploitation of the continent as a whole….Colonial education was education for subordination, exploitation, the creation of mental confusion, and the development of underdevelopment[188]

Colonial education, therefore, created a black elite to succeed the colonisers and perpetuate their political and economic interests in the post-independence period. It did more than corrupt the thinking and sensibilities of the African and filled him/her with abnormal complexes which de-Africanised and alienated him/her from the needs of his/her environment. Colonial education thus dispossessed and put out of the control of the African intellectual the necessary forces for directing the life and development of his/her society.

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186 NJ Udombana 'The Unfinished Business: Conflicts, the African Union and the New Partnership for Africa's Development', 35 *George Washington International Law Review* (2003) 55 - 106. However, Udombana goes on to argue that it is no longer tenable or attractive, however, to justify Africa's current development plight on colonialism. The dependency theory no longer suffices as an explanation for underdevelopment, as the remarkable economic growth of Taiwan demonstrates.

187 See *New Africa Magazine*, (August 2006) 15.

188 W Rodney (note 165 above) 263. See also Keynote address by Premier NJ Mahlangu, at the launch of the Premier's mathematics, science and technology trust fund, Middelburg, South Africa, Friday, 13 June 2003.

In human rights terms, it was European colonisers who violated human rights in their efforts to enforce the political and legal authority of the colonial government and ensure smooth colonial administration.[189] Whatever the justification advanced for colonialist rule, colonialism meant the wholesale denial of peoples' human rights: indeed, this provided one reason for the resistance to colonial rule. Without the use of force, colonialism could not have been sustained.

No matter what form colonial rule took, all colonial systems were un-democratic, ruthless, and an aberration to human rights norms. Colonial governments did not allow popular participation; decisions and policies were made with little or no input from the African peoples. Even in the case where decisions or policies may have benefited some people, they were still un-democratic since there were no mechanisms for the people to officially express their opinions.

During colonialism, the negation of human rights was effected not only through force, but also by legal instrumentalism, that is, the justification of such negation through legislation. Law and order was synonymous to containing the people, and was a primary objective of colonial governments.

Understandably, people were not happy with being governed without any representation, and colonial governments faced the potential of civil disobedience or outright resistance to their rule. Consequently, the maintenance of 'peace' and law and order was a top priority of colonial governments. As a result of this, many draconian laws were promulgated, for instance, emergency regulations, detention without trial, provisions on compulsory labour, and the proscription of public meetings, with the aim of controlling native populations.[190]

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189 EO Esimokhai 'Towards an Adequate Defence of Human Rights in Africa' 21 *Indian Journal of International Law* (1981) 141-148.

190 See, for example, RM Zwanenberg 'Colonial Capitalism and Labour in Kenya, 1919-1939' *East African Literature Bureau,* (1975), on how these laws and policies were effected. Those same laws remained in the statute books of many African states after

Nearly half a century after most countries on the continent attained independence, so many of them continue to utilise colonial laws governing political association, public health, education and free expression. The consequence is that their very claim to having made a difference in the human rights reality of the people they govern is effectively negated. Laws continue to exist on African statute books outlawing the defamation of a foreign 'potentate', the barracking of persons with contagious disease, the establishment of civic associations, and a host of penal sanctions that stem from the Victorian era, and which clearly violate contemporary notions of human rights.[191] Prof. Welch puts the matter in proper perspective:

> Freedom of expression was subjected to significant restraints when Africa was divided among various colonial powers. The limits imposed in the colonial period were in many respects enhanced following independence, rather than relaxed or abolished. The veneer of democratisation that accompanied the achievement of self-government was rapidly stripped away by leaders anxious to preserve their version of national unity, and/or by military elites who shot their way into power[192]

Although the African populations detested the colonial laws, future African leaders socialised and 'culturalised' within that colonial system subsequently adopted the colonial *modus operandi* as appropriate for post-independence governance. Not surprisingly, for many African countries, the brief interlude of *uhuru* (freedom) after independence quickly gave way to authoritarianism akin to that which existed under colonial rule.

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independence, and many countries and leaders still retain them to date. They are constantly being used to oppress opposing views or suppress popular uprisings. The colonial law is one of the main legacies of colonialism that has seriously affected human rights, democracy, and good governance on the continent, thus leaving a non-conducive environment for peace and development to flourish.

191 CE Welch Jr. 'The African Charter and Freedom of Expression in Africa' *4 Buffalo Human Rights Law Review* (1999) 105.

192 Ibid.

However, it must be noted that the negation of human rights in the colonial period was not wholesale, since the human rights of the colonisers and of other white migrant communities were guaranteed. Thus, within the womb of colonialism lay the seeds of its later destruction, since the colonised peoples were able to appreciate what an acceptable level of human rights was by taking stock of the human rights enjoyed by the foreigners. Later, the development and articulation of an international human rights regime, especially the promulgation of the Universal Declaration of Human Rights, gave the colonised peoples an idea of the human rights that should be aspired to and enjoyed by all human beings, including colonised peoples.

Despite the altruistic, moralistic and religious veneer in which the phenomenon was clothed, colonialism was primarily concerned with how much could be extracted from the territories and peoples it brought under its control.[193] Based on a system of extra-economic coercion, colonialism had little time for the recognition and protection of rights that would threaten or undermine its primary economic objective. This explains why resources expended on coercion (the police, gendarmarie, the armed forces and on prison services) were far in excess of those devoted to any social service in any colony on the continent. It also explains the apartheid-like differentials based primarily on race but reinforced by class which resulted in highly stratified social formations, and critically impacted on the ethnic frameworks of the colonized territories.[194] In the words of Jalali and Lipset,

> over time, such (colonial) policies created widespread economic and social disparities between ethnic groups. Certain ethnic groups were selected as collaborators or channels for the transmission of government patronage. Many such disparities have persisted into the post-colonial era,

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193 TF Maranga 'The Colonial Legacy and the African Common Market: Problems and Challenges Facing the African Economic Community', *10 Harvard Blackletter Journal* (1993) 105.

194 M Mamdani *Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism* (1996) 605-606.

> resurfacing through ethnic or tribal conflicts, to wreak havoc with a vengeance[195]

Colonial African economies were specifically geared to serve optimally the markets of the colonial metropoles and not the colonies. Mining of minerals and the production of crops for export necessitated a ready supply of inexpensive labour. Consequently, colonial governments exerted considerable effort 'recruiting' labour for these endeavours. At times colonial governments resorted to policies of forced labour in order to provide adequate labour for mines and plantations. At other times, their tactics were not as harsh, but in almost all situations, Africans laboured in poor working conditions, for long hours, with inadequate pay. The demand for labour also resulted in large-scale movements of people from areas that were not involved in colonial production to areas, including new urban areas, where colonial production occurred.

In the economic domain, the colonial economic administration laid emphasis on exploitation of raw materials for export. Colonial regimes concentrated on finding and exploiting the most profitable natural resources in each colony. In mineral-rich colonies, the emphasis was placed on mining. In other territories, the colonial power identified agricultural products suitable for export to Europe. In either case, the emphasis was on developing the resources for export, not for local use or consumption. Profits from the export of mineral and agricultural goods were also sent to Europe. Profits that could have been used to promote social and economic development in the colonies were not available. The small taxes levied on exports went to support colonial rule.

Under-priced raw materials and the vast capital flows from the Third World sustained Europe during the 19th century and led directly to its modern industrial development. Mineral wealth extracted from Africa laid the foundation of the capital markets in the West. Markets were specifically geared to serve optimally the markets of the colonial metropolise and not the

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195 R Jalali & SM Lipset 'Racial and Ethnic Conflicts: A Global Perspective' in W M Hughey (ed.) *New Tribalism: The resurgence of Race and Ethnicity*, (1998) 321.

colonies. Colonialism thus destroyed local industrial take-off and wealth base, by forcing specialization in products, the prices of which could easily be manipulated to serve the Western market.

The colonial rule was also characterised by huge dumping of goods from Europe on Africa that killed African entrepreneurial development. African markets were flooded with cheap mass-produced textile, glass, and iron products in the context of policies such as 'the scrap iron policy' of Britain.[196] Indigenous manufacturing capability was deliberately undermined to facilitate European exports. There were deliberate laws aimed at suppressing African indigenous technological development.[197] Among the first groups to feel the impact of the invaders' new laws and activities were the metallurgists. These included the blacksmiths who forged iron and the whitesmiths who worked with lighter metal such as tin.[198] Colonialism thus destroyed local industrial take-off and wealth base, by forcing specialization in products, the prices of which could easily be manipulated to serve the Western market.

Colonial economic and political practices also resulted in the massive movements of people in most African colonies. In some localities, migrations were primarily from one rural area to another. In other places, the migration was from rural areas to urban areas. In either case, these movements resulted in dislocation of peoples that impacted society and culture. Social and cultural beliefs and practices were challenged by these migrations. Long-held practices had to be adapted (and at times were completely abandoned) to fit the new circumstances. Families were often separated by migration. For example, men recruited to work in the mines and on plantations often had to leave their families behind. As a result, women and adolescents were forced to take on new roles and to cope in the absence of their husbands and fathers. Even when families remained unaffected by migration, they

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196 Emeagwali (note 185 above).

197 Ibid.

198 Ibid.

underwent considerable stress and change as a result of the colonial experience.

Prior to colonialism, the extended family structure was the norm in most African societies. But by the end of colonial era, the nuclear family was becoming the norm in many African countries.

The imposed religions, languages, and lego-educational systems demonized and exorcized the African equivalents.[199] Acknowledging these changes as *sine qua non* for any successful conceptualisation of the contemporary human rights and underdevelopment situation in Africa, President Jakaya Kikwete of Tanzania notes that the slave trade and colonization of Africa in the nineteenth century are responsible in a big way for the poverty, underdevelopment, and marginalization that enveloped the continent.[200] This assumption is heavily influenced by the development of the underdevelopment school of thought, popularized in the 1960s and 70s, which attributes African underdevelopment to its encounter with the West.[201]

3.4 Post-colonial or contemporary Africa

In many African countries, the transition from colony to independent state was not easy. Every new state contained all sorts of conflicting interests, competing power bases and ethnic groups. Africa's nationalists had, on the whole, accepted the boundaries drawn up in the 1880's by the colonisers. But these were boundaries which cut across ethnic groups and across the grazing grounds of cattle owning people.

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199 AE El-Obaid & K Appiagyei-Atua 'Human Rights in Africa: a new perspective on linking the past to the mpresent' McGill Law Journal (1996) 821.

200 RE Howard-Hassmann 'Moral Integrity and Reparations for Africa' in *Human Rights Working Papers, Number 16*-27 September 2001, <http://www.du.edu/humanrights/workingpapers/papers/16-hassmann-09-01.pdf>

201 Ibid.

The starting point for analysing human rights and development in contemporary Africa is African nationalism and Pan-Africanism.[202] Early on, these movements were engaged in the fight against rights abuses in Africa and the plundering of Africa's resources by colonial authorities.[203] African nationalists appealed to colonial authorities and the international community regarding the need to respect the rights of colonised peoples.[204] Just as important, they made Africans aware of their rights. At the 1945 pan-African Congress, for instance, part of the Declaration noted that:

> We are determined to be free. We want education. We want the right to earn a decent living, the right to express our thoughts and emotions, to adopt and create forms of beauty. We will fight in every way we can for freedom, democracy, and social betterment[205]

Human rights were, therefore, an important basis of the struggle for independence. S.K.B. Asante has outlined three international documents that contributed to a favourable environment for human rights in Africa: the Charter of the United Nations; the Universal Declaration of Human Rights, which he describes as providing 'a powerful source of inspiration for the founding pattern of African nations';[206] and the European Convention for the Protection of Human Rights and Fundamental Freedoms, which played a role in shaping the human rights provisions in the constitutions of various African states, such as Nigeria and Sierra Leone.[207]

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202 M Roberts 'A Socialist Looks at African Socialism' in W.H. Friedland & C.G. Rosberg, (eds) *African Socialism (*1964) 82. For a detailed analysis of African socialism, see: J.K. Nyerere, *Freedom and Socialism/Uhuru na Ujamaa* (1968); N Azikiwe, *The Future of Pan-Africanism* (1962) 7; KA Busia *The Challenge of Africa* (1962) Part 4 .

203 RE Howard *Human Rights in Commonwealth Africa*tlefield, (1986); S Kiwanuka 'From Colonialism to Independence: A Reappraisal of Colonial Policies and African Reactions, 1870-1960' in *East African Literature Bureau* (1973) 1.

204 N Sithole. *African Nationalis*m, 2 ed. (1968).

205 GBN Ayittey *Africa Betrayed* (1992) 99.

206 SKB Asante 'Nation Building and Human Rights in Emergent African Nations' 2 *Cornell International Law Journal* (1969) 72.

Yet African nationalists used an important tool which was missing from the *Universal Declaration*, that is, the right to self-determination, which entitles all 'peoples' to freely determine their political status and freely pursue their economic, social and cultural development.[208] It is no surprise, then, that this right was brought to the forefront by the struggle of Africans to free themselves from European colonialism. African leaders of newly independent states translated their human rights rhetoric into internal constitutional provisions,[209] which were negotiated with the departing colonial authorities.

From the early departure of the Germans under the Treaty of Versailles to the first-in-last-out stance of the Portuguese, the struggle for independence was both long and bloody.[210]

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207 Ibid.

208 See ICESRC and ICCPR (note 57 and 56 respectively) Article 1(1).

209 Asante identifies three types of post-independence constitutions in Africa: the Nigerian type, with an elaborate bill of rights spelled out in *'precise legal language*'; the Chad type, in which the Preamble proclaims *'in general terms*' a commitment to the principles set forth in the French *Declaration of the Rights of Man and of the Citizen* of 1789, and in the *Universal Declaratio*n, *supra* note 9; and the Ghana type, without a bill of rights or any other institution to protect the rights of the ordinary citizen. See also Asante (note 206 above) 74-75.

210 In spite of the fact that Africans showed themselves to be mature and capable of running their own affairs, the colonialists would not be cooperative in bringing about proper reform. As a result, the African workers formed their own unions and tried to gain benefits for themselves. A new generation of young African leaders, who were educated in the United States, England, and France, seeing that their hope for reform went to ashes after fighting in the Second World War, sought for independence. Those who were educated in the United Sates were especially influenced by W. E. B. Dubois and Marcus Garvey, a Jamaican who lived at Harlem in New York City. Both of these two stressed the need for unity for all Africans known as Pan-Africanism. In 1920, Marcus Garvey issued a 'Declaration of Human Rights of the Negro Peoples of the World,' which later had a strong impact on prospective African leaders. Following World War II, the African nations began to gain independence one after another from their colonial powers. Jomo Kenyatta of Kenya argued that the British rule was destroying the traditional cultures of the peoples of Black Africa. Leopold Senghor of Senegal organized an independent movement which brought independence from France. Nnamdi Azikiwe of Nigeria began a newspaper in 1937 and advocated nonviolence as a method to gain independence from the British. One of the leading Africans who was highly vocal against colonialism was Kwame Nkrumah of Ghana, who was educated in the United States. He formed the Convention's People's Party, the first African political party in Black Africa. Through such a party, he succeeded to lead his nation to independence.

In the second half of the 20th century, African leaders and scholars constantly invoked that principles of human dignity, equality, human rights and freedoms, and self-determination be enshrined in international human rights instruments and customary international law to justify their cause. With the establishment of the United Nations, the UN Charter of 1945 and the Universal Declaration of Human Rights of 1948 became the principal weapons used, with claims that the colonial masters were contravening these instruments by abusing the rights of Africans and exploiting the resources of the continent, thus hindering the human, economic, and political development of the continent and of its people.[211] It was also the argument that the continued presence of the colonial masters was the root cause of the political conflicts and problems on the colonies.[212]

Africa, thus, won international sympathy and support from the United Nations, which resulted in the UN adopting, in 1960, a Declaration on the Granting of Independence to all Colonial Countries and Peoples (DGICCP).[213] The Preamble of the Declaration states, amongst others things, as follows:

> Mindful of the determination proclaimed by the peoples of the world in the Charter of the United Nations to reaffirm faith in

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211 See the *Resolution on Racialism and Discriminatory laws and Practices,* adopted by the First All-African People's Conference held in Accra, Ghana, December 5-13, 1958. This resolution is of special significance as it is the first by an international conference calling for sanctions against South Africa, and the boycott of South African goods. It states, in paragraphs 7 and 18 respectively, that 'whereas the Universal Declaration of Human Rights is being flouted in Africa, the Africans are deprived of the rights of man…condemns the denial of human democratic rights as enunciated in the Charter of the United Nations'. Also, see UN General Assembly Resolution A/RES/36/9 of 28 October 1981, which stressed the importance of the universal realisation of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights.

212 Paragraphs 22 and 23 of the 1958 Resolution provide, respectively that, 'the All-African People's Conference declares that, as long as the system of discrimination and racialism remains on this African continent, it will arrest the development of the African peoples and stifle their self—expression' and 'maintains that while discrimination continues to exist, the problems facing Africa cannot be solved.'

213 Declaration on the Granting of Independence to Colonial Countries and Peoples, G.A. res. 1514 (XV), 15 U.N. GAOR Supp. (No. 16) 66, U.N. Doc. A/4684 (1961).

> fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to promote social progress and better standards of life in larger freedom…
>
> Convinced that the continued existence of colonialism prevents the development of international economic co-operation, impedes the social, cultural and economic development of dependent peoples, and militates against the United Nations ideal of universal peace…
>
> Convinced that all peoples have an inalienable right to complete freedom, the exercise of their sovereignty and the integrity of their national territory[214]
>
> And to this end declares that: the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation…
>
> All States shall observe faithfully and strictly the provisions of the Charter of the United Nations, the Universal Declaration of Human Rights and the present Declaration on the basis of equality, non-interference in the internal affairs of all States, and respect for the sovereign rights of all peoples and their territorial integrity[215]

By the early 1990s, all African countries had gained political independence. With the attainment of political independence or self-rule, one would have expected an end to brutality, torture, maltreatment, and the humiliation of the African peoples, and an elevation of the African race in the eyes of the international community. One would also have expected self-rule to encourage African leaders to uphold the principles of 'freedom, equality and human dignity [as] essential objectives for the achievement of the aspirations of the African peoples',[216] enshrined in the preamble of the OAU Charter of

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214 Id. preambular para 11.

215 Id. Article 7.

216 OAU Charter (note 3 above) preambular para 3.

1963, so as to restore to the African peoples their dignity trampled upon during the eras of Slave Trade and colonialism.

One would have expected African leaders to use the resources they claimed were being exploited by the colonial masters, to improve the standards of living and well-being of their people. Again, one would have thought self-rule would ensure that Africa retain her place as the cradle of human civilisation characterised by respect to human dignity, freedom, the promotion of human development, and durable peace. And as Esimokhai puts it, 'one would have thought that when African states gained their independence the unpleasant experiences of the repressive colonial regimes would have made their leaders abhor violations of human rights'.[217]

In the period since the Second World War, there was much hope that, as it was said, 'the African giant would awaken'.[218] This related to the conviction that once the countries of Africa regained their independence, they would use that liberation radically and speedily and improve the standards of living and the quality of life of the millions of the people of Africa. Everybody was optimistic that Africa would overcome the legacy of half-a-millennium of slavery and colonialism, and take her rightful place among the community of nations as an equal player.

However, much of what happened on the continent in the next forty years after independence disappointed these hopes. Post-independence and contemporary African leadership has done more to set the continent on the path of retrogression on all fronts. Greed for wealth, the quest for superiority and the unchecked power to crush opponents are the fundamental reasons why African rulers seek leadership of their countries. James Kollie, Jr., concurs and argues that

> the African leadership history is replete with examples of African leaders who grabbed power either through coup, civil

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217 Esimokhai (note 189 above) 142

218 M Thabo *ANC Today,* Volume 1, No. 26 , 20 - 26 July 2001.

> wars, or even sometimes ‘‘elections’’ and have promised their people freedom, liberation or emancipation just to find out that the real reason is quite different from the nominal reason. All these guys soon become despots, terrorists or tyrants[219]

Instead of fulfilling the promises made to the people, some African leaders showed traits of intolerance, high-handedness, and callousness in dealing with political opponents and non-conformists. The political leadership in Africa chose to shrink the human rights content of their countries' constitutions in order to preserve their political positions. The one party system for example, with all its potential for negating human rights, was meant to ensure the political longevity of incumbent regimes.[220] Africa came to be described as 'the hopeless Continent'.[221]

This description of Africa could be justified on the basis of the unacceptable behaviour of the continent's leaders, and the atrocities committed in Africa, such as the succession of military coups, the wars and violent confrontations within and between African countries, the massacres of people, and the genocide that took place in Rwanda, the denial of human rights, and the abuse of political power for corrupt purposes.

Soon after independence, the human rights situation in many African countries uncannily resembled that which obtained under colonial rule. Political leaders presided over regimes that diluted human rights values, which had been thought to be absolutely central to democratic government, development, and peace during the struggle for independence.

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219 JF Kollie Jr. 'Why most African leaders like Taylor failed' in *The Perspective,* January 8, 2004. See also F Ogbunwezeh (note 187 above).

220 BO Nwabueze 'Constitutionalism in the Emergent States' in *International and Comparative Law Quarterly* (1973) 795-797

221 M Thabo (note 218 above).

Post-independence African leaders, with a few exceptions,[222] made a complete about-turn from what they had fought for. Leadership after independence was characterised by, among other thing, authoritarianism, ruthlessness, torture, dismantling of constitutional institutions, abolition or ban of political parties and activities, arbitrary arrests and detentions, disappearances, extra judicial and summary executions, corruption, embezzlement, fraud, mismanagement, quest for power and greed.

The flagrant denial of human rights by post-colonial leaders resulted in social tension, which ultimately culminated into internal conflicts and in some cases inter-state conflicts.[223] These conflicts led to the killing of people and the destruction of institutions, infrastructure, the environment, and essential resources for development. Above all, these conflicts poisoned the atmosphere and made it very unsafe for any meaningful investment and development.

As a result, today, almost half a century since most African countries gained political independence, the continent is still struggling with the question of how to tackle its huge foreign debts[224], how to provide shelter to millions of its people, how to combat tropical diseases and other social problems. Simultaneously, she is trying to put up with the scourge of human rights abuses,[225] ethnic, civil and interstate wars,[226] socio-economic and political exclusion from the global market and underdevelopment.[227]

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222 Some countries such as Botswana, The Gambia, Senegal, and Tanzania had liberal governments which permitted limited freedom and opposition.

223 The 1979 war between Uganda and Tanzania was not only confined to the disagreements over boundary demarcation but also due to the ruthlessness and autocratic rule of one of Africa's fearsome dictators, Idi Amin Dada.

224 <http://english.peopledaily.com.cn.english/home/html>. Also, see *Peoples' Daily*, September 29, 2000. Africa's total debt currently stands at about 350 billion U.S. dollars. At the end of 1998, its debt service payments amounted to about 30 billion dollars or 25 percent of its exports. Also see World Bank, *Global Development Finance 2000* (Washington, D. C., 2000) and the Secretary General's Report to the UN General Assembly on Debt Situation of Developing Countries (September 2000).

The human rights atrocities of some of the leaders,[228] coupled with the continuous socio-economic decline of the continent, prompted the international community, represented by the media, the church, inter-governmental and non-governmental organisations, to put pressure on the OAU to do something regarding the human rights situation on the continent. The OAU was criticised of double standards,[229] for condemning apartheid in South Africa while remaining mute in the face of massive human rights abuses within its member states. African leaders were urged to uphold the spirit that motivated their struggle for independence (ie, motivation for which they earned international sympathy and support) and restore dignity to the African race.

3.5 Summary and conclusion of Chapter three

It is common for many Africans to reflect on the continent's slave trade and colonialism eras because no other period, in the course of African history,

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225 <http//:www.globalsouth.org/AFRICA_CALLING>; <http//:www.reliefweb.int/w/rwb.nsf>. Also see *Agence France-Presse* (AFP) 28 May 2002.

226 DR Smock. *Making War and Waging Peace: Foreign intervention in Africa* (1993). Also see EJ Keller & D Rothchild *Africa in the New International Order: Rethinking state sovereignty and regional security* (1996). Also see *Peace pledge union.com* or <http:// www.ppu.org.uk/indexa.html> for all the wars and armed conflicts that have taken place on the continent from 1945-2002.

227 MA Geo-JaJa 'Underdevelopment and Education in Africa' in *Africa Economic Analysis* (2000). Also see A Samir 'Underdevelopment and Dependence in Black Africa: Historical Origin' in, *Journal of Peace Research* (1972) 105-120.

228 EG Bello *The African Charter on Human and Peoples' Rights: A legal Analysis* Vol 4 (1985), for the atrocities perpetrated by the regimes of Milton Obote and Idi Amin of Uganda, Marcias Nguema of Equatorial Guinea and Jean Bedel-Bokassa of Central African Republic.

229 LS Wiseberg 'Human Rights in Africa: towards the definition of the problem of double standards', *Issues* (1976) 6*;* Also see *African Contemporary Report* (1975 – 1976) 22 for Tanzania's response to the holding of the 1975 OAU Heads of State Summit in Kampala, Uganda. The Tanzanian government warned in a statement released in Dar-es-Salam just before the conference that Africa was in danger of becoming unique in its refusal to protest the crimes committed against Africans, provided such acts are done by African leaders and governments.

deflected Africa's evolutionary march with far-reaching implications for the present and future, the way these moments in history have done. That these two historical events are regarded as the starting point of Africa's continued exploitation and underdevelopment, despite decades of political independence, is simply because their adversities not only affected Africa's past, but coloured the future trajectory of her development so much so that it ripped African history into two epochs, namely, before the coming of the Whiteman and after the coming of the Whiteman.

The slave trade and colonialism perpetrated or left long lasting effects on the socio-economic and political landscape of the African continent, which continue to undermine the development efforts of the continent to date. Legacies of human rights violations, discrimination, racial inferiority, violence, and economic dependency crafted during colonialism still dictate the development paradigms of most African countries.

Any attempt at initiating an African renaissance must be built on some clear re-examination of the past, and present realities.[230] No race in human history has undergone the kind of humiliation and human suffering that the African race has endured. Africa's claim to humanity has been questioned at various times, their persons abused, and their intelligence insulted. These things happened in the past and continue happening today. They, most unfortunately, contributed to the total devastation of cultural institutions, the irreparable psychological damage and torture of centuries of racial discrimination, which instead of abetting has been institutionalized and transformed into 'polite racism'.[231] Colonialism effected the destruction of African cultural and ideological values, replacing it with inadequate models that served colonial and neo-colonial interests up to the present time. This holds true because as Clarence Stone stated, 'a brutally suppressed

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230 Ogbunwezeh (note 176 above).

231 Ibid.

community over time is conditioned to coping with disappointment and frustration. Thus they lose the motivation to develop'.[232]

It can thus be argued that the massive human rights violations, underdevelopment, instability, intra and inter-state conflicts that prevail today in Africa are the continuation, after 'independence', of the economic, political, and social practices established by slavery and colonialism. The contradictions created by these phenomena are still realities in contemporary Africa's development. The rise of government by dictatorship and lack of good governance throughout Africa, which characterized the 1970s, perpetuated the political, economic, and social practices of colonialism.

The central argument in this chapter is that development, peace, and respect for human rights remain elusive in Africa, not merely because of the misrule and warped personalities of many African leaders, but because Africa had been damaged severely, first by the slave trade, then by colonialism which grew out of the slave trade. Further, that Africa cannot rejoin the development train in the world until the damage is repaired as much as possible. When that is done, it will be of immense benefit not only to Africa, but also to the whole of humanity.

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[232] G Palast 'World Bank Insider Speaks Out'' in *SF Indymedia* February, 2002.

Chapter Four: The Organisation of African Unity: correcting the past and laying the foundation for the future

4.1 Introduction

It is not possible to compile an exact balance sheet of the devastation caused to Africa by the slave trade and colonialism, and historians differ in their estimation of the numbers involved and of the extent of the damage inflicted. It is essential to recognize, however, that the legacy of several centuries of racial exploitation, through slavery or slave trade or colonialism, have had deep and fundamental consequences on the continent, such as poverty, underdevelopment, and marginalization. These effects and the common historical experience of Africans of, first, slavery and later, colonialism, ensured that Africans develop a common consciousness as one people with a common destiny.

Two main responses developed in this regard: in the Diaspora, slaves and ex-slaves of African descent struggled against their second-class position in society and grappled with their crisis of identity; the second response was by Africans on the continent, who opposed slavery and colonialism and fought for their land and freedom. These two responses converged into a Pan-African Movement which developed from the end of the 19th century. This Pan-Africanism rested on four elements: a sense of common historical experience; a sense of common descent and destiny; opposition to racial discrimination and colonialism; and a determination to create a 'new' Africa.

In the late 1950s and early 1960s, Dr. Kwame Nkrumah persistently stressed that many African countries were too small to be economically viable and that the transformation from political into economic decolonisation necessarily required concerted action.[233] He declared that 'the total integration of the African economy on a continental scale is the only way in which the African

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233 SKB Asante 'What really is the African Union?' *West Africa Magazine,* Issue 4383, (July 2003) 10.

states can achieve anything like the levels of the industrialised countries'.[234] A divided Africa could never control its own economic destiny and therefore never be genuinely independent.[235] If Africa fails to unite, Nkrumah warned, it would make it possible for others more powerful than the newly independent states to swoop on each one of them.[236] In his 1961 book, *I Speak of Freedom*, Nkrumah declared that:

> Never before have a people had within their grasp so great an opportunity for developing a continent endowed with so much wealth. Individually, the independent States of Africa, some of them potentially rich, others poor, can do little for their people. Together, by mutual help, they can achieve much. But the economic development of the continent must be planned and pursued as a whole. A loose confederation designed only for economic co-operation would not provide the necessary unity of purpose. Only a strong political union can bring about full and effective development of our material resources for the benefit of our people[237]

The attainment of independence by an increasing number of African states in the late 1950s and early 1960s was accompanied by calls for unity among African leaders. African leaders saw unity as sine qua non for the rapid eradication of colonialism and for the continent's economic and political development. However, African leaders could not agree on what unity entailed or how it was to be achieved.

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234 Ibid.

235 Ibid.

236 During the founding OAU summit, Nkrumah also called for a political union based on Defence, Foreign Affairs and Diplomacy, and a Common citizenship, an African Currency, an African Monetary Zone and an African Central Bank.

237 Ahmed-Rufai 'The road to an African Union' *FinalCall.com,* June 2001.

This chapter examines the origin and establishment of the Organisation of African Unity, and makes an appraisal of the organisation's contribution in promoting human rights, human development, and peace on the continent. While it is apparent that the organisation endeavoured to pursue these goals during its existence, this chapter seeks to analyse the extent to which human rights, human development, and peace were incorporated either as policies and/or programmes of the organisation or of its members, through bilateral or multilateral agreements. The chapter argues that the manner in which African states perceived and pursued issues of human rights, development, and peace resulted in these countries not succeeding in improving the lives of the African people - politically, socially and economically. This is irrespective of whether the countries are considered individually or in their combined achievements as the OAU.

4.2 Origin and establishment of the OAU

After the Second World War, Pan-Africanism took on a continental dimension and came to represent the quest for continental unity. Kwame Nkrumah started a movement which stressed the immediate independence and unity of the African continent. Explaining his vision in his 1961 book, *I Speak of Freedom*, Nkrumah wrote:

> Divided we are weak, united, Africa could become one of the greatest forces for good in the world. I believe strongly and sincerely that with the deep-rooted wisdom and dignity, the innate respect for human lives, the intense humanity that is our heritage, the African race, united under one federal government, will emerge not as just another world bloc to flaunt its wealth and strength, but as a Great Power whose greatness is indestructible because it is built not on fear, envy and suspicion, nor won at the expense of others, but founded on hope, trust, friendship and directed to the good of all mankind[238]

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238 N Kwame. *I Speak of Freedom: A Statement of African Ideology* (1961) xi-xiv.

In his later work in 1963, *Africa Must Unite,* he sets forth his theories of African unity thus:

> Since our inception, we have raised as a cardinal policy, the total emancipation of Africa from colonialism in all its forms. To this, we have added the objection of the political union of African states as the securest safeguard of our hard-won freedom and the soundest foundation for our individual, no less than our common, economic, social and cultural advancement[239]

Nkrumah's goals were the total political and economic emancipation of Africa and the achievement of a continental union. Unfortunately, his philosophy was misunderstood by the then emerging African intelligentsia. When he introduced his concept of African unity to the continent, a division, which was based on the implementation of this concept, was created at the onset.

There emerged three main groups of independent African states (Brazzaville,[240] Casablanca,[241] and Monrovia,[242]) each with its own vision as to the nature and form of unity that was best suited to Africa. The Brazzaville group finally merged with the Casablanca group, leaving the continent with two groups, which became known as the Monrovia and Casablanca groups or confederalists and the federalists.

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239 N Kwame *Africa Must Unite* (1963) xi. The book was published to coincide with the formation of the OAU in 1963. See in this regard *New African Magazine*, August/September 2004, 14.

240 The Brazzaville group (consisting of former French colonies) was concerned about the liberation war in Algeria (1954-1962) and wanted to find a way of mediating the conflict without alienating France, on which its members depended for economic and military support.

241 The Casablanca group (mainly socialist-leaning countries) strongly advocated political and economic unity among African states. This group was also concerned about the need for all African countries to gain their independence and was fearful of the role that the colonial powers might play in opposing or compromising such independence. For the Casablanca group, the Congo crisis which erupted in 1960, was clear proof of the dangers posed by external powers to Africa's future, and of the need for Africa to unite and defend itself against such external interventions.

242 The Monrovia group, which encompassed members of the Brazzaville group, called for a more gradual approach to the question of African unity.

The confederalists and the federalists focused on Nkrumah's ideology of a United States of Africa. The federalists called for a much more radical approach to African unity, shifting political loyalty from its narrow territorial base to a continental base. The confederalists, who favoured a loose association, argued their approach would have little assault on national sovereignty. This school of thought, to which a great majority of leaders of independent African states belonged, believed a gradual race to unity was the best insurance against premature derailment. They argued that a solid attitudinal change among African leaders was a precondition for achieving a constitutional agreement that reflected an African loyalty shift away from nation-states to a continental community. As President Habib Bourguiba of Tunisia explained:

> To know one another better, we must first learn to respect one another and understand the problems of each in the interest of all. Our minds must get accustomed to the idea of unity with its material and moral implications. A thorough psychological preparation is needed and without it nothing worthwhile can be accomplished[243]

By the early 1960s, most of the independent African states had pledged allegiance to either the Monrovia or the Casablanca Group.[244]

The creation of the OAU was delayed by the emergence of these two camps of nationalists.[245] It appeared that these ideological differences would prevent

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243 Excerpt of President Habib Bourguiba's address to the 1963 OAU Summit in Addis Ababa.

244 The Casablanca group represented radical attitudes and the Monrovia group, of which Nigeria and Liberia were the key players, was composed of moderates. The Casablanca group distrusted the Monrovia group, considering it to be composed of 'lackeys of imperialism.'

245 VJ Ngoh 'The OAU Charter: on the eve of the Third Millennium' in *African Star* (1996) 13. As a result of this split, the deliberations on the OAU Charter fell far short of pan-African hopes. Nkrumah's idea of forming a continental army to liberate African territories still under colonialism or white minority rule was also debunked by the moderates. They feared that the proposed united army of Africa could be used by

the attainment of a consensus on the issue of how to proceed with the creation of a Pan-African body. Many believed that the sharp differences between these two groups would become permanent and thus ending the hopes and dreams of any African unity. Many had speculated as to how such opposing groups would merge to form a united Pan-African body. Yet, in May 1963, in spite of their incessant bickering, these two opposing groups were able to come together to form the Organisation of African Unity.[246] On 25 May 1963, thirty-two independent African countries meeting in Addis Ababa, Ethiopia decided to sign the charter creating the Organization of African Unity.[247]

The Charter of the organization revealed that those advocating the supremacy of national sovereignty had won the day. African countries had chosen to create an organization based on political and economic cooperation rather than on supra-nationalism. Neither Nkrumah's enthusiasm for the noble Pan-African ideal of political unity and economic continentalism nor Tafawa Balewa and Julius Nyerere's preferred incremental regionalism, leading eventually towards pan-Africanism, went beyond the stage of theoretical discussion.[248]

The emphasis of the OAU Charter was neither on unity nor on the formation of a United States of Africa but rather on a loose association of states with no supra-national powers. The founding fathers of the organisation at the time

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Nkrumah and his radical friends to oust them. The OAU settled instead for a liberation committee, which was based in Dar es Salaam, Tanzania, and which did much to assist the liberation movements in Southern Africa.

246 AW Chanda 'The Organisation of African Unity: an appraisal' in *Zambia Law Journal* ed. (1989-1992) 21 – 24.

247 After some intensive discussion and deliberations, thirty-two African Heads of States (Algeria, Benin, Burundi, Burkina Faso (formerly known as Upper Volta), Cameroon, Central African Republic, Chad, Congo-Brazzaville, Congo-Leopoldville, Egypt, Ethiopia, Gabon, Ghana, Guinea, Ivory Coast, Liberia, Libya, Madagascar, Mali, Mauritania, Morocco, Nigeria, Niger, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Tanzania (then Tanganyika), Tunisia, and Uganda) signed the OAU Charter in Addis Ababa, Ethiopia, on May 25, 1963.

248 Asante (note 233 above) 11.

opted for a diluted internationalism in preference to a pan-African super state. At the opening session of the 1963 Addis Ababa Summit, President Ahmadou Ahidjo of Cameroon for example, made it clear that:

> Agreed as we are upon the fundamentals, the question remains of the form to be given to our unity…We must choose between political principles, we must also choose between economic policies…. Now, to be realistic vis-à-vis the political aspects that Africa presents, the organisation that we can give to African unity has to be a highly flexible one…. It seems to us that any rigid form of unity would be premature at this stage. And so, for the moment, let us have neither federation nor confederation. In our opinion, it could only involve making a complete break with everything presently existing[249]

This view was shared by the majority of the founding fathers of the OAU, and few of the newly independent African countries were therefore persuaded of the need to give up some of the power they had just won, to a supra-national continental body. This attitude was incompatible with the vision of the 'father of Pan-Africanism' – W.E.B. Du Bois - who had cautioned that:

> If Africa unites, it will be because each part, each nation, each tribe gives up a part of the heritage for the good of the whole. That is what union means; that is what Pan Africa means: When the child is born into the tribe the price of his growing up is giving a part of his freedom to the tribe. This he soon learns or dies. When the tribe becomes a union of tribes, the individual tribe surrenders some part of its freedom to the paramount tribe[250]

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249 Speech by President Ahmadou Ahidjou of Cameroon at the 1963 Summit of Independent African states that culminated in the formation of the OAU –, CIAS/GEN/INF/10 (23 May 1963) 5-10.

250 An address entitled, 'The future of Africa,' by Du Bois at the First All-African People's Conference held in Accra, Ghana, in 1958. Du Bois, who was at that time approaching 91 years of age and unwell, was represented at the Conference by his wife who delivered the address on his behalf. See <http//:www.uneca.org/adfiii/riefforts/hist.htm>.

It is believed that all the independent states that came together in Addis Ababa did so because of the great respect they had for the Emperor of Ethiopia, Haile Selassie. Emperor Selassie's welcoming address struck the keynote of compromise and unity which pervaded the proceedings. He noted that:

> We know that there are differences among us. Africans enjoy different cultures, distinctive values and special attributes. But we also know that unity can be and has been attained among men of the most disparate origins, that difference of race, of religion, of culture, of tradition, are no insuperable obstacles to the coming together of peoples. History teaches us that unity is strength and cautions us to submerge and overcome our difference in the quest for common goals, to strive, with all our combined strength, for the path to true African brotherhood and unity... Unless the political liberty for which Africans have for long struggled is complemented and bolstered by a corresponding economic and social growth, the breath of life, which sustains our freedom, may flicker out[251]

The Organisation of African Unity was therefore the logical outcome of the search for a Pan-African organisation that spanned some sixty-three years and involved the holding of at least five Pan-African Congresses, from 1900 to 1963.[252] The organisation fell short of meeting the ambitious structure

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251 Welcome address by His Majesty, Emperor Haile Salaise I of Ethiopia at the 1963 Summit of Independent African states that culminated in the formation of the OAU – CIAS/GEN/INF/10 (23 May 1963). Meanwhile, the Ethiopian Foreign Minister, Ketema Yifru, also reiterated the necessity for compromise and unity when presenting the draft Charter to the Heads of States, he said, 'I wish to repeat that all the documents before you were worked out by long discussions and compromise. All our meetings were conducted in a spirit of brotherhood and there was complete agreement on all decisions. If there were differences, these were limited to questions of procedure, approach of tactic, but never on substance or the destiny of our peoples. It is therefore my bounden duty to express my appreciation for the wisdom of the Foreign Ministers and to ask this august body, in the name of all our peoples, to adopt these measures formally and to sign your name in history. As his Imperial Majesty remarked at the outset of the conference, if we fail, surely history will never forgive us, for it shall not give us another occasion'. (CIAS/GEN/INF/10 (23 May 1963)

252 In 1919, the first of five Pan-African Congresses was held in Paris. The other Pan African Congresses were held in 1921 (London, Paris and Brussels.), 1923 (London and Lisbon), 1927 (New York) and 1945 (Manchester). Breaking with history, in 1974

envisaged by Ghana's Kwame Nkrumah and the Casablanca group. Nkrumah in particular, regarded the OAU Charter as inadequate as it was not the United States of Africa he longed for.[253]

The signing of the OAU Charter and the subsequent establishment of the OAU, however, represented a giant step in Africa's quest for unity and accelerated the struggle against colonialism and apartheid. Within thirty-one years of the establishment of the OAU, from 1963 – 1994, all African countries had their independence and apartheid in South Africa was dismantled. There was relative cohesion amongst African countries on these two issues and they were united and spoke with one voice at international forums. However, complete unity in the sense of economic and political integration of African countries did not prove feasible even after thirty-eight years of the OAU.[254]

Enormous obstacles stood in the way of complete African unity, including political and economic integration. Firstly, the size of the continent is an impediment to unity, considering the fact that Africa has very poor transport and communication facilities.[255] Secondly, Africa is a continent with great diversity in terms of languages, religion, customs, legal systems, socio-economic and political development. These factors have acted as a hindrance to any meaningful co-operation. The colonial legacy, epitomised by the Anglophone-Francophone dichotomy, is a glaring example, where each camp

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and 1994, the sixth and seventh Pan African Congresses were held on the continent of Africa, in Tanzania and Uganda, respectively. In all of these gatherings, issues of racism, colonialism, the legacy of slavery and the slave trade, and Diasporic unity were addressed. In one of the congresses, Garvey prophesied that '…all of us may not live to see the higher accomplishment of an African Empire, so strong and powerful, as to compel the respect of mankind, but we in our life-time can so work and act as to make the dream a possibility within another generation.' The transformation of the OAU into the AU may be the beginning of initiatives to realise that dream. <See www.uneca.org/adfiii/riefforts/hist.htm> Site visited on 22 October 2005

253 Kwame Nkrumah's Vision of Africa | BBC World Service; <http//.www.bbc.co.uk/worldservice/people/ highlights/000914_nkrumah.shtml>.

254 Chanda (note 246 above) 1.

255 Africa is the second largest continent with a population of more than seven hundred million (700,000,000) and a surface area of about 30,065,000 sq km.

competes rather than co-operates with the other in almost all aspects of inter-state relations.[256]

The artificiality of colonial boundaries is also problematic. It is a fact that European powers divided the continent into arbitrary and artificial political entities which largely ignored tribal and religious boundaries.[257] It is therefore very common to find minorities across the borders of almost all African states, and these minority groups have become the target of discrimination and marginalisation and a source of intra, and at times, inter-state conflicts.

The European powers also transplanted into Africa different political and legal systems, and established different economic ties and trade investment patterns which till date, for example, still link the former French Colonies with the French economy and the Franc zone.[258] This has made African states potential economic rivals. This attitude emanates from the structure of their economies as producers of primary commodities, a situation rooted in the colonial era. One important consequence of this state of affairs is that African economies have very little to exchange among themselves by way of trade. In their desire to industrialise and compete with the West, they impose tariffs and other non-trade tariff barriers on goods from other African countries so as to

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256 Chanda (note 246 above) 1. The continent is made up of people of diverse backgrounds, cultures, races, nationalities and religions (Blacks, Whites, Coloureds, Atheists, Animists, Christians, Hindus, Jews, Muslims etc). A continent of fifty-four independent States with capitalists, socialists, Marxist-Leninists, military, one-party, multi parties, democratic, dictatorial and monarchical regimes.

257 UE Effeh, 'Sub-Saharan Africa: a case study on how *not* to realize economic, social and cultural rights, and a proposal for change', *North-western University Journal of International Human Rights,* volume 3 (spring 2005) 1-41. See also R Emerson 'Crucial Problems Involved in Nation-Building in Africa' in *The Journal of Negro Education*, Vol. 30, No. 3, (Summer, 1961) 193-205 and S Touval 'Africa's Frontiers: Reactions to a Colonial Legacy' in *International Affairs* Vol. 42, No. 4 (October., 1966) 641-654.

258 AY Yansané 'Some problems of monetary dependency in West African States of French colonial legacy' in *The Review of Black Political Economy* Volume 7, Number 1 (September, 1976) 22-39. See also G Martin 'The Historical, Economic, and Political Bases of France's African Policy' in *The Journal of Modern African Studies*, Vol. 23, No. 2 (Jun., 1985) 189-208. For a general overview of the French colonial legacy see for example, JF Barnes *Gabon: Beyond the Colonial Legacy* (1992), (Westview Press - Boulder, CO)

encourage and protect their infant industries.[259] Addressing participants at the US-African Business Summit in Washington on 27 June 2003, President George Bush of the United States of America called on African states to lower their own trade tariffs against each other's products.[260]

Historically, the political challenges to African unity have manifested themselves in different forms. African states, in the decades after independence, had paid lip service to the ideals of Pan-Africanism and were signatories to several agreements and treaties relating to continental and regional integration. Paradoxically, they had almost always shied away from implementation. There has been very little political will and commitment on the part of African governments to the agreements and programmes of integration.[261]

Another related phenomenon is the fact that attempts at integration, whether at the regional or the continental levels, lacked 'popular content'. In other

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259 Chanda (note 246 above) 2.

260 *West Africa Magazine*, Issue 4383, 7-13 July 2003, 20.

261 Since the establishment of the AU in 2002, there has been a renewed determination to foster African unity and integration more speedily. At its 9th Assembly of Heads of State and Government in Accra, Ghana in July 2007, the AU dedicated the entire session on discussing the establishment of a Union Government for Africa. At the end of the Summit the Heads of State adopted the Accra Declaration in which they agreed to accelerate the economic and political integration of the African continent, including the formation of a Union Government for Africa with the ultimate objective of creating the United States of Africa; on the following steps to attaining the Union Government: a) to rationalize and strengthen the Regional Economic Communities, and harmonize their activities, in conformity with our earlier decision, so as to lead to the creation of an African Common Market, through the stages set in the Treaty Establishing the African Economic Community (Abuja Treaty), with a reviewed and shorter timeframe to be agreed upon in order to accelerate the economic and, where possible, political integration; b) to conduct immediately, an Audit of the Executive Council in terms of Article 10 of the Constitutive Act, the Commission as well as the other organs of the African Union in accordance with the Terms of Reference adopted by the 10th Extraordinary Session of our Executive Council held in Zimbali, South Africa on 10 May 2007; c) To establish a ministerial Committee to examine the following: i.) Identification of the contents of the Union Government concept and its relations with national governments; ii.) Identification of domains of competence and the impact of the establishment of the Union Government on the sovereignty of member states; iii.) Definition of the relationship between the Union Government and the Regional Economic Communities (RECs), iv.) Elaboration of the road map together with timeframes for establishing the Union Government; and v.) Identification of additional sources of financing the activities of the Union.

words, the programmes and negotiations regarding African integration had always been the monopoly of governments and did not ensure any mass input or participation. This tendency was further reinforced by the increased authoritarian turn in African politics in the years after independence. This has often been cited by many observers as one of the main weaknesses of past attempts at integration in Africa.

Ultimately, the 'idolisation' of the notion of territorial sovereignty (a principle enshrined in the OAU Charter), on the part of the governments of the newly independent African states, meant that integration and its attendant diminution of sovereignty stood very little chance of success.

The establishment of the Economic, Social and Cultural Council (ECOSOCC)[262] within the AU seem to be geared towards addressing this anomaly. There is now a growing understanding within the African leadership that the political leadership alone cannot determine the continent's destiny. People need to be masters of their own destiny. Today, there is a rich body of literature emphasizing the rights-based approach to development grounded in ownership and effective participation by the intended beneficiaries. The African Union cannot afford to remain an exception to the norm.

The Third Summit of the African Union held in Addis Abba, Ethiopia in July 2004, saw African leaders opening their arms to the effective formal participation of the wider civil society organizations in Africa and the Diaspora, by approving the Statutes of the Economic, Social and Cultural Council.

The establishment of the ECOSOCC under the provision of Articles 5 and 22 of the Constitutive Act is a confirmation and assurance that popular participation in the activities of the AU, as enunciated in the African Charter for Popular Participation, is a prerequisite for its success. The ECOSOCC process is a historical opportunity for the formulation of a new social contract between African Governments and their people.

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[262] The ECOSOCC was launched in March 2005 in Addis Ababa, Ethiopia

Involving civil society organizations in the African Union endeavours is a positive move and is a way of involving ordinary citizens of Africa in decision and policy-making processes of issues that concern their daily lives. More than this, involving civil society organizations is key considering the role they would be expected to play as watchdogs of their governments; guardians of democratic practices, as well as ensuring the implementation of peace and conflict resolution efforts.

On the economic front, several processes and features of the structure of African economies and their positioning in the international economic system became fundamental obstacles to African cooperation and unity, at both the regional and continental levels. At the primary level, for instance, the newly independent states preserved their close economic and political linkages to their 'former' colonial masters (especially true in the case of Francophone countries). This gave rise to a situation where intra-African economic linkages had negligible value. This in effect meant that the objective economic basis for regional and continental economic cooperation was questionable.

The uneven development of African economies and the ubiquitous phenomena of unequal benefits in most regional economic communities created a scenario where member states were discouraged from further deepening the processes of economic integration. There was a prevalent perception, and rightly so, that there was very little benefit to be derived from advanced economic integration. Consequently, most regional economic communities have remained stalled at the level of a formal Preferential Trade Area (PTA), the lowest level of economic integration. The AU now regards the regional economic communities as building blocks to unity and integration.[263]

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263 See Accra Declaration (note 261 above) para 1. The ECOSOCC was established under Article 22 of the Constitutive Act of the African Union. ECOSOCC is to be an advisory body composed of 150 CSOs "selected" from different social and professional groups of member states of the African Union (AU). It will, among others, serve as the major mediating mechanism between African Union (AU) structures and African regional NGOs and professional groups with a view to making the AU intrinsically more CSO-participation friendly than its predecessor –the OAU – was,

In view of the above obstacles, the prospect of a political union and an economic association along the lines of the European Union will remain a dream for a long time to come. Despite the transformation of the OAU into the AU, and the adoption of the NEPAD, it is not envisaged that these initiatives will bring African countries any closer to political and economic integration soon. For there to be any genuine move to continental unity, the distinction between form and content and between rhetoric and action must be emphasised.

4.3 Purposes and institutional structure of the OAU

The objectives, principles, and organisational structure of the OAU determined the organisation's priority during its establishment and the extent to which human rights, human development, and peace formed part of, or were integrated into, the programmes and/or policies of the OAU and its members.

In terms of Article II of the OAU Charter, the objectives of the organisation were, *inter alia*, to promote the unity and solidarity of African states;[264] to co-ordinate and intensify their (African states) co-operation and efforts to achieve a better life for the peoples of Africa;[265] to defend their sovereignty, their territorial integrity and independence;[266] to eradicate all forms of colonialism from Africa;[267] and to promote international co-operation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.[268]

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such that Africa's citizens are involved in the continent's integration process, as well as in the formulation and implementation of programmes of the African Union.

264 OAU Charter (note 3 above) Article II (1) (a)

265 Id. Article II (1) (b)

266 Id. Article II (1) (c)

267 Id. Article II (1) (d).

268 Id. Article II (1) (e).

These objectives were informed by the fundamental international law principles governing relations between states, including, the sovereign equality of all member states;[269] non-interference in the internal affairs of states;[270] respect for the sovereignty and territorial integrity of each state and its inalienable right to independent existence;[271] peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration;[272] unreserved condemnation in all its forms, of political assassinations as well as of subversive activities on the part of neighbouring states or any other states;[273] absolute dedication to the total emancipation of the African territories which are still dependent;[274] and affirmation of a policy of non-alignment with regard to all blocs.[275]

To give effect to the above objectives and uphold its principles, the OAU established various organs and specialised agencies, including, the Assembly of Heads of State and Government,[276] the Council of Ministers,[277] and the General Secretariat.[278] Specialised Commissions established included the Economic and Social Commission, the Educational, Scientific, Cultural and Health Commission, the Commission of Fifteen on Refugees, the Defence

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269 Id. Article III (1).

270 Id Article III (2).

271 Id. Article III (3).

272 Id. Article III (4).

273 Id. Article III (5).

274 Id. Article III (6).

275 Id. Article III (7).

276 Id. Article VII (1).

277 Id. Article VII (2).

278 Id. Article VII (3).

Commission, the Mediation, Conciliation and Arbitration Commission, the Commission of African Jurists.[279]

It is clear from the objectives, the basic principles, and the various organs established that the principal mission of the OAU was to free Africa of colonialism and white domination at all cost. Founded amidst the wave of decolonisation sweeping across the continent, the OAU was more concerned with safeguarding the sovereignty and territorial integrity of independent states and opposing the remaining relics of colonisation,[280] and anything that would stand on the way of achieving this goal would be discouraged. The promotion and protection of individual human rights and freedoms seemed to have been among the first casualties.

In proclaiming these objectives and principles, the founding fathers of the Organisation envisaged clearly a unity that transcended ethnic and national differences. All other considerations including human rights, democracy, the rule of law took the backstage, while unity, liberation and self-determination took centre-stage. The argument was that issues of human rights, development, and peace cannot be promoted under conditions of oppression (colonialism), and that unless the continent as a whole was liberated, there could not be any meaningful peace and development. Resources and energies were therefore to be focused on the liberation of the continent. It was only thereafter that the continent was supposed to promote human rights, democracy, the rule of law, human development, and peace.

However, even after the liberation of the continent and the dismantling of apartheid, human rights violations, abuse of power and dictatorship continued unabated on the continent. Post-independence African leaders replaced the

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279 Other autonomous specialised agencies working under the auspices of the OAU were - Pan-African Telecommunications Union (PATU), Pan-African Postal Union (PAPU), Pan-African News Agency (PANA), Union of African National Television and Radio Organisations (URTNA), Union of African Railways (UAR), Organisation of African Trade Union Unity (OATUU), and Supreme Council for Sports in Africa (SCSA).

280 C Nwankwo 'The OAU and Human Rights' in *Journal of Democracy* (1993) 50.

colonial masters and adopted their laws, their way of life, and their attitudes much at the expense of human rights, human development, peace, and above all, the African peoples.

4.4 The OAU - achievements

During the course of its thirty-eight years of existence, the OAU undertook some initiatives to promote African unity, respect for human rights, human development, and peace on the continent. Noteworthy among these initiatives were the adoption of instruments such as the Lagos Plan of Action (LPA)[281] and the Final Act of Lagos (FAL) , which incorporated programmes and strategies for self-reliant development and cooperation among African countries; the African Charter on Human and People's Rights (1981) and the Grand Bay Declaration and Plan of Action on Human Rights in Africa (1999), basic human rights instruments adopted by the OAU to promote human and people's rights on the continent; the adoption of the Africa's Priority Programme for Economic Recovery (APPER) (1985),[282] an emergency programme designed to address the development crisis of the 1980s in the wake of protracted drought and famine that had engulfed the continent and the crippling effect of Africa's external indebtedness.

In the 1990s, these initiatives continued with the adoption of the OAU Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes taking place in the World (1990),[283] which underscored Africa's resolve to seize the initiative, to determine its destiny, and to address the challenges to peace, democracy, and security; the Charter on Popular

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281 See the Lagos Plan of Action for the Economic Development of Africa (1980) available at <http://www.uneca.org.eca resources/speech>.

282 Adopted by the Assembly of Head of States and Government of the OAU at the 21st Ordinary Session held in Addis Ababa, Ethiopia, from 18 – 20 July 1985.

283 Adopted by the Assembly of Heads of State and Government of the OAU, meeting at its 26th Ordinary Session held in Addis Ababa, Ethiopia on July 11 1990.

Participation (1990)[284] - a testimony to the renewed determination of the OAU to place the African citizen at the center of development and decision-making; the Treaty Establishing the African Economic Community (AEC) (1991)[285] - commonly known as the Abuja Treaty, that sought to create the AEC through six stages culminating in an African Common Market (ACM) using the Regional Economic Communities (RECs) as building blocks; the Mechanism for Conflict Prevention, Management, and Resolution (1993)[286] - a practical expression of the determination of the African leadership to find solutions to conflicts, promote peace, security and stability in Africa; and the Cairo Agenda for Action (1995)[287] - a programme for re-launching Africa's political, economic, and social development.

The adoption of the Algiers Decision on Unconstitutional Changes of Government (1999),[288] in the late 1990s, the Lomé Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government in 2000, and the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation[289] in 2000, established the

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284 The African Charter for Popular Participation in Development and Transformation was adopted in Arusha, Tanzania, in February 1990, at the end of the International Conference on Popular Participation in the Recovery and Development Process in Africa. See United Nations Doc. A/45/427 of 22 August 1990 for the full text of the Charter.

285 See Abuja Treaty, reprinted in GJ Naldi, *Documents of the Organisation of the African Unity,* (1992).

286 Adopted at the 1993 OAU Summit in Cairo, Egypt.

287 Adopted by the Council of Ministers of the Organization of African Unity at its Seventeenth Extraordinary session, held at Cairo, Egypt, from 25 to 28 March 1995, and endorsed by the Assembly of Heads of State and Government of the Organization of African Unity in its resolution AHG/Res.236 (XXXI) of 28 June 1995.

288 See the Algiers Declaration, 35th Ordinary Session of the Assembly of Heads of State and Government, 12–14 July 1999, par 5.

289 See the Declaration on the Framework for an OAU Response to Unconstitutional Changes in Government, 36th Ordinary Session/4th Ordinary Session of the Assembly of Heads of State and Government of the AEC, 10–12 July 2000, Lomé, Togo. Solemn Declaration on the Conference for Security, Stability, Development and Cooperation in Africa (CSSDCA), adopted at the 36th OAU Summit held in Lome, Togo, from 10–12 July 2000. The CSSDCA, the Civil Society Unit, was upgraded into a full-fledged African Citizens Directorate or Civil Society and Diaspora Directorate. (CIDO) in 2005.

fundamental principles for the promotion of democracy and good governance on the continent.

In response to other challenges, Africa initiated collective action through the OAU for the protection of the environment, in fighting international terrorism,[290] in combating the scourge of the HIV/AIDS pandemic, malaria and tuberculosis,[291] and in dealing with humanitarian issues such as refugees and internally displaced persons, landmines,[292] small and light weapons,[293] among others.

The OAU worked vigorously to preserve the sovereignty and territorial integrity of its members. In the immediate post-independence period, numerous disputes over the definition of international borders became a major factor in Africa's international relations, as many of the young African states struggled to come to terms with the arbitrary nature of their colonially-inherited borders and their implications for nation-building. As early as 1964, the organisation adopted a resolution recognising colonial boundaries and urging Member States to respect those boundaries.[294] This was in a bid to reduce the inter-state conflicts which would have been inevitable given the nature of the boundaries drawn by the colonial masters. In spite of this Resolution,

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290 See the Protocol to the OAU Convention on the Prevention and Combating of Terrorism, adopted by the Third Ordinary Session of the Assembly of the African Union, Addis Ababa, 8 July 2004.

291 See the Abuja Declaration on HIV/AIDS, Tuberculosis and Other Related Infectious Diseases, adopted at a Special OAU Summit in Abuja, Nigeria, from 26-27 April 2001 devoted specifically to address the exceptional challenges of HIV/AIDS, Tuberculosis and Other Related Infectious Diseases, at the invitation of H.E. President Olusegun Obasanjo of the Federal Republic of Nigeria and in accordance with the agreement reached at the Thirty-Sixth Ordinary Session of the Assembly in Lomé, Togo, from 10 to 12 July 2000.

292 See the common African position on anti-personnel landmines, adopted at the 2nd Continental Conference of African experts on landmines Kempton Park - seven years after, Addis Ababa, Ethiopia, 17 September 2004.

293 See the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, adopted by the OAU Ministers in Bamako, Mali, from 30 November to 1 December 2000.

294 The 1964 Cairo Resolution on the Inalienability of Colonial Boundaries.

several inter-state conflicts occurred which required the mediation of the OAU.[295] Thanks to the OAU machinery and efforts, most of these conflicts were settled in a true spirit of African solidarity without outside intervention or interference.

In the 1960s and 1970s, for example, the OAU was successful in resolving the border disputes involving many of its members, including those between Algeria and Morocco,[296] Mali and Upper Volta (now Burkina Faso),[297] and Ethiopia and Somalia.[298] On such occasions, the OAU made a name for itself

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295 The organisation successfully mediated border disputes in 1964 and 1965 between Algeria and Morocco and from 1968 to 1970 between Somalia, Ethiopia, and Kenya. Other conflicts included, disputes between Equatorial Guinea and Gabon over Corisco Bay Island (1972), Malawi and Tanzania (1967), Ghana and former Upper Volta (from 1964 to 1966), former Dahomey and Nigeria (1963–1965); Congo and Gabon (1962), Algeria and Morocco (1962-1964), Ethiopia and Somalia (1962), Algeria and Tunisia over the Algerian Sahara (1961-1970), Mauritania and Morocco (1961-1970), Mali and Mauritania (1960), Ethiopia and Kenya over the Gaduana wells , Chad and Libya over the Aouzu stripe, and Eritrea and Ethiopia. The OAU was usually split in its decision to deal with disputes involving member states, be they domestic or interstate. For instance, it's inability to intervene in the Angolan Civil War of the mid-1970s as well as Somalia's invasion of Ethiopia in 1978 because, in both instances, the OAU members were split on which faction to support. It's inability to deal with the Congo crisis, the Cameroon and Nigeria conflict, the Liberian civil war (1999-2003), the crisis in Cote d'Ivoire, etc.

296 In September, October, and November 1963, Morocco and the newly independent state of Algeria fought a short border war along a front from Figuig to Tindouf. The war, which was brought to an end by OAU mediation, was eventually resolved by ceasefire delimitation in February 1964, whereby Morocco was confined to the Dra oases and thus away from Tindouf, while Algeria withdrew from the Figuig and Ich. The border issue remained unresolved for the next eight years, largely because Morocco could not abandon its claims – even, to the Algerian Sahara in the aftermath of the war - while Algeria clearly enjoyed the support of the OAU, given the Cairo resolution on colonial borders, and would not compromise on its claim for the old Algerian administrative border.

297 In 1974 and 1985 both countries clashed over the Agacher Strip. Mediation efforts by President Gnassingbé Eyadéma of Togo and President Seyni Kountché of Niger to resolve the conflict were unsuccessful and sporadic clashes continued into early 1975. As tensions escalated, numerous reprisals against Malians in Upper Volta were reported. This prompted the Organization of African Unity to create a Commission to mediate the crisis. The mediators recommended that a neutral technical commission be set up to demarcate the boundary. At a meeting held on 18 June 1975 in Lomé, Togo, both sides accepted the proposal. The case was eventually taken to the International Court of Justice. In its judgment delivered on 22 December 1986, the court split the 1,150 square miles of disputed territory almost equally. Mali received the western portion and Burkina Faso the east.

298 The conflict over the Ogaden Region took place from 1977 to 1978.

as peacekeeper No. 1 on the continent. It is in managing these types of disputes that the OAU registered some of its most notable successes.

The organisation also worked hard to prevent disintegration of its Members, whether caused by outside influence or internal rebellion. Thus, the organisation came to the aid of the Congo (now the Democratic Republic of Congo) when imperialism threatened its supply lines of strategic raw materials (uranium and copper). The OAU also opposed attempts to disintegrate, or set up a puppet state in Nigeria when a civil war flared up and threatened the very foundation of the country. By throwing its weight on the side of unity, and providing for appropriate machinery (an ad hoc Consultative Committee), the OAU helped to prevent secession while maintaining the cohesion of its membership. In the Islamic Republic of Egypt, which was aggressed and occupied in parts by Israeli forces in 1967, the OAU strongly condemned the Israeli aggression and demanded the withdrawal of Israeli troops from all occupied Arab territories. In Guinea Bissau where Portugal's last ditch attempt at colonial re-conquest failed; in the wake of this aggression, the OAU's offer of financial and military aid to Guinea Bissau, along with its declared war on mercenaries in Africa and the successful information campaign it waged to alert international opinion, were all evidence of the usefulness the OAU had in facing outside aggression. In Equatorial Guinea the OAU support enabled the young republic to reinforce its newly won independence.

Another area in which the OAU played a significant role was in helping to end colonialism on the continent. Following the downfall of the Portuguese colonial empire and the independence of Angola, Mozambique, Cape Verde, Guinea-Bissau, and Sao Tomé et Principé by the late 1970s, the OAU was able to shift its attention to southern Africa, the last vestige of colonialism. There, the OAU was able to work with the UN to pressure the international community to act, and to gather support for the actions of the Frontline States of Southern Africa and the UN in support of the liberation struggles in Zimbabwe (which gained independence in 1980), Namibia (which was able to achieve self-determination from South Africa in 1990), and South Africa, which had multi-racial elections in 1994. The OAU was active in trying to find a solution to the

conflict that erupted between Morocco and the Front for the Liberation of Saguia el Hamra and Rio de Oro, known as the POLISARIO Front in 1976 following Spain's withdrawal from, and Morocco's occupation of Western Sahara.

The OAU also led in the fight against apartheid in South Africa, Zimbabwe, and Namibia. Through the OAU, the UN came to realise that movements like the African National Congress (ANC) and Pan African Congress (PAC) in South Africa were liberation movements, not only fighting to end racial discrimination but fighting for full democracy and respect for human rights in the country. As a result of increasing pressure from all quarters, Apartheid South Africa was forced out of the Commonwealth and a number of specialized institutions of the United Nations family. In world sports, Apartheid South Africa was barred from the Olympic Games and from international tennis tournaments.[299]

At the United Nations, the struggle against colonialism and apartheid was recognized as legitimate.[300] Liberation movements representatives' had observers status at UN meetings. Through an OAU fund, international support was channelled to liberate countries like Guinea Bissau, and Zimbabwe.[301] Through the OAU, a UN boycott was enacted against Rhodesia's (now

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299 On 29 November 1971, the UN General Assembly adopted resolution 2775 D (XXVI) calling for a boycott of sports teams selected in violation of the Olympic principle of non-discrimination.

300 On 4 February 1972, the Security Council, meeting in Addis Ababa, adopted resolution 311 (1972) condemning apartheid; recognising the legitimacy of the struggle of the oppressed people of South Africa; calling upon South Africa to release all those imprisoned as a result of apartheid; calling upon all states to observe strictly the arms embargo against South Africa; urging governments and individuals to contribute to UN funds to assist victims of apartheid; and commending organisations and individuals assisting in the education and training of South Africans. The vote was 14 in favour and one abstention (France); and on 14 December 1973, the General Assembly declared that the South African regime had 'no right to represent the people of South Africa' and that the liberation movements recognised by the OAU are 'the authentic representatives of the overwhelming majority of the South African people' - [Resolution 3151 G (XXVIII)].

301 See Resolution adopted by the fourteenth ordinary session of the Assembly of Heads of State and Government of the OAU in Libreville, Gabon, from 2 to 5 July 1977 (AHG/Res. 85 (XIV).

Zimbabwe) racist minority regime and against Apartheid South Africa until majority rule was obtained.[302] Through action of the African Group at the United Nations and appropriate information campaigns, apartheid was universally condemned as 'a crime against humanity'.[303] The UN made it clear that:

> Gross denials of human rights under the repugnant policy of apartheid are a matter of the gravest concern to the international community. This policy of apartheid, condemned as a crime against humanity, continues seriously to disturb international peace and security. It is therefore imperative for the international community to use every possible means to eradicate this evil. The struggle against apartheid is recognized as legitimate[304]

To the extent of these initiatives, it could be argued that the OAU succeeded or at least made genuine efforts to succeed. These achievements were recognised by the founders of the African Union when in the Final Declaration of the 38th OAU/1st AU Assembly of Heads of State and Government held in Durban, South Africa, in July 2002, the Assembly, *inter alia*, paid tribute to the OAU 'as a pioneer, a liberator, a unifier, an organiser, and the soul of the African continent'[305] and to the founding leaders of the OAU for 'their tenacity,

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302 On 2 December 1968, the UN General Assembly requested all states and organisations 'to suspend cultural, educational, sporting and other exchanges with the racist regime and with organisations or institutions in South Africa which practice apartheid. On 24 October 1970, in a declaration on the 25th anniversary of the United Nations, the General Assembly described apartheid as 'a crime against the conscience and dignity of mankind.' (Resolution 2627 (XXV); on 16 December 1974, the General Assembly, in resolution 3324 E (XXIX), recommended that 'the South African regime should be totally excluded from participation in all international organisations and conferences under the auspices of the United Nations so long as it continues to practice apartheid and fails to abide by United Nations resolutions concerning Namibia and Southern Rhodesia.'

303 Proclamation of Tehran, Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968, U.N. Doc. A/CONF. 32/41, 3 (1968).

304 Id para 7.

305 The Durban Declaration in Tribute to the Organisation of African Unity and the Launching of the African Union – Assembly of the African Union (AHG/AU/Decl.2 (1).

resilience and commitment to African unity and for standing firm in the face of the divisive manipulation of the detractors of Africa and fighting for the integrity of Africa and the human dignity of all the peoples of the continent'.[306]

These successes notwithstanding, it is generally believed that the OAU failed to move the continent beyond liberation, and failed in particular to recognise the fundamental link between human rights, human development, and peace in its attempt to promote unity, equality, justice, and development on the continent. It failed to realise that violations of human rights would negate all prior efforts for independence, peace, unity and development. Thus, after thirty eight years of its existence, the OAU was unable to take Africa beyond the political kingdom, as the rest was never added unto it.

4.5 Weaknesses of the OAU

Despite the successes mentioned above, the OAU's overall record in promoting peace and security, respect for human rights and human development in Africa, during the thirty eight years of its existence, was disappointing. Several factors accounted for this poor record including, in particular, the limitations of the OAU's mandate and conflict management institutions; the lack of political will among its members; the lack of capacity, experience and financial resources; and the impact of external intervention on the OAU's capacity to manage its own affairs.

During its thirty eight years of existence, the organization experienced numerous challenges including struggles for independence, civil wars, and inter-state conflicts. In his Report to the Security Council, the UN Secretary General, Kofi Annan, lamented Africa's insecurity situation, noting that:

Available at <http://www.africa-/union.org/en/news/asp>. Site visited on November 17 2003.

306 Id. para 14.

> Since 1970, more than 30 wars have been fought in Africa, the vast majority of them intra-state in origin. In 1996 alone, 14 out of 53 countries in Africa were afflicted by armed conflicts, accounting for more than half of all war-related deaths worldwide and resulting in more than 8 million displaced refugees, returnees, and displaced persons. The consequences of these conflicts have seriously undermined Africa's efforts to ensure long-term stability, prosperity, and peace for its people…[307]

Some analysts argue that within all that the OAU could do or did to influence world politics and events in Africa, not much can be credited to it as an organisation because most of the time it operated through sub-regional organisations like the then Frontline States for Southern African, the Economic Community of West African states (ECOWAS), and outside mediators.[308]

In a nutshell, it can be argued that the OAU succeeded in those areas in which there was consensus among its members – eradication of colonialism and dismantling of apartheid. The organisation failed in those areas where the members could not agree – human rights violations, democracy, the rule of law and development. These were viewed as essentially within the domestic jurisdiction of the member states. As will be demonstrated below, these areas neglected by the OAU turned out to be the unmaking of the organisation, resulting to its replacement.

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307 A Kofi 'The causes of conflict and the promotion of durable peace and sustainable development in Africa: Report of the Secretary-General' (1998). <http://www.un.org/ecosocdev/geninfo/afree/sgreport/index.html>.

308 According to Y El-Ayouty et al , 'The OAU is caught in a vicious cycle, when its members face internal problems of secessions, rebellions, even political collapse, they have a common cause and the OAU rises to defend its members' integrity: sometimes by action and sometimes by its own inaction. But when there are sub-regional conflicts – and African states are not yet powerful enough to rival each other across the continent, but only to enter into sub-regional rivalries – the organisation is open to ideological splits as the contestants seek to line up their followers. In that case, the OAU is left with no role it can play, whatever one may think that it should do. For after all, there is no OAU; there are only members, and their interests come first.'

4.6 The OAU and Human Rights

African countries have for many years perceived the modern concept of human rights to be Eurocentric in character, and therefore unable to effectively address the concerns of the Third World,[309] let alone Africa. Some governments viewed the human rights movement as a covert attempt by the West to maintain an ideological hegemony over Africa. They claimed that enforcing human rights was an expensive luxury that could threaten national integration and development, as persons claiming for human rights pursue an individualistic agenda as opposed to the African communitarian ideal.[310]

This attachment to state sovereignty is partly due to the history of African states in general and to their fear of neo-colonialism in particular. The current international world order where might is synonymous with right, where the powerful flout international human rights norms and international law with impunity, and where the strong ignore decisions of international intergovernmental bodies such as the UN with arrogance, has caused African states to rethink and give more credence to their fear of neo-colonialism. The glaring marginalisation and injustices and the repeated reference to Africa as a failed continent and to some African countries as failed states[311] have heightened this concern.

In Africa, therefore, many countries professed to champion human rights issues in multilateral forums, while they ignored them in their internal and bilateral relations. While professing to be inspired by 'African practices' of human rights, regimes whose human rights practices did not dispose them to external scrutiny were put in place. Having agitated for independence on a

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309 RJ Vincent *Human Rights and International Relations* (1986) 3.

310 Ibid.

311 During his four Nation Tour of West Africa in 2002, Tony Blair, the British Prime Minister, called on the rich countries to support African states warning that 'If you allow a series of failed states to rise, then sooner or later you end up having to deal with them'.

contemporary human rights platform, post-independent African leaders proceeded to put in place human rights policies that were as bad, if not, worse than the colonial ones.[312]

African countries under the auspices of the OAU stressed economic and social rights and solidarity or group rights (self-determination, the right to development, and peace) rather than civil and political rights.[313] This was justified by the argument that the West had a duty to remedy past injustices.[314] As a result, civil and political rights were played down, and it was argued that threats to internal security called for a restriction of these rights. The result of this was massive human rights violations, including restrictions on freedom of expression, freedom of association and assembly, freedom from torture, the right to fair trial, and protection against extra-judicial and summary executions and disappearances. The massive and gross violations of human rights in most African states during this period resulted in civil strife, civil wars, ethnic conflicts, and at times, interstate conflicts that resulted in further human rights violations, instability, and retardation of socio-economic and political development and peace in which the leaders had placed emphasis. Most, if not, all of the hotspots in Africa were, and are still, caused by violations or perceived violations of some of the basic human rights necessary for human development.

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312 DM Hill 'Human Rights and Foreign Policy: Theoretical Foundations' in Hill, D.M.(ed.) *Human Rights and Foreign Policy: Principles and Practices* (London: Macmillan Press, 1989) pp.3-20. See also Renteln, A.D., *International Human Rights: Universalism Versus Relativism* (Newbury Park: Sage Publications, 1990). Although the OAU united firmly against colonialism and apartheid in South Africa, it was often criticized for failing to take a stand against the continent's home-grown despots. Over the years, it turned a blind eye to human rights abuses by the likes of Uganda's Idi Amin, Zaire's Moboto Sese Seko, and the Central African Republic's Jean-Bedel Bokassa. The human rights situations under these dictators were dismal.

313 K Kibwana & K Acheampong (1994) 'Human Rights and Diplomacy in Africa: A Critical Perspective' *Kent papers in Politics and International Relations, series No 5.* <http//.www.kent.ac.uk/politics/research/kentpapers/kibwana.html>.

314 Ibid.

The pressing for solidarity rights by African leaders ignored their record on the observance of, especially, first generation rights (civil and political rights). African states, and developing countries in general, used development concerns to include every facet of human endeavour as human rights, while they continued to withhold or ignore the most fundamental rights from their citizens. This was the approach of the OAU and its members states during the first two decades of its existence, and this explains why conflicts have remained a constant threat to human rights, development, and stability on the continent.

As the organisation continuously ignored human rights violations by its members, so too did these violations degenerate into conflicts, resulting to further violations and more conflicts. This vicious cycle continued and engulfed the whole continent to the extent that the OAU became irrelevant to both its members and to the African people.

The relationship between human rights and conflict is clear: violent and destructive conflicts lead to gross human rights violations, and at the same time, conflicts can also result from a sustained denial of human rights over a period of time. Human rights abuses can be a cause as well as a consequence of violent conflicts.[315]

This relationship was almost never recognised by the OAU. The OAU never integrated human rights as a component in development and peace initiatives. This may be due to a number of factors: at the early stages of its existence, the organisation was keen on keeping its members united in order to be able to win the war against colonialism. Intra and inter state conflicts were resolved through compromises. Insisting on accountability for human rights violations and punishment of perpetrators was out of context. Human rights were considered to be within the domestic domain of member states, and any criticism of the way a state dealt with its citizens would have been a violation

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315 M Parlevliet 'Bridging the Divide: Exploring the relationship between human rights and conflict management' in *Tract Two - Occasional Paper* – Centre for Conflict Resolution, vol 11 No 1 March 2002.

of the OAU Charter and an interference in the internal affairs of that state. Human rights as instruments to foster peace and development were therefore not in the lexicon of the OAU. Human rights only became part of the OAU's language in the early 1980s.[316]

However, some scholars argue that the idea of promoting human rights on the continent had been echoed well before the establishment of the OAU. According to Maurice Glele, the idea was first mooted by Dr. Nnamdi Azikiwe[317] in his 1941 *Memorandum on the Atlantic Charter and British West Africa* where he advocated for the adoption of an African Convention on Human Rights. This call was only re-echoed twenty years after in Lagos at a Conference organised by the International Commission of Jurist (ICJ) - the Lagos Conference, on the theme 'the Rule of Law'. The 1961 ICJ Conference concluded with the adoption of the 'Laws of Lagos', with a specific recommendation calling for the setting up of an African Commission on Human Rights.[318]

The Lagos recommendations, like the call by Azikiwe, were never followed up immediately. Independent African leaders were more concerned with issues of state security and sovereignty and eradication of colonialism. As Keba M'baye puts it, 'a fact that no one would attempt to deny is that human rights were not a major concern of African states after each had gained independence, nor of the OAU, at the time it was set up'.[319]

From the opening of the Addis Ababa Conference, on 22 May 1963, Emperor Haile Selassie set down in his introductory speech the themes that were to

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316 See the adoption of the Banjul Charter on Human and Peoples' Rights in 1981.

317 Former President of the Federal Republic of Nigeria.

318 See Recommendation No. 4 of the Laws of Lagos.

319 K M'baye 'Keynote Address on the African Charter on Human and Peoples' Rights', Report of a Conference held in Nairobi from 2-4 December 1985 convened by the International Commission of Jurists, 1986, 20.

become the true concerns of Africa: unity, non-interference, and liberation. This prompted Brian Ndiaye to lament that 'for the OAU, apart from racial discrimination and the right of the peoples' to self-determination, it is not necessary to engage in close monitoring of human rights'.[320]

Moreover, in 1963, Africans were still under the cloud of their backward economy, the fragility of their independence, the need to regain their unity, and the persistence of colonialism and its consequences on the continent. This particular sensitivity manifested itself in a proliferation of commissions of a political and economic nature and a relative indifference with regard to legal institutions in general and human rights institutions in particular. Even though Article 20 of the OAU Charter provided for the establishment of Specialized Commissions, none of them was devoted to the issue of human rights.[321] Thus, as K. M'baye and B. Ndiaye put it:

> African governments appear clearly to have sacrificed rights and freedoms for the sake of [sovereignty] and political stability. This situation can be explained and even justified. In mobilizing the masses in order to secure economic and social development, everyone's attention is directed exclusively towards the prospect of improved standards of living. Inaction or idleness thus came to be regarded as an infraction and the exercise of certain freedoms, even in the absence of any abuse, an attack on public order[322]

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320 Ibid.

321 The Commissions were: Economic and Social; Educational and Cultural; Health, Sanitation and Nutrition; Defence; Scientific, Technical and Research. Two more Commissions, Transport and Communications, and the Commission of Jurists, were added at the First Ordinary Session of the OAU in 1964. One might have thought that the Commission of Jurists would promote and protect human rights, but this Commission was only established as an instrument for legal research In any case, the Commission was disbanded after only one year, while others were merged, reducing the number of commissions from seven to three.

322 K. M'baye & B. Ndiaye, 'The Organisation of African Unity' in K. Vasak (ed.) *The International Dimensions of Human Right*s, vol. 2 (1982) 593 - 599.

An overview of the OAU Charter and the institutions provided therein would therefore indicate that it did not give human rights prominence among its concerns. The Organisation was pre-occupied with 'more pressing' issues, such as unity, sovereignty and liberation.[323] Human rights in Africa were to be peoples' rights; freedom, for example, was seen as national freedom, not individual freedom. The class struggle was to be between the developed and developing nations; the widening gap between the emerging political elite and the *nouveaux riches,* on the one hand, and ordinary citizens, on the other, was overlooked.

The OAU Charter made little express mention of human rights. Instead it reflected the dominating concerns of Africa at that time, namely, to ensure the independence of those African peoples who were still colonised (condemnation of apartheid regimes in Southern Africa) and protecting the newly acquired statehood. Thus, the OAU's focus was on protection of the state, not the individual, and any concept of human rights within the OAU went little beyond the notion of self-determination in the context of decolonisation and apartheid in South Africa. As Mathews notes:

> The OAU Charter, for instance, does not contain any provision for the protection of the rights of the African masses . . . evidently the emphasis in 1963 was on the state rather than the people. As President Nyerere of Tanzania, one of the founding fathers of the OAU, has pointed out, the OAU Charter spoke for the African peoples still under colonialism or racial domination, but once the countries emerged to nationhood, the Charter stood for the protection of their heads of state and served as a trade union which protected them. In other words, the OAU appears to be an institution

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323 This was spelled out by Haille Selassie, then Head-of-State of Ethiopia, at the Conference of Addis Ababa, on May 22, 1963, See M'baye & Ndiaye, (above) 592. and confirmed in the *O.A.U. Charte*r, at 'Preamble,' and specifically articles 2(1)(c) and 3, which talk about guaranteeing the national sovereignty and territorial integrity of the member states, and article 3(6), which stipulates an 'absolute dedication to the total emancipation' of African territories not yet independent.

> of the African heads of state, by the heads of state and for the heads of state[324]

The influences during the 1960s mentioned above were to define the OAU's approach to human rights issues for many years. Thus, from the point of view of human rights, it was the issues of self-determination, colonialism, apartheid and racial discrimination in Africa that were central to the OAU at its formation and which appeared to have guided its approach to human rights throughout its existence.

The OAU's commitment to human rights was, therefore, vague and weak. This situation greatly influenced the human-rights provisions of the African Charter that the OAU adopted in 1981. In the African Charter, African states put forward a distinctive conception of human rights in which civil and political rights are counterbalanced by duties of social solidarity, just as they are complemented by economic and social rights and supplemented by people's rights.

This notwithstanding, the adoption of the African Charter in 1981, opened a new chapter in the promotion and protection of human and peoples' rights on the continent. The protection of human rights became institutionalised as an integral part in the human rights discourse of the OAU.

The African Charter provides for the establishment of an African Commission on Human and Peoples' Rights, composed of eleven members, charged with the promotion and protection of human and peoples' rights on the continent. Established in 1987, the African Commission, in spite of its financial and other constraints, have succeeded in making human rights a permanent feature in the agenda of African leaders. The Commission has demonstrated through its activities that the unity, integration, and development of the continent is inextricably linked to respect for human rights and peace. In a number of

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[324] Quoted in R Murray *Human Rights in Africa: From the OAU to the African Union*, (2004) 8.

resolutions, the African Commission has drawn the attention of States Parties to the African Charter to the necessity of respecting human rights in order to achieve peace and development on the continent.[325] It has undertaken several fact-finding missions to investigate allegations of gross and massive human rights violations in some African states.[326] Through the receipt and consideration of complaints/communications, the African Commission has developed a rich jurisprudence to demonstrated the link between respect for human rights, peace and development.

In *Communication No. 155/96,*[327] the people of Ogoni land alleged that the military government of Nigeria, by condoning and facilitating the operations of national and transnational oil companies in Ogoni land, was guilty of violations of the right to health, the right to dispose of wealth and natural resources, the right to a clean environment, and rights of the family. Numerous incidents of health problems and crop damage resulted from toxic wastes entering the environment, where there were no facilities to prevent such contamination.

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325 Since its establishment in 1987, the African Commission has adopted over 100 resolutions on the human rights situation in State parties, and on the African continent as a whole. Some of these resolution deals with the general human rights situation in countries or the continent, while some make a link between human rights and peace or human rights and development on the continent, for example, resolution ACHPR /Res.1(V)89: Resolution on the Celebration of An African Day of Human Rights (1999), in particular para 7; resolution ACHPR /Res.7(XIV)93: Resolution on the Promotion and Respect of International Humanitarian Law and Human and Peoples' Rights (1993); resolution ACHPR /Res.20(XIX)96: ACHPR /Res.20(XIX)96: Resolution on Liberia (1996); resolution ACHPR /Res.32(XXIV)98: Resolution on the Peace Process in Guinea-Bissau (1998); resolution ACHPR /Res.46(XXVII)00: Resolution of the Peace and National Reconciliation Process in Somalia (2000); resolution ACHPR /Res.49(XXVIII)00: Resolution on Compliance and Immediate Implementation of the Arusha Peace Agreement for Burundi (2000); resolution ACHPR /Res.67(XXXV)04: Resolution On Cote d'Ivoire and resolution ACHPR /Res.68(XXXV)04: Resolution On Darfur.

326 The African Commission has undertaken over twenty fact-finding missions to State parties since its establishment twenty years ago. The states include, Senegal to investigate human rights allegation in the conflict ridden Cassamance region, Nigeria, to investigate allegations in the Ogoni region, Zimbabwe, to investigate allegations of human rights violations following violent protests after the introduction by the government of its land seizure policy, and Mauritania, to investigate the plight of Mauritanian refugees in neigbouring countries.

327 Communication 155/96 (Social and Economic Rights Action Center/Center for Economic and Social Rights v. Nigeria). Case No. ACHPR/COMM/A044/1 See D Shelton, *The American Journal of International Law*, Vol. 96, No. 4 (Oct., 2002) 937-942.

The exploitation of oil reserves was done without regard to the environment and health of local communities, and the resistance of the Ogoni people to these grave human rights violations was severely repressed through the use of state police and military power.

In that case, the African Commission held that the failure by the Nigerian government to prevent pollution and environmental degradation did not only result to a violation of socio-economic rights, such as the right to shelter, food, a clean environment, but also jeopardised the enjoyment of the rights to peace and development.[328]

This case is a significant development in jurisprudence concerning economic, social, and cultural rights in its unequivocal acknowledgement of these rights, and also in its recognition of their interdependence with third generation rights. It is interesting to note that the rights to housing and food are not expressly protected in the Charter, but the Commission found that these were implicitly entrenched in the right to enjoy health, property, and protection of the family. Also, in its analysis, the African Commission rejected assertions that economic, social, and cultural rights are vague and incapable of legal enforcement. Finally, the Commission emphasized that all rights impose duties on states to respect, protect, promote, and fulfill; in this case Nigeria clearly did not meet these duties.

4.7 Peace and development – the focus of the OAU?

Long before the formation of the OAU, a lot of effort had been made to channel African aspirations of freedom, equality, justice and progress. The long years of the Pan-African movement brought about the OAU, and the founding of the OAU was based on the desire to uphold the principles of human dignity, equality and justice for all humankind. The formation of the

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328 See in particular paras 51, 52 and 67 of the Commission's decision. See also Communications 211/98 - Legal Resources Foundation/ Zambia; 245/2001 – Zimbabwe Human Rights NGO Forum/Zimbabwe; Communication 246/2002 *Mouvement Ivoirien des Droits Humains.*

organisation was based on the need of independent African states to preserve their independence, to ensure co-operation among themselves for economic and social development as well as in international affairs, and to support the independence of the rest of the African continent and lead African states to found a common continental platform.

During the conferences of independent African states held in the early years of the OAU, economic and developmental problems to be faced by independent Africa were noted. There was consensus that the smallness and fragmentation of post-colonial African national markets constituted a major obstacle to sustaining economic operations.

The importance of achieving sustainable economic development through co-operation was recognized. In his opening speech to the summit of independent African countries in Addis Ababa, in 1963, Kwame Nkrumah noted that:

> No independent African State today by itself has a chance to follow an independent course of economic development, and many of us who have tried to do this have been almost ruined or have had to return to the fold of the former colonial rulers. This position will not change unless we have a unified policy working at the continental level...We need a unified economic planning for Africa. Until the economic power of Africa is in our hands, the masses can have no real concern and no real interest for safeguarding our security, for ensuring the stability of our regimes, and for bending their strength to the fulfilment of our ends. With our united resources, energies and talents, we have the means, as soon as we show the will, to transform the economic structures of our individual states from poverty to that of wealth, from inequality to the satisfaction of popular needs. Only on a continental basis shall we be able to plan the popular utilization of all our resources for the full development of our continent.[329]

From the inception, the OAU therefore included a focus on continental partnership for development as a main sub-theme. The linkage between 'unity' in the OAU's name and development in its objectives was built into the OAU's founding Charter.[330] The preamble of the Charter expressed these twin roles of the organization: 'to reinforce the links between our states by establishing and strengthening common institutions' and 'to harness the natural and human resources of our continent for the total advancement of our peoples in all spheres of human endeavour'.[331] The same pairing occurred in Article II, paragraph 1, of the Charter concerning the purposes of OAU: (a) to promote the unity and solidarity of the African states; and (b) to co-ordinate and intensify their co- operation and efforts to achieve a better life for the peoples of Africa.[332]

Between 1963 and the late 1980s, therefore, the organisation was preaching development, peace and security. In the early years after independence, many African states registered some successes in development[333] and the

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329 Quoted by Joe Slovo 'A critical appraisal of the non-capitalist path and the national democratic state in Africa' at <http://archive.lib.msu.edu/DMC/African%20Journals/pdf>. - See also speech by H.E. Honourable Mwai Kibaki, CGH, MP, President of the Republic of Kenya on the occasion of the Grand Debate on a Union Government for Africa, Accra, Ghana 2 July 2007. Dr. Nkrumah's complete speech could be obtained from <http://www.uneca.org/adfiii/riefforts/hist2.htm>. The continental approach to African development undoubtedly overestimated the strength of political unity and underestimated the difficulties of welding together largely nationalistic societies, differing in size and level of development, so soon after independence. Neither Nkrumah's enthusiasm for the noble Pan-African ideal of political unity and economic continentalism nor Julius Nyerere's preferred incremental regionalism, leading eventually towards Pan-Africanism, went beyond the stage of theoretical discussions.

330 Y El-Ayouty, 'Forging a Dynamic Partnership for Development' *OAU Partnership* No 2 (1999).

331 OAU Charter (note 3 above) preambular, para 4.

332 Ibid.

333 The first two decades of the post-colonial era in Sub-Saharan Africa showed significant improvements across a range of social development indicators. However, in many instances, social development outcomes such as life expectancy at birth, and primary school enrolment have shown significant declines in several countries in the period after 1980. For instance, in Kenya, while primary school enrolment rose from 47% in 1960 to 109% in 1981, it fell to 85% in the mid-1990s (World Bank Report, 2002). Mozambique's primary school enrolment rate declined by more than a third

OAU recorded successes in its peace initiatives and in liberating the continent. The organisation mediated several border and internal disputes and was instrumental in bringing about majority rule and the end of apartheid in South Africa. The organisation's Co-ordinating Committee for the Liberation of Africa organized diplomatic support and channelled financial, military and logistical aid to liberation movements. Through the OAU Coordinating Committee, the continent worked and spoke as one with undivided determination in forging an international consensus in support of the liberation struggle and the fight against apartheid.[334]

These endeavours notwithstanding, the OAU failed to realise the importance of integrating human rights to consolidate its development and peace initiatives. The human rights aspects of peace and development within the OAU were completely neglected, or work on them was blocked, by ideological, political or other differences between various, possibly involved, actors within the organisation. This neglect and lack of interest by African countries to integrate human rights as an essential element for peace and development undoubtedly made nonsense of the OAU efforts at development.

It has been argued that the neglect and lack of interest at integrating and ensuring a human rights approach to development and peace was encouraged in part by the West, especially during the Cold War years when the record of human rights in Africa was not scrutinised closely in aid and other inter-state relations. The only time during the Cold War that human rights were seen as central to Western policy was during the Carter presidency, when Washington gave institutional focus to human rights.[335]

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over the period 1980 to the mid-1990s (99% to 60%). Nigeria's indicator dropped by 11%, as did Tanzania (26%), Zambia, Madagascar, and Gabon (12%) (World Bank 2002).

334 A Akosile 'African Union: One Year, What Progress?' *ThisDay Magazine*, November 2004.

335 J Donelley 'Human Rights, Humanitarian Intervention and American Foreign Policy: Law, Morality and Politics,' 37 *Journal of International Affairs* (1984) 311-328.

The formal relationship between the European Union (EU) and African countries can be traced back to the very early years of European integration - a period that corresponds to the era of independence for many African states.[336] This relationship with the European Community continued through the African Caribbean and Pacific - European Community (ACP/EC) agreement (the Lomé Conventions) - dating back to the early 1970s.[337] During the 1970s and 1980s, human rights and issues of democracy and the rule of law were peripheral to the European Community's development policy towards Africa. Several factors contributed to the EC's hesitance to address human rights issues in its development policies with Africa. First, human rights were of marginal importance to a community founded as an economic association.[338] Second, European countries were hesitant to criticise newly decolonised states.[339] Third, the ACP was fiercely opposed to receiving development aid with human rights conditions attached.[340] The ACP viewed conditions in economic agreements as neo-colonialism and regarded the European Community's calls for improved human rights as hypocritical in light of European involvement in supporting apartheid in Southern Africa.[341]

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336 F Granell 'The European Union and the New Partnership for Africa's Development (NEPAD)' *The Courier ACP-EU* n° 194 (September - October 2002) 28.

337 The ACP-EU partnership was built through the Lomé Conventions during the period 1975-2000. The first ACP-EC Convention was on February 28 1975, the second on October 31 1979, the third on December 8 1984 and the fourth on December 1 1989. The ACP-EC Conventions also known as the Lomé Conventions govern development issues such as trade cooperation, technical assistance, the stabilisation of export earnings and aid. Recently it was extended until 2020 by the Cotonou Agreement (Commission of the European Communities, 23 May 2000). In the first three Lomé Conventions between the European Community (now European Union) and ACP countries, human rights, and in particular, civil and political rights were not a major issue.

338 DJ Marantis 'Human Rights, Democracy and Development: the European Community Model' in *Harvard Human Rights Journal*, Vol. 7 (1994) 5.

339 Ibid.

340 A Y Anawaty 'Human Rights and the ACP/EEC Lomé Convention: Business as usual at the ECC', 13 *N.Y.U. J. International Law and Politics*. 63, 79 (1980) 79-94.

341 Id. 80.

Moreover, Africa had become a major force in international politics. Of the fifty-one founding members of the United Nations in 1945, only four were Africans, namely, Egypt, Ethiopia, Liberia and South Africa.[342] By 1980, fifty members, one third of the UN's membership were African. This increase heralded Africa's ascendancy onto the stage of world politics from which it had been barred by years of slavery and colonialism. This, coupled with the growing influence of the Soviet Union made the West to court African states rather than antagonise relations with them.

However, by the late 1980s, things began to change - political conditions in Europe and the developing world moved dramatically. The fall of the Soviet Union and harsh economic conditions in the ACP countries played a significant role in shifting the balance of power largely in favour of the European Community. The ACP states became heavily dependent on foreign aid to meet basic foreign exchange needs, domestic requirements, and social amenities. This new political and economic situation undermined the ACP resistance to European demands for improvements in human rights and for incorporation of human rights and democracy into development agreements. Both the European Community and the developing world became more committed to the principles of human rights and democracy, recognising the link between human rights, democracy, peace and development. These developments facilitated the inclusion of prominent human rights references in Lomé IV. The most significant reference being Article 5 which stipulated that:

> Cooperation shall be directed towards development centered on man, the main protagonist and beneficiary of development, which thus entails respect for and promotion of all human rights. Cooperation operations shall thus be conceived in accordance

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342 See http://www.questia.com/library/encyclopedia/united-nations-members.jsp>. or http://www.britannica.com/eb/article>. Or <http:// www.un.org/Overview/unmember.html>. It should be noted that South Africa was originally admitted into the UN as the Union of South Africa. As a result of the country's apartheid policies, its UN membership was suspended in 1974. After South Africa held its first multiracial election in April 1994, most sanctions imposed by the international community in opposition to the system of apartheid were lifted. On June 23, 1994, it was readmitted to the UN General Assembly.

> with the positive approach, where respect for human rights is recognised as a basic factor of real development and where cooperation is conceived as a contribution to the promotion of these rights[343]

The changes that have taken place internationally since the fall of the Berlin Wall have highlighted the acceptance by the international community that questions of human rights and the inherent dignity of the individual must play a crucial role in the relations between states. Hitherto, such issues were relegated to the backwaters of international discourse, with the result that some states professed respect for such values publicly, but failed to respect them in practice.

4.8 Summary and conclusion of Chapter four

The African continent has been marginalised not only be external forces but increasingly so by internal ones. The massive and gross human rights violations in the 1970s and 1980s seriously interrupted development on the continent as it led to instability, *coups d'état*, arbitrary imprisonment, civil strife and violence, intra and inter state conflicts. The potentials of the African people were not tapped for the development of their countries - popular participation was not encourage as diverse opinions were not sought - the opinion of the ruling party (in most cases the only party), the President, or the ruling clique, remained the unopposed official position for everything everywhere.

With the end of colonialism, the liberation of the African continent and the dismantling of apartheid, the OAU had reached the end of its mandate, and the OAU Charter, as ambitious as it was, needed to be revisited and upgraded to adapt to the new world order. William Hrara, former Head of Humanitarian Affairs of the OAU puts it in proper perspective by noting that:

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343 Fourth ACP-EEC Convention, (Lomé IV) 29 *International Legal Materials (ILM)* (1990) 814.

> What we are looking at [today] is the world of civil and sometimes ethnic conflicts in which there is massive human sufferings, enormous movement of people, and very often, terrible violations of human rights. These are multi–dimensional human situations within the boundaries of states, which the OAU was not quite specifically set up to deal with[344]

The failure of the post-colonial states of Africa to view human rights, human development, and peace as complementary and mutually reinforcing and incorporate them in their policy programmes was the root cause of the upsurge in violence that plagued and continued to plunge the whole of Africa into chaos. The festering conflicts of today, like the ravages of poverty, threaten the many modest achievements in health and education that African governments, the international community, and local citizens have laboured for long decades to attain. They are the causes of the dramatic rise in poverty, that now threatens the survival of tens of thousands of people, and the destruction of what remains of social cohesion, leaving the way open to the terrifying pandemics of AIDS, malaria and other tropical diseases.

As demonstrated above, the inability of African states and the OAU to effectively integrate human rights, peace, and development, coupled with bad governance, resulted in a record of economic and political performance that compares very unfavourably with the rest of the world. This also impeded the effective mobilisation and utilisation of scarce resources into productive areas of activity in order to attract and facilitate domestic and foreign investment.

Today, more than a decade after the seemingly unfurling wave of democracy, at a time when the Organisation of African Unity has metamorphosed into the African Union, when the continent has adopted an African-initiated and African-led economic blueprint, the NEPAD, one can and should enquire: what the state of governance on the continent is. How does the African Union plan to incorporate human rights, human development, and peace within its

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344 Peacekeeping in Africa *Report of the Pretoria Seminar* – South Africa, *ACCORD* (1995) 18.

policies/programmes and those of its members? How will the institutions of the AU complement each other to ensure the simultaneous realisation of good governance, human rights, human development, and peace as a vehicle for African prosperity?

These are some of the pending questions the African people and the international community would be asking. They are all the more important as the AU and the NEPAD are supposed to be the special expression of the new political will among African leaders as they struggle to promote democracy and good governance, human rights, peace, and development on the continent.

The continental body has now moved from phase one, (political liberalisation) to phase two by focusing on socio-economic and political integration. It has a new name, a new mandate and new responsibilities, which will by no means make it abandon its political character and resolve to promote human rights, sustainable human development, peace and security.

Chapter Five: The African Union – old wine in new wine bottle?

> In the year that has passed since we established the Organization of African Unity, I have had no reason to change my mind about the concrete proposal which I made to you then, or about the reasons I gave for my conviction that only a Union Government can guarantee our survival. On the contrary, every hour since then, both in the world at large and on our own Continent, has brought events to prove that our problems as individual states are insoluble except in the context of African Unity[345]

5.1 Introduction

With the gaining of independence by most African countries and the release of Nelson Mandela, which culminated in the defeat of apartheid, it became very clear that the politically focused OAU needed to be reformed; it had to meet the challenges of the 21st century. Apart from ending apartheid and defeating colonialism, the OAU had proved incapable of uniting the continent, politically or economically. New challenges such as inter and intra state conflicts, human rights, globalisation, democratisation and good governance dominated the new world order and the OAU had neither the mandate nor the appropriate structures to deal with these new phenomena. It was thus necessary to rethink African unity and put in place another organisation capable of meeting the challenges the OAU was unable to deal with.

This chapter traces the origin of the African Union and provides a comparative legal and institutional analysis of the OAU and the AU on the one hand, as well as of the AU and other regional or like arrangements such as the

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345 N Kwame, address to the 2nd Assembly of Heads of State and Government of the OAU 1964 in Cairo, Egypt.

European Union (EU)[346] and the Organisation of American States (OAS),[347] on the other. The chapter examines the extent to which the AU, through its Constitutive Act and the various organs provided therein, differs from the OAU and its various organs and the extent to which it has used the 'historic opportunity' expressed by the NEPAD to promote the socio-economic and political development of the continent. It further makes a comparative analysis of the AU, the EU and the OAS, comparing not only their enabling statutes but also the extent to which they have incorporated human rights, human development, and peace within their statutes, programmes, and the policies of their respective member states. The chapter seeks to draw from the experiences (successes and failures) of these other regional bodies with a view to drawing lessons that could be used to strengthen the AU.

5.2 Background to the African Union

The groundwork for the AU Treaty establishing the African Union started in July 1999, during the 35th OAU Summit in Algiers, Algeria, where Libyan leader, Colonel Muammer Ghaddafi proposed the formation of a United States of Africa. Ghaddafi noted that '[t]he 53 states which currently make up Africa have a short-lived existence, and I repeat, short-lived. Consequently we must establish a unified African state, which itself will last forever'.[348]

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346 The European Union is a family of democratic European countries, committed to working together for peace and prosperity. It is not a state intended to replace existing states, but it is more than any other international organisation. Its member states have set up common institutions to which they delegate some of their sovereignty so that decisions on specific matters of joint interest can be made democratically at continental level.

347 On April 30, 1948, 21 nations of the hemisphere met in Bogota, Colombia, to adopt the Charter of the Organization of American States (OAS), which affirmed their commitment to common goals and respect for each nation's sovereignty. Since then, the OAS has expanded to include the nations of the Caribbean, as well as Canada. The OAS Charter, signed in Bogotá in 1948, was amended by the Protocol of Buenos Aires in 1967, by the Protocol of Cartagena de Indias in 1985, by the Protocol of Washington in 1992, and by the Protocol of Managua in 1993.

348 J Derrick 'Towards the African Union' in *African Topics* (1999) 4. Ghadafi was simply echoing Nkruma's warnings made four decades ago when he wrote that '…if Africa fails to unite, it would make it possible for others more powerful than the newly independent states to swoop on each one of them'.

At the end of the 35th OAU Summit, African leaders adopted a decision endorsing Libya's proposal for an extra ordinary summit in Libya to make the OAU more relevant to the challenges of the 21st century.[349]

At the Fourth Extraordinary Summit of the OAU Assembly of Heads of State and Government[350] held in Sirte, Libya, on 9 September 1999, African leaders decided to establish the African Union to replace the Organisation of African Unity.[351] At the end of the Summit, the leaders issued a declaration - the Sirte

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349 See OAU 35TH Assembly of Heads of State and Government, Algiers, 12-14 JULY 1999, Decision *AHG/Dec. 140 (XXXV)* Decision on the Convening of an Extraordinary Session of the OAU Assembly of Heads of State and Government. The decision reads in part as follows: The Assembly: *Having* heard the intervention of H.E. Col. Muamar Gaddafi, Leader of the Great First of September Revolution of the Great Socialist People's Libyan Arab Jamahiriya, during the discussion of the item on collective security and conflicts on the continent, *Having* also heard his intervention on the convening of an Extraordinary Session of the OAU Assembly of Heads of State and Government in the Jamahiriya, from 6 - 9 September 1999, to discuss ways and means of making the OAU effective so as to keep pace with political and economic developments taking place in the world and the preparation required of Africa within the context of globalization so as to preserve its social, economic and political potentials: *DECIDES* to accept the offer of H.E. Col. Muamar Gaddafi to host an Extraordinary Session of the Assembly in the Great Socialist People's Libyan Arab Jamahiriya at the aforementioned proposed date.

350 The Sirte Summit did not endorse the Libyan leader Muammer Gaddafi's proposal for the creation of a United States of Africa by 1 January 2000 to meet the challenges of globalization. However, it was resolved, on 9 September 1999, to accelerate the development of an African Economic Community and to aim at the creation of a Pan-African Union, including a Pan-African parliament, in the year 2000. The OAU foreign ministers were mandated to prepare the legal text for the proposed Union and to submit it to the OAU's next annual summit in Togo in June 2000. The other Extra-Ordinary Sessions of the OAU were held in January 1976, in Addis Ababa. The Conference ended in stalemate on 13 January, after 22 members had voted in favour of recognizing the MPLA regime in Angola while 22 were in favour of a government of national unity, Uganda (chairman) and Ethiopia (host) abstained; by February a majority of member states had recognized the MPLA government and Angola was admitted as a member; April 1980, LAGOS, Nigeria (Extra-ordinary Assembly on Economic Affairs), Acting chairperson, Pres Senghor of Senegal (as President Tolbert had been killed during a military coup in Liberia). Secretary-General Edem Kodjo warned that 'Africa is dying ...' The Lagos Plan of Action for the economic upliftment of Africa was adopted; and in November/December 1987, Addis Ababa, Ethiopia, to discuss Africa's external debt problems. The meeting called for a ten-year moratorium on Africa's US$200 billion foreign debt, and for a massive inflow of Western aid to boost Africa's weak economies. It also called on the West to agree to an international conference to discuss Africa's debt crisis.

351 E Harsch 'Transforming the Organization of African Unity into the African Union' *Africa Recovery* Vol.15 #3, (October 2001) 22.

Declaration[352], calling for the establishment of an African Union, with a view, *inter alia*, to accelerating the process of integrating the continent to enable it play its rightful role in the global economy while addressing multifaceted social, economic, and political problems compounded, as they are, by certain negative aspects of globalisation.[353]

In its decision, the Sirte Summit specified that the legal requirements for the African Union would have been completed upon the deposit of the 36th instrument of ratification of the Constitutive Act of the African Union. It was further decided that member states should work towards finalising the process of ratification, where appropriate, by December 2000, in order for a Constitutive Act to be solemnly adopted in the year 2001.[354] At the Summit of the OAU Assembly of Heads of State and Government held in Lomé, Togo, in July 2000, the legal instrument establishing the AU (the Constitutive Act of the African Union) was adopted and opened for signature and ratification.

On 26 April 2001, Nigeria became the 36th Member State to deposit its instrument of ratification. This concluded the two-thirds requirement and the Constitutive Act entered into force on the 26th of May 2001. The OAU Secretary-General, on 9 July 2001, during the opening of the Lusaka Summit, informed member states that the Constitutive Act had been signed by all OAU member states and had been ratified by fifty-one countries. Thus, within three years, from 1999 in Sirte, Libya, to 2001 in Lusaka, Zambia, the continent's leaders had decided to transform the OAU into a new, more ambitious organization, the African Union.

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352 The Sirte Declaration - 9/September/1999. See EAHG/Draft/Decl. (IV) Rev.1.

353 Since the Sirte Extraordinary Session, where the OAU decided to establish an African Union, further meetings were held to give effect to the Declaration: the 36th OAU Heads of State and Government Summit in Lomé, Togo, in 2000 adopted the Constitutive Act of the Union; the 37th Lusaka Summit in 2001 drew the road map for the implementation of the AU; at the 38th OAU or 1st AU Durban Summit in 2002, the African Union was officially launched and the First Assembly of the Heads of States of the African Union was convened.

354 Sirte Declaration (note 352 above) para 8 (iii).

In terms of the Constitutive Act, African leaders acknowledge the need to 'build a partnership between governments and all segments of civil society'[355] to combat the scourge of conflicts, and to 'promote and protect human rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law'.[356]

The political vision for Africa envisaged by the founding fathers of the OAU therefore found concrete expression in Lomé, Togo, in 2000, when the leaders decided to adopt the Constitutive Act. The decision to adopt the Constitutive Act was a great show of unity among African leaders, who realised that the AU was the best way for Africa to hasten the process of continental political and economic integration laid down in the Treaty establishing the African Economic Community (AEC).[357] The adoption of the Constitutive Act of the African Union draws closer to an end a long journey of a quest for 'African unity' that started well before the OAU was formed.[358]

The advent of the AU can thus be described as an event of great magnitude in the institutional evolution of the continent. In the words of the former OAU Secretary General, Dr. Salim Ahmed Salim, '1963 to 2001 have been thirty-

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355 Constitutive Act (note 1 above) preambular para 7.

356 Id para 9.

357 In 1980, the 2nd OAU Extraordinary Summit adopted the Lagos Plan of Action as a major step towards the goal of integration. The commitments in this Plan and the Final Act of Lagos were translated into concrete form in Abuja, Nigeria, in June 1991, when the OAU Heads of State and Government signed the Treaty establishing the African Economic Community during the 27th Ordinary Session of the Assembly. Since May 1994, the OAU operated on the basis of the OAU Charter as well as the AEC Treaty, and the organisation was officially referred to as the OAU/AEC. The aim of the AEC is to promote economic, social and cultural development as well as African economic integration in order to increase self-sufficiency and endogenous development and to create a framework for development, mobilisation of human and material resources. The AEC further aims to promote co-operation and development in all aspects of human activity with a view to raising the standard of life of Africa's people, maintaining economic stability and establishing a close and peaceful relationship between member states. The AEC Treaty (more popularly known as the *Abuja Treaty*) came into force after the requisite numbers of ratification in May 1994.

358 Between 1900 and 1963 when the OAU was established, at least five Pan-African Congresses and other meetings were held to discuss African unity and the emancipation of the African peoples.

eight years of holding on together as a people, deriving strength in our common identity, and pursuing the vision of a shared destiny'.[359] He indicated that the African Union had been inspired by:

> the recognition of the imperative necessity for Africans to pool together our strengths, solidify our unity and solidarity and dedicate ourselves to our common destiny. Only by doing so shall we be able to live in dignity and prosperity as a people. The African Union marks the rebirth of Africa into a new entity, much stronger, more capable and closely connected to the people[360]

The decision to form the African Union represents a compromise among African leaders, with some elements reflecting the desire for a stronger supra-national entity, while others continuing to uphold key aspects of national sovereignty.[361]

5.3 Was there a need for change?

The founding fathers of the OAU believed that the African continent should be 'united'. But achieving that unity was the problem. The OAU praised unity in its language, but avoided it in its practice. The differences across the continent were just too many and the principle which the OAU adopted, of non-interference and non-intervention, simply meant that member states turned a blind eye to their neighbours, hampering any prospect for genuine unity.

In the early days of independence, several governments followed a development strategy in which the state played a decisive role in providing basic services and in guiding economic development. Africa was achieving

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359 Ahmed-Rufai (note 247 above).

360 Ibid.

361 R Ilorah *NEPAD: The Need and Obstacles* African Development Bank (2004) 239.

good economic growth of about 5% a year in the 1960s.[362] But Africa began to fail. Economic growth gave way to debt repayments, wars were unending and famine and disease stalked the land. Today, about 340 million people, almost half the population of the continent and its islands, live on less than US $1 per day. The mortality rate of children under 5 years of age is 140 per 1000, and life expectancy at birth is only 54 years. Only 58 per cent of the population have access to safe water. The rate of illiteracy for people over 15 is 41 per cent. There are only 18 mainline telephones per 1000 people, compared with 146 for the world as a whole and 567 for high-income countries.[363]

Since African citizens had so little input into national and regional affairs, it often was possible for just a handful of officials to make commitments that bore little relationship to actual priorities and which the governments could easily ignore.[364] Thus, during the almost four decades of its existence, the OAU was hindered by internal conflicts and self-serving heads of state. According to some critics,[365] the OAU protected the interests of African heads of state without addressing the real problems, of poverty, diseases, human rights violations, interstate and ethnic conflicts, that have besieged the continent. Because of the OAU's tradition of non-interference in the internal affairs of its member states, it proved to be of limited importance across a continent of constant conflict and widespread poverty, disease, human rights

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362 African Union replaces dictators' club. <http//.www.news.bbc.co.uk/1/low/world/Africa> Site visited on 2 February 2004. Average growth rate for sub-Saharan Africa was 4.3% over the period 1967 to 1980—which was comparable to Asia and Latin America over the same period. By contrast Gross National Product, for the region, declined at an annual rate of 10% between 1980 and 1990 (UNDP 1996). The real world prices for the agriculture primary products on which many African economies depend declined by 50% within the same period (UNDP 1996), a phenomenon that continues. Average rate of savings reached 21,47% in 1980, from 16.38% in 1960, only to decline to an all-time low of 14.71% in Africa's post-colonial experience.

363 The NEPAD Document (note 2 above) paragraph 4.

364 E Harsch 'African Union: a dream under construction' *Africa Recovery,* Vol.16#1, (April 2002) 1.

365 N Steinberg *Background paper on African Union* (2001). <http://www.wfm.org/WFM_NEWS/wfmpubs.html.> .

violations, and government corruption. The African people lost faith in governments and governments lost interest in the people. According to Bernard Otabil, 'the people did not feel that the OAU satisfied their aspirations. It did not involve the people on the ground. It was top heavy',[366] and as for Amara Essay,[367] 'the OAU is the most difficult organisation I have ever seen'.[368] President Thabo Mbeki of South Africa argues thus:

> When the Organisation of African Unity was formed in 1963, its primary objective was to rid the continent of colonial tyranny. The liberation of South Africa from apartheid in 1994 represented the completion of this historic mandate. But this momentous closure also threw up its shortcomings in relation to the new challenges facing the continent. What was required was a new continental post-colonial, post-liberation response in a globalised world, to the national, continental and international challenges that faced Africa as a whole, but also the specificities of individual countries and regions[369]

Therefore, with the eradication of colonialism, the dismantling of apartheid, coupled with the international changes (the fall of the Soviet Union, the emergence of a single super power, and the quest for more regional integration in Europe and the Americas), African leaders realised that the priorities for the continent had changed since the establishment of the OAU in 1963. The onrush of globalisation in the 1990s made it clear that the leisurely pace towards a united Africa of 34 years, as reflected in the Abuja Treaty,

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366 P Reynolds 'African Union replaces dictators' club' *BBC News Online* 8 July, 2002.

367 Interim Chairman of the AU during the transition from the OAU. Past Secretaries-General of the OAU include: Dialo Telli (Guinea) 1964–72, Nzo Ekangaki (Cameroon) 1972–74, William Eteki M'Boumoua (Cameroon) 1974–78, Edem Kodjo (Togo) 1978–83, Peter Onu (Nigeria) (Acting) 1983–85, Ide Oumarou (Niger) 1985–89, Salim Ahmed Salim (Tanzania) 1989–2001.

368 Reynolds (note 366 above).

369 'The NEPAD: a new era for Africa in a globalising world', address by the president of the Republic of South Africa, his Excellency, Mr. Thabo Mbeki to UNESCO, Paris, France, 19 November 2003.

was woefully inadequate,[370] hence the fast-tract process to establish an African Union and to ensure the speedy establishment of relevant organs to constitute a united action to meet the challenges of globalisation and the current world order.[371]

The challenges for Africa today no longer seem political but rather economic in nature. According to Frene Ginwala, 'the OAU achieved its objectives but it is time to have a new type of organisation'.[372] President Thabo Mbeki is more ingenuous on the reason for the establishment of the AU:

> The OAU served its time with distinction and we pay tribute to the founders of the OAU and the vision they pursued with unity. We are humbled by their loyal support and numerous resolutions that were passed by the OAU against injustice on the continent[373] …we need to harness and use our meagre resources at hand especially our natural, cultural and human resources. We suffer hardships in our continent, most notably, poverty and conflict. We need to address these challenges with dedication and commitment, and recognise that these hardships extend beyond the original, political mandate of the OAU. For this reason, we have transformed the Organization of African Unity into the African Union in

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370 In terms of the *Abuja Treaty* the process of African Integration would have followed 6 stages to be completed over 34 years, i.e., by 2028. The stages were as follows: STAGE 1, strengthening existing RECs and creating new ones where needed (5 years); STAGE 2, stabilisation of tariff and other barriers to regional trade and the strengthening of sectorial integration, particularly in the field of trade, agriculture, finance, transport and communication, industry and energy, as well as coordination and harmonisation of the activities of the RECs (8 years); STAGE 3, establishment of a free trade area and a Customs Union at the level of each REC (10 years); STAGE 4, coordination and harmonisation of tariff and non-tariff systems among RECs, with a view to establishing a Continental Customs Union (2 years); STAGE 5, establishment of an African Common Market and the adoption of common policies (4 years); and STAGE 6, integration of all sectors, establishment of an African Central Bank and a single African currency, setting up of an African Economic and Monetary Union and creating and electing the first Pan-African Parliament (5 years).

371 Sirte Declaration (note 352 above) paras 10-12.

372 *New Africa Magazine*, (August-September 2003) 12.

373 Message from the Chairman of the African Union, Thabo Mbeki, on the Occasion of the 40th Anniversary Celebrations of the Organisation of African Unity, 25 May 2003.

> order to deal with the socio-economic development of the continent in tandem with the need to build political stability[374]

With more democratically elected governments throughout the continent and with a greater determination by African leaders to reassert their control over economic policy, the conditions in Africa have become more favourable for building continental unity. It is believed that the AU will be different from the OAU. It will not be preoccupied with freeing African territories from colonialism or focusing overwhelmingly on protecting national sovereignty, but can set its sight on creating one political and economic space on integration.[375]

The AU, like the OAU, however, falls short of the idea of a Union of African States advocated by Nkrumah in the 1960s. However, unlike the OAU, it espouses more progressive principles and establishes concrete institutions that can forge African unity more quickly. The transformation of the OAU to the AU should thus be seen as the first step in an ongoing process to streamline and rationalise the existing organisational framework of the continent, and in so doing, establish a continental organisation that is relevant to the challenges of the 21st century, and to achieve the ultimate goal of complete African unity.

5.4 Objectives, principles and structure of the African Union

The Constitutive Act of the African Union recalls the heroic struggles waged by Africans and their countries for political independence, human dignity, and economic emancipation.[376] It eulogizes Africa's determination 'to take up the multifaceted challenges that confront our continent and peoples in the light of the social, economic and political changes taking place in the world',[377]

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374 Ibid.

375 E Harsch (note 364 above) 1.

376 Constitutive Act (note 1 above) preambular para. 3.

377 Id. preamble para 5.

particularly in the face of 'the challenges posed by globalization'.[378] The African Union is intended to be a transformation of the existing institutional framework into a qualitatively higher form of integration and cooperation that would better meet the aspirations of the peoples of Africa for greater unity and solidarity in line with the vision of the founders.

The objectives of the union provide an advanced degree of political cooperation,[379] covering virtually every aspect of interstate relations to strengthen cooperation and integration.[380]

The principles of the African Union are diverse, cover almost all aspects of inter-state relations, and include human rights, universal values, democracy, and good governance and the rule of law.[381] The Constitutive Act specifically enshrines the principles of the sovereign equality and interdependence among member states;[382] the respect of borders existing on achievement of independence;[383] and the non-interference by any member state in the internal affairs of another.[384] The combination is not accidental. These triune principles have been the foundation stones of the OAU since its inception.[385] The OAU Charter placed greater emphasis on the principles of territorial

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378 Id. preamble para 6.

379 Report of the Secretary General on the Implementation of the Sirte Decision on the African Union, (EAHG/DEC.1 (V), CM/2210 (LXXIV), para. 7(b).

380 See Constitutive Act (note 1 above) Article 3 (a-q).

381 N Udombana 'Can the Leopard Change His Spots? The African Union Treaty and Human Rights' 17(6) *American University International Law Review* (2002) 1177-1261

382 Constitutive Act (note 1 above) Article 4 (a).

383 Id. Article 4 (b).

384 Id. Article 4(g).

385 N Udombana 'A Harmony or a Cacophony? The Music of Integration in the African Union Treaty and the New Partnership for Africa's Development', 13 *Indiana. International and Comparative Law Review* (2002) 185.

integrity and political independence of African states[386] (the reserve domain doctrine), an emphasis that greatly hampered the functionality and effectiveness of the continental body and reduced it to a mere mutual admiration club.[387]

From the objectives and principles outlined above, it can be argued that the African Union seeks to create a set of core values, such as constitutional rule in African states, and to encourage peace, democracy, and respect for human rights. The objectives of the union envisage a fundamental reordering of the economic, political, social and cultural spaces, through the development of programmes at the level of member states and their readiness to implement those programmes within the parameters agreed upon collectively within the union. All these entail a change in the organisational methods and procedures, so as to ensure that the business of the new institution is done differently, in a different environment, to meet the new challenges of the 21st century.

To give effect to the above objectives and uphold its principles, the Constitutive Act of the African Union provides the establishment of several institutions/organs,[388] including the Assembly,[389] the Executive Council,[390] the

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386 See OAU Charter, Art. III (2), which declares that 'non-interference in the internal affairs of States' is one of the fundamental principles of the Organization; See generally AB Akinyemi, 'The Organisation of African Unity and the Concept of Non-Interference in Internal Affairs of Member-States' 46 *Britanica International Law* (1972-73) 393; O Okongwu 'The OAU Charter and the Principles of Domestic Jurisdiction in Member-States, *13 Indian Journal of International Law.* 589 (1973); Orji Umozurike 'The Domestic Jurisdiction Clause in the OAU Charter' 78 *African Affairs,* (1979) 197- 202.

387 Udombana (note 385 above).

388 Of the seventeen organs of the African Union, four were put in place at the AU's Second Head of States and Government Meeting in Maputo, Mozambique, in July 2003. They include the Assembly, the Executive Council, the Permanent Representatives Committee, and the Commission.

389 Constitutive Act (note 1 above) Article 6. The Assembly is composed of Heads of State and Government or their duly accredited representatives. The Assembly of Heads of State and Government is the supreme organ and the most important decision-making body of the union. The assembly meets twice a year at ordinary sessions and elects a chairperson. Decisions are made by consensus or two-thirds majority. The assembly has the function of deciding on common policies for the

Permanent Representative Committee,[391] the Commission,[392] Specialised Technical Committee,[393] the Pan-African Parliament,[394] the African Court of

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Union, consider applications for membership, adopts the budget, directs the process of conflict resolution and appoints the judges for the Court of Justice.

390 Id. Article 10. The Executive Council is made up of the Ministers of Foreign Affairs of member states or other authorities designated by the governments of Members States. The Executive Council is responsible or accountable to the Assembly. The Council meets at least twice a year in ordinary sessions to decide on matters such as foreign trade, social security, food, agriculture and communications. The Council prepares material for the Assembly to discuss and approve.

391 Id. Article 21. The Permanent Representatives Committee is composed of Permanent Representatives or Ambassadors of member states accredited to the Union. The Permanent Representatives Committee is charged with the responsibility of preparing the work of the Executive Council.

392 Id Article 20. The Commission forms the Secretariat of the AU and is made up of a President, a Deputy, and eight Commissioners and staff. The Commission is the key organ playing a central role in the day-to-day management of the Union. Among others, it elaborates draft common positions of the Union; prepares strategic plans and studies for the consideration of the Executive Council; elaborates, promotes, coordinates and harmonizes the programmes and policies of the Union with those of the RECs; ensures the mainstreaming of gender in all programmes and activities of the Union. Applications for membership should be made to the commission. Within the Commission of the Union, each Commissioner will be responsible for the portfolio for which he/she has been elected. The Commissioners must provide guidance and leadership for the overall policy orientation in the areas covered by their respective portfolios, as follows: PEACE AND SECURITY (Conflict Prevention, Management and Resolution, and Combating Terrorism); POLITICAL AFFAIRS (Human Rights, Democracy, Good Governance, Electoral Institutions, Civil Society Organisations, Humanitarian Affairs and Refugees, Returnees and Internally Displaced Persons); INFRASTRUCTURE AND ENERGY (Energy, Transport, Communication, Infrastructure and Tourism); SOCIAL AFFAIRS (Health, Children, Drug Control, Population, Migration, Labour and Employment, Sports and Culture); HUMAN RESOURCES, SCIENCE AND TECHNOLOGY (Education, Information Technology Communication, Youth, Human Resources, Science and Technology); TRADE AND INDUSTRY (Trade, Industry, Customs and Immigration Matters); RURAL ECONOMY AND AGRICULTURE (Rural Economy, Agriculture and Food Security, Livestock, Environment, Water and Natural Resources, and Desertification); and ECONOMIC AFFAIRS (Economic Integration, Monetary Affairs, Private Sector Development, Investment and Resource Mobilisation).

393 Id. Article 14. Specialised Technical Committees deal with monetary and financial issues, the rural economy, trade, immigration, industry and science and technology. They are responsible for the implementation of projects and programmes of the union. The following Specialized Technical Committees are meant to address sectoral issues and are at Ministerial Level: the Committee on Rural Economy and Agricultural Matters; the Committee on Monetary and Financial Affairs; the Committee on Trade, Customs and Immigration Matters; the Committee on Industry, Science and Technology, Energy, Natural Resources and Environment; The Committee on Transport, Communications and Tourism; the Committee on Health, Labour and Social Affairs; and the Committee on Education, Culture and Human Resources.

394 Id. Article 17. A Pan-African Parliament is an organ to ensure the full participation of African peoples in governance, development, and economic and political integration of the Continent. The Pan-African Parliament consists of elected representatives

Justice,[395] the Economic, Social and Cultural Council,[396] Financial Institutions,[397] and the Peace and Security Council[398].

The objectives, mandate and composition of these institutions point to the fact that the African Union is a new wine bottled differently from the OAU. The

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nominated from the five regions of Africa. It will ensure civil society participation in the AU processes. The Pan African Parliament was launched in Addis Ababa, Ethiopia, on 18 March 2004. Two hundred and two (202) legislators, from 41 of the 53 member states of the African Union, were sworn in at a solemn ceremony presided over by the then Chairperson of the African Union, H.E. Mr. Joachim Chissano, President of the Republic of Mozambique, and witnessed by the President of the Federal Democratic Republic of Ethiopia, Mr. Girma Wolde Giorgis; the Prime Minister of the Federal Democratic Republic of Ethiopia, Mr. Meles Zenawi, and Prof. Alpha Oumar Konaré, Chairperson of the African Union Commission. The Pan-African Parliament elected the Hon. MP Mrs. Getrude Mongela, from the United Republic of Tanzania, as President. She is assisted by four vice Presidents, namely Prof F. Jose Dias Van-Du'Nem, an Angolan, 1st Vice-President (South); Dr. Mohammed Lutfi Farahat, a Libyan, 2nd Vice-President (North); Mrs. Loum N. Ne'loumsei Elise, a Chadian, 3rd Vice-President (Central); Mr. Jerome Sacca Kina Guezere, a Beninois, 4th Vice-President (West). According to Prof. Konaré, the Pan-African Parliament has a 'vital role to play in the implementation of the objectives and principles enshrined in the Constitutive Act of the Union, particularly, with regard to the protection of human rights consolidation of democratic institutions, popularization and promotion of good governance'. It is headquartered in Midrand – Johannesburg in South Africa.

395 Id. Article 18. A Court of Justice of the Union shall be established. The statutes defining the composition and functions of the Court of Justice was prepared and submitted to the Assembly for adoption in Maputo. There is a possibility that the African Court of Justice will be merged with the African Court on Human and Peoples' Rights to form an African Court of Justice and Human Rights.

396 Id. Article 22. The Economic, Social and Cultural Council, is an advisory organ composed of different social and professional groups of the member states of the Union. The President of the (ECOSOCC) is Prof. Wangari Maathai. The Council also consists of four vice presidents.

397 Id. Article 19. Financial Institutions provide funding for projects and programmes of the AU. The financial institutions include an African Central Bank, the African Monetary Fund, and the African Investment Bank.

398 By decision AHG/Dec 160 (xxxvii) of the Summit of Lusaka, July 2001, a decision was made for the creation, within the African Union, of a Peace and Security Council. The Protocol Relating to the establishment of a Peace and Security Council (PSC) of the African Union entered into force on 26 December 2003, after being ratified by the required majority of member states of the AU. Subsequently, the 4th Ordinary Session of the Executive Council that met in Addis Ababa, in March 2004, elected the 15 members of the PSC and adopted the Rules of Procedure of the new Organ. The PSC has since then held several meetings that focused on the conflict situations on the continent. Furthermore, the 4th Ordinary Session of the Executive Council decided that the PSC be solemnly launched on 25 May 2004, at the level of Heads of State and Government of the Members of the PSC, in the presence of the representatives of the other AU member states, as well as AU Partners. This date, which coincides with the Africa Day, was chosen for its symbolism and importance to the African people.

institutions seek to enhance African unity and regional integration through respect for human rights, the promotion of peace and stability, establishment of sustainable development and recognition of democratic good governance. This is further elaborated under the section dealing with the integration of human rights, human development, and peace.

5.5 Differences between the OAU and the AU

The transformation of the OAU into the AU has raised expectations of renewed commitment by African heads of state to better governance, human rights, democracy, peace and enhanced human security for the continent. Most of these commitments have been chronicled before in the protocols, declarations, and decisions of the OAU from 1963-2002.[399] So how different is the AU, given the expectations it has raised? Some critics[400] argue that the AU has not brought in anything new, claiming it is the same OAU with a new name – old wine in new wine bottle.[401]

To better appreciate the reasons for the high expectations brought by the AU and examine the differences between the two organisations, recourse should be given to the *objectives*, *the principles,* and *institutional arrangements* of

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399 See the Lagos Plan of Action (LPA) and the Final Act of Lagos (1980); the African Charter on Human and People's Rights (Nairobi 1981) and the Grand Bay and Kigali Declarations and Plan of Action on Human rights; the Africa's Priority Programme for Economic recovery (APPER) (1985); the OAU Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes taking place in the World (1990); the Treaty Establishing the African Economic Community (AEC) (1991) - commonly known as the Abuja Treaty; the Mechanism for Conflict Prevention, Management and Resolution (1993); the Cairo Agenda for Action (1995, the African Common Position on Africa's External Debt Crisis (1997); the Algiers decision on Unconstitutional Changes of Government (1999) and the Lomé Declaration on the framework for an OAU Response to Unconstitutional Changes (2000); and the 2000 Solemn Declaration on the Conference on Security, Stability, Development and Cooperation - establishing the fundamental principles for the promotion of Democracy and Good Governance in the Continent, the Constitutive Act of the African Union, and the New Partnership for Africa's Development (NEPAD) - adopted as a Programme of the AU at the Lusaka Summit (2001).

400 M Tesfamikeal *African Union: New wine in old bottles* <http//www.dehai.org/demarcation-watch/articles>.

401 Ibid.

both organisations, examining in particular, what has changed and the extent to which the change has or would influence events on the continent, especially in the area of human rights, human development, and peace. Before examining the differences between the OAU and the AU, it would be important to first examine the similarities between the two organisations.

Apart from not mentioning the eradication of all forms of colonialism from Africa,[402] the AU includes all of the objectives (purposes) of the OAU. The principles of the AU include all of those of the OAU, except for the unreserved condemnation in all its forms of political assassinations, absolute dedication to the total emancipation of the African territories that are still dependent,[403] and an affirmation of a policy of non-alignment with regard to all blocs.[404]

The omission to mention the eradication of colonialism and apartheid - one of the principal objectives of the OAU - is indicative of the fact that the continent is satisfied that colonialism and apartheid have been completely eradicated. It also marks a shift in priority from a liberation struggle organisation to a continental body determined to enhance the socio-economic and political condition of the continent taking into account the challenges in the current world order.

It is also significant to note that the principles of the AU do not include the policy of non-alignment. During the Cold War years, the 'second scramble for Africa' was in the form of aligning to either the Capitalist or the Communist bloc. Each bloc struggled for control of as many countries in Africa as possible. This encouraged dissidents in many African countries to seek support from either camp and seek power through armed struggle, for

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402 OAU Charter (note 3 above) Article II (1) (d). This is understandable since all African countries have gained political independence from their European colonisers.

403 Id. Article III (6).

404 Id. Article III (7). With the end of the Cold War (East West Conflict) and the fall of the Soviet Union, there emerged a uni-polar world with only one super power – the USA , and therefore no cause for the principle of non-alignment.

example, the *União Nacional para a Independência Total de Angol*a (National Union for the Total Independence of Angola) (UNITA), in Angola, and the *Resistëncia Nacional Moçambicana* (Mozambique National Resistance) (RENAMO) in Mozambique. Coups and counter-coups were supported by either the Soviet Union or the United States to ensure that the eventual winner would be their puppet. This exposed Africa yet again to another form of colonisation – this time as a testing ground for new weapons and ideologies. Small arms proliferated the continent; and as one war came to an end, the arms were transferred to the next country to ignite another war, and the cycle of violence continued. This led to the killing of tens of thousands, displacement of millions, and destruction of property worth tens of thousands of millions. The result was retarded development.

The AU has also maintained the dreaded principle of non-interference in the internal affairs of member states,[405] considered to have been the cause of the massive human rights violations on the continent. This principle is no doubt an important principle in international relations to guarantee equality of Member States and promote the concept of sovereignty. It is recognised even by the UN Charter[406] and other international instruments governing inter-state relations.[407] However, the interpretation and application of this principle has been abused for political and national interest, and members of the OAU, perhaps in a bid to guard their newly won independence, adopted the most rigid interpretation, absolute sovereignty at the expense of individual liberty. Thus, the OAU and African leaders were reluctant to condemn other African

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405 Id. Article III (2).

406 See Article 2(7) of the United Nations Charter, which deals with the domestic jurisdiction and sovereignty of states. It reads: 'Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII'. Charter of the United Nations, (New York: United Nations Office of Public Information, 1945), p. 5.

407 Charter of the Organisation of American States (OAS) Treaty Series No. 36, 1144 UNTS 123, entered into force on July 18 1978, reprinted in Basic Documents pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6rev.1. See in particular Article 3 (e).

leaders for malpractices and gross human rights violations as this would have been considered as interference in the internal affairs of the other states, in violation of Article III(2) of the OAU Charter.

Even though the Constitutive Act of the African Union has maintained the principle of non-interference in the domestic affairs of states, this has been greatly watered down by the incorporation of a very progressive provision establishing a principle of non-indifference. Thus, while recognizing the inviolability of states, the Act permits intervention in a member state 'pursuant to a decision of the Union in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity, or at the request of the Peace and Security Council', and the right of the member state to request intervention from the Union to restore peace and security.

The OAU was criticised for its failure to intervene in member states even in serious situations that affected the security of the continent, such as the Rwanda genocide and the war in Zaire (now Democratic Republic of Congo). The organisation was constrained by its own Charter, which provided for 'non-interference' in the internal affairs of member states.

Another similarity between the two organisations is the use of colonial languages as official and working languages of the organisations, at the expense of local African languages. The official languages of the AU are the same as those of the OAU - African languages, Arabic, English, French and Portuguese.[408] Even though African languages were included in both the OAU Charter and the Constitutive Act of the AU as official languages of the organisations, they are rarely used because there are no interpreters, for African languages, and translators at the Secretariat of the organisation. Most

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408 Constitutive Act (note 1 above) Article 25 (1). The official languages of the Union and all its institutions shall be Arabic, English, French, Portuguese, Spanish, Kiswahili and any other African language. The AU distinguishes between official languages and working languages. It has expressly added Kiswahili as an official language and left determination of the working languages to the Executive Council, (Article 25 (2) - The Executive Council shall determine the process and practical modalities for the use of official languages as working languages.

of the documents of the organisation are written in either French or English and conferences are conducted in the four main languages – English, French, Arabic, and Portuguese.

At the institutional level, the AU still recognises the Assembly of Heads of States and Government as the supreme organ or the highest decision-making body. The Secretariat has changed to the Commission but all the functions of the Secretary, now the Chairperson of the Commission, remain virtually the same. It must be added, however, that the portfolios within the Commission of the AU have increased, with eight Commissioners responsible for various portfolios ranging from peace and security to economic affairs.

The above similarities notwithstanding, the Constitutive Act of the AU departs considerably from the Charter of the OAU espousing innovative objectives and upholding very progressive principles that were not recognised by the OAU. The most superficial distinctions would be at the level of the principles and objectives of both organisations.

The Constitutive Act of the AU, in terms of objectives and principles, is broader in its focus. At the same time, it is more specific in its terms than the Charter of the OAU. This is reflected in the focus of the Constitutive Act on the promotion of the guarantee and respect of basic human rights and the principles of liberal democratic governance,[409] the promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments,[410] the promotion and defence of common positions on issues of interest to the

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409 Id. Article 3 (1) (e) & (f).

410 Article 3 (h) of the OAU Charter mentions only the UN Charter and Universal Declaration of Human Rights, which is mentioned in the Constitutive Act in Article 3 (e). The OAU was less concerned with issues of human rights at the time its Charter was adopted and only committed its members to the cause after intense international pressure to act on the massive human rights violations on the continent. The African Charter was thus adopted in 1981–18 years after the establishment of the OAU.

continent and its people,[411] the promotion of sustainable development at the economic, social, and cultural levels as well as the integration of African economies,[412] and the co-ordination and harmonisation of policies between Regional Economic Communities.[413] The Charter of the OAU is much narrower in relation to the above principles and objectives.[414]

The Constitutive Act of the AU also improves upon the OAU Charter by espousing revolutionary principles for inter-state relations and the enhancement of standards of living of the African people. The Constitutive Act adds the following principles to those held by the OAU, the participation of African peoples in the activities of the Union,[415] the establishment of a common defense policy for the African continent,[416] the promotion of self reliance within the Union,[417] the promotion of gender equality,[418] the respect for democratic principles, human rights, the rule of law,[419] the promotion of

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411 Constitutive Act (note 1 above) Article 3 (d).

412 Id. Article 3 (j).

413 Id. Article 3 (l).

414 Id. Article 3 (g). The OAU Charter never made mention of democracy or good governance or popular participation. However, it must be mentioned that in 1999, the OAU adopted the OAU Declaration on Popular Participation in Cairo, Egypt.

415 Id. Article 3 (c).

416 Id. Article 4 (d). It must be recalled that this was one of the principles advocated by Dr. Nkrumah during the early days of the OAU but it was vehemently opposed and the OAU settled instead for a Liberation Committee. It remains to be seen whether this time it will work.

417 Id. Article 4 (k).

418 Id. Article 4 (l). The AU has actually demonstrated this in the appointment of Commissioners at the AU Commission with parity in sexes. At the 2nd Summit of Heads of States and Government held in Maputo, the organisation elected ten Commissioners - five men and five women. This prompted the Senegalese President to argue that 'we are even leading the world on certain issues. Look at the parity in the AU Commission. Having five men and five women is a wonderful thing and we are the only institution in the world to have such a parity.' See New African Magazine, August/September 2003, p.15. Ironically, neither President Wade of Senegal nor any other African leader could boast of such a 'wonderful thing' in their own countries. In many African countries the men: women ratio in almost all works of life is still very disproportionate against women. This parity should not only be reflected within the AU for the donors to see but must be translated into the policies on member states.

social justice to ensure balanced economic development,[420] the condemnation and rejection of unconstitutional changes of government,[421] restraint by any Member State from entering into any treaty or alliance that is incompatible with the principles and objectives of the Union.[422]

One of the most significant differences between the OAU and the AU is that the latter makes provision for monitoring mechanisms and review of

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419 Id. Article 4 (m). It was believed that the non-mention of this principle in the Charter was responsible for the rapid de-democratisation in Africa after independence. The Democratic institutions established at independence were rapidly replaced with authoritarian institutions that resulted to the collapse of social services to the people and massive human rights violations. The establishment of the APRM would oversee the implementation of this principle.

420 Id. Article 4 (n). Discrimination, favouritism, nepotism, tribalism and marginalisation of certain sections of the population because of language, ethnicity, religion, etc, have in most cases resulted to civil strife and civil war. This principle will ensure that resources are distributed fairly to all sections of the population to enhance the standard of living of the people. It is a recognition that injustice breeds poverty and hatred, which breeds violence.

421 Id. Article 4 (p). This is a very important principle considering the fact that Africa has been besieged by coups for a very long time and most of the time economic developments have been reversed, citizens forced into exile, and massive human rights violations abound. This will be a very great test for the AU. In the week preceding the launch of the African Union in Durban, South Africa, the question of unconstitutional change of government dogged the nascent organization as the memberships of Swaziland and Madagascar were challenged. After a fierce debate in the Council of Ministers Meeting preceding the meeting of the Assembly of Heads of State of the (O)AU, Madagascar--whose leader, Marc Ravalomanana, took power after a disputed election in December of 2001--was suspended from the Union, much to the disgust of Swazi opposition groups, who wanted their own country suspended too. Already, at the inaugural AU Summit in Durban, South Africa, Madagascar was prevented from attending because of misunderstanding whether the government there was constitutional or not. The regime of Buzizo was not allowed to attend the Maputo summit after it overthrew the constitutional regime of Ange Felix Patasse. In Guinea Bissau, the military has overthrown the regime of President Kumba Yala. At the end of the 2nd AU Summit, Sao Tomé and Principé's military announced the overthrow of the President, even though he was later reinstated. So it seems this principle has not deterred the military in Africa. This is understandable because many are still ruled by the 'military men' who have metamorphosed, though rigged elections, into civilians and would not hesitate to ignore AU resolutions to sanction unconstitutional regimes. Besides, what is an unconstitutional regime? What about a President who comes to power after rigging elections as seems to be the case with all incumbent African leaders? They use violence and state security to intimidate the opposition and the population to stay in power. Are these regimes constitutional or legitimate? To effectively uphold this principle, the AU must be prepared to use force or to enforce its sanctions against such regimes. The Peer Review Mechanisms must establish appropriate standards and indicators, below which no African 'constitutional regime' should fall.

422 Id Article 4 (q).

implementation of its decisions. The AU provides, within the Constitutive Act, the possibility of sanctions for erring states. Article 23(2) imposes sanctions on members that fail to comply with the decisions and policies of the Union,[423] and Article 30 provides for the suspension of governments which shall come to power through unconstitutional means; they shall not be allowed to participate in the activities of the Union.[424]

Unlike the OAU that provided for very little role for civil society, there is also specific provision within the Constitutive Act for greater popular participation and recognition of the need for civil society engagement in the policy-making and implementation of AU programmes, including the NEPAD.[425] The African Union will be based on the common vision of a united and strong Africa and by the need 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 peoples of Africa.[426] To this end, the active involvement of African non-governmental organisations, socio-economic organisations, professional associations, and civil society organisations in general are required in Africa's integration process as well as in the formulation and implementation of programmes of the African Union. Civil society organisations need to meet their governments half way, accepting the offer of greater engagement in public policy-making and pushing the boundaries of this opportunity.

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423 Id Article 23 (2).

424 See the example set by suspending the Madagascar, Togo, the Central African Republic, and Mauritania. These countries were readmitted into the AU after the regimes reinstated democratic order.

425 Countries that accede to the NEPAD African Peer Review Mechanism (APRM) voluntarily commit to specific benchmarks and standards contained in a memorandum of understanding. The Mechanism will review commitments in the areas of democracy and governance, human rights, corruption, civil society engagement, conflict resolution and peacekeeping, arms management, terrorism and organised crime. Countries that have already acceded to the APRM, as at December 2003, include Algeria, Ethiopia, Ghana, Kenya, Nigeria, Senegal, South Africa and Uganda.

426 Constitutive Act (note 1 above) preambular para 7.

At the institutional level, the Constitutive Act marks a radical departure from the OAU Charter. The Act provides for the establishment of several institutions and structures that were not part of the OAU organisational structure.

The different institutions and organs of the AU reflect a departure from the historical experience of the OAU.[427] Bigger questions such as the precise powers and legal framework undergirding the organs of the AU still remain. The tendency to whittle away the powers and responsibilities of these organs would naturally undermine their potential, and this is a very real possibility bearing in mind the tendency of African governments to shy away from arrangements that imply a diminution of their sovereignty.

5.6 Challenges facing the African Union

While the goal of a more effective continental unity is widely shared, there is widespread scepticism whether the new organisation will prove more effective than its predecessor, the OAU. The African Union faces several challenges as it tries to change the continent's image.

The real challenge facing the AU is the practical application of principles. The history of modern Africa is littered with failed institutions and initiatives that have not been followed through to completion, of promises that have been broken. Building an effective African Union will have a tremendous impact in breaking this cycle of raised hopes and then disappointments.[428] A second concern is rational and workable institutions. The African Union agenda is ambitious and there are no illusions that it can be achieved quickly. Prioritisation and a focus on ensuring that each task is delegated to the institution that can do it best should be the watchwords. Thus, there are core

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427 Compare Article 5, Sub-Article 1, of the Constitutive Act of the AU to Article 7 of the OAU Charter.

428 Sadly, in the past, Africa's regional organisations have tiptoed around reality, and have thereby made themselves stagnant backwaters.

functions of the AU that can be done best at the level of national governments. The priority should be to ensure that these governments perform. But that does not mean leaving responsibility where it lies now: part of the agenda of the African Union is 'being our brothers' keepers'. The AU itself, plus its institutions and member states, supplemented by Civil Society Organisations (CSOs), will have a key role in monitoring governments' performance, ensuring that best practices are followed, and making sure that standards are continually upgraded.

One compelling challenge in making the institutions work is affordability. The OAU struggled financially because many of its members were deep in arrears. Many of the existing institutions were barely struggling to survive, the majority relying on donor support for their sustenance. How is the AU with a much more ambitious structure to be financed? Is it likely that African governments will dig deeper into their meagre budgets for constructing a new bureaucracy? Or do some of the governments with high disposal income think that they can buy political loyalty by funding the institutions?[429] These are burning issues on the lips of many Africans, and the AU is being closely scrutinized as it attempts to address these concerns.

Another major challenge is that of capacity. The current poor levels of implementation of treaty obligations, national economic development programmes, and bilateral and multilateral agreements are a reflection of the lack of institutional capacity for taking on the onerous tasks of drafting the required legislation and rules necessary for turning commitments into realities. With the establishment of the AU, the governance requirements for integration, unity, and development at both national and regional level, will be considerably more substantial than existing capacities.

Currently, Africa displays a low level of implementation of treaty obligations. This is due to among other things, (a) unwillingness to sacrifice sovereignty;

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429 At the moment, 75% of the budget of the AU is contributed by 'the big fives' – Nigeria, Libya, Egypt, South Africa and Algeria. The rest of the countries share the remaining 25%. This not withstanding, some states are still unable to pay their dues.

(b) unwillingness to incorporate international treaties into domestic law and give powers to supra-national bodies; and (c) a low level of institutional development, so that the hard bureaucratic work of implementing obligations is rarely actually carried out. African governments often sign up to regional and international commitments without, first, scrutinizing in detail the requirements of fulfilling their obligations. Problems of weak institutional capacity are exacerbated by brain drain,[430] prevailing under-resourcing of educational institutions, and the HIV/AIDS pandemic.

Related to the concern of capacity is the question of leadership. Building the African Union demands visionary and capable leaders at the national level and at the regional institutions themselves. Africans, more than at any other time, are yearning for the deliverables on democracy, development, and institution-building. African leaders have got away with too much because the expectations of their citizens have been low. Most citizens no longer take their governments' promises seriously. It is through a process of ongoing, active engagement with civil society, including the setting of goals and targets and the monitoring of progress that some of that cynicism can be overcome and some of the energy redirected into the common causes of democracy and development. That same process of engagement will also help civil society understand the constraints under which governments are acting, and perhaps refocus demands onto more modest but more deliverable outcomes.

Ensuring peace and security on the continent remains a major challenge. Regional peace and security is an essential foundation for the success of the Union. Without it, all energies would be wasted. Africa is still seeking what works in terms of making peace and making peace sustainable. The issue of peace and security has to go back to the basics, and has to work at many different levels. One of the basics is trying to get countries to define what they mean by national security, so that there is the possibility of regional and international engagement with security policies. Another demand is building

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430 The establishment of a unit within the African union to deal with Diaspora matters is an attempt by Africa to attract its sons and daughters to return to the continent and contribute to its development. It is believed this will help curb the serious brain drain affecting the continent.

structures at the sub-regional and regional levels. Real security is achieved when there is a deep national consensus on a country's needs, and security matters are not entrusted to a small coterie of individuals around the head of state and chief of the army. Civil society should be engaged in defining national security. And the best guarantee of regional peace and security is a regional consensus on shared core values of democracy and good neighbourliness, values that are best achieved by the widest possible stakeholder engagement.

The Economic and political disparities among African states may also pose a serious challenge to the African Union. Even at sub-regional level, there are numerous problems with the regional economic and political treaties. Political stability is a qualification to join the EU so as to avoid destabilization of other countries. Making all African states automatic members of the AU means, like the OAU, there will be no democratic or political stability standards for membership.[431] War-torn states may destabilize others and take away much needed resources necessary for the development of others. This has been aptly demonstrated by the conflicts in Sierra Leone that threatened security in the whole of West Africa, the conflict in the DRC that threatened peace in the Great Lakes, and the conflict in Somalia that remains a thorn in the Horn of Africa. At the same time, setting such standards may mean denying membership for many countries.

Furthermore, Africa must begin to face the difficult realities and challenges of the fact that its economy is crippled by corruption and mismanagement, that organised crimes have penetrated the highest levels of many governments, that many states are adopting the language of democracy and human rights

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[431] An editorial in Gabarone's independent weekly, Mmegi, (July 5-11) called the AU 'a giant paper tiger' and worried that 'the continent's diversity of religions, political structures, economic advancement, [and] calibre of leadership can only show the AU to be pie in the sky. Though the idea of the AU is noble, the situation on the ground points to the fact that its birth might be premature. Africa needs to put its house in order first and totally overhaul its act for the AU baby to thrive into mature adulthood.' In comparison with the European Union, the African Union does not make respect for human rights or democracy a condition for membership. At the moment, the Assembly is composed of mainly undemocratic leaders who would not hesitate to vote against any instrument that seems to threaten their ability to cling to power.

only with the greatest reluctance, and that African institutions are weak and incapable of delivering on their mandates.[432] As a result, poverty, disease, and low technology continue to hinder development efforts.

The threat of Western imperial interests and Western hypocrisy pose a serious challenge. There are groups like the IMF, the World Bank, Western firms in Africa, and donor countries that have clear interests in Africa, and hold much control over some states.[433] This may hinder the AU's attempt to promote unity and self-reliance within the Union.

These challenges notwithstanding, the economic integration as espoused by the AU should help limit inter-state conflict because there are strong countervailing interests against a break in relations between economically integrated neighbours. Similarly, it should militate against internal conflicts, as there are economic interests vested in maintaining a well-functioning internal market. Integration will create commonalities of interest among different groups including governments across the region. It will help to create 'security communities' in which the resolution of disputes by resort to conflict is literally unthinkable.

5.7 The African Union compared with other regional organisations

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[432] See Keynote presentation by A Mohammed on a 'Symposium on the African Union', organised by InterAfrica Group and Justice Africa, , Addis Ababa, 03 March 2002.

[433] Banjul's independent biweekly, *The Independent,* (July 13, 2002) warned the AU to guard against colonialism. 'While the whole continent basks in the euphoria, amidst the pomp and pageantry of the birth of the AU, we nevertheless call for cautious optimism, dogged determination, and stoic reserve to resist every attempt by organized global vultures in dove's clothing to thwart the lofty project by sheer subtlety,' The Independent said in an editorial.

As a regional (continental) organisation, the AU is similar to both the OAS[434] and the EU. However, there are some distinct features that separate the three organisations. This section will attempt to compare the three organisations by looking at their objectives, principles, and institutions, and in particular, the extent to which each approached or incorporated human rights, human development, and peace - first, in its statute, and foremost in practice (through programmes or policies).

Like the AU, the OAS and the EU were established to promote unity amongst member states of their respective regions. At the same time, they viewed unity as a means to an end - to promote peace and security, to promote democracy, to prevent possible causes of difficulties and to ensure peaceful settlement of disputes among member states. Article 1 of the OAS Charter of 1948,[435] for example, indicates this perception of unity:

> The American States establish by this Charter the international organization that they have developed to achieve an order of peace and justice, to promote their solidarity, to strengthen their collaboration, and to defend their sovereignty, their territorial integrity, and their independence.

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434 The OAS is governed by the following organs: the General Assembly , the Meeting of Consultation of Ministers of Foreign Affairs, Advisory Defence Committee, the Permanent Council , the Inter-American Juridical Committee, the General Secretariat, the General-Secretary , the Inter-American Commission on Human Rights, the Inter-American Court of Human Rights. Subsidiary organs include: the Inter-American Economy and Social Council , the Inter-American Council for Education, Science and Culture. Specialised organisations include: the Inter-American Children's Institute, the Inter-American Commission for Women, the Pan-American Health Organisation , the Inter-American Institute for Co-operation on Agriculture ,the Pan-American Institute of Geography and History, the Inter-American Indian Institute , the Administrative tribunal, the Integral Development.

435 The OAS was originally established in 1890 but its current Statute was adopted and signed in Bogota, Colombia, in 1948 and has been amended to 'Protocol of Buenos Aires', signed on February 27, 1967, at the Third Special Inter-American Conference; by the 'Protocol of Cartagena de Indias', approved on December 5, 1985, at the Fourteenth Special Session of the General Assembly; by the Protocol of 'Protocol of Washington', approved on December 14, 1992, at the Sixteenth Special Session of the General Assembly, and by the Protocol of 'Protocol of Managua', adopted on June 10, 1993, at the Nineteenth Special Session of the General Assembly.

In terms of Article B of the Maastricht Treaty,[436] the objectives of the EU shall be, *inter alia*, to promote economic and social progress which is balanced and sustainable, in particular, through the creation of an area without internal frontiers, through the strengthening of economic and social cohesion and through the establishment of economic and monetary union, …to assert its identity on the international scene, …to strengthen the protection of the rights and interests of the nationals of its member states through the introduction of a citizenship of the Union, to develop close cooperation on justice and home affairs.

The European Union requires any state wishing to be a member of the EU to accept the principles of the rule of law and of the enjoyment by all persons within its jurisdiction, of human rights and fundamental freedoms, and collaborate sincerely and effectively in the realisation of the aim of the Union. If the need arises, member states of the EU are prepared to use force to punish dictatorial governments that are suspected or guilty of committing crimes against their own people. Such was the case in Milosevic's Serbia, even if done under the guise and umbrella of the North Atlantic Treaty Organisation (NATO).[437]

The Constitutive Act of the African Union and the Charter of the OAS have much broader objectives than the Treaty of the EU, [438] but a closer look at the

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436 Treaty establishing the European Union (EU). Agreed in 1991 and signed in 1992, the treaty took effect on 1 November 1993 following ratification by member states.

437 See United Nations Daily Press Briefing of the Office of Spokesman for Secretary-General, New York, (Mar. 25, 1999) (stating that the UNHCR estimates that 450,000 people, the great majority of them civilian Kosovar Albanians, were displaced or expelled from Yugoslavia). The briefing also notes that NATO launched an air campaign against Yugoslavia on March 24, 1999 in order to bring an end to thirteen months of massacres. See also R Caplan 'International Diplomacy and the Crisis in Kosovo' 74 *International Affairs*. (1998) 745. See generally TB Knudsen, 'Humanitarian Intervention And International Society: Contemporary Manifestations Of An Explosive Doctrine' (1999) (unpublished Ph.D. dissertation, University of Aarhus).

438 The Constitutive Act boast of 17 objectives - Article 3 (a-q), while the OAS Charter provides for 8 objectives - Article 2 (a-h), all ranging from unity, advancement of development, human rights, peace, international cooperation, defense of territorial

objectives of the three organizations reveals that they all were established to promote the welfare of their peoples through the promotion of unity, human rights, peace and economic development.

The OAS Charter goes further to provide for a distinct objective that is not contained in the statutes of the other two organisations. It provides as one of its objectives the achievement of an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the member states.[439]

The objectives of these organisations are informed by basic principles regulating inter-state relations. The OAS Charter provides for not less than fourteen principles to govern relations among states in the region.[440] The AU on its part provides for over sixteen broad principles covering similar areas of inter-state relations.[441]

The Constitutive Act of the African Union also provides for specific principles peculiar to the African continent and African countries**:** the respect of borders existing on achievement of independence;[442] the participation of the African peoples in the activities of the Union;[443] the establishment of a common

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integrity, etc. The objective of the European Union is contained in just one sentence – Article 1 of the Statute of the Council of Europe.

439 OAS Charter (note 407 above) Article 2 (h). This is very important because most Third World countries and even some developed countries devote a large portion of their budgets to weapons, to arm their militaries to protect their territory at the expense of basic social amenities such as schools, hospitals, roads, portable water, etc.

440 Id. article 3 (a-n).

441 Id. Article 3 (a-p).

442 Constitutive Act (note 1 above) Article 4 (b). This is very important as border disputes have been a recurring cause of inter-state conflicts in Africa. This principle was simply reiterating the 1964 OAU resolution on the matter

443 Id. Article 4 (c). Due to numerous criticisms about the lack of participation by civil society in the activities of the OAU, the AU decided to include this principle. Ironically, the process establishing the AU was done almost secretly without the participation of the people. No African country has submitted the question of joining the AU to their

defence policy for the African continent;[444] 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;[445] the right of member states to request intervention from the Union in order to restore peace and security;[446] the respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;[447] and the condemnation and rejection of unconstitutional changes of governments.[448]

In a nutshell, the objectives and principles espoused by all three organizations seek, at least in principle, to promote unity, respect for human rights, encourage, both individually and collectively, social justice, development and peace. Thus, the enabling statutes establishing all three organizations recognize the importance and indispensability of promoting human rights, human development, and peace as a means of achieving the objectives set for themselves.

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citizen through a referendum. The economic programme of the AU, the NEPAD, has also received a top-bottom approach with very little consultation with the people.

444 Id. Article 4 (d). The establishment of a common defence force is something the founding members of the OAU rejected out-rightly. They feared such a force would be used by the radical Nkrumah to topple their regimes. Today, this has become a basic principle of the new African organisation. It remains to be seen how this will work out.

445 Id. Article 4 (h). The principle of non-interference in the internal affairs of states is a major principle in inter-state relations contained even in the Charter on the UN. The OAU was criticised for adopting a strict interpretation of the principle of non-interference in the internal affairs of states. Because of this strict interpretation, it allowed its members to seriously encroach into the liberties of their citizens without condemnation. This led to serious criticism from the international community and the OAU lost credibility in its fight against apartheid in Southern Africa. She was accused of double standards, for condemning apartheid in South Africa while remaining mute in the face of massive human rights violations committed by its own members. This principle has now made it possible for the AU to intervene in a member state but only in specific cases–war crimes, crime against humanity and genocide–like the situation that happened in Rwanda in 1994.

446 Id. Article 4 (j).

447 Id. Article 4 (o).

448 Id. Article 4 (p).

However, the extent to which human rights, human development, and peace are incorporated and pursued by the three organisations differ. This can be determined by the institutions they established, the mandates conferred to these institutions and the way the various organizations perceived human rights, human development, and peace at the time of their establishment. The following section examines each organization in line with the above.

5.7.1 The Organisation of American States

Made up of 35 member states,[449] the OAS is the region's premier political forum for multilateral dialogue and action. The OAS Charter provides for several institutions including the General Assembly,[450] the Meeting of Consultation of Ministers of Foreign Affairs,[451] the Advisory Defence Committee,[452] the Permanent Council,[453] the Inter-American Juridical Committee,[454] the General Secretariat,[455] the Inter-American Commission on Human Rights,[456] and the Inter-American Court of Human Rights.[457]

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449 The OAS is currently made up of 34 member states (the 35th member, Cuba, has been suspended since 1962). The countries are Antigua and Barbuda, Argentina, The Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Granada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay, and Venezuela.

450 The meetings of the Assembly are infrequent and each member state has one vote. It considers matters of friendly relations among the states. The general action, the policy of the organisation and the structure and functions of its organs are decided by the Assembly.

451 The meetings considers problems that need be dealt with urgently. Any member can request a meeting and it can be convened by a majority of the Council. The meeting can adopt sanctions such as the use of armed forces.

452 The Committee meets with the Meeting of Foreign Ministers if the member states or at request of the meeting. The Committee shall give advice on military co-operation.

453 The Council supervises the Secretariat, and the Pan-American Union and co-ordinates the Pan-American specialised conferences activities, organisation and agreements with them. It handles the budget and writes the statues of the subsidiary organs. The Council can create committees of its own and set up ad hoc conciliation missions.

454 The Committee consists of jurists from the member states and they are elected by the Assembly. The Committee shall give the organisation advice on juridical questions. It

Also under the OAS umbrella are several specialized organizations - the Inter-American Children's Institute;[458] the Inter-American Commission of Women;[459] the Pan American Institute of Geography and History; the Inter-American Indian Institute; the Inter-American Institute for Cooperation on Agriculture;[460] and the Pan American Health Organization.[461] Other

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shall also try to promote a progressive development and codification of international law and study juridical problems of the developing countries.

455 The Secretariat is the central organ of the OAS and it handles the administration of the organisation, and its functions are the same as for any international secretariat.

456 The Commission promotes the protection of human rights and is a consultative organ on issues concerning human rights.

457 Statute of the Inter-American Court on Human Rights, O.A.S. Res. 448 (IX-0/79), O.A.S. Off. Rec. OEA/Ser.P/IX.0.2/80, Vol. 1, at 98, Annual Report of the Inter-American Court on Human Rights, OEA/Ser.L/V.III.3 doc. 13 (1980) *reprinted in* Basic Documents Pertaining to Human Rights in the Inter-American System, OEA/Ser.L.V/II.82 doc.6 rev.1 at 133 (1992). The Inter-American Court of Human Rights is an autonomous judicial institution based in the city of San José, Costa Rica, together with the Inter-American Commission on Human Rights, they make up the human rights protection system of the Organization of American States (OAS), which serves to uphold and promote basic rights and freedoms in the Americas.

458 The Inter-American Children's Institute is an institution of the OAS specialized in child, adolescent and family affairs and also gathers the interest and concern of its member states about the problem of sexual exploitation of children

459 The Inter-American Commission of Women is a Specialized Organization of the Organization of American States, established in 1928 at the Sixth International Conference of American States (Havana, Cuba). It was the first official intergovernmental agency in the world created expressly to ensure recognition of the civil and political rights of women. As such, it has played a crucial role in making the participation and support of women a legitimate and indispensable part of governance and international consensus building in the Americas. It's main mission is to promote and protect women's rights, and to support the member states in their efforts to ensure full exercise of civil, political, economic, social, and cultural rights that will make possible equal participation by women and men in all aspects of society, so that women and men will share, fully and equally, both the benefits of development and responsibility for the future. See also the Convention on the Nationality of Women, O.A.S. Treaty Series No. 4, 38, *entered into force* Aug. 29, 1934; and the Inter-American Convention on the Granting of Political Rights to Women, 1438 U.N.T.S. 63, *entered into force* March 17, 1949.

460 Convention on the Inter-American Institute for Cooperation and Agriculture was adopted in Washington, D.C., United States, on 3 June 1979, and entered into force 12 August 1979. The Institute is a specialized agency for agriculture and a leading inter-American institution providing cooperation to bring about a comprehensive transformation of agriculture in the Americas, a transformation necessary for achieving sustainable development.

461 The Pan American Health Organization (PAHO) is an international public health agency with 100 years of experience in working to improve health and living standards of the countries of the Americas. It serves as the specialized organization

specialized units focus on such areas as trade, sustainable development, education, and promotion of democracy. One very important organ established within the OAS is the Office of Summit Follow-Up, which was created to coordinate tasks assigned to the Organization by the Assembly.[462]

The organisation is playing a central role in working towards many of the goals that are shared by the countries of North, Central, and South America, and the Caribbean. At the outset of a new century and a new millennium, the challenge is how to turn citizens' high expectations into reality. To meet these challenges, the institutions have been given additional powers and new institutions established.

The OAS Charter was reformed[463] to reflect the hemisphere's strengthened commitment to representative democracy. In recent years, the Organization has adopted landmark conventions against corruption,[464] democracy,[465] illegal

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for health of the Inter-American system. It also serves as the regional office for the Americas of the World Health Organization and enjoys international recognition as part of the United Nations system.

462 The Office of Summit Follow-Up (OSFU) was created in July of 1998 as a dependency of the Office of the Secretary General, and is the principal entity within the General Secretariat of the Organization of American States for advising the Secretary General, the Assistant Secretary General, and the governing bodies of the Organization, on all matters pertaining to the Summit Follow-up. The Office was created because of the large number of mandates assigned to the OAS in the Santiago Plan of Action, and in response to the specific mandate for the OAS to become the institutional memory of the Summit Process. The primary missions of the Office of Summit Follow-up are to coordinate the OAS' efforts in implementing the mandates assigned to the Organization by the Hemispheric Summits, and to serve as the 'institutional memory' of the Summit Process.

463 The OAS Charter was adopted in Bogotá, Colombia, in 1948 but has undergone several amendments-- by the Protocol of Buenos Aires (1967), by the Protocol of Cartagena de Indias (1985), by the Protocol of Washington (1992), and by the Protocol of Managua (1993).

464 At its third plenary session, held on March 29, 1996, the General Assembly of the OAS adopted the Inter-American Convention against Corruption to promote and strengthen the development by each of the States Parties of the mechanisms needed to prevent, detect, punish and eradicate corruption; and to promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption in the performance of public functions and acts of corruption specifically related to such performance.

arms trafficking,[466] and violence against women.[467] Through the Summit of the Americas process, the Heads of State and Government have given the OAS institutions important responsibilities and mandates, including: consolidating

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[465] The OAS has created a Unit for the Promotion of Democracy (UPD) as a principal body within its General Secretariat responsible for activities in support of democratic consolidation in the member states. The Unit was created in 1990 to provide assistance and support to the member states to strengthen their democratic institutions and procedures (General Assembly resolution, AG/RES 1063 (XX-0/90). The Unit's main objective is to provide effective and immediate response to OAS member states requesting advice or assistance in modernizing or strengthening their political institutions and democratic processes. Other objectives include: promoting exchanges of information among the region's institutions and experts in the field of democracy, responding to governments' requests for electoral technical assistance and observation of elections and supporting processes of national reconciliation. In the more than ten years since it was established, the UPD has become a key hemispheric source of support for the efforts made by countries in the inter-American system to defend, consolidate, and advance democracy. During this time, political conditions in the Americas have evolved, as have the challenges to democracy. The UPD, through specific action in response to the mandates outlined for the organization by the member governments, contributes to creating stable and lasting conditions for democracy in the hemisphere.

[466] In June 1997, the General Assembly adopted the Anti-Drug Strategy, through resolution AG/RES. 1458 (XXVII-0/97), as a platform for greater efforts to control drugs in the twenty-first century. This strategy was negotiated at the hemispheric level by all of the member states of the OAS. Through the mandate from the Second Summit of the Americas, held in Santiago, Chile, in April 1998, the member states have committed to developing a singular and objective process of multilateral governmental evaluation, in dealing with the diverse manifestations of the drug problem. In May 1998 in Washington, D.C., the First Meeting of the Inter-Governmental Working Group on the Multilateral Evaluation Mechanism (MEM) was held. The Inter-American Drug Abuse Control Commission works with member countries to strengthen laws, provide training in prevention programs, promote alternative development, improve law enforcement and stem the illegal trafficking of narcotics and related chemicals and arms. Acting on a mandate from the Summit of the Americas, the Commission has been developing a multilateral evaluation tool to measure the progress that individual countries and the region as a whole are making in meeting anti-drug goals.

[467] The Summit of the Americas process recognizes that women's empowerment, their full and equal participation in the development of societies, and their equal opportunities to exercise leadership are all central to the reduction of poverty, the promotion of economic and social prosperity, people-centered sustainable development, consolidation of democracy and conflict resolution, and the development of equal partnerships between women and men. With this in mind, the 1994 Miami Summit of the Americas mandated several initiatives in order to eradicate discrimination against women. Some of these initiatives included promoting the fulfillment of women's potential through education, training, skill development and employment. They also encouraged ratification and compliance with the International Convention on the Elimination of all Forms of Discrimination Against Women and the Inter-American Convention on the Prevention, Punishment and Eradication of Violence Against Women.

democracy and promoting human rights;[468] promoting greater participation by civil society in decision-making at all levels of government;[469] and supporting the process to create a Free Trade Area of the Americas.[470]

In 2001, the organisation adopted the Inter-American Democratic Charter.[471] This Charter, among other things, acknowledges the link between democracy and social development:[472]

> Poverty, illiteracy, and low levels of human development are factors that adversely affect the consolidation of democracy. The OAS member states are committed to adopting and implementing all those actions required to generate productive employment, reduce poverty, and eradicate extreme poverty, taking into account the different economic realities and conditions of the countries of the Hemisphere. This shared commitment regarding the problems associated with development and poverty also underscores the

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468 The OAS has sent electoral observation missions to monitor more than 45 elections around the hemisphere, helping to ensure transparency and integrity of the voting process. It helps member states strengthen their electoral, municipal and legislative institutions and carry out education programs to promote democratic values and practices. The Inter-American Commission on Human Rights, based in Washington, D.C., and the Inter-American Court of Human Rights, located in San José, Costa Rica, together provide recourse to people who have suffered human rights violations. The Commission also reports on the status of human rights in member countries and focuses attention on specific issues such as freedom of expression, the rights of indigenous peoples and women's rights.

469 The OAS is working to improve the exchange of information and citizen participation in decision-making about how to protect the environment and manage natural resources.

470 The OAS is providing technical support in economic integration efforts, working with the Inter-American Development Bank and the United Nations Economic Commission for Latin America and the Caribbean to create a Free Trade Area of the Americas by 2005, as mandated under the Summit of the Americas process. The Inter-American Council for Integral Development focuses on promoting economic development and combating poverty. The OAS has paid special attention to ensuring that the concerns of smaller economies are taken into account.

471 Adopted by the OAS General Assembly at its special session held in Lima, Peru, on September 11, 2001.

472 Article 11 of the Inter-American Democratic Charter. It provides that 'Democracy and social and economic development are interdependent and are mutually reinforcing.'

> importance of maintaining macroeconomic equilibria and the obligation to strengthen social cohesion and democracy[473]

In the area of peace, special OAS missions have supported peace processes in many member states, including Nicaragua, Suriname, Haiti, and Guatemala. The OAS is also leading the effort to remove land mines in Central America, with the technical support of the Inter-American Defense Board. The programme, which has received funding, equipment, and personnel support from 19 OAS members or observer states, has resulted in the destruction of thousands of antipersonnel mines in Costa Rica, Guatemala, Honduras, and Nicaragua.

An important institution that does not feature within the institutions of the OAS, but which is central to the structures of the AU and the EU, is the regional parliament. Neither the OAS Charter of 1948 nor the Inter-American Democratic Charter of 2001 provide for the establishment of such an organ.[474]

This notwithstanding, the objectives, principles and institutional arrangements within the OAS provide effective guarantees for the pursuit of unity, peace, and respect for human rights, democracy and the rule of law. This demonstrates the organisation's conviction that democracy, respect for human rights, peace, and development are interdependent, mutually reinforcing and cardinal to unity and the improvement of relations among states in the region and among their peoples.

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473 Id. Article 12.

474 The Inter-American Democratic Charter, however, provides in Article 2 that the effective exercise of representative democracy is the basis for the rule of law and of the constitutional regimes of the member states of the Organization of American States. Representative democracy is strengthened and deepened by permanent, ethical, and responsible participation of the citizenry within a legal framework conforming to the respective constitutional order.

5.7.2 European Union

The regional organization with a more advanced institutional structure is the European Union. The EU is an intergovernmental and supra-national union of 27 European countries, known as member states.[475] The EU was established, under that name, in 1992 by the *Treaty on the European Union* (the Maastricht Treaty).[476] However, many aspects of the Union existed before that date through a series of predecessor relationships, dating back to 1951.[477]

The EU is a family of democratic European countries, committed to working together to promote democracy, the rule of law, peace, and prosperity. The Union is an advanced form of multi-sectoral integration, its competence extending to the economy, industry, development, politics, citizens' rights and foreign policy of its member states. Depending on the area in question, the EU may resemble a federation, for example, on monetary affairs, agricultural, trade and environmental policy, economic and social policy; it may resemble a

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475 Two new member states, Romania and Bulgaria, joined in January 2007, bringing membership to 27.

476 The Maastricht Treaty, Maastricht 7 February 1992. See official journal of the European Communities, c 325/1, 24.12.2002. See also F. Capotorti *et al.*, *The European Union Treaty* (1986).

477 On 29 October 2004, European heads of government and state signed the treaty establishing a Constitution for Europe. This has been ratified by 13 member states and is currently awaiting ratification by the other states. This process faltered on May 29, 2005 when the majority of French voters rejected the constitution in a referendum by 54.7%. The French rejection was followed three days later by a Dutch one, on June 1, when in the Netherlands 61.6% of voters refused the constitution as well. Following the failed referenda on the draft EU Constitutional Treaty in France and the Netherlands in 2005, a 'period of reflection' on the future of Europe was launched to reconnect the citizens with the European project and to decide the fate of the Constitution. EU leaders signed a new treaty at a Special Summit in Lisbon on 13 December 2007. Some of the new issues in the now European Union Treaty include: reducing the number of Commissioners from 27 to 15 by 2014; reducing the number of MEPs to a maximum of 750 (with a minimum of 6 and a maximum of 96 per country); strengthening national parliaments by giving them the right to raise objections against draft EU legislation (so-called orange card) as a reinforced control mechanism for the principle of subsidiarity; and; an exit clause was introduced making it possible for members to leave the EU.

confederation, for example, on home affairs; or it may resemble an international organisation, for example, in foreign affairs.[478]

What sets the European Union apart from more traditional international organisations such as the OAS and the AU is its unique institutional structure. The EU is built on an institutional system which is the only one of its kind in the world. In accepting the European Treaties, member states relinquish a measure of sovereignty to independent institutions representing national and shared interests. All governments, regardless of political complexion, recognise that the era of absolute national sovereignty is gone.

The members of the EU have transferred to it considerable sovereignty, more than that of any other non-sovereign regional organisation. However, in legal terms, member states remain the *masters of the Treaties*, which means that, the Union does not have the power to transfer additional powers from states onto itself without their agreement through further international treaties. Further, in many areas, member states have given up relatively little national sovereignty, particularly in key areas of national interest such as foreign relations and defence. This unique structure means the European Union is perhaps best seen as a *sui generis* entity.

The EU is run by five main institutions, each playing a specific role and at the same time complementing the efforts of the others. The principal institutions include the European Council, the European Parliament,[479] and the European

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478 A common foreign policy as a future objective, however, this has some way to go before being realised. The divisions between the member states (in the letter of eight) and then-future members (in the Vilnius letter) during the run up to the 2003 invasion of Iraq highlights just how far-off this objective could be before it becomes a reality.

479 The European Parliament has three essential functions: it shares with the Council the power to legislate, i.e., to adopt European laws (directives, regulations, decisions)-- Its involvement in the legislative process helps to guarantee the democratic legitimacy of the texts adopted; it shares budgetary authority with the Council, and can therefore influence EU spending-- At the end of the procedure, it adopts the budget in its entirety; it exercises democratic supervision over the Commission, i.e., It approves the nomination of Commissioners and has the right to censure the Commission and It also exercises political supervision over all the institutions.

Commission.[480] This institutional triangle of Council, Parliament and Commission is flanked by two more institutions - the Court of Justice and the Court of Auditors. In addition, several specialised agencies have been set up to handle certain essentially technical, scientific, or management tasks.[481]

The Commission is the driving force in the Union's institutional system. It has the right to initiate draft legislation and therefore presents legislative proposals to the Parliament and the Council. Under the Amsterdam Treaty,[482] the President of the Commission is appointed by common accord of the governments of the member states, subject to approval by the European Parliament. The governments of the member states, together with the

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480 As the Union's executive body, the European Commission is responsible for implementing the European legislation (directives, regulations, decisions), budget, and programmes adopted by the Parliament and the Council; it acts as guardian of the Treaties and, together with the Court of Justice, ensures that laws are properly applied within the EU; it represents the Union on the international stage and negotiates international agreements, chiefly in the field of trade and cooperation.

481 They include, among others, the European Ombudsman, which deals with maladministration and other relations between the EU institutions and individuals resident within the EU; the European Central Bank, which implements European monetary policy and conducts foreign exchange operations and ensures the smooth operation of payment systems; the European Investment Bank, which finances investment projects which contribute to the balanced development of the Union; the European Economic and Social Committee, which represents the views and interests of organised civil society vis-à-vis the Commission, the Council and the European Parliament (The Committee has to be consulted on matters relating to economic and social policy; it may also issue opinions on its own initiative on other matters which it considers to be important); the Committee of the Regions, which ensures that regional and local identities and prerogatives are respected. It has to be consulted on matters concerning regional policy, the environment and education. It is composed of representatives of regional and local authorities.

482 The Amsterdam Treaty, agreed by the European Union's political leaders on 17 June and signed on 2 October 1997, is the culmination of two years of discussion and negotiation in a conference of member state government representatives. It has now entered into force after being ratified by the fifteen member states of the European Union under their respective constitutional procedures. The aim of the negotiations was clear: to create the political and institutional conditions to enable the European Union to meet the challenges of the future such as the rapid evolution of the international situation, the globalisation of the economy and its impact on jobs, the fight against terrorism, international crime and drug trafficking, ecological problems and threats to public health. The mandate of the Intergovernmental Conference was partly determined by the treaties themselves, but the European Council added a number of specific questions about the working of the institutions, such as the composition of the Commission and the weighting of votes in the Council. Other subjects raised by the Community institutions or the member states were also added to the agenda as the negotiations progressed.

President-designate, appoint the other members of the Commission. The entire Commission is then subject to the Parliament's vote of approval.

The institutional arrangements of the EU provide a favourable environment for unity, respect for human rights, the rule of law, peace, and development. Though rich in diversity, the member states share these common values– human rights, democracy, the rule of law, peace and development–and the EU defends them.

Through its institutions, the EU fosters co-operation among the peoples of Europe, promoting unity while preserving diversity and ensuring that decisions are taken as close as possible to the citizens. By entering into partnership together, their aim is to promote democracy, peace, prosperity, and a fairer distribution of wealth. War between EU countries is now unthinkable, thanks to the unity that has been built amongst European countries over the last 50 years.

In order to become a member of the EU, a country must have a stable democracy that guarantees the rule of law, human rights and protection of minorities, and it must have a functioning market economy, as well as a civil service capable of applying and managing EU laws. The EU provides substantial financial assistance and advice to help the candidate countries prepare themselves for membership. This unprecedented co-operation has brought benefits to people in both present and future member states. Trade has increased massively, and it has become easier to deal with the problems that affect the citizens of EU countries, such as cross-border pollution and the fight against crime.

5.8 Mainstreaming human rights, peace, and human development - the AU's approach

Despite the continued gloomy reality of much reporting from Africa, the current moment is in fact one of hope for the continent. Perhaps more importantly, this hope is supported by the new continental institutions and policy frameworks, creating the new political space needed to discuss openly

the problems of the continent. The transformation of the OAU into the AU in 2002 offers unprecedented opportunities to begin to address the reasons why, since most of its states achieved independence forty or so years ago, Africa has been such a troubled continent.[483]

African leaders have recently reformed, fairly radically, the continent's institutions and policies. In contrast to the OAU Charter, the Constitutive Act of the AU envisages a more integrated level of continental governance. Under the AU's Constitutive Act, there is a commitment to promote and protect human and peoples' rights,[484] and it specifies that governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.[485]

At least on paper, the AU and the initiatives it has adopted--including the adoption of the NEPAD--provide a means for African states that are committed to furthering respect for human rights, and acting to pre-empt conflict, to apply pressure on governments that abuse their power.

At the level of peacekeeping or peace enforcement, military intervention in conflict-affected countries sponsored by the AU or sub-regional institutions is increasingly becoming a reality.[486] The AU's growing, if tentative, involvement in some of Africa's conflicts, such as Darfur in the Sudan, Cote d'Ivoire, and the DRC is therefore a welcome development.

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483 B Nowrojee 'Africa on its Own: Regional Intervention and Human Rights' in *Human Rights Watch World Report 2004*. <http//.www.hrw.org/wr2k4/4.htm>.

484 Constitutive Act (note 1 above) Article 3.h.

485 Id. Article 4.

486 In spite of the problems it is facing in the Darfur region of Sudan, the AU's decision to establish a peace mission in Sudan demonstrates the organizations determination to deal with crisis in Africa. The organization is also exploring ways to send troops to the troubled Somalia. The major world powers have not given the United Nations the capacity to respond effectively to Africa's wars. In this context, African states have no choice but to take up the challenge.

However, its interventions must include a stronger human rights component fully integrated into all aspects of peacekeeping operations. In addition to adhering to the UN Charter and the UDHR,[487] Article 3 of the Constitutive Act lays out the objectives of the AU to include promotion of peace, security, and stability on the continent,[488] as well as the promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.[489] Moreover, Article 4 requires the AU to carry out its functions in accordance with the principles of peaceful resolution of conflicts among member states and respect for human rights.[490]

Though established as the collective security and early-warning mechanism of the AU, the *raison d'être* of the Peace and Security Council (PSC)[491] is not narrowly limited to the prevention, management, and resolution of conflicts. The preamble of the PSC Protocol explicitly recognises that:

> the development of strong democratic institutions and culture, observance of human rights and the rule of law, as well as the implementation of post-conflict recovery programmes and sustainable development policies, are essential for the promotion of collective security, durable peace and stability, as well as for the prevention of conflicts[492]

Consequently, the PSC Protocol stipulates the objective of the PSC to include promoting peace, security, and stability in Africa, as well as protecting human rights and fundamental freedoms as part of its efforts for preventing

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487 Id. Article 3(e).

488 Id. Article 3(f).

489 Id. Article 3(h).

490 Id. Articles 4(e) and (m);

491 Protocol relating to the establishment of the Peace and Security Council of the African Union. See www.africa-union.org/root/au/organs/psc/.

492 Id. preambular para.15.

conflicts.[493] In pursuing these objectives, the PSC is to be guided by the principles enshrined in the Constitutive Act, the UN Charter and the UDHR, and in particular the principles of peaceful settlement of disputes and conflicts as well as respect for fundamental human rights and freedoms.[494]

Evidently, as illustrated above, the close and mutually reinforcing relationship between peace and human rights has been firmly entrenched within the provisions of the AU Constitutive Act and the PSC Protocol. Indeed, today, the relationship between development, peace, security, and human rights cannot be doubted because it is now a well known fact that violations of human rights are not only a consequence of conflict, but are a factor of instability and insecurity - which may spark further conflict[495] resulting in the weakening or even wiping-out of development prospects. This has been the case especially in Africa where tensions arising from denial of certain human rights, particularly civil and political rights, have resulted into full blown conflicts during which gross human rights violations have taken place. The examples are numerous and include the situation during (apartheid) South Africa, Cote d'Ivoire, Sudan, Somalia, Sierra Leone, Liberia, Rwanda, Burundi, and the Democratic Republic of Congo.

Under Article 19 of the PSC Protocol, the PSC is mandated to cooperate with the African Commission on Human and Peoples' Rights (African Commission) in all matters relevant to its objectives and mandate. Furthermore, the African Commission is required to bring to the attention of the PSC any information relevant to the objectives and mandate of the PSC.

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493 Id. Article 3(a) and (f).

494 Id. Article 4(a) and (c). See also paras. 6, 8(ii)(j) and 11(j) of the AU Common Defence and Security Policy.

495 N Graeger 'Human Rights and Multifunctional Peace Operations' in R.G. Patman (ed.) *Universal Human Rights* (2000) 175-190. See also B Sydney *The UN Security Council and human rights* (1994) 125.

Therefore by explicitly providing for cooperation between the PSC and the African Commission, the AU demonstrates the realisation that the collective security mechanism of the PSC will not be able to function effectively without the African Commission playing a role.[496] Through the legal provisions linking the PSC, which is the main organ mandated to deal with issues relating to peace and security on the continent, and the African Commission, which is the continent's human rights supervisory body, the AU is not only affirming the interrelation between peace, security, and human rights but also codifying this interrelation.

Article 3 of the Protocol establishing the Pan African Parliament (PAP),[497] on its part, implores the PAP, *inter alia*, to promote the principles of human rights and democracy in Africa; encourage good governance, transparency and accountability in member states; familiarize the peoples of Africa with the objectives and policies aimed at integrating the African continent within the framework of the establishment of the African Union; and promote peace, security, and stability. This organ is an important avenue for the African Commission to push for African countries to meet their domestic and international human rights obligations, such as the ratification of human rights instruments. The Commission will also be able to lobby the PAP to adopt policies on incorporation of international human rights instruments into domestic law. It will give the African Commission an opportunity to join forces with African civil society to advance the course of human right on the continent.

The African Commission should be able to make contributions to all laws being debated in the PAP, especially the ones relating to human rights. The Commission should make thoroughly researched submissions and if possible

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496 Abass and Baderin (note 70 above).

497 The PAP was established in March 2004, by Article 17 of The Constitutive Act of the African Union, as one of the Organs provided for in the Treaty Establishing the African Economic Community signed in Abuja , Nigeria , in 1991.

prepare briefs, in advance for presentation before parliament stating the position of the Commission on certain human rights issues. The Commission must not only be heard but must be 'seen' as an 'extra member' of the House.

At the same time as the process establishing the AU was going on, African governments created another new mechanism to promote good governance and economic development - the NEPAD's African Peer Review Mechanism. The NEPAD is focused on economic development, but unusually, explicitly recognizes that peace, security, democracy, good governance, human rights, and sound economic management are conditions for sustainable development. It proposes systems, for monitoring adherence to the rule of law, that can promote respect for human rights, in addition to perhaps serving as a check to prevent conditions in a given country from deteriorating to the point of insurgency or conflict. The NEPAD and its APRM will be discussed in more detail in Chapter six.

From the above analysis, the African Union, through its institutions, could be said to have recognized the intrinsic relationship binding human rights, human development, and peace and taken the necessary initiatives to ensure their incorporation into the programmes, policies, and activities of it members.

Ultimately, the AU must strengthen its institutional commitment and capacity to monitor and address human rights violations on a regular basis - and it must act before things deteriorate to a crisis point and require military intervention. Although the initiatives setting up the new African institutions include many bold statements about the importance of good governance and the rule of law, African leaders have yet to show the will to condemn, publicly, abuses by their peers and have yet to show the will to insist that measures are taken to end the abuses.[498]

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498 The recent decision by the 6th AU Summit not to elect President El Bashir of Sudan as Chairperson of the AU was seen as a dramatic change of the continent's approach to issues of human rights. Bashir's government is alleged to be supporting militias in the Darfur region that have caused serious human rights violations. Some analyst argue that the AU took this decision under pressure from civil society and the international community. However, it is a credit to the organization; as it would be

5.9 Summary and conclusion of Chapter five

The differences between the OAU and the AU on the one hand and between the AU and other regional organisations on the other have to be placed in the context of the history and perceptions surrounding them. In retrospect, the conventional evaluation of the OAU is that it more or less 'failed' in terms of its objectives and principles, and in particular, in terms of integrating human rights, human development, and peace in its policies. The few successes attributed to the OAU revolve around its efforts in the struggles to destroy the last vestiges of European and settler colonialism on the continent. The OAU is also credited with providing a regular forum for the leaders of African states, availing them of the opportunity to formulate common positions on issues of shared concern.

In theory, the AU Constitutive Act is different from the Charter of the OAU. It integrates political, economic, and human rights priorities as a means to achieve sustainable development and durable peace. Both its preamble and its substantive provisions, its objectives, principles, and organs established show this integration.

The substantive provisions of the Constitutive Act for example are rich in the polemics of human rights, human development, and peace. The Act seeks to promote peace, security, and stability in Africa; and 'promote democratic principles and institutions, popular participation and good governance'.[499] In sum, the AU is committed to the promotion and protection of human and peoples' rights, the consolidation of democratic institutions and culture, and the promotion of good governance and the rule of law. There is no doubt that the principles of good governance, transparency, and human rights are essential elements for building representative and stable governments and

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recalled that in 1975, the OAU made Idi Amin of Uganda the Chairperson of the organization in spite his human rights atrocities. The organization defied international pressure.

499 Constitutive Act (note 1 above) Article 3(g).

can contribute to conflict prevention. Development is also impossible in the absence of true democracy, respect for human rights, peace and good governance.

Read alongside the relevant provisions of the NEPAD, it could be said that the establishment of the AU has created an enabling environment for sustainable human and economic development, and the attainment and maintenance of peace and security, a situation that will no doubt, the African Union reinforces the economic, social, and cultural rights, as well as the right to development in the African human rights system.

It is, therefore, to be expected that the AU as an institution is, at least in the formal sense, a departure from the OAU. At the most simplistic level, the AU is supposed to be the 'antithesis' of the OAU. The AU is also envisaged as a vehicle for achieving the economic and political integration of the continent, an objective that the OAU only harboured as a long-term objective and in the most abstract terms. Based on these anticipations and hopes, it is therefore to be expected that the AU diverges from the OAU in several respects.

Overall, the Constitutive Act of the African Union is seen as a 'made in Africa' prescription for Africa's illnesses, though the prescription is partially based on a diagnosis that is foreign to Africa.[500] The AU is certainly not a United States of Africa; rather, it is a medium for strong cooperation and integrative mechanism of independent African states. It is a strategy to deal with other continents on an even footing, particularly, as the methods adopted at the world level to settle Africa's problems do not always meet the requirements of African countries. The AU will also allow Africa to withstand the negative pressures of the globalization trend and provide effective remedies and redress to the victims of war, disease, famine, natural devastation, and uneven development.

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500 See African Centre for Democracy. & Human Rights Studies, Editorial, 'African Union Established' 11(2) *African Human Rights Newsletter* (2003) 13.

Chapter Six: The New Partnership for Africa's Development: achieving the African Renaissance through the integration of human rights, peace, and human development?

> When I first heard about the NEPAD I thought we had been there before[501]

> Africa's struggles for self-determination and racial equality, particularly the campaign against apartheid, helped shape many international human rights instruments. This is a debt the world owes to Africa, but which is not often recognised. Africa's recent initiatives for political and economic recovery offer opportunities for the international community to begin to redeem that debt. We must create true partnerships with African peoples and institutions if real change is to take place in the material conditions of the people and enduring democratic foundations are to be strengthened or built[502]

6.1 Introduction

More than forty years since most African countries gained independence, the opportunity of a strong and united Africa combining political and economic integration, is only being rekindled in the form of the African Union. The establishment of the African Union in 2001 coincided with the adoption of a gigantic economic recovery plan – the New Partnership for Africa's Development (NEPAD). In the NEPAD initiative, African leaders are convinced that:

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501 A Essy, AU interim chairperson, Addis Ababa, Ethiopia, 2001.

502 M Robinson, Former UN High Commissioner for Human Rights, 10 December 2001.

> An historic opportunity presents itself to end the scourge of underdevelopment that afflicts Africa. The resources, including capital, technology and human skills, that are required to launch a global war on poverty and underdevelopment exist in abundance, and are within our reach. What is required to mobilise these resources and to use them properly, is bold and imaginative leadership that is genuinely committed to a sustained human development effort and poverty eradication, as well as a new global partnership based on shared responsibility and mutual interest. Across the continent, Africans declare that we will no longer allow ourselves to be conditioned by circumstance. We will determine our own destiny and call on the rest of the world to complement our efforts. There are already signs of progress and hope. Democratic regimes that are committed to the protection of human rights, people-centred development and market-oriented economies are on the increase. African peoples have begun to demonstrate their refusal to accept poor economic and political leadership. These developments are, however, uneven and inadequate and need to be further expedited[503]

Thus, for the first time in its history, Africa seeks to approach unity from both the political and economic front.

This chapter explores the diplomacy surrounding the establishment of the NEPAD as a plan for the socio-economic and political rebirth of Africa. It examines in particular its origin, its relationship with the AU, international response to its establishment, and the more importantly, the extent to which *human rights, human development,* and *peace* have been incorporated within the plan.

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503 The NEPAD Document (note 2 above) para 6-7.

6.2 Context and background

Africa has paid a high price in slavery and colonialism and continues to be a loser in the process of globalisation.[504] The end of the Cold War and the West's diminished geopolitical strategic interest in Africa,[505] coupled with the continuous decline in major foreign exchange earner (agricultural products)[506] coincided with new conditions for Africa's economic integration into the global economy. Despite nearly four decades of aid, loans, and technical assistance on the part of multilateral and bilateral institutions, Africa's economies remain fundamentally underdeveloped.

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504 Globalisation is one of the often used concepts, yet its definition is increasingly becoming more and more complex because the phenomenon itself, a late 20th century development as it is, has many and diverse manifestations that are subjected to ideologically-loaded interpretations. Globalisation may have its positive side, but its benefits are not evenly spread across nations and social classes. According to the United Nations Human Development Report of 1999: 'When the market goes too far in dominating social and political outcomes, the opportunities and rewards of globalisation spread unequally and inequitably--concentrating power and wealth in a select group of people, nations and corporations, marginalising others. Hence the call for globalisation with ethics (respect for human rights), equity, inclusion, human security, sustainability (respect for the environment), and development (the eradication of poverty and deprivation)'.

505 Geo-strategically, Africa has lost its value globally. With the end of the East-West conflict on the continent, not only have the Cold War superpowers withdrawn, but many parts of Africa have now degenerated into all sorts of conflicts, within and between states, with serious economic and humanitarian consequences. Also, whereas certain African raw materials continue to be important to the West in general, substitutes and alternatives have been found to, for example, gold and copper. This development has affected African countries, most of which have economies that are completely reliant on the export of these raw materials. The fight against terrorism has further relegated Africa to a lower position in world politics. The challenge is for Africans to assert themselves globally, but in order to do that, Africa needs (politically and economically) strong and stable countries that the world can reckon with.

506 Faced with the collapse of primary commodity prices during the 1980s, African countries found that import substitution policies were unsustainable as governments faced mounting, largely publicly financed, external debt. As debt rescheduling increased in frequency, African countries faced the reality of growing dependence on external finance, while at the same time, traditional exports from agriculture experienced losses in productivity to East Asian producers, and developed countries pursued extensive protectionist policies in agriculture that made it increasingly difficult for African countries to increase their export earnings.

Thus, of the 49 countries in the world classified as least developed, a total of 33 are found in Africa.[507] The continent carries a heavy external debt burden,[508]which has turned many countries into helpless victims of the Structural Adjustment Programmes (SAPs), as defined by the World Bank, and conditionalities, as defined by the International Monetary Fund (IMF) in the early 1980s.[509] These two institutions[510]defined a framework by which

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507 B Kamborumbe 'NEPAD: A new partnership between rider and horse?' *Labour Resource and Research Institute (LaRRI*), Namibia, (February 2003) 2. In 2007, the United Nations graduated Cape Verde from the category of Least Developed Countries. This is only the second time it has happened to a country.[1] The first country to graduate from LDC status was Botswana in 1994. See 'UN advocate salutes Cape Verde's graduation from category of poorest States', UN News Centre, 14 June 2007. See also Declarations and Decisions adopted by the Thirty-Sixth Ordinary Session of the Assembly of Heads of State and Government/Fourth Ordinary Session of the African Economic Community 10-12 July, 2000 AHG/Decl.1-6 (XXXVI) Lomé, Togo AHG/Dec. 143-159 (XXXVI) AHG/OAU/AEC/Dec.1 (IV) - AHG/Decl.1 (XXXVI); Declaration on the 3rd United Nations Conference on the Least Developed Countries para 1.

508 The origins of the debt predicament in which many African nations (and their creditors) now find themselves can be attributed to several factors. The most frequently cited are the second OPEC oil price hike of 1979-80, the simultaneous emergence of inordinately high real interest rates, and declining volumes/terms of trade for exports from African countries. Of the more than $40 billion increase in the external debt of African countries between 1973 and 1982, $33 billion can be attributed to factors beyond the control of African countries, i.e., factors which were exogenous to their activities, policies, and growth. In addition, the strong measures taken by industrial countries to fight inflation in the early 1980s contributed to a worldwide recession. This led to diminished demand and falling primary commodity prices-- that exacerbated the deterioration in the terms of trade for many African countries. As demand for exports fell and prices tumbled, the domestic growth of these countries became stagnant. Naturally, the current account deficits of African nations quadrupled. For a complete description of these factors, see example, Eugene Rotberg, 'The World Bank Approach to Debt,' *Euromoney*, (December 1983).

509 H Jauch 'Structural Adjustment Programmes: Their origin and international experiences', discussion paper prepared by *Labour Resource and Research Institute (LaRRI), Namibia,* March 1999. Structural Adjustment Programmes (SAPs) have been implemented in many developing countries since the 1980s. They were designed by the International Monetary Fund (IMF) and the World Bank and imposed as a condition for further loans.

510 Initially the idea behind the World Bank and IMF, also called the Bretton Woods institutions, was widely supported. The Bank (established as an International Bank for Reconstruction and Development – IBRD) was given the task to rebuild, first, Europe and then other countries after the Second World War. The IMF was supposed to facilitate trade and to make short-term loans available to countries with temporary balance of payment problems. Today the IMF and the World Bank are much more powerful than its founders could have imagined. Both have over 170 member countries whose power is determined by the amount they pay in subscriptions. This system of 'one dollar–one vote' has meant that the rich industrialised countries control these institutions today. The IMF and World Bank are far from democratic and their policies are shaped by their principal shareholders– the powerful industrialised

African countries were pressured to dismantle 'inefficient' parastatal companies and reduce barriers to trade. The end result was massive layoffs and unemployment, social unrest, family disintegration, and reduction in government spending on basic social amenities such as health care, education and water.

While African leaders can be faulted in many ways for the low level of development on the continent, they have made a series of heroic efforts since the early 1970s to craft indigenous development paradigms in the light of their own perceptions. For more than forty years, the continent has experimented with several development plans and issued numerous declarations of intent.[511]

When the African Heads of States and Government met at the 16th OAU Assembly in Monrovia, in July 1979, to discuss and examine the economic problems facing the continent and to take a stand on the need to address these problems, they arrived at some very important decisions. They declared, among other things, that they would take concrete measures to realise national and collective self-reliance in the economic and social domains faced by the New International Economic Order (NIEO).[512] They also agreed to recognise the necessity to take urgent measures in giving the

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countries. They have a strong influence over economic policies in many countries. The inability of many countries to repay their debt has made them dependent on new loans. The IMF has the power to declare countries credit worthy– or not. To get the seal of approval countries have to accept the conditions of structural adjustment programmes. They have to restructure their economies according to IMF/World Bank guidelines, otherwise they will have virtually no chance to get loans from private or public creditors anywhere.

511 Since the establishment of the OAU, the question of the economic development of the continent has been on the agenda of all the summits of the Assembly of Heads of State and Government. Their final decisions and declarations have ranged from poverty, debt cancellation, drought, diseases, and unemployment on the continent.

512 The Lagos Plan of Action, 1980 – 2000, para 2, '…thus, following a series of in-depth considerations of' the economic problems of the continent by our Ministers and by groups of experts, we adopted, at our 16th Ordinary Session, held in Monrovia, Liberia, in July 1979, the Monrovia Declaration of Commitment of' the Heads of State and Government of the OAU on the guidelines and measures for national and collective self-reliance in economic and social development for the establishment of a new international economic order'.

indispensable political support to the process of realising rapid economic growth in the context of collective self-reliant development:

> It is vital to promote economic and social integration of African economies, to enhance self-reliance and self-centered development; create national, sub-regional and regional institutions in pursuit of self-reliance; give primacy to human resource development; place science and technology at the center of Africa's development processes; ensure self-reliance in food production and guarantee the African people proper and adequate nutrition, together with other basic needs for a civilised standard of living; undertake proper planning in all sectors of development, particularly agriculture and industry; and environmentally, sound use of natural resources-- with the aim of achieving modern economies at the national, sub-regional and regional levels by the year 2000[513]

It is against this background that the search began in the 1970's for an alternative African model of development. Adebayo traces this to the Revised Framework of Principles for the Implementation of the New International Economic Order in Africa (1975-1977) and the Monrovia Strategy (1979), culminating in the (1980) Lagos Plan of Action for the Economic Development of Africa.[514]

At the conclusion of the 16th OAU Summit in Monrovia, African leaders charged the then OAU Secretary General and the Executive Secretary of the United Nations Economic Commission for Africa (UNECA) with the task of coming up with a sound plan for putting in place the objectives of the

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513 Monrovia Declaration of Commitment of the Heads of State and Government of the Organization of African Unity on Guidelines and Measures for National and Collective Self-reliance in Social and Economic Development for the Establishment of a New International Economic Order - AHG/ST. 3 (XVI) Rev. 1.

514 A Adedeji 'From Lagos Plan of Action to the New Partnership for African Development and from the Final Act of Lagos to the Constitutive Act: Wither Africa?', Keynote address presented at the African Forum for Envisioning Africa, Nairobi Kenya, April 26-29. See also CI Obi, 'Reconstructing Africa's Development in the New Millennium through NEPAD: Can African Leaders Deliver the Goods?' Paper prepared for presentation at the 10th CODESRIA General Assembly, Nile International Conference Centre, Kampala, December 8-12, 2002.

Monrovia Strategy.[515] The Plan was developed within a year, and in July 1980, the Second Extraordinary Session of the OAU was convened in Lagos, Nigeria, to adopt the plan - latter called the Lagos Plan of Action (LPA) and the Final Act of Lagos (FAL) for the economic development of Africa.

Apart from the LPA, other initiatives to tackle Africa's underdevelopment included Africa's Priority Programme for Economic Recovery (1986-1990) (APPER),[516] which was later converted into the United Nations Programme of Action for Africa's Economic Recovery and Development (UN–PAAERD) (1986);[517] the African Alternative Framework to Structural Adjustment Programme for Socio- Economic Recovery and Transformation (AAF-SAP)[518] (1989); the African Charter for Popular Participation for Development (1990);[519] and the United Nations New Agenda for the Development of Africa in the 1990s (UN-NADAF 1991).[520]

Despite all these initiatives, equitable and sustainable development which focuses on gender mainstreaming, respect for human rights, human

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515 See AHG/Res. 97 (XVI) Rev. 1, in particular the Monrovia Declaration of Commitment of the Heads of State and Government of the Organization of African Unity on Guidelines and Measures for National and Collective Self-Reliance in Social and Economic Development for the Establishment of a New International Economic Order. Resolution No. AHG/ST. 3 (XVI) Rev.1

516 Adopted by the Assembly of Heads of State and Government of the OAU at its 21st Ordinary Session, held in Addis Ababa, Ethiopia, from 18 to 20 July, 1985.

517 UN General Assembly Resolution, A/RES/S-13/2, 8th plenary meeting, 1 June, 1986.

518 UN General Assembly Resolution, A/RES/44/24. 60th plenary meeting,17 November 1989.

519 The African Charter for Popular Participation in Development and Transformation was adopted in Arusha, Tanzania, in February 1990, at the end of the International Conference on Popular Participation in the Recovery and Development Process in Africa. The conference was a collaborative effort between African people's organizations, African governments, and United Nations agencies. It emerged from suggestions by non-governmental organizations and the 1988 mid-term review of the United Nations Programme of Action for African Economic Recovery and Development (UN-PAAERD), 1986-1990.

520 The United Nations New Agenda for the Development of Africa in the 1990s (UN-NADAF) was adopted by the UN General Assembly in December 1991. It was to last for a decade, as a successor to the five-year UN Programme of Action for African Economic Recovery and Development (UNPAAERD), launched in 1986, the first-ever UN programme for a specific region of the world.

development, peace, and eradication of poverty have not been achieved on the continent.[521]

Faced with the reality of globalisation and its impact on the continent, African leaders have initiated a new development plan:

> A pledge … based on a common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and sustainable development and at the same time to participate actively in the world economy and body politic[522]

When this plan was introduced in 2001,[523] it was greeted with a combination of excitement and scepticism - Afro-optimism pitched against Afro-

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521 Amongst the many factors that contributed to Africa's development crises, four are outstanding. Firstly, the slave trade and extraction of natural resources by Europeans and Arabs which culminated in the colonisation of the continent; the colonial occupation resulted in race and class divisions, as Europeans became the ruling class served by Africans who became second-class citizens in their motherland; although Africa's colonial occupation ended between the late 1950s and the early 1990s, the process of neo-colonialism (economic domination by other means) continued and was reinforced by the process of globalization. Secondly, the Cold War which divided the world into two contending ideological politico-economic systems, namely Capitalism (championed by United States of America) and Socialism/Communism (championed by the Soviet Union); African countries were expected to show their allegiance to one camp or the other and this division of the world fuelled many foreign funded wars and conflicts on the African continent. Thirdly, the continued material, financial and intellectual dependency of Africa on her former colonisers can also be attributed to the development problems of the continent; the Bretton Woods Institutions (IMF/ World Bank), and now the World Trade Organisation (WTO), and foreign aid are instruments through which the West continues to dictate--often to the detriment of the African people--policy and governance in Africa. Finally, poor leadership by most African leaders who are preoccupied with their positions of power and self-enrichment. As Joseph Diescho puts it, 'Almost all African leaders, be they civilian or military, ran Africa into the ground, as they believed that their names were synonymous with the names of the countries they liberated.' Only a few of the liberation leaders (such as Julius Mwalimu Nyerere of Tanzania and Nelson Mandela of South Africa, Sir Ketumile Masire of Botswana) relinquished power voluntarily. Most African leaders, such as the late Kamuzu Banda of Malawi, Idi Amin Dada of Uganda, Paul Biya of Cameroon, Muammar Ghadafi of Libya and Robert Mugabe of Zimbabwe, could and cannot imagine their countries without them being at the political helm.

522 The NEPAD Document (note 2 above) para 1.

523 The NEPAD was adopted by the 37th OAU Assembly of Heads of State and Government in July 2001, in Lusaka, Zambia, as the New African Initiative (NAI) after the merger of the Millennium Partnership for African Recovery Programme (MAP),

pessimism.[524] Since then, the African people and the international community have had an opportunity to gain more detailed insight into what it really means for Africa and for the world.

The New Partnership for Africa's Development, is a product of the continuing search by African people and their leadership to create pan-African structures that can lead to the social and economic transformation of the continent in a rapidly globalising world.[525] It is a continuation of political and economic development that were already taking place in Africa, principally within the OAU.

From the beginning of the 1990s, African countries recognised that their previous practice of non-interference in each other's internal affairs had to be modified.[526] It is believed that this principle is the main cause of underdevelopment on the continent, as non-interference over the years had been given the strictest interpretation, resulting in African leaders not criticizing their peers when they committed atrocities against their own people. This complicity of silence led to the rise of dictators on the continent, resulting to the dismantling of democratic institutions, violation of individual and peoples' rights, culminating to civil strife, instability, conflicts, and hampering

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championed by President Thabo Mbeki, and the Omega Plan, produced by President Abdoulaye Wade. The name, the NEPAD, was adopted in October 2001 in Abuja, Nigeria, at the first meeting of the Heads of State Implementation Committee (HSGIC) of the NEPAD.

524 'A critical review of the business of African development under NEPAD. Is there a Role for Business yet?' *NEPAD Business Monitor*: Volume 1, No. 1, July/August 2003.

525 Nabudere (note 22 above).

526 This was prompted especially in cases of conflicts which spilt over boundaries and became a collective responsibility. Because the OAU could not interfere with how member states conducted their affairs within their borders, dictators were tolerated and left untouched, especially following the emergence of military regimes from the middle of the 1960s. Linked to this was the emergence of one-party states which many African leaders defended because they thought they could use it for nation-building and the fight against tribalism. Instead, in some cases, one-party states became instruments for mass repression and the canonisation of the 'Father of the Nation.' Thus this period witnessed the 'death' of the masses who were in the forefront of the struggle against colonial rule.

any chances of development. There was a growing recognition that it was often failures of governance (weak institutions, unaccountable management of public funds, political exclusion) that lay behind the conflicts and economic decline which contributed to Africa's continued impoverishment.[527]

In 1999, the OAU took a step to rectify this anomaly by agreeing to exclude countries whose governments came to power by unconstitutional means.[528] The NEPAD takes a step further down this road in introducing a measure of regional oversight in matters of political and economic governance.[529]

This change in the political thinking in Africa can be attributed to the clamour for democratisation that swept the continent in the late 1980s, which was facilitated by the fall of the Soviet Union and the emergence of a single superpower, the end of the Cold War, the growth and strength of civil society organisations, and the peoples' desire for change.

The 1990s to 2000 thus created better political conditions for the acceleration of African renaissance attempts. The end of the Cold War, for example, not only lessened political divisions on the continent, but also created better conditions for the resolution of intra and inter-state conflicts. The wave of democratisation pressures that hit the continent from 1989, on the one hand, imposed conditions for the transformation of the post-colonial state, and on the other, reactivated and remobilised the African masses for the good cause of the continent. Popular participation and public-private partnership gained importance as essential ingredients for the continent's renaissance. The liberation of Namibia and South Africa closed a chapter of the continent's colonial history, and created conditions for a reassessment of Pan-Africanism.

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527 **L** Flint 'NEPAD - New Partnership for African Development' in *African Information Centre*, (2003). <http//*www.africainformation.net/nepad.htm*>

528 See Decision of the 35th Assembly in Algiers - Decision AHG/Dec.141 (XXXV) of 14 July 1999. (On this basis Mauritania, Central African Republic, Guinea Bissau were all excluded from OAU meetings after military coups in those countries).

529 Flint (note 528 above).

All these conditions prompted the rethinking of the role and significance of the OAU in a rapidly changing and pro-market world economy.

Other factors that prompted the political change on the continent include the recognition by African leaders of Africa's growing marginalisation, the reduction in aid flow at the end of the Cold War, and the growth of violent conflict in failing and collapsed states.

6.3 The origin of the New Partnership for Africa's Development

The origin of the New Partnership for Africa's Development is shrouded in controversy. Some commentators argue it is an initiative of the OAU,[530] while others maintain it is the initiative of a few African leaders.[531] Speaking at the G8 Summit in Canada in June 2002, President Obasanjo explained the origin thus:

> For us in Africa, the journey is just beginning. It all started at the 1999 OAU Summit when the African leaders took the first step in conceiving a new vision and strategy for the regeneration of their continent.[532] As the elected leaders of the African people, we saw it as our duty and responsibility to respond to the many challenges facing Africa. We first introduced this new initiative to the G8 in Japan in July 2000. After the approval of the Strategic Policy Framework and Programme of Action by the OAU Summit in Lusaka, last July [2001], we made a more comprehensive presentation to the G8 Summit in Genoa[533]

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530 See, in this regard, Aziz Pahad's speech given at the Conference on the NEPAD--sponsored jointly by the South African Institute of International Affairs (SAIIA) and the Finish Institute of International Affairs (FIIA), in Cape Town, on 13 November 2001. See W Nkuhlu 'New Partnership for Africa's Development (NEPAD): A briefing to the Council on Foreign Relations' New York, 24 June 2002.

531 J Adésínà 'NEPAD and the challenge of Africa's Development: towards a political economy of a discourse' paper prepared for the 10th General Assembly of the Council for the Development of Social Science Research in Africa, 8th to 12th December 2002, Kampala, Uganda under the Sub-theme: *Rethinking (African) Development*.

532 In this regard, see AHG/Dec. 140 (XXXV) of 14 July 199*9.* Decision on the Convening of an Extraordinary Session of the OAU Assembly of Heads of State and Government in accordance with Article 33 (5) of its Rules of Procedure.

533 O Obasanjo *The African Economist,* Vol. 4, N° 12, February 2002.

The school of thought represented in President Obasanjo's remarks is the same with that represented by Aziz Pahad, former South African Deputy Foreign Minister, who argues that Presidents Abdelaziz Bouteflika, Thabo Mbeki, and Olusegun Obasanjo were authorized by the 35th Assembly of the OAU Heads of State and Government, in 1999, to develop such a plan:

> The OAU Summit held in Algiers, in July 1999, heralds one of the positive turning points in the continents history for it was here that a firm commitment was made to devise a foundation for Africa's recovery. Presidents Obasanjo, Bouteflika, and Mbeki were mandated to prepare a plan in this regard[534]

Wiseman Nkhulu, former Economic Adviser to President Thabo Mbeki and Head of the NEPAD Secretariat in South Africa, on his part, claims:

> The idea of a new agenda and programme for the regeneration of Africa had its genesis at the OAU Extraordinary Summit in Sirte, Libya, in September 1999. It emerged in the context of deliberations on Africa's external debt. African leaders were calling for the cancellation of all debt owed to developed countries and multilateral institutions. They had reached the conclusion that, unless all the debts were cancelled, African countries would not be able to move forward. They would not be able to address poverty, as a significant portion of government revenues had to be used to service debt. They would not be able to access more capital for development, as they were over-borrowed and they would not be able to attract private sector investment because of the high risk associated with high indebtedness[535]

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534 Pahad (note 532 above).

535 See also Nkuhlu (note 531 above). See also B Karuuombe (notr 508 above) who argues that in September 1999 the three leaders were tasked by the Extraordinary OAU Summit in Sirtre, Libya, to engage Africa's creditors on the total cancellation of the external African debt. A year later, in April 2000, the three Presidents were tasked by the South Summit in Havana, Cuba, to convey the concerns of the South to the July 2000 G8 Summit in Okinawa, Japan. The OAU summit in Togo in July 2000 also mandated the three Presidents to prepare a comprehensive proposal on Africa's

Nkhulu argues further that it was with the aim of finding answers to these questions that a proposal was made to consider the debt question in a broader context.[536] This led to the broadening of the original debt mandate[537] given to Presidents Mbeki and Bouteflika-- to take up the debt issue with the G8 and the Bretton Woods Institutions. Nkhulu further asserts that 'the broader mandate given to Presidents Mbeki, Obasanjo, and Bouteflika at the OAU Summit in Lome, in 2000, involved the development of an agenda and programme for the regeneration of the African continent'.[538]

However, a closer look at the decisions of the meetings, mentioned above, reveals that there was no express mandate to elaborate a comprehensive development plan like the NEPAD. The 35th Assembly of Heads of State and Government did not assign such a task to any group of people. Apart from the Algiers Declaration[539] and Decision[540] of the OAU Assembly, the 35th Ordinary Session of the OAU Assembly adopted one Declaration[541] and eleven Decisions,[542] none of which called for the elaboration of an economic development plan for the continent.

Recovery Programme that would serve as a working document for the OAU Summit of Heads of State and Government scheduled to take place in Lusaka, Zambia, in July 2001. See also E Baimu 'Human rights mechanisms and structures under NEPAD and the African Union: emerging trends towards proliferation and duplication' *Occasional Paper No 15* (August 2002).2, Centre for Human Rights, University of Pretoria. Baimu also argues that the MAP document had its origins in the OAU Extraordinary Summit held in Sirte in September 1999 and the South Summit of the Non-Alignment Movement and G77 held in Havana, Cuba in April 2000.

536 Nkhulu (note 531 above).

537 Ibid.

538 Ibid.

539 Algiers Declaration (AHG/Decl.1 (XXXV).

540 AHG Decision (AHG/OAU/AEC/Dec.1 (III).

541 Declaration of the Year 2000 as the year of Peace, Security and Solidarity in Africa (AHG/Decl.2 (XXXV).

542 Decision on the Report of the Secretary-General on the Ministerial Conference on the OAU Convention on the Prevention and Combating of Terrorism *(AHG/Dec.132 (XXXV);* Decision on the African Commission on Human and Peoples' Rights: Twelfth

The Sirte meeting too was very clear: the Sirte Declaration clearly stated that the leaders decided to accelerate the process of implementing the Treaty Establishing the African Economic Community,[543] in particular, to: (a) shorten the implementation periods of the Abuja Treaty;[544] (b) ensure the speedy establishment of all the institutions provided for in the Abuja Treaty, such as the African Central Bank, the African Monetary Union, the African Court of Justice, and in particular, the Pan-African Parliament;[545] and (c) strengthening and consolidating the Regional Economic Communities as the pillars for achieving the objectives of the African Economic Community and realizing the envisaged Union.[546] It mandated the Council of Ministers to take the necessary measures to ensure the implementation of the above decisions, and in particular, to prepare the constitutive legal text of the Union, taking into account the Charter of the OAU and the Treaty Establishing the African Economic Community.[547] The meeting further mandated:

> Our Current Chairman, President Abdelaziz Bouteflika of Algeria, and President Thabo Mbeki of South Africa, in

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Annual Activity Report (*AHG/Dec.133 (XXXV),* Decision on the Crisis between the Libyan Arab Jamahiriya and the United States and the United Kingdom (*AHG/Dec.134 (XXXV);* Decision on the 'First Meeting of States Parties to the Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction' (*AHG/Dec.135 (XXXV);* Decision on the Report of the Secretary-General on the Conference of African Ministers of Education (COMEDAF 1) and the Implementation of the Programme of Action of the Decade of Education in Africa (*AHG/Dec.136 (XXXV);* Decision on the Illicit Proliferation Circulation and Trafficking of Small Arms and Light Weapons (*AHG/Dec.137 (XXXV);* Decision on the United Nations Regional Centre for Peace and Disarmament in Africa (*AHG/Dec.138 (XXXV);* Decision on the ILO Convention on the Banning of the Worst Forms of Child Labour and Immediate Action for their Elimination (*AHG/Dec. 139 (XXXV);* Decision on the Convening of an Extraordinary Session of the OAU Assembly of Heads of State and Government in accordance with Article 33 (5) of its Rules of Procedure (*AHG/Dec.140 (XXXV);* Decision (*AHG/Dec.141 (XXXV); and* Decision (*AHG/Dec. 142 (XXXV).*

543 Sirte Declaration (note 352 above) para 8 (ii).

544 Id. para 8 (ii) (a).

545 Id. para 8 (ii).(b).

546 Id. para 8 (ii). (c).

547 Id. para 8 (iii).

> consultation with the OAU Contact Group on Africa's External Debt, to engage African creditors on our behalf on the issue of Africa's external indebtedness,[548] *with a view to securing the total cancellation of Africa's debt, as a matter of urgency*[549]

The 36th Assembly of Heads of State and Government held in Lome, Togo, in 2000, on its part, simply called on the industrialised countries to take more purposeful and innovative initiatives aimed at the *total cancellation of the debt owed by African countries*; and to 'reinvigorate the OAU Contact Group on Africa's External Debt in order to continue to search for suitable solutions to the excruciating debt burden'.[550] Nothing was said in the two meetings about any mandate to develop a development plan for partnership as elaborated in the NEPAD.

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548 This debt crisis had its origin in the early 1970s when oil-producing countries that had united in the Organisation of Petroleum Exporting Countries (OPEC) increased the oil price to gain additional revenue. Most of these profits were invested with banks in industrialised countries. These banks, in turn, were interested to lend this money to developing countries to finance the purchase of products from the industrialised countries. In this way, the loans given to 'developing' countries helped to stimulate production in the North. At that time, both private and public institutions encouraged the South to borrow. Even the World Bank preached the doctrine of 'debt as the path towards accelerated development.' As a result, huge amounts were borrowed by the political elites, often wasted on luxuries, 'white elephant' projects, or stolen by corrupt officials. Very little was invested productively with a view of achieving sustainable economic growth. During the 1970s, loans were given at very low interest rates but this situation changed dramatically in the early 1980s. The USA pushed up interest rates drastically in an attempt to stop inflation. 'Developing' countries that had taken out loans with US banks now had to pay huge interests. The major lending banks in Europe followed suit and the debt crisis was born. 'Developing' countries were unable to repay their loans and were forced to take up new loans to pay the interest, and the debt cycle has continued.

549 Sirte Declaration (note 352 above) paragraph 8 (iv).

550 OAU Assembly of Heads of State and Government, Thirty-Sixth Ordinary Session/Fourth Ordinary Session of the African Economic Community, 10-12 July 2000, AHG/Decl.1-6 (XXXVI) Lome, Togo, AHG/Dec. 143-159 (XXXVI) AHG/OAU/AEC/Dec.1 (IV) - AHG/Decl.2 (XXXVI) LOME DECLARATION, paras 18 and 19. The outcome of the OAU Summit focused more on (1) commitment to exclude those who come to power by coup d'etat from attending OAU sessions, and (2) adoption of a proposal, submitted by President Olusegun Obasanjo, on peace and security issues. This led to the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) initiative, which was formally adopted at the 36th Session in Lome.

Furthermore, there was nothing in the two major international speeches that President Mbeki gave three months after the 1999 Algiers Heads of State Summit to suggest such a mandate or plan.[551] It is also interesting that such a major project as a plan for African revival was never mentioned in the Declaration and Programme of Action adopted at the, April 2000, G-77 Summit in Havana, Cuba.[552] President Obasanjo presided over the Summit of the G-77, while President Mbeki was the Chairperson of the Non-Align Movement (NAM), and President Bouteflika was still Chairperson of the OAU.

Dani Nabudere believes that the Millennium African Renaissance Programme (MAP), the South African sponsored aspect of the NEPAD initiative, received its first official endorsement at the Fifth Extraordinary OAU Summit, in March 2001, in Sirte, Libya,[553] and according to Evarist Baimu, the MAP and the Omega Plan, the Senegalese version, were presented respectively by President Obasanjo of Nigeria and President Wade of Senegal during the 5th Extraordinary Summit of the OAU held in Sirte, Libya, from 1 to 2 March 2002.[554]

However, the Fifth Extraordinary Session of the Assembly of Heads of State and Government of the OAU/AEC adopted only three decisions: one on the African Union,[555] another on the Draft Protocol relating to the Treaty

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551 M Thabo, Speech delivered the 54th Session of the United Nations General Assembly, New York, 20 September 1999. <http://-www.polity.org.za/html/govdocs/speeches/1999/sp0920.html. Site visited on 4th March 2004. See also M Thabo, address by the Chairperson of the Non-Aligned Movement, President Thabo Mbeki, to the NAM Ministerial Meeting at the United Nations, New York, 23 September 1999 <http://www.polity.org.za/html/govdocs/speeches/1999/sp0923.html>.

552 Havana Programme of Action, Group of 77, South Summit, Havana, Cuba, 10-14 April 2000.

553 Nabudere (note 22 above).

554 Baimu (note 536 above).

555 Decision EAHG/Dec.1(V) providing in paragraphs 3 and 4 respectively that, 'the Constitutive Act of the African Union shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds of the member states of the OAU, as provided for in Article 28 of the Constitutive Act.'. 'That the 37th Ordinary Session of the Assembly should take the necessary decisions pertaining to the

establishing the African Economic Community relating to the Pan-African Parliament,[556] and the third on the Lockerbie Issue.[557] None of the three decisions taken at the Fifth Extraordinary Session made reference to a mandate to develop an economic plan. It is therefore unlikely that this plan was discussed, let alone endorsed, at this gathering.

It is however interesting to note that the Declaration on the New African Initiative, adopted at the 37th Assembly of Heads of State and Government of the OAU, seems to suggest that such a plan was endorsed at the Fifth-Extraordinary Session.[558]

It remains unclear why the plan has been heavily criticised by Col. Muammar Ghaddafi, who hosted the Summit, referring to it as 'a racist tool of neo-colonialists'.[559] Others regard the NEPAD as 'repackaged SAPs'[560] and

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transformation of the OAU into the African Union, in accordance with Article 33 of the Constitutive Act, and the preparation of necessary draft protocols relating to the Organs and Institutions of the Union'.

556 Decision EAHG/Dec.2 (V) making amendments to Articles 4 and 25 to the Draft Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament and URGES all member states to sign and ratify the Protocol as expeditiously as possible.

557 Decision EAHG/Dec.1(V) endorsing the resolution on the Lockerbie issue adopted by the CEN-SAD Summit held in Khartoum, from 12 to 13 February 2001, and calling upon the United Nations Security Council to immediately and definitively lift the sanctions imposed on Libya.

558 Declaration on the New African Initiative (MAP and OMEGA) (AHG/Decl. 1 (XXXVII), para. 4, which states that '…RECALL the endorsement of the 5th Extraordinary Summit of the OAU, held in Sirte, Libya, from 1-2 March 2001, of the work done regarding the Revival and Development of Africa by Presidents Mbeki of South Africa, Obasanjo of Nigeria, Bouteflika of Algeria, Hosni Mubarak of Egypt and Wade of Senegal, respectively…'

559 A Aderemi 'Towards an Interpretation of Africa's Development Process: NEPAD and the New Global Orthodoxy', paper presented at the International Conference on the Challenges of NEPAD. AfricAvenir Foundation for Development, International Cooperation and Peace, Yaoundé, Cameroon, on the theme: 'New Partnership for Africa's Development & the Nigerian Economy' held at the AfricAvenir Foundation Yaoundé, Cameroon. October 24-25, 2002

560 A M'baye 'NEPAD: The Wrong Plan?' in *West Africa Issu*e 4333, (July, 2002) 29-31.

bearing 'uncanny resemblance' to the 'political conditionalities and governance reforms' of Western donors.[561]

It can be concluded from the above discussions and from the decisions of the OAU summits[562] that African leaders did not expressly authorise or envisage the development of such a gigantic plan, but were more concerned with finding suitable solutions to the excruciating debt burden which they had concluded that unless they were cancelled, Africa would not be able to move forward.[563] However, the Declaration on the New African Initiative, adopted by the OAU at its 37th Assembly of Heads of State and Government, suggests that a formal endorsement was realized once the plan was in place.

It is therefore not clear, at least from the sources referred to by both Pahad and Nkhulu, where this 'broad mandate' to develop the NEPAD came from. It is also not certain whether African leaders envisaged such a plan when they mandated Bouteflika and Mbeki to engage African creditors on 'our behalf on the issue of Africa's external indebtedness, *with a view to securing the total cancellation of Africa's debt, as a matter of urgency'*.[564]

It can instead be argued that the troika[565] amended the 'debt mandate' given to them at Sirte and Lomé, and instead of insisting on debt cancellation,[566] they tamely called for debt remission in exchange for a buy-in from the West for the NEPAD initiative.

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561 A Olukoshi 'Governing the African Development Process: The Challenge of the New Partnership for Africa's Development *(NEPAD)'* unpublished paper delivered at Nigeria Institute for International Affairs, July 2002.

562 35th and 36th Ordinary Assembly and 4th extra Ordinary Assembly.

563 Nkhulu (note 531 above).

564 Sirte Declaration (note 352 above) para 8 (iv).

565 Presidents Bouteflika of Algeria, Obasanjo of Nigeria, and Mbeki of South Africa.

566 The question of debt cancellation has featured prominently in the last two OAU summits prior to the launching of the NEPAD, that is, at the 4th Extra Ordinary Summit in Sirte and at the 36th Summit in Lomé.

Addressing the G8 Summit in Canada, President Obasanjo pleaded with the G8 leaders thus:

> Let me crave your indulgence on the issue of debt. It is an issue that I will urge you to feel, in the core of your hearts, the painful realities of others. While we are not asking for *wholesale cancellation of all debts*, we appeal to you, in the name of the partnership which we are aiming to build, and for the sake of common humanity, to examine the debt issue and deal with it on a case-by-case basis. Your response to this appeal will be a good yardstick for our expectations of performance as to how much you are prepared to keep your side of the bargain in our new partnership[567]

This change of approach from debt cancellation, as mandated by the OAU Assembly, to debt remission took many Africans and those calling for debt cancellation by surprise, as it grossly ignored the decisions arrived at previous OAU meetings. Adebayo Olukoshi bemoaned that, 'this is strange, considering the progress that has been made in putting the issue of outright debt cancellation on the international agenda'.[568] The African civil society was also taken aback. In a meeting held in Port Shepstone, South Africa, on 8 July 2002, African Civil Society lamented that:

> We note that the NEPAD accepts the obligation for Africa to repay this illegitimate debt to the further prejudice of fundamentally important social services and development needs; and ignores the demands for total debt cancellation produced by campaigns in Africa, in South-South campaigns, and worldwide[569]

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567 Obasanjo (note 534 above).

568 D Gqubule 'NEPAD is the plan Africa needs' *The* Sowetan, September 9, 2002.

569 See also African Civil Society Declaration on NEPAD, adopted on 8 July 2002 at a seminar held in Port Shepstone, South Africa, and captioned 'WE DO NOT ACCEPT NEPAD! AFRICA IS NOT FOR SALE' See in particular para VI.

According to Kunle Amuwo, the NEPAD is timid on this issue, speaking only about the need to accelerate debt reduction for heavily indebted African countries and the need to improve debt relief strategies for middle-income countries.[570] Why not simply call for debt cancellation since debt repayment is simply unsustainable insofar as it is wholly antithetical to development?[571] Jubilee Africa branches had motivated strongly for full debt repudiation, cancellation, and reparations across the continent and fundamentally rejected Washington's debt relief strategies.[572]

This complete turn around by the NEPAD promoters raises suspicion regarding the relationship between the West (Africa's principal donors) and the main architects of the NEPAD.[573] Adebayo questions,as follows:

> Why has the new NEPAD initiative, unlike past African initiatives of the 1980s and 1990s, been so well received by the donor community and the Bretton Woods Institutions since its publication in 2001? Is it because it is in line with the Development Merchant System (DMS) or has there been a dramatic change of heart and attitude on the part of the merchants of the DMS? Are they going through a paradigm shift? These are some of the questions that make some African leaders and sectors of civil society to be very skeptical with the plan[574]

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570 K Amuwo 'Globalisation, NEPAD, and the Governance Question in Africa' *African Studies Quarterly* (2002) 6 <http://web.africa.ufl.edu/asq/v6/v6i3a4.htm>.

571 Ibid. According to Wiseman Nkhulu, this was the conclusion of the Heads of States when they met in Sirte, Libya, in September 1999. See Nkhulu note 531 above.

572 P Bond 'Raised expectations for the 'New Partnership for Africa's Development: NEPAD and Human Rights' *Southern Africa Human Rights Review*, Issue No. 10 (2002) 1-7.

573 South Africa, Nigeria, Senegal, Algeria and Egypt.

574 See also P. Nana, 'Poverty, Debt and Africa's HIV/AIDS Crisis' *International Affairs*, 78, 3, July (2002) 531-546.

This scepticism was further reinforced by the fact that the plan was prepared in secrecy and introduced to all the major institutions and countries of the West before being introduced to the African people and the OAU - a development that stifled constructive debate among the African peoples considering that the rich and powerful nations had already endorsed the plan.

For a document that detracts in important areas from earlier OAU declarations on globalisation,[575] the debt crisis,[576] democratising the global governance system, trade regimes, and the superintending powers of Bretton Woods Institutions on economic management on the continent, what needs explaining is the extent of the consent that it received from so many state functionaries on the continent, and the business community.[577]

Therefore, it could be argued that the 'broadening of the original mandate' never happened, at least, not within the structures of the OAU/AU. The origin of the NEPAD lies decidedly, elsewhere, outside the OAU mechanism, and involves the troika taking matters into their own hands and broadening the debt mandate given to them at Sirte and Lomé.

Supporting this view point is Jimi Adésinà, who argues that the NEPAD originated from outside the existing structures of the OAU or the AEC and can be traced to the meeting of the G8 in Okinawa, Japan, in July 2000.[578] At that meeting, Presidents Bouteflika, Obasanjo, and Mbeki had met with the G8 leaders on the issue of debt relief for developing countries generally, but

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575 Twenty-sixth Ordinary Session of the OAU Assembly of Heads of State and Government, 'Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the political and socio-economic situation in Africa and the fundamental changes taking place in the world, 9 – 11 July 1990, AHG/DECL.1 (XXVI) (ADDIS ABABA, ETHIOPIA, AHD/DECL. 1 – 2 (XXVI), AHG/RES. 190 – 200 (XXVI) REV. 1).

576 African Common Position on Africa's External Debt Crisis (1997): a strategy for addressing the Continent's External Debt Crisis.

577 Adésínà (note 532 above).

578 Ibid.

African countries in particular[579] (presumably in accordance with the mandate given to them at Sirte and Lomé). The demand for debt cancellation had featured in the Algiers, Sirte, and Lomé declarations of the OAU Assembly of Heads of State. The outcome of the Okinawa meeting with the G8 was a demand by the G8 leaders for a 'workable plan as the basis of a compact' (debt relief compact) that the troika was demanding.[580] Following the Okinawa meeting, President Mbeki was given the responsibility, by his other two colleagues, to develop a working document.[581] This is when they decided to 'broaden the original mandate' given at Sirte and Lomé.

It is believed that President Mbeki took this opportunity to put into practice his doctrine of an African Renaissance that he started preaching in 1994. According to Chris Landsberg:

> Before becoming president in June 1999, Mbeki and his South African colleagues in government and the African National Congress (ANC) worked on articulating a vision of an African Renaissance, that is, African political, economic and social renewal. But they did not stop there; for Mbeki and others, the vision had to be translated into concrete policies and plans of action. This was to be done by turning a 'new Agenda for African Recovery' on the basis of 'genuine partnership' into concrete plans of action. Such agendas, policies, and plans of action had to generate new forms of cooperation and articulate intra-African and mutual interests between Africa and the developed world[582]

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579 Ibid. See also SABC News, Mbeki and other African leaders ask G8 countries for debt relief. <http://www.sabcnews.com>. The continent had, in twenty years of structural adjustment, faced the massive escalation in external debt, from US$60.6 billion in 1980 to US$206.1 billion in 2000.

580 Ibid.

581 Ibid.

582 C Landsberg 'NEPAD: What is it? What is missing?' paper written for NALEDI. See <http://www.sarpn.org.za/documents>.

The MAP[583] (the South African part of the plan), which was merged with the Omega Plan (the Senegalese part), to produce the NEPAD, is a concrete manifestation of this 'new agenda'. The NEPAD therefore had its origin in this new Agenda for African Development.[584]

The first public mentioning of the MAP was, on 28 January 2001, at the World Economic Forum gathering in Davos. As Mbeki noted:

> It is significant that, in a sense, the first formal briefing on the progress in developing this programme is taking place at the World Economic Forum meeting. The success of its implementation would require the buy-in from members of this exciting and vibrant forum[585]

Speaking to *ANC Today*, after the Davos meeting, President Mbeki said:

> We *intend* to brief all African Heads of State over the next few months. Our aim is to be inclusive as possible. Thereafter, substantive consultations with the leaders of the developed countries and multilateral institutions would take place. … The implementation of the plan will commence as soon as briefings have been completed and commitments made by a critical number of African countries. … Countries that are not ready will be welcome to join later[586]

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583 See The OMEGA Plan, Dakar, Senegal, February 2001. The Omega Plan was prepared by President Abdoulaye Wade of Senegal. In terms of Paragraph 5:2:4, it was to be launched at a special session of the United Nations attended by Heads of State and Government, bilateral and multilateral funding agencies. See also *Abdoulaye Wade,* Omega Plan for Africa: An African Strategy for Globalisation, *The African Economist, Vol.* 4, *N°*12 , *February* 2003.

584 Landsberg (note 583 above).

585 M Thabo, Briefing at the World Economic Forum Meeting - Millennium Africa Renaissance Program - Implementation Issues, Davos, 28 January 2001.

586 Ibid.

From the above statement, President Mbeki intended to brief African leaders about the plan only after the Davos meeting. In purporting to speak for African leaders, and that 'the MAP programme was a declaration of a firm commitment by African leaders',[587] Mbeki caused quite some angst among other African leaders, like Abdoulaye Wade, also present at the World Economic Forum in Davos.

The Omega Plan, developed by President Abdoulaye Wade, was presented afterwards as a counter-measure to MAP.[588] President Wade presented the Omega Plan to the France-African Summit in January 2001 (the same month Mbeki presented his at Davos), and it was formally launched in June 2001 at the International Conference of Economists on the Omega Plan.[589] The unveiling and launching of the Omega Plan also proved that President Mbeki did his briefings to the foreign leaders before coordinating with other African leaders, including President Wade. The drafting of the Omega Plan by President Wade also buttresses the argument that the OAU never specifically mandated Presidents Mbeki, Bouteflika, and Obassanjo to prepare a development plan for Africa. If that had been done, President Wade who must have participated in giving this mandate wouldn't have gone ahead with a 'counter plan'.

While different in origin, both the MAP and the Omega Plan share a common approach to overcoming Africa's development challenge. In view of the similarity between the two initiatives, at a Conference of African Ministers of Finance held in Algiers from 8 to 10 May 2001, the OMEGA plan, the MAP, and the MAP Programme of Action (developed by the United Nations Economic Commission for Africa) were presented and discussed with a view to their merger. The Conference urged the experts involved in developing the

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587 Ibid.

588 Adésinà (note 532 above).

589 Opening Statement of His Excellency Maitre Abdoulaye Wade, President of the Republic of Senegal. The International Conference of Economists on the Omega Plan, 11 – 13 June 2001, Dakar, Senegal.

three documents to work together towards their consolidation. After two meetings related to MAP and OMEGA held in Abuja, Nigeria, and Dakar, Senegal, from 2 to 4 June and 11 to 13 June 2001 respectively, a joint meeting of experts, held in Cairo, Egypt, on 18 to 21 June 2001, merged the two documents and developed an integrated and co-ordinated initiative. The result of this merger, which was finalised on 3 July 2001, was the New African Initiative (NAI). The NAI was approved by the 37th OAU Assembly of Heads of State and Government in Lusaka, Zambia, in July 2001. The decision to have a single, coordinated African plan was grounded on the need to avoid confusing Africa's development partners, diffusing the focus, eroding capacity, splitting resources, and undermining the credibility of the plans.[590]

The initial preference for the MAP as a 'club of participating countries'[591] faded when the plan was introduced to the OAU Assembly in Lusaka. The OAU sought to encourage all African states to participate, thus, getting equal representation from each region to form the Heads of State and Government Implementation Committee (HSGIC)[592] of the NEPAD. Clearly, this was not an initiative of the OAU or its Assembly of Heads of State and Government. The OAU has always strived for consensus, to bring all on board and would not have sanctioned a continental developmental plan with an opt-in clause as proposed by the MAP.

In the new structure of the merged document, President Wade was brought on board as Vice-Chairperson of the HSGIC.[593] The first meeting of the

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590 Baimu (note 536 above).

591 In his briefing to the business leaders in Davos, on 28th January 2001, President Mbeki announced that 'participation (in the programme) will be open to all African countries prepared and ready to commit (themselves) to the underlying principles guiding the initiative'. He added that 'our aim is to be inclusive as possible. The implementation of the plan will commence as soon as briefings have been completed and commitments made by a critical number of African countries. … Countries that are not ready will be welcome to join later'.

592 The HSGIC consist of Heads of State of the five states who have been the promoters of NEPAD as well as fifteen other states.

593 The President of the HSGIC at inception was President Olusegun Obasanjo of Nigeria.

HSGIC was held in Abuja, Nigeria, in October 2001. A reworked version of the document was then released. The document that emerged from the Abuja meeting involved extensive reworking of the NAI document.

At the Abuja meeting, the name of the final document was adopted as the New Partnership for Africa's Development. The substantial difference is editorial - making the document more coherent and focused than earlier versions.[594] The change of name from the NAI to the NEPAD meant more than just a renaming of the document. The process also entailed a substantial compromise on some of the more radical proposals that might not have been welcomed by potential Western sponsors of the NEPAD.[595]

It is therefore possible that the mandate to engage Western donors on debt cancellation was, in good faith, broadened by the leaders of South Africa, Nigeria, and Algeria to initiate the development of a comprehensive recovery programme for Africa, especially after the Okinawa meeting with the donors.

The controversy surrounding its origin notwithstanding, by adopting the NEPAD, the member states of the AU signalled their commitment, albeit reluctantly, to the plan. It then became a programme of the AU and for all African countries since it is for the development of Africa. It would be a grave mistake if the NEPAD were to be adopted as belonging to a 'club of participating countries'. The NEPAD initiative sought to reposition the continent 'as a whole' in terms of global economic relations that continue to unravel. It tried to commit African leaders into a pledge based on a firm and shared conviction that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development. It is anchored on the determination of

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594 See Communiqué issued at the end of the Meeting of the Implementing Committee of the Heads of State and Government on the New Partnership for African Development, Abuja, 23 October 2001.

595 B Karuuombe (note 508 above).

Africans to extricate themselves and the continent from the malaise of underdevelopment and exclusion in a rapidly globalising world.[596] It is therefore logical that efforts be made to include all the states.

Events in Africa have shown that the neglect of one region or one country is detrimental to the continent as a whole. President Mbeki acknowledges this when he said that the poverty of any people in any part of the globe is the poverty of all humanity.[597] Thus, to prepare a plan for the development of the continent based on 'willingness to participate' defeats this reasoning. This is even so in Africa where the haphazard delimitation of borders means neighbouring states usually have interests in other states. A crisis in one state can engulf the whole region and jeopardize stability, peace, and development.[598] Besides, restricting membership of a development programme for the continent would have defeated the purpose of the OAU and its successor, the AU - to promote unity, peace and economic integration on the continent.[599]

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596 NEPAD Document (note 2 above) para.1.

597 President Thabo Mbeki's address at the High-Level Special Session of the UN General Assembly on the New Partnership for Africa's Development, New York, 16 September 2002.

598 See the crisis in the DR Congo where the entire Great Lakes Region has been affected.

599 The preamble of the Constitutive Act captures what inspired the leaders to transform the OAU into the AU thus, 'CONSIDERING that since its inception, the Organization of African Unity has played a determining and invaluable role in the liberation of the continent, the affirmation of a common identity, and the process of attainment of the unity of our continent, and has provided a unique framework for our collective action in Africa and in our relations with the rest of the world; DETERMINED to take up the multifaceted challenges that confront our continent and peoples in the light of the social, economic and political changes taking place in the world; GUIDED by our common vision of a united and strong Africa and by the need 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 among our peoples; CONSCIOUS of the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to promote peace, security and stability as a prerequisite for the implementation of our development and integration agenda…'

The African Union was also convinced of the need to accelerate the process of implementing the Treaty Establishing the African Economic Community in order to promote the socio-economic development of the continent and to face more effectively the challenges posed by globalisation. The Abuja Treaty, adopted by the OAU in 1991, came into force in 1994 and all member states of the AU have ratified the treaty and fully support it, so to accelerate the process of its implementation would not allow the notion of 'countries that are not ready to join later' contained in the MAP.

The NEPAD is therefore the socio-economic development programme of the African Union. It is not an organisation separate from and independent of the AU. It has been authorised by the AU in all its elements, including the peer-review mechanism.[600] It is founded on the need to promote peace, democracy, human rights, and sound economic management as well as regional co-operation and economic integration.

The adoption of the Declaration on Democracy, Political, Economic and Corporate Governance[601] to establish the African Peer Review Mechanism is a good development, and countries should be encouraged to adhere to the principles in the Declaration. The APRM should not, however, be seen as a whip used by Western donors to force compliance with the NEPAD principles. It should rather be a mechanism to promote the principles contained in the document. Support should be given to states that fall short of the standards,

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600 M Thabo. *Letter to Jean Chrétien*, the Canadian Prime Minister, November 6, 2002. This follows the latter's letter to President Mbeki questioning reports he allegedly made to the press that Political Peer Review will not be part of the NEPAD process. President Mbeki denies this in his letter: 'Contrary to what you may have learnt from media reports, I have never said that political governance should be excluded from the African peer-review process. The NEPAD peer-review system is not the only process available to the continent to ensure the implementation of its decisions' he defended. This letter was copied to The G-8, the EU, the Nordic countries, members of the NEPAD Implementation Committee, the UN Secretary-General and heads of other multilateral organisations. Note that it was not sent to other African leaders, even to the Interim AU Commission.

601 Approved by the HSGIC and endorsed by the Durban AU Summit in July 2002 as policy document.

and encouragement to those that meet the standards. As President Obasanjo correctly observed:

> The African Peer Review Mechanism [should] foster the sharing of information and experiences, and will reinforce successful and exemplary practices. We acknowledge that within this Mechanism, African countries are at different stages of development. Some are experiencing conflicts, while others are in the process of emerging from conflicts, and the natures of the conflicts vary considerably. Therefore, not all countries will be able to participate at the same level in the envisaged enhanced partnership. And it will be necessary to have differentiated support programmes, so as to cater for these differences[602]

There are, however, certain areas that universal standards would apply, such as human rights, democracy and the rule of law. This notwithstanding, efforts must be made to establish the relevant institutions to assist poorer or weaker states to meet these universal standards.

The authors of the NEPAD seemed to be modelling the European Union standards where membership to the EU is based on committing to certain criteria, amongst them, human rights, the rule of law, democracy, and sound economic policy. The authors fail to understand that, first, Western Europe was assisted significantly after World War Two (WWII), through the Marshall Plan,[603] to develop its economy. The Marshall Plan has often been cited as an

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602 Obasanjo (note 534 above).

603 Known officially following its enactment as the European Recovery Program, the Marshall Plan was one of the United States' plans for reconstruction of Europe after World War II. The initiative is named after Secretary of State, Gen. George Marshall, who in a speech at Harvard University (5 June 1947) outlined the U.S. government's preparedness to contribute to European recovery. President Harry Truman signed the Marshall Plan into law on April 3, 1948. Between 1948 and 1951, the United States contributed more than thirteen billion dollars (nearly $100bn at present-day U.S. prices) of economic and technical assistance toward the recovery of 16 European countries which had joined (16 April 1948) in the Organization for European Economic Co-operation (OEEC, forerunner to today's OECD) in response to Marshall's call for a joint scheme. The plan was rejected by the Soviet Union and its Eastern European satellite countries owing to U.S. insistence on economic liberalisation and pan-European co-ordination of recovery efforts, but gave impetus to the formation in the west of the North Atlantic Treaty Organization and the European Economic Community.

example of how massive economic assistance can produce prosperity. However, it must be pointed out that post-war reconstruction of Europe was a far easier problem than the development or reconstruction of areas in today's Africa. In the case of Europe, despite being devastated by war, there was still significant physical infrastructure along with technical skill in the population. In the case of Africa, the infrastructure and technical skills do not exist to the same extent.

Europe before the Second World War consisted of developed industrialised market economies and a few socialist ones. What the Marshall Plan did was simply to facilitate, within a time frame of four to five years, the rehabilitation and reconstruction of what had existed before the war. A favourable human factor was still in place in spite of the war. There also existed an appropriate institutional framework and an enabling environment for development. The EU is currently supporting countries from the former Soviet Union to rebuild their economies so as to integrate them into the larger Europe.

This is not the case with Africa and the African Union. Africa has not had that opportunity of the Marshall Aid after long years of slavery, colonialism, and marginalisation in the face of globalisation. The African Union is incapable of providing financial assistance to states to rebuild their economies. AU member states owe the organisation more than US Dollars 45 million in arrears.[604] Putting stringent economic conditions for African states to benefit from the NEPAD would exclude many African countries and defeat the AU's objective of continental unity and economic and political integration.

6.4 The structure of the NEPAD

The NEPAD document is divided into eight parts, including the introduction and the conclusion. Part one is the introduction. Part two places Africa in the global context and provides an historical analysis of Africa's

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604 See *New Africa Magazine*, March 2004.

underdevelopment. Part three attempts to make a case why the NEPAD is poised to succeed while similar programmes undertaken in the past failed. Part four is an appeal to the peoples of Africa to mobilise in support of the implementation of the NEPAD. Part five, containing the Programme of Action, is the core of the NEPAD. This part is also the largest. It encompasses more than half of all the provisions of the NEPAD Document (115 paragraphs of the total 207). It is divided into three main sub-parts which may be arranged as follows: (a) highlights the conditions for sustainable development in Africa - peace, security and political governance initiatives, economic governance initiatives, and sub-regional and regional approaches to development; (b) identifies the sectoral priorities for achieving sustainable development - bridging the infrastructure gap, investing in people, developing agriculture, protecting the environment and the role of culture, as well as science and technology; and (c) outlines ways of mobilising resources for sustainable development. Part six of the document underlines the partnership nature of the NEPAD, while part seven deals with the implementation of the NEPAD. Part eight is the conclusion.

Among the key goals of the NEPAD are the following: to achieve and sustain an average Gross Domestic Product (GDP) growth rate of over 7 per cent per annum for the next 15 years; to ensure that the continent achieves the agreed Millennium Development Goals (MDGs) ie, to reduce the proportion of people living in extreme poverty by half between 1990 and 2015; to enrol all children of school age in primary schools by 2015; to make progress towards gender equality and empowering women by eliminating gender disparities in the enrolment in primary and secondary education by 2005; to reduce infant and child mortality ratios by two-thirds between 1990 and 2015; to reduce maternal mortality ratios by three-quarters between 1990 and 2015; to provide access for all who need reproductive health services by 2015; and to implement national strategies for sustainable development by 2005, so as to reverse the loss of environmental resources by 2015.

The NEPAD initiative seeks a new global partnership based on shared responsibility and mutual interest through the instrumentality of political

democracy and economic development on the continent. It is also aimed at promoting people-centered development via market-oriented economies capable of holding their own ground in the global village. Furthermore, the NEPAD is in search of building blocks to lay the foundation for a new politico-economic order capable of permanently reversing the old cliché that 'Africa is rich but Africans are poor.' The politico-economic blueprint of action is also meant to strengthen the capacity of the state with a view to making it an effective engineer, formulator, and implementer of people-friendly programs and policies. Finally, the NEPAD proposes a frontal attack on the negative fall-outs of the continent's integration into the global system as an extremely weak partner and a peripheral player.

While recognising the historical and colonial roots of African underdevelopment, the NEPAD argues that Africa's future is in its own hands: 'the hopes of Africa's peoples for a better life can no longer rest on the magnanimity of others'.[605] It candidly recognises that past attempts to set out continent-wide development programmes have not succeeded, in part, because of 'questionable leadership and ownership by Africans themselves'.[606] It welcomes the fact that, across the continent, democracy is spreading, backed by the African Union, which has shown a new resolve to deal with conflicts and censure deviation from the norm. It states clearly that the New Partnership for Africa's Development has as one of its foundations, 'the expansion of democratic frontiers and the deepening of the culture of human rights'.[607]

A major lacuna in the NEPAD, however, is its inability or unwillingness, or both, to boldly account for Africa's underdevelopment as a function of the epochal consequences of slavery, colonialism, and structural imperialism. The objective conditions obtaining in Africa in the post-independence era showed

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605 NEPAD Document (note 2 above) para. 44.

606 R Kanbur 'The New Partnership for Africa's Development (NEPAD): An Initial Commentary', <http://www.people.cornell.edu/pages> , December, 2001.

607 NEPAD Document (note 2 above) para 183.

quite clearly that underdevelopment was a historic phenomenon in which Western imperialism stood accused of depleting Africa's resources and labour for purposes of capital accumulation in the North. Zack-Williams argues that 'Africa's crisis is not natural or inevitable but a product of human history; a history forged in the complex interaction between locals and foreigners, states and societies, and domestic and imperial pressures'.[608]

Kunle Amuwo argues that in the NEPAD's attempt to grapple with African history, it seems to have treated the 'international community' with kid gloves. And, what is more, this has been done in a rather simplistic manner, in an A then B explicatory schema: If Africa puts its house in order, the continent's 'traditional' trading partners will fund its development. It is as if authors of the NEPAD have turned the history of Africa's relations with the West on its head. It is as if contemporary globalization - particularly in the trade practices of the North in relation to the South - has no abiding hard lessons to teach Africa's political leaders.[609]

Any attempts to come to terms with this unequal and structurally under developing relationship calls for a drastically new arrangement in international relations, in which Africa needed to recapture her role as a subject and not object of her own history. It is with this historical and contextual background in mind that Africa needs to discuss the NEPAD and enter into a partnership - as ignoring this historical fact means asking for unequal partnership.

What Africa needs is not so much new development models as a proper application of lessons already learned. One gets the moral lesson that the success of this African initiative seems to be hinged on a correct reading of Africa's history as well as adequate responses to that history.[610]

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608 W Paul 'Africa in Crisis: New Challenges and Possibilities' in T Zack-Williams in *International Affairs* (2002) 653.

609 K Amuwo (note 571 above).

610 A De Waal 'What's new in the 'New Partnership for Africa's Development?' *International Affairs*, (2002)463-475.

The institutional framework for the implementation of the NEPAD is three-tiered, comprising the Heads of State and Government Implementation Committee, the Steering Committee,[611] and the NEPAD Secretariat.[612] The HSGIC meets every four months and reports, to the Assembly of Heads of State and Government of the African Union, on the implementation of the NEPAD.[613]

6.5 Relationship between the NEPAD and the AU

The NEPAD came into being a year after the adoption of the Constitutive Act establishing the African Union. Just as the NEPAD initiative has been slated by its sponsors to supersede all other partnership initiatives, so too has the African Union been perceived as the most pre-eminent initiative, which has emanated from Africa since independence.[614]

The impression is given, perhaps inadvertently, that, although the AU is the supreme body (having replaced the OAU), the NEPAD is special and is not to be integrated into the AU, after all, it has its own organs which are quite different from those of the AU.[615]

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611 The Steering Committee comprises the personal representatives of the Heads of States of the five NEPAD promoters. Its functions include developing terms of reference of identified programmes and projects, developing a strategic plan as well as supervising the Secretariat.

612 The Secretariat located in Midrand, South Africa, handles the co-ordination and liaison responsibilities, as well as administrative and logistical functions. As it is composed of a very small core staff, the secretariat out sources work on technical details to the lead agencies and experts from the continent. Its location in South Africa is a temporary arrangement with the AU.

613 First AU Assembly, Durban, South Africa, 9 -10 July 2002, Declaration on the Implementation of the New Partnership for Africa's Development (NEPAD) (ASS/AU/Decl. 1 (I), para. 3.

614 A Adedeji (note 515 above).

615 Ibid.

Its status within the AU remained confusing to many for a long while, even though it was referred in several documents as the initiative, project/programme of the OAU or 'the implementation mechanism of the AU'.[616] For example, at its Inaugural Meeting in Durban, in July 2002, the African Union confirmed the decision of the, July 2001, OAU Meeting of Heads of State and Government that the New Partnership for Africa's Development constitutes its programme for the socio-economic regeneration of Africa.[617] This suggests that the NEPAD and its implementing structures are subsidiary to the AU.

The NEPAD was initially conceived as a loose association of like-minded African leaders committed to a reformist agenda in an effort to reverse the continental malaise. Conversely, the AU, like its predecessor the OAU, seeks to reach decisions on the basis of consensus, thus ensuring that all decisions reflect the thinking of the lowest common denominator. Despite this fundamental difference in outlook, a compromise was negotiated at the OAU's Lusaka summit in 2001, whereby the NEPAD became the social and economic platform of the AU. Thus, although led by a smaller group of

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616 *Africa Recovery,* Vol.16#1, April 2002, 19 - Wiseman Nkuhlu, the South African President's Special Adviser on NEPAD, insisted NEPAD is 'a programme of the OAU.' He added that both the OAU Secretary-General and Chairman participate in the committee's deliberations. Also see Statement to the General Assembly of the United Nations by H.E. Ambassador Marcello Spatafora, Permanent Representative of Italy, on behalf of the European Union. Plenary Meeting NEPAD: Progress in Implementation and International Support, October 15 2003: (New York,). In response to a question asked by ACDP MP, Adv Mighty Madasa, in South African Parliament on 26 March 2003– 'Are there any challenges facing African unity that may retard progress in the African Union towards the realisation of the vision of African Renaissance and the NEPAD programme; if so, what are the challenges?' President Mbeki replied, 'In pursuit of the goal of the African unity and the attainment of the renewal of our continent, we have created two principal instruments, the African Union and its development programme, the New Partnership for Africa's Development'. However, since the organization is currently preoccupied with building the AU, much work on NEPAD is currently under the direction of 20 African heads of state, known as the Implementation Committee.

617 See Assembly of Heads of State and Government, Thirty-Eighth Ordinary Session of the Organization of African Unity, 8 July 2002, Durban, South Africa, AHG/Decisions 171-184(XXXVIII) 'Declaration on the Implementation of the New Partnership for Africa's Development (NEPAD),' para 2, RECALLING our decision regarding the then New African Initiative taken at the 37th Session of the Assembly of Heads of State and Government of the Organization of African Unity in Lusaka, Zambia, from 9 to 11 July 2001 (AHG/Decl. 1 (XXXVII).

countries (the twenty States that constitute the HSGIC), the latter is obliged to report annually to the AU Summit; furthermore, the Chairperson of the AU and the Chairperson of the Commission of the AU are *ex officio* members of the HSGIC. Thus, although the NEPAD emerged as a proposal of a few African Heads of State, it was approved by the OAU and then endorsed by its successor, the AU.

Whereas the AU is an economic and political partnership loosely modelled on the European Union, the NEPAD is motivated by the desire to improve the economic well-being of the African continent, through among other things, better fiscal discipline and good governance. Paragraph 198 of the NEPAD Document states that 'the Heads of State promoting the NEPAD will advise the AU on an appropriate mechanism for its implementation', indicating that the NEPAD should be implemented within the aegis of the AU. This would entail that membership to the AU automatically qualifies a state to benefit from the NEPAD, as the HSGIC will report to the whole AU Assembly of Heads of State and Government and not only those who subscribe to the NEPAD or the APRM principles.

There were fears that the NEPAD would usurp the role of the AU, given its prominence and interest from the west. In his letter to the former Canadian Prime Minister, Jean Chretien, President Mbeki tried to allayed these fear by stating that:

> The AU is the primary organisation that unites the people of Africa. NEPAD is its socio-economic development programme. Accordingly, the NEPAD is not an organisation separate from and independent of the AU. It has been authorised by the AU in all its elements, including the peer-review mechanism. Indeed, there is no way in which there can be a NEPAD independent of and outside the AU, in as much there can be no socio-economic development programme covering the member states of the EU independent of and outside the EU. …Accordingly, it would be fundamentally wrong and illegal for the NEPAD

> to ignore these institutions [other institutions created by the OAU/AU to monitor issues of human rights and peace], and thus place itself above African continental law. One of the dangers, to us, posed by the assertion that the NEPAD peer-review process should displace all related AU legal organs is that this seeks to encourage us to ignore decisions relating to the AU that have been adopted by our parliament as law. Another is that we are being encouraged to hold the AU in contempt, by treating its decisions and institutions as being inimical to the logic and vision that underlie the NEPAD. In short, we are invited to treat the AU, the parent of the NEPAD, as a dangerous irrelevance with regard to its NEPAD offspring, whose connection with the latter may lead to the unravelling of our external partners, as you warn. As you can see, this creates what, to us, is a false dichotomy between the NEPAD and the AU, which seeks to oblige us to either abandon or dissolve the AU, and replace it with the NEPAD. I am certain this is not the result you seek[618]

President Mbeki, however, acknowledged that:

> The NEPAD enjoys a higher public profile than the AU. This has led to the unstated understanding among some people that the NEPAD has precedence above the AU, whose institutions, apart from the NEPAD, are considered by some to be of little consequence to the future of our continent. However, it is necessary that everybody, including the peoples of Africa, should understand that this conclusion is fundamentally wrong. The AU stands at the pinnacle of our continent's efforts to achieve its renewal, including realisation of the goals contained in the NEPAD[619]

The AU Constitutive Act, together with the NEPAD, therefore seek to extend and deepen Africa's regional commitment towards democracy, human rights,

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618 M Thabo (note 601 above).

619 Ibid.

economic and political integration, sustainable development, peace and security.

A positive development in the creation of the AU is that unlike its predecessor, the OAU, member countries can now reasonably interfere in each other's internal affairs. However, this interference is reserved only to war crimes, genocide and crimes against humanity, or when requested by the member state. The NEPAD is based on the commitment and fulfilment of certain prescribed conditions and the peer review mechanism, all which may necessitate countries to 'interfere' in each other's internal affairs.

But one great deficiency which both the AU and the NEPAD share and which has to be put right is that they are top - bottom rather than bottom - up initiatives. While it is the responsibility of political leaders to take policy and political initiatives, their effort will be in vain if they are unable to carry their people with them. Both initiatives were prepared without consultation with the stakeholders of Africa's development - the people. No meaningful public discourse or debate was held, on both, in the majority of African countries. Yet both claim the promotion of democratic principles and instituting popular participation and good governance as their main objectives. The African ownership, which is claimed, for them, is no more than the ownership of the heads of government and their immediate advisers.

6.6 How is the NEPAD different from past African initiatives?

> What is new about the NEPAD which should raise hope for a continental renaissance? The players (African leaders) are the same, the game (neo-liberalism) is the same, the rules (profit maximisation for the TNCs) have not changed, and the referee (World Bank / IMF, WTO & G8) is the same. There is definitely very little, if anything, that Africa should hope to get out of such a game. It is the rules of the global economic game that need to be changed[620]

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620 Karuuombe (note 508 above) *2.*

The NEPAD is not the first initiative of its kind to be introduced in Africa to pull the continent out of the deep waters of poverty, misery, instability, and underdevelopment. African countries individually and collectively have experimented with everything from Marxism to the World Bank's Structural Adjustment Programmes, in the past four decades, in futile attempts to get their economies going. There have been so many plans to revive Africa in the past two decades that UN Secretary-General, Kofi Annan, said that he could not remember all their acronyms.[621]

The NEPAD was preceded by such other plans as the Lagos Plan of Action for the Economic Development of Africa (1980 – 2000) and the Final Act of Lagos (1980); the African Alternative Framework to Structural Adjustment for Socio-Economic Transformation (AAF-SAP) (1989);[622] the Africa's Priority Programmes for Economic Recovery (APPER) (1986 – 1990);[623] the UN Programme of Action for Africa's Economic Recovery and Development (UN-PAAERD) (1986 – 1990); the African Charter for Popular Participation for Development (1990); and the United Nations New Agenda for the Development of Africa (UN-NADAF) in the 1990s. In addition, African leaders, through the OAU, agreed to respect and protect collective and individual rights through the adoption of the African Charter on Human and People's Rights (1981).

Viewing the origin of the NEPAD in the light of the earlier African development initiatives, two important interrelated questions come to the fore, namely: why did most of these earlier initiatives fail in making a significant dent on the

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621 Gqubule (note 569 above).

622 UN General Assembly Resolution, A/RES/44/24 of 17 November 1989, 60th Plenary Meeting.

623 Adopted by the OAU Assembly of Heads of State and Government meeting at its 26th Ordinary Session held in Addis Ababa, Ethiopia, on July 11, 1990.

African problem of underdevelopment? And, what hope is there that the NEPAD will now make a difference?

Analysts argue that other initiatives developed before the NEPAD failed because of three main reasons, namely, the timing (under the Cold War paradigm), the lack of capacity for implementation, and the lack of genuine political will. According to Dan Connell and Frank Smyth, for instance, these initiatives were extensively driven and influenced by the politics of the Cold War era. They add that 'for decades, the United States, the Soviet Union, and France propped up dictators who served their interests rather than the interests of their fellow Africans…'.[624] To this, Aluko–Olokun adds the lack of synergy with required political will, the lack of economic reforms, the lack of ownership and the lack of resources.[625]

However, the NEPAD is different from past initiatives in many respects. First, unlike the LPA and other past initiatives, the NEPAD tackles the issue of good governance frontally and goes ahead to set up institutional mechanisms that can put politics at the command of economics in Africa.[626] Second, the NEPAD is not shy to speak about democracy. Nowhere in the LPA, for example, was the word democracy mentioned, let alone addressing the issue of politics. For all intents and purposes, the LPA was an economistic document in the rather pejorative sense of the word. The NEPAD is a document conscious of political economy and the role of subjective factors in influencing processes of social transformation. Third, while fully conscious of the structural constraints that the world economic system places on the

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624 D Connel & F Smyth 'Africa's new Bloc' *Foreign Affairs* (1998) 80.

625 I Aluko–Olokun *The New Partnership for Africa's Development* (2001) 1; See also N van de Walle *African Economies and the Politics of Permanent Crisis: 1979 -1999* (2001) 18-19.

626 GD Mjema & AAL KilindoL Globalization and Current African Development Challenges: NEPAD as a Viable Strategy', paper prepared for presentation at a workshop organized by the International Association of Ports and Harbours – Africa Europe Region and Pan African Association of Ports Cooperation – Ngorongoro, 10-11 December 2002.

potential for development in Africa, the NEPAD openly admits engagement into this system as the only realistic way out, and suggests partnership rather than dependence and subservience as the mode of this engagement. This engagement will involve renegotiating international trade arrangements to improve equity in the World Trade Organisation rules and regulations,[627] to reduce unequal exchange in international commerce, and to have better and more rewarding access to foreign markets. It also hopes that this partnership implies a kind of social democracy at a global level, whereby those who have been favoured by history for various reasons to be developed will have some vested interests in investing in the rapid development of the currently underdeveloped Africa, provided this is done with African leadership taking the initiative.

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627 Kunle note 571 above). Kunle argues that perhaps nowhere is globalisation more pernicious and debilitating to the interest of Africa than the hugely unfair trade practices institutionalised under the aegis of the World Trade Organization. By favouring the worst form of unregulated capitalism in modern history, with rigged rules and unfair agricultural standards for Africa, globalisation imperils both democracy and development on the continent. Bello, on his part, gives details on how this is done. One, a powerful and wide-ranging WTO has been better able to protect the interest of the US more than the General Agreement on Tariff and Trade (GATT) it replaced. This was realised by getting African states to sign the Marrakesh Accord of 1994. The latter gave teeth to the Uruguay Round whilst effectively robbing these states of 'their right to employ a variety of critical trade measures for development purposes.' Two, the use of Trade-Related Investment Measures (TRIMS) and Trade-Related Intellectual Property Rights (TRIPS) are not only inimical to the industrialisation and development of developing countries, but also deepen their technological dependence on firms of the developed world. Three, WTO does not recognise the 'special and differential' status Third World countries enjoyed under both the United Nations Conference on Trade and Development (UNCTAD) and GATT. On the contrary, it decrees that the only route to development 'is one that involves radical trade (and investment) liberalisation.' Four, the WTO's Special Measures on Developing Countries have been honored more in their breach than in their observance. A notable example is the one on agriculture that was intended to give assistance to 'Net Food Importing Countries' with a view to offsetting the reduction of subsidies that would make food imports more expensive. Five, whilst virtually insisting that developing countries should withdraw subsidies from their farmers, OECD countries have regularly increased theirs. Jean Chretien, the Canadian Prime Minister, declared during a special session in the UN General Assembly devoted to the NEPAD (in September 2002) that one way rich countries can help African economies is to end subsidies worth $350 billion for domestic agricultural products. Finally, Bello concludes that 'the WTO systematically protects the trade and economic advantages of the rich countries, particularly the United States. It is based on a paradigm or philosophy that denigrates the less developed countries, thus leading to a radical dilution of their right to 'special and differential treatment.' The WTO raises inequality into a principle of decision-making.' See Bello Walden 'Why Reform of the WTO is the Wrong Agenda'. <http://www.aidc.org.za/archives/wto_bello_why_reform.html>

Fourth, the NEPAD, like its predecessor the LPA, is strong on collective self-reliance and puts premium on regional integration as part and parcel of the strategy for African economic renaissance. Unlike previous initiatives, however, it is more specific on African-level projects and is not as wordy in its proposals as the LPA tended to be - risking confusing the statement of general principles with that of detailed programmatic implementation schedules.

Fifth, the NEPAD, like the African Charter for Popular Participation, takes the issue of peace, security, and human rights as critical to any prospects of development in Africa. In this regard, priority is given to the settlement of the debilitating internal conflicts in Africa and the creation of political democratic order wherever such order is wanting. This includes a whole range of conflicts from the obvious ones like those in the Great Lakes region, the Horn of Africa, and Western Sahara, to the less talked about ones, like the conflicts in Northern Mali and Niger and the Cassamance in Senegal.

Two of the most attractive innovations of the NEPAD are the issues of ownership by Africans in the design of policies and also in their implementation. In addition to its ownership, partnership is also an important component– even though ownership of the initiative is still at leadership level. This fact distances the NEPAD from Africa's more subservient role in past initiatives. The key to this partnership not only exists between Africa and the international community, but also amongst African nations. This latter notion of partnership is to be realised through an 'African Peer Review Mechanism,' designed to regulate the practice of good governance. Therefore, there is African ownership, at least at the leadership level, and African partnership.

Critics, however, claim that the NEPAD has signed a contract with external forces and not with the people of Africa; that the NEPAD is an African plan without the inclusion of African society, rendering it an external plan rather than an inwardly-orientated programme of action. Real ownership of the initiative will require that there are new mechanisms and structures for the

African people to engage the plan from within. It should mean taking the NEPAD beyond the traditional confines of inter-governmental exercise to also bring to the centre stage the involvement of parliaments, the private sector, and the civil society. And partnership between the public-private sector and civil society should be strengthened so as to promote durable and positive environment for growth and development. It should also mean Africa's engagement with the international community in pursuit of a common commitment to global peace and sustainable development. But, what hope is there that the NEPAD will make a difference?

There are good reasons to hope that things may be different this time around. The decisions for greater unity, for better governance, for improved economic management, for greater democracy are made because of inescapable pressures, both internal and external, that are really forcing Africa to come to terms with the collective realities it is facing. Therefore, the NEPAD has a good chance of succeeding, not much because of its content but rather because of the new international world order.

Firstly, there is determination and good political will from the African leaders that was lacking for other earlier development initiatives. Secondly, there is sufficient past experience to draw from and existing capacity that could be deployed for the implementation of the plan. Thirdly, the NEPAD was initiated at a time when Cold War political imperatives had ceased to impinge on Africa’s political dynamics. The disengagement of the external political actors in African domestic affairs brought about a respite in which an economic development programme could be experimented. As highlighted by Abdul Mohammed:

> The current environment is auspicious for change. Within Africa, we are recognising the imperative of concerted, serious change, if we are to achieve the most basic of our common goals. Internationally, we now have international partners who have come to recognise that they need a new way of doing business if Africa is to begin to achieve its potential. At a continental level, the African Union is the clear manifestation of our collective demand for standing together and addressing our

> problems in concert. Meanwhile, the New Partnership for Africa's Development holds out the promise of a dramatically improved relationship with aid and trade partners, on the basis of a clear and sustained commitment to good governance[628]

President Mbeki is confident that the time has come for Africa and this time around, things will be done differently:

> We are determined to move forward on the basis of a partnership among the peoples of Africa, for the victory of the African Renaissance. We are resolved to act together as governments, the masses we represent, and civil society. We seek to ensure that we move away from the donor-recipient relationship with the developed world, to a new partnership based on mutual respect as well as shared responsibility and accountability. We are committed to translate our words into a practical programme that actually changes the lives of the masses of Africa away from despair to a common future of hope and human dignity for all Africans. The success that we will and must achieve in Africa will be a victory for all humanity because the poverty of any people in any part of the globe is the poverty of all humanity[629]

Echoing this optimism, Wiseman Nkhulu argues thus:

> We are at a critical juncture in history. A core mass of leadership has developed, both on the continent and abroad, that are genuinely committed to the regeneration of the continent. Africa's advances in recent years and the convergence of agreement on international development goals and a common agenda for Africa illustrate this. Also, the NEPAD provides three key new elements, namely, it is African developed, managed and owned; it brings the concept of a new partnership (with mutual commitments, obligations, interests, contributions and benefits); and Africa is undertaking

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628 Keynote presentation by Abdul Mohammed at a symposium on the African Union, organised by InterAfrica Group and Justice Africa, Addis Ababa, 03 March 2002.

629 M Thabo (note 598 above).

> certain commitments and obligations in her own interests which are not externally imposed conditionalities. In conclusion, the conditions are set for the NEPAD objectives to be achieved. This unique opportunity must be firmly grasped, the present goodwill and momentum must be maintained and implementation if the NEPAD must proceed without delay. For the sake of future generations of Africans, we cannot afford to fail[630]

Not everyone shares this optimism or agrees that the NEPAD is different from other past initiatives. Speaking in De Balie, Amsterdam, at a forum organized by SAHAN Consultancy, under the theme 'Shaping a new Africa', African civil society participants argued that they fail to see how the NEPAD differs from other earlier development projects that have already failed. The only differences, they claimed, is the name and the way it has been repackaged.[631] In this sense therefore, the NEPAD is not framed to change the existing power and economic relations between Africa and the rich world. The formulation of the NEPAD maintains the status quo, without challenging rules regulating the unequal economic relations. In this respect therefore, the NEPAD is not viewed by the representatives of African civil society as a new initiative, but a neo-liberal initiative coming from outside Africa.[632]

The civil society representatives further asserted that the West does not want the NEPAD to succeed, as it does not want the existing economic relations to change.[633] It is precisely these existing economic relations that will prevent the NEPAD from being a success as in the case of earlier economic

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630 See Nkulu (note 631 above). See also welcome remarks by Hon Minister MMS Mdladlana, South African Minister of Labour, to the First Vice-Chairperson of ARLAC, 29 September 2003, Marine Parade Hotel, Durban; and Statement by Foreign Minister Nkosazana Dlamini Zuma at the meeting of the regional women's association on NEPAD, Durban, 4 July 2002.

631 A Mohamoud Final Report on debate on 'Africa can do it itself: promise or reality? 'SHAPING A NEW AFRICA' held in De Balie, Amsterdam, 24 February 2003 .

632 Gqubule (note 569 above).

633 A. Mohamoud (note 632 above).

programmes. Africa's political leaders and the proponents of the NEPAD have failed to understand the nature and character of the global system they are dealing with. They seem to believe that genuine partnership is possible between them and their Western counterparts based on the existing rules of the contemporary global system.[634] Thus, the NEPAD document talks, in relation to Africa, about the 'responsibilities and obligations of the developed countries and multilateral institutions, ranging from debt relief to market access and governance reform of the multilateral institutions'.[635]

The Lagos Plan of Action, for example, gave detailed strategy of how collective self-reliance would result in rapid economic development and the setting up of an African Economic Community, but its state-led development model was criticised by the West and organisations such as the World Bank.[636] The industrialised nations, as well as the IMF and World Bank which they control, did not demonstrate any real interest in enabling the implementation of this programme. They were opposed to any alternatives to the structural adjustment programmes they had imposed on Africa since the 1980s.

The LPA was criticized by the World Bank as not giving enough room to the private sector, not conceding to reforms necessary in the public sector to stimulate growth and being too ambitious in its projections on what Africa could achieve in terms of industrial growth.[637] Given that the West was generally hostile to arguments advanced by the advocates of the New International Economic Order, it was not surprising that they paid scant

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634 Karuuombe (note 508 above).

635 NEPAD Document (note 2 above) para 188.

636 P Nyong'o 'From the Lagos Plan of Action to NEPAD: The dilemmas of progress in independent Africa' - paper delivered at the Renaissance South Africa Programme of continental Experts Meeting, (2002).

637 J Loxley *Review of African Political Economy* Vol. 10 No. 27/28 (1983) 198-204. Professor Elliot Berg was appointed by the World Bank to head a team of evaluators who came up with the famous Berg report entitled Accelerated Development in Sub-Saharan Africa: An Agenda for Action. But unlike the LPA, the Berg Report delivered a judgment that put the African state and African bureaucracies in the dock.

attention to the LPA. The World Bank therefore went ahead to set up its own assessment of the possibilities to jump start African economies, so as to overcome underdevelopment.[638]

While Africa did not want to simply pour cold water on SAPs, their adverse effects and even at times inappropriateness could not be ignored. A more proactive approach was therefore taken by the Economic Commission for Africa, in conjunction with African governments, to produce the Africa's Priority Program for Economic Recovery (1986-1990). This was later converted into the United Nations Program of Action for Africa's Economic Recovery and Development.

In 1991, the OAU came up with the Abuja Treaty, which extended the deadline for establishing the AEC by 25 years. The same year, the UN produced the New Agenda for Development of Africa. This document, which resembled the NEPAD, was described as a 'compact of mutual commitments by African countries and the international community'.[639] African countries made certain political and economic governance commitments. The target was economic growth of six percent a year. The results were dismal, according to former Ghanaian finance minister, Kwesi Botchwey, who headed a UN panel to evaluate the programme.[640]

From the foregoing, some scholars argue that the NEPAD is not different from the IMF/World Bank SAPs, as its goal is to increase privatisation in all sectors of economic activity, including even basic necessities such as water and electricity - a trend that has been found to have grave consequences for the standard of living, particularly for the poor in many developing countries.

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638 Nyong'o (note 637 above).

639 Address by H.E. Ambassador Dr. Abdulmejid Hussein, Permanent Representative of the Federal Democratic Republic of Ethiopia to the United Nations, The Ad Hoc Committee of the Whole of the General Assembly on the Final Review and Appraisal of the Implementation of the United Nations New Agenda for the Development of Africa in the 1990s, United Nations, New York, 25 September 2002. See also *Africa Recovery,* Vol.16 #2-3 (September 2002), 30.

640 Ibid.

Moreover, at a time when most African states find themselves in a relatively weak economic position and when Africa needs strong, socially responsive states committed to the social welfare of their people, the NEPAD seeks to decrease the role of the state, leaving everything to the market.

Authors of the NEPAD document therefore seem to have misunderstood both the system and the structures with which they are confronted. They have not come to terms with the logic of a system that, vis-a-vis poor countries, often says what it will not do and does what it does not say.[641] By so doing, they make inordinately unrealistic assumptions and prognosis. As Maxwell and Christiansen have argued that 'the conditions in aid relationship tend to apply more to the recipient country than to the donor; this has been described as 'asymmetrical accountability and is rather closer in practice to traditional conditionality than to genuine partnership'.[642]

Understood this way, Ake's contention that, 'development is not for a people who do not know who they are and where they are coming from, for such people are unlikely to know where they are going', makes sense.[643]

The above limitations notwithstanding, the criticism that there is 'nothing new' in the NEPAD misses the point. At the core of the NEPAD process is the consolidation of democracy and sound political, economic, and corporate governance. The NEPAD provides a policy framework and programmes for strengthening political leadership, ending conflicts, spreading and deepening democracy, accelerating economic integration, promoting good economic, corporate and financial management, and a mechanism for sharing and reinforcing successful and best practices through a system of peer review. Nyong'o concurs and adds that the NEPAD differs from previous initiatives

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641 A Kunle (note 571 above).

642 M Simon & C Karin 'Negotiation as simultaneous equation: building a new partnership with Africa' in *International Affairs* (2002) 477-491.

643 A Claude *Democracy and Development in Africa* (2001) 6.

because it confronts the issue of good governance and regards issues of peace, security, democracy, and human rights as critical to development.[644]

Experience shows that African countries acting individually, or in isolation, find it difficult to sustain democracy and sound economic management. Stability is normally undermined by either political conflicts that originate from neighbouring states or by the state collapsing on its own because of inherent weaknesses. In this context, the NEPAD is seen as the initiative that Western leaders have seized upon as the modality for assisting Africa. It is therefore a synthesis of what is known to work and what is believed to work, packaged in a manner that can gain the confidence and support of Africans and international partner governments.

It is different from previous initiatives in that it focuses first on political leadership and will. It states that for the continent to progress, African leaders must lead differently. They must be accountable to their people and to each other. It proposes a number of instruments and mechanisms for pursuing these objectives. At the center is increased collective action around certain key principles and values that are highlighted in the NEPAD framework document. Collective action by like-minded leaders will reinforce the adoption of and adherence to best practices, and this will hopefully make the reforms more sustainable.

The NEPAD is not designed as an internal vision just to counter the visions that are being imposed on Africa by external groups. It is a strategy for positioning Africa in the 21st century. It is a strategy for promoting Africa's self-development in an inter-dependent world. It provides a framework for addressing Africa's concerns within the real environment of a global community, but according to Africa's own agenda and on its own terms.

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644 Nyong'o (note 637 above).

The NEPAD therefore remains a very important initiative to be rejected outright as some scholars and sections of civil society have done. In the words of Vivian Derryck,

> it is a departure...from old strategies and methods,…it is the last best hope for African development. Its unprecedented emphasis on African ownership, and accountability and partnership among African states could signal a new era for African sustainable development[645]

6.7 The NEPAD and the international community

> The needs (of the developing world) are many and undeniable. And they are a challenge to our conscience and to complacency. A world where some live in comfort and plenty, while half of the human race lives on less than $2 a day is neither just, nor stable. As we recognise this great need we can also recognise even greater promise. World poverty is ancient, yet the hope of real progress against poverty is new. We have, today, an opportunity to include all the world's poor in an expanding circle of development, throughout all the Americas, all of Asia, and all of Africa. This is a great moral challenge[646]

The NEPAD represents an instrument of historical contestation that continues to take place between Africans seeking self-determination in their development efforts and those forces that seek the continuation of the exploitation of the continent's resources upon which the accumulation of their wealth depends.[647] S. Gutto supports this assertion and argues that the NEPAD is a product and expression of historical contestation and balance between the forces of modern capitalist expansion and reconstruction, also

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645 C Cobb Jr. 'NEPAD Embraced but Questioned at House Hearing' *Global Policy Forum*, September 19, 2002.

646 President George W. Bush, Headquarters of the World Bank, Washington, July 2001.

647 Nabudere (note 22 above).

known as 'globalisation', on the one hand, and pressures from below by the African masses, who have never ceased to demand justice and social progress, on the other.[648] This contestation manifests itself in the continuing structures of imperialist domination of the African people through the post-colonial state, which continues to be a neo-colonial instrument of domination. According to Dani Nabudere:

> The post-colonial state finds itself at the centre of the contest because of its ambivalence in facing the two forces. On the one hand, it tries to respond to the demands of the people, but then the leaders lack the determination to pursue those demands on the basis of the people's own decisions in a democratic state. On the other hand, because of that lack of determination to trust the African people, it seeks the support of the enemy to assist in envisioning and implementing what they believe are people's aspirations[649]

As a Pan-African grand plan, the NEPAD has received a great deal of attention at the highest levels of government, regional blocs, and multilateral development assistance organisations. The NEPAD has been top-of-mind on the G8 agenda since 2001,[650] and it has been discussed with the European Union[651] and the Organization for Economic Cooperation and Development. The development community, governments, bilateral and multilateral donors, International Financial Institutions (IFIs), Non-Governmental Organisations, Civil Society Organizations, and policy think-tanks have all been briefed about this new African development blueprint.

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648 SBO Gutto 'The Rule of Law, Human and Peoples' Rights and Compliance/Non-Compliance with Regional and International Agreements and Standards by African States', prepared for presentation at the African Forum for Envisioning Africa held in Nairobi, Kenya, 26 – 29 April 2002.

649 Nabudere (note 22 above).

650 'A critical review of the business of African development under NEPAD: Is there a role for business yet?' *NEPAD Business Monitor,* Volume 1 No. 1, July/August 2003.

651 Joint Conclusion on an Enhanced Dialogue between the European Union Commission and the NEPAD Secretariat, EU Commission, Brussels, Belgium, 15 October 2003.

In order to show the importance it attaches to the NEPAD programme, the United Nations General Assembly, through its Resolutions 57/2 and 57/7, adopted in December 2002, welcomed the NEPAD as a programme of the African Union that embodies the vision and commitment of all African Governments, and the peoples, for peace and development. Furthermore, in its Resolution 57/300 of December 2002, the UN General Assembly recognised the NEPAD as a framework for UN support to Africa,[652] and mandated the creation of an office at the UN Headquarters, led by an Under-Secretary General, dedicated to support African development in general and the NEPAD in particular.[653]

Other UN Agencies have also taken steps to support the new African development initiative. The World Health Organisation (WHO) has pledged to

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652 UN General Assembly Resolution 57/300, of December 2002. Ultimately, the developing countries' Group of 77 (G-77), which produced the resolution's initial draft, achieved its basic objective: to secure approval for the official endorsement of the NEPAD as 'the framework, around which the international community, including the United Nations system, should concentrate its efforts for Africa's development.' The bulk of the resolution focused on support actions by the international community. Sticking closely to previously negotiated international commitments, these points included: urging developed countries 'to make concrete efforts' toward providing 0.7 per cent of their gross national product as official development assistance, with 'a significant share of such ODA to African countries'; stressing the need to find a 'durable solution' to the external debt problems of heavily indebted poor countries in Africa, 'including through debt cancellation and other arrangements'; calling for improved market access for African exports and for developed countries to encourage their private sectors to invest in Africa; calling upon developed countries to channel resources towards the New Partnership's priorities, especially infrastructure development, health services, education, water and agriculture; encouraging developing countries to further support South-South cooperation with Africa.

653 See also *Briefing on NEPAD to Permanent Representatives to the African Union,* by Mr. Ibrahim A. Gambari, Under-Secretary-General and Special Advisor on Africa, (African Union Headquarters, Addis Ababa, 14 May 2003). As of 1 May 2003, an Office was established, through the Secretary General's Bulletin SGB/2003/6 and its functions are, inter alia: (a) coordinate and guide the preparation of the Africa-related reports and inputs in particular support for the New Partnership for Africa's Development by the United Nations system and the international community including the private sector and the civil society; (b) initiate reports on critical issues affecting Africa, and in particular on the interrelated issues of peace and development; (c) coordinate global advocacy in support of NEPAD; (d) acts as a focal point for NEPAD within the United Nations Secretariat at Headquarters; and (e) provide backstopping to the Secretary-General in promoting a coordinated system wide response in support of African development, particularly the support to NEPAD, through the UN system Chief Executive Board for coordination.

intensify its efforts to ensure the success of the New Partnership for Africa's Development. Addressing delegates at an informal session of the UN General Assembly, in New York, on 17 September 2002, Dr. Samba (former WHO Director for Africa) noted that crafting partnerships among African countries and between them (African countries) and the international community was the core of the NEPAD.[654] He noted that

> no one agency or organisation can do it all alone. As the lead agency in the health sector for world development, WHO will continue to work with member states, United Nations Children's Fund (UNICEF), United Nations Development Programme (UNDP) and other partners to create conditions for economic recovery and sustainable development in Africa[655]

Other UN bodies and the World Bank have taken the lead in pronouncing their support for the NEPAD. Perhaps being conscious of its role in past initiatives and the criticisms levelled against it, the World Bank claims this time around, its policy on the NEPAD is to avoid compromising African ownership and to work entirely according to its requests and with the institutions it designates.[656]

The decision of the UN General Assembly to officially endorse the New Partnership for Africa's Development symbolises a new start for the international community in its interaction with Africa, and also means that Africa has again given notice before the international community of its commitment to take responsibility for its own future.

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654 Special Session of the UN General Assembly on the New Partnership for Africa's Development, New York, 16 September 2002.

655 Pledges to work for success of the NEPAD, UN General Assembly, New York, 17 September 2002.

656 Annual Regional Consultation of UN Agencies Working in Africa, World Bank Support for the New Partnership for Africa's Development (NEPAD), September 10, 2002.

The reaction of the G8 to the NEPAD initiative has been the most recognised and talked about. The G8 Action Plan for Africa,[657] announced in Kananaskis, on 27 June 2002, is a significant response to the NEPAD. The plan was prepared through a series of discussion meetings conducted among Personal Representatives of G8 leaders in dialogue with representatives of the NEPAD leaders. It includes a commitment that half or more of the new development funds announced in the Monterrey Consensus[658] could be used in African countries that create the right policy environment. This is seen as a key commitment that could reverse the decline in aid flows to Africa. The G8 plan also contains new commitments to develop African conflict resolution and peacekeeping capacity in a more coordinated way.[659] The underlying objective of the G8 Action Plan is neither to provide a massive infusion of funding nor to underwrite the NEPAD projects more generally. The aim is to put in place a new partnership that will unlock much greater resources, both public and private, over the long term.[660]

The European Union, on its part, has also strongly supported the political values at the heart of the NEPAD because they correspond with the essential elements of the EU's external cooperation policy, regulated by the Maastricht Treaty, and completed by the Lome/Cotonou principles, the Mediterranean Process, and the Agreement with South Africa.[661] These EU policies are good governance, strengthening democratic practices, and respect for human rights and the rule of law. The EU appreciates in the NEPAD a firm feeling of African ownership, and the sense of African leadership that its implementation

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657. G8 Africa Action Plan, Kananaskis, Canada, June 27, 2002.

658. The Monterrey Consensus was adopted by acclamation at the Summit Segment of the International Conference on Financing for Development, on 22 March 2002.

659 G8 Africa Action Plan (note 658 above) para 1.

660 Speech by Parliamentary Under-Secretary of State for Foreign and Commonwealth Affairs, Baroness Amos, at a Joint Meeting of the Royal African Society and the Royal Commonwealth Society, 30 January 2002.

661 F Granell 'The European Union and the New Partnership for Africa's Development, (NEPAD) *The Courier ACP-EU* n° 194 (2002) 28.

requires.[662] The EU considers the creation of the NEPAD to be a strong commitment by African leaders to political and economic reforms, and evidence of a desire to take an active part in a globalised world. This in turn is consistent with the aim of eradicating poverty, in line with the internationally agreed Millennium Development Goals.

According to the EU, the NEPAD is crucial to Africa in many respects. First and foremost, it can be seen as an African spearhead for reinforced development of the continent, effectively breaking the deadlock of the past. And the NEPAD can be very important to the newborn African Union in helping to shape its course and giving it real content. Seen in this light, the EU considers the NEPAD a crucial initiative that should provide the overall policy framework for the international community's relations with Africa.

Accordingly, to the EU there is a new hope and prospect for Africa presented by the NEPAD and by the creation of the African Union. These two landmark events offer a historic opportunity for Africa to take control of her destiny-- and to lay a new foundation for development in Africa. In this respect, the EU regards the AU and the NEPAD as mutually reinforcing.[664]

In the opinion of the EU, the African Peer Review Mechanism will be central in making the NEPAD objectives become a reality. Good governance cannot be imported from outside. It is the will and ability of individual African nations that will carry the day.[665]

There has also been significant support from individual countries including, the G8 industrialised countries – Russia, France, Japan, USA, Canada, UK,

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662 Ibid.

664 Statement by H.E. Dr. Per Stig Møller, Minister for Foreign Affairs of Denmark, on behalf of the European Union, at the High-level Plenary Meeting to consider how to support the New Partnership for Africa's Development, Fifty-Seventh Session of the General Assembly (New York), September 16, 2002:

665 Statement by Susan Whelan, Canadian Minister for International Cooperation, at the African Development Bank NEPAD Symposium, Addis Ababa, Ethiopia, May 27, 2002.

Germany, Italy, as well as from the Nordic countries, and from China, India and Australia.

The international community has widely embraced the NEPAD as a promising new initiative and recognises that for this ambitious plan to be successful, donors must play a role. African ownership and leadership of the NEPAD should however not mean that Africa can and should go it alone. Delivery of commitments on the African side must be matched with delivery of commitments on the part of the international community. It will take partnership to get the NEPAD off the ground and show concrete results. The resolve of the African countries will have to be matched by the commitment of the more developed countries to support Africa - in a spirit of genuine partnership - by substantially enhancing the flow of resources to the continent.

The international partnership to be built is global in nature, not only from the diversity of participants but also from the wide scope of its coverage. It is predicated on openness and universality. It seeks to involve states, intergovernmental organizations, nongovernmental organizations, the business community, and civil society at large. The inputs from the international community should fit into the framework of priorities, plans and programmes defined by the NEPAD. In other words, African countries and their partners should agree on time bound targets and conduct joint assessments of progress made with a view to introducing adjustments as necessary. With the understanding and support of the international community, Africa will continue, on a firmer ground, its irreversible march towards economic development and social progress, as well as democracy and respect for human rights. This is a process that will encounter numerous challenges and criticisms, both within the continent and beyond, but the

African leadership must demonstrate resolve and commitment if they want to make this century a truly African century.

6.8 Criticisms of the NEPAD

The NEPAD has gained considerable attention since its inception in 2001. It received the endorsement of the African Union and interest from both the UN and the G8 countries. The NGO community has also voiced its qualified approval. The NEPAD does not only focus on the solutions that will be provided by African leaders and governments, but also invites the African populace to be part of the process. It values the role of NGOs as partners in sustainable development, and recognises that Africa needs to negotiate a new relationship with her development partners; and through the proposed adherence to good governance, the NEPAD tries to lay a basis on which many of the human rights abuses, mostly by African leaders, can be brought to the limelight.

Through the NEPAD, a new debate is emerging of moving away from just blaming all the problems the continent is facing on colonialism and the West, but rather to now realise a collective responsibility in re-building the continent and its people. African leaders have learnt from their own experiences that peace, security, democracy, good governance, sound economic management, and respect for human rights are conditions for sustainable development;[670] they have pledged to work both individually and collectively to promote these principles, not only in their countries, but also in their sub-regions and the whole continent.[671] However, in the midst of this optimism, heavy criticisms have been levelled on the NEPAD.

First, the conception, formulation, and development of the NEPAD have been criticized as lacking in transparency and participation. There was virtually no consultation with African civil society and the broader African public from the

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670 NEPAD Document (note 2 above) Para 71.

671 Ibid.

inception of the NEPAD. While the NEPAD emphasises the importance of both African ownership and the altering of the relationships that have traditionally characterised development in the continent, the exclusion of the African people severely affected its legitimacy. The drafting of the document was done in secret, even to the exclusion of some African leaders. It was presented to all the major funding originations in the West before being introduced to the OAU. The process leading towards the adoption of the NEPAD has been criticised as being a top-to-bottom approach, as even the representative organs of African States, such as parliaments, were never consulted. In his report, in Maputo, at the Second Ordinary Session of the Assembly of Heads of State and Government of the AU, President Obasanjo conceded that:

> In July 2001, at the Lusaka Summit of the OAU and the 2002 Inaugural Summit of the AU in Durban, it was resolved that each country should popularise both the Constitutive Act of the African Union and the NEPAD. However, the reality is that the majority of the people remain ignorant about both[672]

Transparency, accountability, and participation are crucial elements of development and of implementing the globalisation agenda. Adebayo Adedeji makes the point somewhat stronger when he says that 'until the NEPAD becomes owned by the people of Africa, its civil society and grassroots, the initiative will not take off at the national level; and without taking off at the national level, the plan is as dead as a dodo'.[673]

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672 Progress Report of H.E. Chief Olusegun Obasanjo, President of the Federal Republic of Nigeria and Chairperson of the NEPAD HSGIC, to the Second Ordinary Session of the Assembly of Heads of State and Government of the African Union, Maputo, Mozambique, 10-12 July 2003. www.nepad.org.

673 Quoted in CI Obi 'Reconstructing Africa's Development in the New Millennium through NEPAD, Can African Leaders Deliver the Goods?' Paper prepared for presentation at the 10th CODESRIA General Assembly, Nile International Conference Centre, Kampala, December 8-12, 2002.

To put it differently, no initiative for Africa's development, however well crafted and internationally accepted, can/will be successful if it is not owned by Africans themselves. The lessons of the failures of past initiatives point to an experience which shows that Africans must lead Africa out of poverty, and that the most effective policies and programmes are those based on domestic processes of consultation and decision-making.[674] This conclusion has been further substantiated by published research showing a significant and positive correlation between the ownership of policy reforms and development outcomes in Africa.[675]

It is therefore worrying to note that despite this lack of consultation and transparency surrounding the NEPAD, the 'democracies' of the West rushed to endorse it, ignoring the loud cries of African civil society and the population for the lack of participation. The NEPAD is for the people of Africa and if the people claimed ignorance about it, it was only fair for the 'democracies of the West' to refer the promoters of the NEPAD back to their peoples.[676]

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674 KY Amaoko 'Fulfilling Africa's promise' Millennium Lecture at 10 Downing Street, London, 17 December 2001, at 4.

675 See for example C Gray & M Macpherson 'The leadership factor in African policy reform and growth' *Economic Development and cultural Change,* 49, 4 (July 2001) 707-724.; and YM Tsikata 'Owning Economic Reforms: a comparative study of Ghana and Tanzania' *Discussion Paper No. 2001/53* (United Nations University/World Institute for Development Economics Research, Helsinki, (2001) 1-4.

676 The rushed endorsement of the NEPAD by the Western democracies has raised suspicion among African civil society of a possible conspiracy with their leaders to further deplete the continent. A sudden change of heart by the West after years of slavery, colonialism and neo-colonialism, and after refusing to even apologise for slavery makes Africans to rethink the genuineness of a partnership with the West. It should be noted that the target audience in the NEPAD is the private sector of the countries of the North and nouveau riches in the South. The economic ideologies of the Western democracies were cemented into the NEPAD document through the personal representatives of the Heads of State of the G8. Meetings were held in London, October 18, 2001; Addis Ababa, December 7, 2001; Cape Town, February 14, 2002, with working groups chaired by European Union (*Good Governance*), United Kingdom (*Peace, Security*), USA (*Education, Knowledge*, Health), Germany (Growth and *investment).* One would wonder why no African country chaired any of the working groups? It can also be argued that the rushed endorsement of the NEPAD was to divert Africa's heated campaign for reparations for slavery and colonialism. It must be noted that the NEPAD was adopted just a month after the controversial World Conference Against Racism, held in South Africa in August/September 2001, in which Africa and Western leaders 'traded insults' on the question of reparation.

Given the way in which the NEPAD emerged, the criticism on the lack of consultation with civil society and broad-base participation by the people is justified. However, it should be acknowledged that the NEPAD process was initiated by democratically elected African leaders representing the aspirations of their peoples. Such legitimacy confers some responsibility to the leaders to provide a vision for the continent. While broader participation may have been useful, the fact that the NEPAD is self-consciously democratic in its roots and aspirations should earn it the benefit of the doubt. And more recently, there have been initiatives to increase civil society participation on the NEPAD and the African Union, partly as a result of the recognition by African leaders of the need to engage Civil Society Organisations and encourage broader participation.

At a consultation in Abidjan, Côte d'Ivoire, between the African Development Bank and African civil society groups, the latter questioned the New Partnership's perspective, noting that 'the vision is built on selling Africa to the outside'[677] and 'there is a lack of internal strategy'.[678]

Some African leaders share that concern. At the launch of the AU in July 2002 in Durban, South Africa, Libyan leader Muammar el-Qaddafi maintained that the NEPAD seeks to impose Western democratic model on Africa, contrary to African religions and traditions.[679] Also, in late July 2002, the Namibian President, Sam Nujoma, warned against succumbing to foreign ideologies and influences.[680]

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677 African Civil Society, Regional Stakeholders Consultation on New Partnership for Africa's Development (NEPAD), report of The African Development Bank Group, Abidjan, Cote d'Ivoire, 4-5 April 2002. See also E Harsch 'Africans ponder New Partnership: NEPAD stimulates debate on development, democracy and global ties' *Africa Recovery, Vol.16 #4* (February 2003), 7.

678 Ibid.

679 Ibid.

680 Ibid.

The NEPAD's insistence that Africa must find ways to better harness the globalisation process has been controversial. Since few Africans have seen any concrete benefits from world market integration - and many have actually suffered from its disruptions - there is a tendency to equate globalisation with unfettered market forces and increasing inequalities between rich and poor. Critics perceived a 'neo-liberal economic policy framework at the heart of the NEPAD, which repeats the structural adjustment policy packages of the preceding two decades and overlooks the disastrous effects of those policies'.[681]

Civil society critics contend that the NEPAD is an unquestioning endorsement of the neo-liberal framework for seeking uncritical integration into the world economy, and that such an endorsement, besides many other misgivings it has attracted, fails to recognise the subordinate role that it seems to assign the African economies in the current globalisation process. Globalisation, into which the NEPAD would like to uncritically integrate the African economies, is increasingly revealing itself as a scheming of the power system - a materialisation of the balance of hegemonic power - within which Africa has hardly staked a strategic position.[682]

The NEPAD accepts the neo-liberal theory which argues that the role of the state should be minimised to give way to private capital and the market as the engine of economic development. The neo-liberal rationale is that wealth will be created through an enabling environment for the private sector to make profits, and that some of this wealth will ultimately trickle down to all citizens. Experiences in Africa and elsewhere over the past 20 years have shown that this rarely happens. Instead, economic liberalisation leads to an

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681 P Bond 'Cultivating African Anti-Capitalism' *Z magazine*, February 2003., See also P Bond 'Embryonic African anti-capitalism', *Z Magazine / ZNet* and *Porto Alegre 3*, 2002.

682 R Mshana 'The New Partnership for Africa's Development (NEPAD): Its success depends on participation of African people', *Issue* 21, 2002.

unprecedented concentration of wealth in the hands of a few, mostly foreign, investors, while the majority of the world's people become poorer.[683]

The NEPAD sets a limited vision for the role of the state in the African economy. The state in Africa has for a long time been seen as creating an enabling environment for capital, especially foreign capital, by protecting property rights and providing social and economic infrastructure. To make globalisation work for people, and not merely for profits, governments have to play a decisive role. The emphasis may be on rolling back the state from economic activities, but not from the responsibility of governance, both at a national and international level. It is up to governments to provide the enabling environment for citizens to capture global opportunities in trade and capital flows by negotiating favourable provisions in multilateral agreements. It is also for governments to put in place national and international measures to shield people from the excesses of globalisation. It is for governments to recognise their responsibility to help their citizens adapt to the dramatic changes in the labour market. Governments must ensure that the primacy of human rights is upheld and reflected in all international trade-investment agreements. As stated by the African Caucus at the UN International Conference on Financing of Development in March, 2002:

> We wish to warn our leaders that the NEPAD's strategy of seeking foreign private capital to develop the service and infrastructure will subvert the human rights of our people; it would place basic social services and infrastructure in the hands of the private sector, which is dominated by foreign capital. We cannot allow the practice of putting profits before human rights as the basis of Africa's development[684]

The NEPAD Document is written in such a way that it avoids offending the industrialised countries for what they have done in the past and continue to do

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683 Karuuombe (note 508 above).

684 African Caucus Press Release - UN International Conference on Financing of Development in March, 2002.

today. Neutral terms like 'globalising world', 'exclusion', 'globalisation' are used in the document while terms such as 'imperialism', 'neo-colonialism' and 'capitalism', which point to the causes of Africa's under-development, are avoided. The NEPAD argues that Africa's impoverishment is, amongst others, a result of 'colonial legacies' and that other causes such as the Cold War and the international economic system may have contributed but fails to clearly state that slavery, colonialism, neo-colonialism, and neo-liberalism are the root problems of Africa's impoverishment and loss of self-reliance. The legacies can still be seen in the skewed land distribution in countries such as Zimbabwe, Namibia, and South Africa where the land issue remains unresolved.

According to the NEPAD, no responsibility whatsoever is placed on the shoulders of the former colonial powers to compensate for their colonial wrongs. Therefore, the NEPAD does not make debt cancellation and reparation demands from the former colonisers of the African people. Instead of questioning these failed policies, the NEPAD merely calls for their continuation with some adjustments, and appeals for assistance to the very powers that played an active part in Africa's underdevelopment. A partnership can only be based on equality, and until the current economic and political power relations are transformed, Africa cannot hope for a true partnership with the industrialised countries and international financial institutions. The NEPAD fails to recognise this basic precondition for any meaningful partnership.

Africa should learn to learn from history. In all her history, Africa has never had a true partnership with the West. Africans were the slaves and their 'partners' the masters. Africans were the colonial subjects and their 'partners' the colonisers. Africa was, and is still the supplier of cheap raw material and her 'partners' turn them into expensive finished products. Africa was, and is still the borrower and her 'partners' the lender.[685]

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685 See Nabudere (note 508 above).

As a result of its weak analysis of the causes of African problems, the NEPAD merely proposes that Africans should 'extricate' themselves out of poverty and strive for self-reliance. There is an implicit presumption here that poverty and backwardness of Africa are the result of exclusion and marginalisation from globalisation. Although this presumption is true, it is not the main reason for Africa's underdevelopment. Unity, peace, security, prosperity, integration and sustainable development have eluded Africa for years due largely to inept and corrupt leadership at both the national and continental levels. The NEPAD itself acknowledges this fact:

> Africa impoverished by slavery, corruption and economic mismanagement is taking off in a difficult position. If the continent's enormous natural and human resources are properly harnessed and utilised, it could lead to equitable and sustainable growth, and enhance Africa's rapid integration into the world economy[686]

The document is, however, soft and vague in its analysis of self-serving African elite, who have plundered their countries by enriching themselves through corruption and kept themselves in power through military coups and oppressing the people. These elites actively facilitated the continuous exploitation of the continent after independence and have no legitimacy in claiming to be part of Africa's solution. They are part of the problem, and it is questionable that they can now champion the solution to the African development crisis.[687]

While a long-term objective of the NEPAD is 'to promote the role of women in all activities',[688] it fails to integrate a holistic analysis of the gender dimensions

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686 NEPAD Document (note 2 above) para 52.

687 Ibid.

688 NEPAD Document (note 2 above) paras 49 and 67. See, also, Human Rights and Democratic Development in Africa-- Policy Considerations for Africa's Development in the New Millennium, in Preparation for the G8 Summit, *Rights & Democracy*

of poverty or to identify clear mechanisms for enhancing female participation in development. As a result, the NEPAD bases its strategies on limited and vague measures, such as capacity-building, developing revenue-generating activities and encouraging greater participation, without explaining how they will reverse the pattern of women marginalisation. According to the *Gender and Economic Reforms in Africa (GERA) programme*, the NEPAD equation does not take into account the social relations within the market, in particular those of powers that underlie the rules, those of access to and control over resources, and those of activities in the market.[689] The NEPAD's simplistic conceptual framework does not include the interaction of entrenched social and gender inequalities, along with differences based on race, ethnicity, regional/rural/urban location, which perpetuates the marginalisation of women and other disadvantaged groups in the economy. It is not clear, either, how women and the large majority of small producers who operate largely outside of mainstream markets can benefit from the 'people-centered development' that the NEPAD expects to result from 'market-oriented policies'.[690]

Health is a fundamental human right, as well as a requisite for any development. Preventing and treating communicable diseases are both a means to achieving development goals related to poverty and an end in themselves. The social and economic effects of the AIDS crisis are reversing post-independence progress and exacerbating conditions of underdevelopment. It is difficult to contemplate a serious attempt at jumpstarting development in Africa without urgent attention to HIV/AIDS, a condition that can negate not only the vision of the NEPAD but also its goals, priorities and current areas of focus. With about 28 million Africans living with

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(International Centre for Human Rights and Democratic Development) May 21, 2002, 1001 de Maisonneuve Blvd. East, Suite 1100, Montreal (Quebec), Canada, H2L 4P9.

689 Z Randriamaro 'The NEPAD, Gender and the Poverty Trap: the NEPAD and the challenges of financing for development in Africa from a gender perspective, Gender & Economic Reforms in Africa Programme' paper presented at the Conference on Africa and the Development Challenges of the New Millennium, La Palm Royal Beach Hotel, Accra, Ghana, 23rd – 26th April, 2002.

690 Ibid.

HIV/AIDS, and more that 20 million already dead, the number one development emergency in Africa deserves priority and attention in the NEPAD-- the touted vehicle for the continent's accelerated development.[691]

The NEPAD, however, fails to not only articulate a strategy for addressing HIV/AIDS but to acknowledge the severity of the pandemic. The urgency of addressing disease in general and HIV/AIDS in particular through public health infrastructure is not listed as a priority for immediate attention.

While the NEPAD's rhetoric stresses new relationships and new approaches to development, the proposal closely follows an old structural adjustment model based on neo-liberal economics which fails to take issues of socio-economic justice seriously. The basic premise of the NEPAD is that if Africa was to be 'better integrated' into the globalisation process great gains could be made in terms of economic growth, development, and the eradication of poverty. It is well known that the current processes of globalisation, which prioritise open markets and liberalised trade are significantly contributing to environmental damage, the growing gap between the rich and the poor, and the undermining of democratic rights. The current form of globalisation increases corporate power, rather than the power of citizens and their governments to work cooperatively to protect the global commons and ensure real security and peace. Thus, it is a serious concern that if Africa is 'better integrated' into the globalisation process, its efforts to eradicate poverty and establish models of sustainable development will be thwarted rather than enhanced. The NEPAD presupposes that poverty can only be eradicated if African economies go industrial. Intra-African trade in agricultural products can boost intra-African investments and raise standards of living. What is needed is free access of goods and of people within Africa. This requires interconnectedness, including good roads to link different African countries, telecommunications and elimination of tariffs.

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691 C Akukwe 'Africa and the NEPAD: What about HIV/AIDS?' in *The Perspective*, (2002).

It would be naïve to think, let alone suggest, that there is a single interpretive meaning and understanding of the NEPAD within the diverse formations, within the people and civil society, of any country in Africa. According to S. Gutto, such unanimity, if it were possible, would at any rate be dangerous to critical social engagement and human development, especially for those working with human rights whose responsibility it is to promote freedom of thought, opinion and expression.[692] It should be noted that measures are already underway within the African Union to tackle some of the shortcomings in the NEPAD. Concerted effort has been made to engage CSOs and women; the AU has adopted a document on the tackling of communicable diseases including HIV/AIDS.[693] However, more still needs to be done.

6.9 The MDGs and the interface with the NEPAD

The adoption of the Millennium Declaration,[694] in 2000, by all 189 member states of the UN was a defining moment for global cooperation in the 21st century. The Declaration sets out, within a single framework, the key challenges facing humanity at the threshold of the new millennium, outlines a response to these challenges, and establishes concrete measures for judging performance through a set of inter-related commitments, goals and targets on development, governance, peace, security and human rights.

The Millennium Declaration is an expression of the disappointment of what has not been done and of the commitment of the international community on what has to be done. The Millennium Declaration brings clarity in the shared and individual roles and responsibilities of key parties: firstly, of governments to achieve or enable the achievement of goals and targets; secondly, of the citizens, civil society organisations, and the private sector to engage fully in

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692 SBO Gutto 'The African Union and the New Partnership for Africa's Development: Human and Peoples' Rights challenges' Statement before the 31st Ordinary Session of the African Commission on Human and Peoples' Rights, Pretoria, South Africa, 2-16 May, 2003.

693 Abuja Declaration (note 291 above).

694 United Nations Millennium Declaration, General Assembly resolution 55/2 of 8 September 2000.

this ground-breaking effort, by bringing to bear their unique strengths for motivation, mobilisation and action; and lastly, of the international organisations to marshal their resources and expertise in the most strategic and efficient way possible to support and sustain the efforts of partners at global and country level.

The various categories of goals were regrouped into eight 'Millennium Development Goals': eradicate extreme poverty and hunger; achieve universal primary education; promote gender equality and empower women; reduce child mortality; improve maternal health; combat HIV/AIDS, malaria and other diseases; ensure a sustainable environment; and develop a global partnership for development.

The New Partnership for Africa's Development is a strategic regional framework drawn up by African leaders. It represents a commitment on the part of these leaders towards the people of Africa, and the international community, to place Africa on the path towards sustainable growth and to speed up its integration into the world economy. The NEPAD is designed to address the current development challenges facing the African continent. Issues such as escalating poverty levels, underdevelopment, and the continued marginalisation of Africa needed a new radical intervention, spearheaded by African leaders, to develop a new vision that would guarantee Africa's renewal.

From the above, one can argue that policies contained within the NEPAD programme are key elements in achieving the MDGs. The NEPAD can provide a framework for speeding up the implementation of the profound socio-economic reforms, which are necessary to achieving the MDGs. The MDGs and the NEPAD in fact share the same conditions for success - based on the clear and decisive commitment of all the countries towards the values of peace, democracy, respect for human rights, and citizen participation.

Both the NEPAD and the MDGs, for example, aim at expanding education in general and adult education in particular, since they are now all being seen as driving forces for a sustainable social and economic development of the continent. Hence, human resources are seen both by the NEPAD and the MDGs as the most important factors for economic growth because of their creativity, innovativeness, and productivity.

However, as has been recognised by the United Nations and most of the international organisations which are Africa's partners, the NEPAD in many respects constitutes a framework for achieving the MDGs for the continent. The NEPAD endorses a development strategy focusing on the priority domains of the environment, infrastructures, education, health, culture and technology. It is becoming more and more clearly recognised as the regional expression and vehicle for achieving the millennium development goals because of its action plan which focuses on consensual goals such as eliminating poverty, promoting growth, increasing cooperation and partnership, and resolving conflict.

With regard to education, for example, the MDGs focus on primary education for all by 2015, and some countries of the region have already achieved this goal.[695] However, the countries' aspirations do not stop at this, as is stated in the NEPAD education programme, which goes beyond the quantitative issue, and clearly recognises the need for higher quality education programmes which are better adapted to the demands of the job market.

Good governance and sustained growth, the keys to achieving the MDGs also constitute the central principle on which lies the success of the NEPAD. The goal of eradicating poverty by the year 2015 is at the heart of the Millennium

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695 The attainment of the MDGs and the implementation of NEPAD in North African Countries: Progress and Prospects, the Report of the 20th Meeting of the Intergovernmental Committee of Experts (ICE) of the ECA Sub-regional Office for North Africa, Tangier, Morocco, 13-15 April 2005. The figures for the year 2001 show that the net enrolment ratio in primary education varies from 99% in Tunisia to 98% in Algeria and Libya, and 93% in Egypt. It can thus be said that these four countries are very likely to attain the goal of universal education before 2015.

Declaration and is one of the main objectives of the NEPAD. The attainment of the MDGs in Africa will thus depend not only on economic growth but also on the ways in which Africans commit to the objectives and principles enshrined in the NEPAD. The NEPAD can thus be regarded as the Millennium Development agenda for Africa. As Koffi Annan noted that 'there is a symbiotic relationship between the NEPAD and the Millennium Development Goals. The NEPAD will not be a success if Africa fails to achieve the goals and the world as a whole cannot achieve the goals unless they are achieved in Africa'.[696]

6.10 Challenges facing the NEPAD

The major challenges facing the NEPAD are similar to those facing the AU itself: how to make the process of recovery and development more inclusive and participatory, so that it is underpinned by effective consultation from the widest range of stakeholders; the inadequate capacity and resources to move the process forward; how to overcome the problem of afro-pessimism and win the confidence of both the African people and the international community; how to tackle the incessant conflicts on the continent; how to garner political support from African leaders themselves; the unfavourable geopolitical world order; and the burning problems of corruption, bad governance, human rights violations, and the endemic HIV/AIDS.

Africa must come to the realisation that it is the African people themselves who can bring about the future that they desire. The international community can, and should, provide support through various means. However, the main responsibility of attaining the objectives set by the NEPAD and the AU lie essentially on Africans, especially its leadership. The global scenario as it prevails today is such that every nation, including those in the rich West, gives priority to its own national and regional preoccupation. Therefore, Africa

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696 UN General Assembly, 16 September 2002; See also Africa Recovery, Vol.16 #4 (February 2003), page 6. See also CHOICES, December 2002, 23; and Press Release, SG/SM/8382, AFR/480 GA/10055 of 16/09/2002.

cannot expect her problems and concerns to be given priority by nations outside the continent.

While significant progress has been attained in the efforts to resolve conflicts in the continent, the capacity to prevent violent conflicts in the continent remains limited. Both the member states and the African Union have not developed the necessary institutional capacities to pre-empt conflicts from becoming violent and destabilising.[697] In this regard, success in resolving the prevailing conflicts in the continent may not guarantee sustainable peace, security, and stability. It is therefore essential to develop local mechanisms to anticipate the eruption of violence and instability. But more fundamental is the need to promote political systems within African countries that can be robust enough to accommodate differences without turning them into sources of antagonism and causes of confrontation. There is need therefore to inculcate or strengthen the culture of peace, democracy, and tolerance into societies.

Associated with the issue of conflict is the whole question of respect for human rights and ensuring good governance. On the issue of human rights, Africans should have been in the forefront of the struggle because no other community of nations can claim to have been more affected as a result of violations of human rights than Africa - from slavery, colonialism to apartheid. When the founding fathers of the OAU fought for independence, the objective was not only for freedom but it was equally important to ensure that African people regain their dignity as human beings.

Indeed, there have been a lot of changes in terms of according a greater respect for human rights in many areas of the continent. Nonetheless, the AU and the NEPAD still have a long way to go if these initiatives are to be successful. The AU needs to build and strengthen institutions that underpin

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697 The AU established the PSC to replace the Mechanism for Conflict Management, Prevention and Resolution. The PSC does not posses the necessary resources to detect crises before they escalate. The AU lacks the logistical capacity to intervene when conflicts do arise and still depends heavily on support from the West, as the crisis in the Darfur region of Sudan has shown.

respect for human rights. In the same regard, if the NEPAD is to succeed, there must be an enabling environment, an environment where there is respect for the rule of law, where people can decide how they are governed, by whom and for how long. An environment where investors, both external and internal, can invest with certainty knowing that there is respect for the institutions of government, including the judiciary.

The NEPAD was drafted at a critical juncture in modern history. After 11 September 2001, when the USA was attacked on its own soil for the first time, the global agenda shifted towards fighting terrorism. This has implications for global political priorities and the global allocation of resources. At the G8 meeting in Kananaskis, Canada, in 2002, for example, Russia was promised US$ 20 billion as assistance to dismantle its weapons of mass destruction in order to prevent extremist groups from obtaining raw materials to build nuclear weapons.[698] At the same meeting, Africa received compliments for the NEPAD proposal but only US$ 6 billion in debt relief and aid instead of the US$ 64 billion that African leaders had hoped for.[699]

The industrialised countries might therefore be more interested in supporting security-related activities in the NEPAD rather than poverty eradication. African countries' support for and collaboration with the 'war on terror' coalition is likely to be among the criteria for allocating development aid and other support. As US President, George W. Bush puts it, 'you are either with us or against us'.[700]

At its first meeting in October 2001 in Abuja, Nigeria, just one month after the terrorist attack in the United States, the NEPAD Heads of State and Government Implementation Committee remarked that in line with the geopolitics of the development partners, the Implementation Committee also

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698 Karuuombe, (note 508 above).

699 Ibid.

700 The text of President George W. Bush's address to a Joint Session of Congress concerning the Sept. 11, 2001 terrorist attacks on America.

pays attention to the international political environment and reviews the danger posed to international peace and security by terrorism, including its negative aspect on socio-economic development of Africa and the New African Initiative process. It agreed that concerted international action should continue to be taken 'against this growing menace, while ensuring that the issue of underdevelopment in Africa is not ignored'.[701] Thus, here, just like elsewhere in the NEPAD process, the concern about terrorism, became an aspect of assuring the development partners that Africans are not only serious about good governance, but also against the menace of terror.[702]

Apart from the fight against terrorism, poverty remains the most recalcitrant challenge in the continent and has impeded the realisation of many past initiatives in the continent. Pervasive poverty creates a lot of suffering to the people and undermines the efforts at bringing about sustainable development. It engenders indignities, fuels corruption and denial of justice to many, and even generates and compounds conflicts.

It cannot be denied that there are deficiencies that are due to Africa's own making and there are others that are beyond, from outside the continent.[703] While striving for a fairer international system and a more just economic order, while campaigning for such measures as debt relief or cancellation, African leaders must also look in-wards to see how resources are used to serve the people as a whole, rather than to serve individuals, through corruption and mismanagement.

The challenge of deficient capacity and infrastructure, low level of investments in the development of human capital, distortions in the institutional framework

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701 Communiqué at the end of the Inaugural Meeting of the Implementation Committee of Heads of State and Government on the New Partnership for Africa's Development (NEPAD), 23 October 2001, Abuja, Nigeria, para 9.

702 Nabudere (note 22 above).

703 The poor terms of trade and the IMF/World Bank conditionalities are a few examples.

for economic management are some of the critical factors that have handicapped the harnessing of the rich resource potential on the continent, and also forestalled economic development in the continent. The NEPAD recognizes this handicap and has put in place measures to develop capacity within the continent.

The power and capacity of the African civil society has not been fully harnessed. The continent boasts a very dynamic civil society that is operative in all spheres of development. For a long time, this sector of society was neglected and denied a space in political and economic governance, even though in many societies it was dominant in driving the people's social lives. The current resurgence that the civil society is experiencing, by organising itself, by building effective capacities, by forging networks and by modernising its operations, should be supported and strengthened because it could constitute a key factor in the development and success of the NEPAD and the continent.

The challenge posed by HIV/AIDS cannot be underestimated. Just as it attacks the immune system of the human body, now it has reached a point that it is vigorously attacking the immune systems of societies as a whole. Numbers of infected and dying are increasing, agonies are multiplying, and the trauma continues. Recent statistics indicate that it is now attacking vigorously the youths, the very essence of the future, the vision that the NEPAD is aspiring for. During the Special African Summit on HIV-AIDS, Tuberculosis and other Infectious Diseases in Abuja, Nigeria, it was emphasised that this is the key moment to take action.

It is universally recognised that Africa is clearly one of the richest continents with tremendous resources in terms of agriculture, water resources, minerals, forestry, as well as fauna and floral reserves. Yet, it is also recognised that it is the continent with the poorest people, a continent synonymous with suffering, diseases, wars, and still goes under the label of the Dark Continent. How can the NEPAD overcome such an anomaly of having the richest

continent with the poorest people? For as long as the vicious circle of poverty continues it becomes difficult to realise the NEPAD vision.

6.11 The place of human rights, human development, and peace in the NEPAD initiative

The NEPAD seeks to address Africa's underdevelopment and marginalisation through a number of ways including promoting and protecting democracy, human rights, human development, peace, security and good governance, as well as developing clear standards of accountability, transparency and participatory governance at the national, sub-regional, and continental level. It acknowledges that African leaders have learnt, from their own experiences, that peace, security, democracy, good governance, human rights and sound economic management are conditions *sine qua non* for sustainable development.[704] The NEPAD formally commits Africa and Africans to renewed commitment to good governance, the rule of law, and human rights in at least 7 paragraphs,[705] peace in 12 paragraphs,[706] and human development in 3 paragraphs.[707] This is not insignificant compared to the near silence on the issues of good governance, the rule of law and human rights in the Lagos Plan of Action and the Abuja Treaty Establishing the African Economic Community.

This section of the thesis seeks to examine the extent to which the NEPAD Document addresses issues of human rights, human development and peace, and the measures put in place to incorporate them into the policies and/or programmes of both the AU and its member states. In other words, this

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704 NEPAD Document (note 2 above) para 71. See also Evarist Baimu (note 536 above).

705 NEPAD Document, paras 7, 43, 49, 71, 79, 80 and 183.

706 Id. paras 49, 71, 73, 73, 74, 76, 77, 79, 154, 184, 188 and 204.

707 Id. paras 6, 73 and 128.

section, examines the place of human rights, human development, and peace in the NEPAD initiative as a programme of African rejuvenation.

An analysis of the NEPAD Document reveals that the programme fails to adequately define or examine the relationship between human development, peace, and the realization of human rights. The NEPAD's references to human rights, human development, peace, and good governance are superficial and largely rhetorical. For instance, while the NEPAD holds that African leaders will work towards promoting and protecting human rights, it fails to address the means by which a rights-based approach to development can be implemented through respect for human rights. Economic, social and cultural rights are vaguely referred to in terms of greater access to services instead of as concrete, inherent rights. The NEPAD offers no guarantee beyond a non-binding pledge that African leaders will actually abide by their international human rights obligations. Indeed, the voluntary nature of the peer review mechanism goes to illustrate the lack of seriousness with which the NEPAD treats the issue.

The NEPAD contains little in the way of mechanisms for integrating and strengthening regional institutions that have been established to promote human rights and democratic development. The African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights are two examples of mechanisms that merit attention but have not been referred to in the NEPAD. In developing indicators for the African Peer Review Mechanism, the African Commission, the principal human rights institution of the AU was not consulted to make an input. Instead, the development of the indicators was outsourced to a UN body - the United Nations Economic Commission for Africa (UNECA), which emphasised corporate governance at the expense of basic human rights.

Sustainable human development cannot take place without peace and respect for human rights. The key success factors of the NEPAD are peace, security, respect for human rights, good governance and regional integration. The peace component in the NEPAD consists of three elements: promoting

long term conditions for development and security, building the capacity of African institutions for early warning and enhancing their capacity to prevent, manage and resolve conflicts, and institutionalising commitments to the core values of the NEPAD through leadership.

Africa has been the site of several gruesome interstate and intrastate armed conflicts, ranging from Algeria to Sierra Leone, Liberia, Sudan, Ethiopia, Eritrea, Uganda, Rwanda, Burundi, the Democratic Republic of Congo, and Angola, to name but a few.

According to S. Gutto, the weak development of the rule of law, especially with regards to compliance with norms and standards of basic international and regional human and peoples' rights, contributes significantly to the endemic social and political instability in many African countries.[708] In turn, this impacts negatively on social and political stability and progress. If this is allowed to continue, it will certainly impact negatively on the ideals and objectives of the NEPAD and the AU.

Adherence in theory and practice to good governance, to the rule of law, to human and peoples' rights, and to freedoms and obligations are essential to the renewal and regeneration of Africa's desire and efforts to occupy and play a meaningful role in the world for the benefit of its peoples.

There is unanimous recognition by the international community that human rights, peace, and development are inextricable and interdependent. The central goal of development will always be promotion of well being through poverty eradication and human development. The world now accepts that sustainable development is impossible without human rights and vice versa.

Since human rights embody universally shared values and are the common standard of achievement for all peoples and nations, the NEPAD's approach

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[708] Gutto (note 649 above).

to peace and development must encompass human rights in order to achieve sustainable human development in Africa.

The Heads of Government meeting for the Millennium Summit in September 2000 declared that 'the central challenge we face today is to ensure that globalisation becomes a positive force for all the world's people' and committed themselves to 'making the right to development a reality for everyone'.[709] Behind this commitment is the growing recognition that every citizen in every state has the fundamental right to a process of development through which all human rights can be realized. This vision of development as a human right is articulated in the UN Declaration on the Right to Development:

> The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized[710]

The NEPAD has set up structures and mechanisms to administer, among others, its human rights component. A subcommittee on peace and security has been established.[711] In addition, there has been a proposal for the establishment of the post of a commissioner to be responsible for democracy, human rights, and good governance.[712]

Forty-three years ago, the founding fathers of the OAU articulated a vision of building a continent that is fully united and in which every person lives in

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709 United Nations, Millennium Declaration, September 2000, A/RES/55/2.

710 United Nations Declaration on the Right to Development (note 119 above) Article 1 (1).

711 The members of this Committee were elected at the first meeting of the HGSIC in October 2001 and the members are South Africa, Mauritius, Mali, Gabon, and Algeria.

712 See Final Communiqué issued at the end of the second meeting of HGSIC in Abuja, Nigeria, 26 March 2002, para 12.

freedom, equality, justice and dignity. It was a vision of a continent which is economically strong; which maintains a state of peace, stability and security; which assumes its rightful place in global relations; and in which all the people exercise their inalienable right to control their destiny. At various conjunctures in the development of the continent, African leaders have endeavoured to sharpen the focus of this vision and to adapt the strategies of realising this vision according to evolving challenges and material conditions to achieve these aspirations. The NEPAD is just one such endeavour and the African people look to this initiative with great expectations.

The end of the Cold War in the late 1980s ushered in a new political paradigm for globalization often defined as the Third Wave of Democracy [713]. By the end of the 1990s, economic reform programmes promoted by the international financial community in the 1980s, incorporated political reforms or the adoption of democracy as part of their structural adjustment reform package.[714]

In Africa, the international community has used the global hegemonic democracy project to explain the continent's economic crisis in several ways. Much of the standard literature on democracy in Africa for instance presents subjective leadership variables for explaining African underdevelopment, accusing the continent's errant, corrupt, and tyrannical leadership for adopting poor policy choices that caused the economic crisis of the 1980s. The establishment of multiparty regimes or good governance were therefore predicted to cure Africa's woes.[715]

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713 Some scholars periodize post cold war democracy as a Fourth Wave (Diamond 1999).

714 World Bank, 'From Sustainable Development to Growth in Africa' World Bank Publications (1989).

715 H Goran 'Governance and Politics in Africa' *Lynne Reinner Press*, (1992).

Abrahamsen argues that by labelling African countries as undemocratic and by constructing 'good governance' as a cure-all international policy prescription for Africa, the international community has merely structurally created the conditions for the millennium imperial intervention into the continent.[716]

However, recognising that African governments do not operate in political vacuums, African leaders themselves through the NEPAD have identified governance reforms as a pre-condition for the continent's socio-economic and political development. The NEPAD Document subscribes to the view that democracy and good governance are prerequisites for African development. Thus, in its opening statement, the NEPAD Document states this new political will and resolve in the context of the spread of democracy thereby declaring that African leaders will jointly 'promote and protect democracy and human rights in their respective countries and regions by developing clear standards of accountability, transparency and participatory governance at the national and sub-national levels'.[717]

The NEPAD implicitly assumes that African governments' political insecurity, unresponsiveness and unaccountability have stemmed largely from poor economic and political governance, that is, the lack of institutional arrangements to define and sustain relations between the governed and the governors to the satisfaction of both parties. In this regard, the over-centralisation of power in the continent and its arbitrary exercise, particularly through widely reported neo-patrimonial practices, are symptoms of state weakness in politically insecure environments.[718]

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716 ER Kiki 'Promoting African 'Owned and Operated' Development: a Reflection on the New Partnership for African Development (NEPAD)' *African and Asian Studies,* Volume 3, Number 2, (2004) 145-173.

717 See NEPAD Document (note 2 above) para 49.

718 M Callaghy 'The state as lame leviathan: The patrimonial administrative state in Africa' in Z. Ergas ed *The African state in transition* (1987) 87-116; See also A Zolberg 'The structure of political conflict in the new states of tropical Africa' in *American Political Science Review* 62, 1 (1968) 70-87.

By seeking to reform domestic governance, the NEPAD aims at strengthening the African state. While governance reforms, potentially, could yield developmental dividends for the continent, the prospects of achieving compliance with such a reform agenda remain constricted.[719] The question arises as to how self-interested African governments could effectively restrain themselves from temptations to renege on regionally agreed norms and standards of good governance. Simply put, how can African governments widely criticized for poor human rights and democratic governance institutionalize compliance with NEPAD's governance prescriptions?

The NEPAD's response to this question has been in the establishment of the African Peer Review Mechanism (APRM). This will be examined in greater detail in chapter seven. However, it should be stated here that, while proponents of the APRM have been very optimistic about the model, projecting it as the most innovative element upon which the implementation of the NEPAD hinges,[720] they have failed to address problems of incentive incompatibility. Conversely, pessimists have been quick at dismissing the instrument as yet another misguided effort that simply cannot work, citing difficulties of institutionalizing compliance in the absence of an overarching central authority. Against this background, understanding the problems plaguing the APRM must be central to any assessment of the NEPAD's prospects.

6.12 Summary and conclusion of chapter six

Even some of those sceptical of the commitment of African leaders regard the NEPAD programme as a valuable lever for advancing human rights, human

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719 Ikome (note 14 above).

720 On the perception that the APRM is the most innovative element of the NEPAD, see UNECA, 'The African Peer Review Mechanism: Process and procedures,' in *African Security Review*, Vol. 11, no. 4 (2002): 7; See also G*8 Africa Action Plan*, paragraph 7; and GE Masterson 'Governance quality and government commitment to the NEPAD African Peer Review Mechanism' *EISA Research Report* no. 5 (2004) 8.

development, and peace. According to Gutto, from a human and peoples' rights perspective, it is possible to interpret the NEPAD as a historic initiative that provides a window of opportunity for Africa to reassess its position and past practices, to rediscover its heritage and potential, and to renegotiate for itself a just and equitable role and position in the world.[721] Kamel Rezag-Bara holds high hopes for the plan's 'bold consensus on good governance, transparency, development and the rule of law'.[722] He adds that the NEPAD is essentially a declaration of principles, put forth by the same African political leadership, that are largely responsible for the malaise that afflicts the continent. Nevertheless, he recognises that the NEPAD is different from previous African initiatives in that, 'for the first time, it acknowledges the fact that poor political leadership characterised by human rights violations, economic mismanagement, and corruption is the cause of the African problem'.[723] Many other pro-democracy activists and human rights advocates have welcomed the political aspects of the NEPAD.[724]

The NEPAD is merely a work in progress and a tool for change rather than a finished product. The NEPAD is to be claimed, owned and developed by the African people. In this regard, the first line of partnership must be between Africans as a people and between African countries. The external partnerships are necessary and should be forged, but they should not be allowed to assert hegemony in determining the direction and fate of the NEPAD. Africa's historical experiences, starting with criminal slavery and slave trade up to colonialism, apartheid, and modern globalization, have shown that the continent cannot leave its fate and destiny in other peoples' hands, however benevolent they may claim to be.[725]

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721 Gutto note 649 above).

722 E Harsch 'Africans ponder New Partnership: NEPAD stimulates debate on development, democracy and global ties', *Africa Recovery*, Vol.16 #4 (February 2003).

723 Ibid.

724 Gutto (note 649 above).

725 Ibid.

Despite the shortcomings in the NEPAD, the achievements of the NEPAD have been significant. Never before has Africa been the focus of so much engagement and support. Had it not been for the NEPAD, Africa would have suffered severe marginalisation after the events of 11 September 2001. Instead, it has been the focus of discussions at the G8 meetings, WTO meetings, and other multilateral consultations. In the process, considerable focus has been placed on those features of globalisation that perpetuate African poverty, such as agricultural subsidies, declining levels of development aid, the debt burden and strict enforcement of intellectual property rights. While not sufficient, the NEPAD has done much to attract continued development assistance at a time when the attention of key donor countries has been diverted by military priorities.

The peer review mechanism introduced by the NEPAD is another attraction that will keep an eye on Africa for a long time to come. It is considered to be one of the most innovative and attractive aspects of the NEPAD in the sense that it helps the countries to improve themselves. Its efficiency depends on the sharing of common values, reasonable level of commitment, mutual confidence and credibility.

Chapter Seven: The African Peer Review Mechanism – the sharpest tool in the NEPAD's toolbox?

7.1 Introduction

This chapter analyses the African Peer Review Mechanism established within the NEPAD to ensure the promotion of good governance and the realization of the objectives of the NEPAD. It examines, in particular, the relevance and effectiveness of the mechanism, the role of and relationship between the APRM and other similar bodies of the African Union, including the African Commission on Human and Peoples' Rights (ACHPR), the African Court on Human and Peoples' Rights (ACTHPR), the Pan African Parliament (PAP), the African Court of Justice (ACJ), the Peace and Security Council (PSC), so as to guard against overlapping and duplication and to enhance the effectiveness of the APRM.

7.2 The African Peer Review Mechanism – definition, origin and structure

7.2.1 Definition

Before analysing the origin and structure of the APRM, it is important to clarify the meaning of a peer review mechanism within the context of inter-state relations. According to Kempe Ronald, Chief Policy Advisor, UN Economic Commission for Africa, Addis Ababa, peer review implies:

> The systematic examination and assessment of the performance of a country by other countries (peers), by designated institutions, or by a combination of the two. The goal is to help the country undergoing review to improve its policy-making; adopt best practices; and comply with established codes, standards, principles, and other agreed commitments. Peer reviews are non-adversarial, relying on the trust and understanding between the country being

> reviewed and the reviewers, as well as their shared confidence in the process[726]

Peer reviews can be based on subject areas or themes. For example, a country peer review could focus on health, governance, education, macroeconomics, or other priorities. Whatever the subject or theme, country peer reviews are typically undertaken on a regular basis, with each review resulting in a report that assesses accomplishments, points out shortcomings, and makes recommendations. Country peer review almost never implies punitive decisions, sanctions, or any form of legally binding acts or enforcement mechanisms, although it could if countries so agree.[727]

The concept of a peer review is not a new phenomenon, but within the African context, it is seen as an innovation. The peer review mechanism was established as a response to the deplorable socio-economic and political situation in most African states occasioned by grave human rights violations, alienation of citizens from political participation, corruption, dictatorship, and a poor institutional capacity.

Created to promote better governance, the primary objective of the APRM is to foster the adoption of policies, standards and practices that will lead to political stability, higher economic growth, sustainable development and accelerated regional integration on the continent.[728] It should enable African leaders to 'look over each other's shoulders' and to share best practices, as well as advances in governance, socio-economic development and in building

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726 R Kempe 'The African Peer Review (APR) Mechanism: The ECA View' , published in *African Security Review* Vol 11 No 4, 2002.

727 Ibid.

728 APRM Base Document, adopted at the 38th Ordinary Session of the Assembly of Heads of State and Government of the OAU: African Peer Review Mechanism, 8 July 2002, Durban, South Africa, (See also AHG/235 XXXVIII), Annex II., para 2.

the capacity of African countries. It has been hailed as the most innovative initiative[729] of the New Partnership for Africa's Development.

Participation in the APRM process is voluntary and open to all members of the African Union that have signed an accession document to the APRM.[730] Individually, states are expected to subject themselves to peer scrutiny as part of their commitment to Africa's regeneration; and collectively, participating countries aim to bring pressure to bear and to induce good political, economic and corporate governance among members.

Overall, however, participation in the APRM is selective and discriminatory as opposed to membership in earlier/other African cooperation initiatives that have traditionally been all-inclusive. The conditionality involved in acceding to the APRM is an unprecedented attempt to draw a line between African states that are allowed into a supposedly all-African regional initiative (the NEPAD club) and those that are excluded from it.[731] According to John Stremlau, 'this has emerged as the trickiest diplomatic and political challenge to the promoters and supporters of the NEPAD initiative'.[732]

The APRM's voluntary accession principle means that only states that subscribe to the peer review processes and states that commit to be guided by the agreed parameters of good governance will be subject to its rulings.[733]

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729 The APRM has been described as the 'sharpest tool in the NEPAD box'. See M Juma 'Africa's Governance Audit: The African Peer Review Mechanism' *New Economy* (2004).

730 See APRM Base Document (note 729 above) para 4.

731 Ikome (note 14 above).

732 J Stremlau 'New Partnership for Africa's Development (NEPAD): Democracy and political governance initiative' Draft paper (Department of International Relations, University of the Witwatersrand, April 2002) 10.

733 See APRM Base document (note 729 above) para.5; see also D Bikoe & C Landsberg, 'NEPAD: African initiative, new partnership?' Draft Report of the Policy Forum on the New Partnership for Africa's Development, International Peace Academy in cooperation with the Permanent Missions of Algeria, Egypt, the Netherlands, Nigeria, Senegal, and South Africa to the United Nations (New York: UN, July 2002): 38-43.

Conversely, African states that chose not to subscribe cannot ostensibly be judged under the provisions of the framework.

The underlying assumption of the APRM voluntary accession principle is that, although non-subscribing poor performers may not be accountable to the APRM, their decision not to join will serve as a negative signal, discouraging national and international resource and investment flows.[734] Conversely, those states that sign up to the peer review process signal their resolve to eradicate the instability and uncertainty characteristic of African states and would be more likely to attract greater investment resources. Therefore, although non-subscribing states may not be directly subject to peer pressure within the APRM framework, their being sidelined in sharing in the dividends of membership would presumably serve as a positive incentive that could eventually induce them to sign up for the APRM.[735]

However, the potential of exclusion from sharing in the dividends of membership to serve as a positive incentive for states to join and abide by the APRM is very constricted. For example, most development projects identified in the NEPAD are of a regional character. It would be difficult to prevent non-conforming states from sharing in the positive spillovers of regional projects. Ikome, for example, wonders how a poorly governed state would be sidelined in a regional railway project or a common water resource project or a trans-African road or rail network.[736] In other words, no matter how selective membership of the APRM is, it cannot rule out free riding. Knowing that there is such latitude to benefit from the NEPAD without necessarily committing to its prescriptions, some African states may not be in any real hurry to abide by its norms. Moreover, states that are willing to sign up to the prescriptions of the APRM may indeed be discouraged by the knowledge that their peers may not do same, yet share in the dividends of the initiative.

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734 Ikome (note 14 above).

735 Ibid.

736 Ibid

Another assumption that underpins the principle of voluntary accession to the APRM is that African states that effectively sign-up are genuinely committed to the principles of the NEPAD. The reasoning is that by allowing African states the choice not to join the initiative if they do not buy into its prescriptions, those states that will effectively join the process will be genuine in their actions and commitments. This contrasts with earlier all-inclusive regional initiatives, which were joined by most African states out of the fear of being perceived as obstructing processes to which a majority of their peers had agreed. Political commitment is thus seen as the catalyst that would make the APRM a viable restraint mechanism, which will facilitate the implementation of the NEPAD.

However, the poor governance record of many African states that have signed up to the APRM process raises questions about the real motives of membership. Some states that have joined the initiative (or that may eventually join) may be doing so not out of commitment to good governance, but out of the perception that the initiative is a 'clearing house' for increased resource flows. Seen from this perspective, it would be difficult to imagine the APRM serving as a credible restraint mechanism. More importantly, relatively well-governed states either have been cynical about the initiative, or simply characterised it as an irrelevance. In April 2003, for example, the Prime Minister of Namibia, one of the rare African states highly rated on political and economic governance, characterised the APRM as a digression that needed to be ignored:

> Let me now take up the much talked about, but manifestly deceptive issue of the NEPAD's so called Peer Review Mechanism. Firstly, I shall, with due respect, consign it to the dustbin of history as a sham. Secondly, PRM is an unworkable notion. I see it as a misleading, new name for the old, discredited structural adjustment fiasco, under which African leaders have been clustered between good guys and bad guys. …Neo-colonialism, which is what the PRM is – [is] a killer disease; we must run away from it. NEPAD should

> confine itself to issues of economic growth, investment, employment… NEPAD has no business dealing with political, security and conflict resolution issues[737]

The above statement underscores the fragile nature of the political will that is assumed to underpin the APRM process. The voluntary accession principle may thus only serve to dissemble rather than build consensus around the process. Worse still, voluntarism is not limited to accession to the APRM, but extends to the attitude towards the outcome of the review process - particularly as pertains to the right of states to opt out of the process when and if they choose.[738]

Although this voluntary exit channel from the APRM may be intended to remove the impression that commitment to the APRM is irrevocable, in which case many African states would be reluctant to subscribe, it creates a window for African states that eventually find the review process too intrusive or that find the peer review reports too critical to simply opt out of the process midstream or after getting the benefits. Ikome argues that opting out of the peer review process midstream can be expected to be politically costly, sending clear signals to both national and international public opinion that the government in question is not committed to genuine political and economic change. The fear of critical public opinion potentially can restrain states from revoking their membership once they sign up to the APRM. In which case, the APRM would be a viable 'lock-in' mechanism.[739]

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737 G Theo-Ben, Prime Minister of the Republic of Namibia, Speech at the Dinner of the Chamber of Mines of Namibia (4 April 2003).

738 See OAU/NEPAD, *Memorandum of understanding* (2003), paragraph 32. This provides that 'A participating state may terminate its participation in the African Peer Review Mechanism by giving written notice to this effect to the NEPAD Secretariat, which in turn will inform the participating states in writing. The effective date of termination will be six months after the receipt of the termination notice.'

739 Ikome (note 14 above).

7.2.2 Origin of the APRM

The New African Initiative, adopted at the OAU 37th Assembly of Heads of State and Government in Lusaka, Zambia, in July 2001 and renamed the NEPAD at the first meeting of the HSGIC in October 2001 in Abuja, Nigeria, made no reference to the APRM. It was only at the Abuja meeting that the APRM was discussed and included into the NEPAD process.[740] At that meeting, the HSGIC

> agreed that African leaders should set up parameters for Good Governance to guide their activities at both the political and economic levels. In this regard, it decided that, at its next meeting, it would consider and adopt an appropriate peer review mechanism and a code of conduct[741]

As a result, the 2nd HSGIC meeting of March 2002 adopted the concept of an APRM,[742] and the 3rd HSGIC meeting in Rome,[743] in June 2002, approved a Declaration on Democracy, Political, Economic, and Corporate

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740 One wonders whether the OAU would have adopted the document had the issue of peer review been put forward as part of the process. The reluctance of states to subscribe to the APRM process indicates that there would have been a similar reluctance to adopt the document.

741 Communiqué issued at the end of the First Summit of Head of State and Government Implementation Committee (HSGIC) of the New Partnership for Africa's Development, Abuja, 21 October 2001, para 6.

742 The Second Summit of Head of State and Government Implementation Committee (HSGIC) of the New Partnership for Africa's Development was held in Abuja, Nigeria, on 26 March 2002

743 The Rome meeting had also expressed the hope that the APRM as an instrument voluntarily acceded to by African members of the African Union for the purpose of self-monitoring, 'will foster the adoption of policies, standards and practices that will lead to political stability, high economic growth, sustainable development and accelerated regional integration of the African continent. This will ensure that the APRM is independent, effective, professional and credible. The Committee approved the establishment of a Panel of Eminent Persons and recommended that the proposed Secretariat of the APRM be located in the UNECA [the UN Economic Commission for Africa based in Addis Ababa].'

Governance.[744] Both the APRM and the Declaration were eventually submitted to the 1st AU Summit in Durban as the final governing authority of the NEPAD. The Summit adopted the mechanism and encouraged all member states of the African Union to adopt the Declaration and accede to the APRM.

The above analysis presents the APRM as an African conceived process; however, it could be argued that the APRM is a G-8 induced mechanism, brought through the NEPAD process, to serve as a World Bank/IMF conditionalities of the 1980s and 1990s. Despite being the most innovative element of the NEPAD, the APRM is also regarded as the most politically controversial component of the entire process. The bulk of international attention that has been accorded the NEPAD has centered on expectations about the APRM process. This assertion played itself out when, in October 2003, a rift between the NEPAD and its G-8 partners began over the implementation of the Africa Peer Review Mechanism.

The NEPAD's African Peer Review Mechanism became an extremely contentious issue regarding Africa's role in globalization as the continent's G-8 partners became critical over the viability, and willingness, of the NEPAD promoters to establish and fully operate the APRM. President Mbeki's announcement in 2002 that the political review process would be taken over by other organs of the African Union sparked the crisis that caused the G-8 to issue a warning to Africa that the $6 billion in aid for support of the NEPAD was 'conditional on the NEPAD/APRM functioning.'[745] President Mbeki's, November 19, 2002, letter to the Canadian Prime Minister and Chairman of the G-8's *Africa-Action Plan* in which he explained the fate of the APRM compelled European parliamentarian, Michael Gahler, to warn Africans that

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744 Adopted at the 1st AU Summit in Durban, South Africa, in July 2002.

745 Canadian Trade Minister, Pierre Pettigrew in *Business Day*, Johannesburg, Canada Insists on Peer Review for NEPAD,' November 20, 2002. See, also the remarks by Canadian Prime Minister Jean Chrétien as reported in *The Toronto Star*, 11th April 2002, www.worldpress.org/Americas/636.cfm.

the removal of the APRM from the NEPAD process could jeopardize promised support of the NEPAD from the G-8. Gahler articulated the G-8 position stating that 'you cannot expect us to pour in more money for development and at the same time ignore the fact that in parts of Africa, democracy and human rights are irrelevant'.[746]

In response, President Mbeki attempted to re-assure the NEPAD's G-8 partners, arguing that similar to Europe's EU-EEC relationship, 'the AU is the primary organization that unites the people of Africa; the NEPAD is its socio-economic development program.'[747] Dismissing Mbeki's explanation, the Canadian Prime Minister replied:

> The NEPAD, and its Secretariat - which we do trust–is distinct and separate politically and institutionally from the AU, which we do not trust, because it is too soon to say whether it will be any different from its predecessor, the Organization of African Unity (OAU) [748]

Robert Rotberg notes that 'there is nothing in the NEPAD without peer review, there is nothing coming out of Africa to make the USA and Europe say that it has got its act together. African leaders have to act. They have to be tough-minded about peer review or no one will pay attention to it'.[749]

As far as the G-8 was concerned, the NEPAD was the preferred conduit for G-8 relations with Africa, and the APRM was the *only appropriate means* that had the prospect of retaining international engagement in support of Africa.

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746 Quoted in the *Nigerian Vanguard*, November 5, 2002, 'Africa Leaders Meet as Cracks Appear in Development Plan.'

747 In a letter to, Canadian Prime Minister, Jean Chretien written by President Thabo Mbeki, published in *The Harare Herald*, 'NEPAD Not Independent of AU,' *New African*, November 19, 2002.

748 Quoted in *Mail and Guardian*, Johannesburg, 'Keeping the Show on the Road,' by R Call, 2003.

749 R Herbert 'Peer Review: who owns the process?' *E-Africa: The Electronic Journal of Governance and Innovation,* SAIIA, (October 2003) 6.

The G-8 thus hinged on the APRM and democratic capacity building as the central element for African development and adopted the 'good governance' ideology, narrowly tying development in Africa to the establishment of multi-party elections and the improved performance of human rights.

Although Africa's international partners have been reminded that the APRM has been inspired by the Organisation for Economic Cooperation and Development peer review experience, and therefore that it is essentially non-adversarial, they have continued to perceive and interpret it as constituting a sort of sanctioning mechanism. According to Stremlau, peer review has been perceived as 'providing public, private, and multilateral donors a framework on considering how to condition levels and priorities of their assistance in accordance with the NEPAD standards'.[750]

The G-8's attitude towards the NEPAD over the positioning and role of the APRM leaves one to conclude that the APRM was induced by the industrialized North and vindicated the NEPAD's critics' pessimism regarding the notion that Africa could develop a strategic and equal 'partnership' with an 'international community,' which it continued to depend on for financial resources.

The APRM dispute presents important international public policy implications regarding the prospects of African development for both the NEPAD and the international community. For example, by singling out the *'security, democracy and political governance'* initiatives of the peer review mechanism as the means by which to *support* their own development goals for Africa, the G-8 blindsides the NEPAD's self-defined priorities (human resource development, the AIDS crisis, and poverty eradication). The G-8's inflexible adherence to governance theory[751] in approaching Africa's complex and

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750 J Stremlau (note 733 above) 6.

751 G O'Donnell 'Delegative Democracy' in *Journal of Democracy*, volume 5, no. 1, January 1994. The governance model gives way to circular 'chicken or egg' analytical contexts by questioning whether 'lack of democracy' and 'conflict' are causes or symptoms of underdevelopment. Democratic institutionalization – a transition to a

variegated economic problems appears superficial because it allocates important resources to symptoms of underdevelopment rather than to the root causes.[752] African civil society critics of the NEPAD had argued this position in their initial pronouncements against the development blueprint, noting that Western and the IMF-World Bank structures of democracy, good governance and corruption are hollow and hypocritical'.[753] Ikome made the following statement in argument:

> The NEPAD is about a 'quid pro quo' between developed countries and Africa, with the APRM serving as a sort of clearing house. If developed countries see improvements (through the APRM lens) in the political, economic and social circumstances of Africa, they will give, in return, greater concessions in trade and aid[754]

The cloudy origin of the APRM notwithstanding, the mechanism has been hailed as a tool which would allow, on the one hand, correcting of the risks of floundering, and on the other hand, achieve concrete results. It is a tool allowing the participating African governments to impose self-control. The mechanism allows for the evaluation and verification of whether the policies and practices brought into action by the concerned governments are in accordance with the values, the norms, and the political and economic standards defined by the governments for this action.

While there is consensus among proponents and critics of the NEPAD that the APRM represents a long overdue agency of restraint on African

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durable, consolidated and established representative democracy – will not occur by voluntary peer review mechanisms among African countries. Instead when the new democracies are able to meet their citizens' socio-economic needs by improving their economies, democracies will be legitimated and consolidated thereby reducing overall conflict in the region.

752 See JE. Stiglitz, *Globalisation and its discontents* (2002) 374.

753 See the 'The Bamako Declaration: Another Africa is Possible' conclusions of the African Social Forum, held in Bamako Mali in January 2002.

754 J Cilliers 'NEPAD's Peer Review Mechanism' *ISS Paper 64* (November 2002) 3; See also Peace and security through good governance: A guide to the NEPAD African Peer Review Mechanism' *ISS Paper 70* (April 2003); <http://www.g8.gc.ca/kan_docs/afraction-e.asp>.

governments' behaviour, with great potential for improving accountability and the continent's image, there is much disquiet amongst critics over attempts to link the mechanism to any form of conditionality posed by external actors.

A key lesson from international efforts to stimulate governance reforms is that fundamental reforms are only sustainable when they are home-grown. Besides, if changes in policies and institutions are merely responses to international pressures, they will not be seriously and consistently implemented. According to Larry Diamond, 'imported and imposed initiatives confront the perennial problem of needing to build commitment and ownership and there is always the question of whether espousals of willingness to pursue reform are genuine or not'.[755]

7.2.3 Structure of the APRM

The African Peer Review Mechanism envisages the following four distinct organisational components.

a. The Committee of Participating Heads of State and Government (The APR Heads of State Forum 'APR Forum'):[756] The overall responsibility of the APRM is vested with a Committee of Participating Heads of State and Government of the Member States of the African Union who have voluntarily

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755 D Larry 'Promoting real reform in Africa' in E Gyimah-Boadi (ed), *Democratic reform in Africa: The quality of progress* (2004) 263-292.

756 The mandate of the APR Forum is as folows: (a) Appoint the APR Panel and its Chairperson; (b) Consider, adopt, and take ownership of country review reports submitted by the APR Panel; (c) Communicate the recommendations of the APR Forum to the Head of State or Government of the reviewed country immediately after the review meeting; (d) Exercise constructive peer dialogue and persuasion (through offering assistance or applying appropriate measures) to effect changes in country practice where recommended; (e) Persuade development partners to support the recommendations approved by the APR Forum by providing technical and financial assistance; (f) Transmit APRM Reports to the appropriate African Union structures in a timely manner; (g) Make public, through the APR Secretariat, country review reports and press releases pertaining thereto; (h) Establish and approve the rules of procedure for the APR Forum and approve those of the APR Panel; (i) Approve a Code of Conduct for all components of the APRM organisation; and (j) Ensure that the APR process is fully funded by the participating countries (including non-governmental partners).

chosen to accede to the APRM (APR Forum). The Heads of State of the APRM countries comprise the APR Forum, the highest-level structure at the continental level, which is where the actual 'peer pressure' will ultimately be exerted. Therefore, the APR Forum has ultimate responsibility for oversight of the APRM organisation and processes, for mutual learning and capacity building, and for exercising the constructive peer dialogue and persuasion required to make the APRM effective, credible, and acceptable.

On matters relating to human rights, democracy, and political governance, the APR Forum will request the appropriate organs, committees or units of the African Union already legally tasked with similar specific assessment responsibilities to conduct the assessments.[757] Where the AU institutions have inadequate or no capacity, the APR Panel will recommend, for approval by the APR Forum, appropriate African institutions with requisite capacity to support the relevant AU institution, with a view to build its capacity, in conducting technical assessments.

b. *The Independent Panel of Eminent Persons (IPEP)***:** To exercise oversight, and to ensure the independence, professionalism, and credibility of the process, an Independent Panel of Eminent Persons has been established.[758]

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757 These organs, committees or units include: (a) the African Commission on Human and Peoples' Rights; (b) the African Committee of the Experts on the Rights and Welfare of the Child; (c) Central Organ of the Mechanism for Conflict Prevention, Management and Resolution (or the Peace and Security Council): (d) Pan-African Parliament: (e) The Conference on Security, Stability, Development and Cooperation in Africa Unit; or (f) any other organ, committee or unit of the AU as they are established or operationalised, such as the Election Monitoring Committee and the Court of Justice.

758 The APR Panel shall have the following mandate: (a) Exercise oversight of the APR process with a view to ensuring the independence, professionalism, and credibility of the process; (b) Oversee the selection of the APR Teams and appoint them to conduct country reviews; (c) Recommend appropriate African institutions or individuals to conduct technical assessments; (d) Meet, when required, to review and make objective assessments of and recommendations on the country review reports submitted to it by the APR Secretariat; (e) Consider recommendations contained in the country review reports and make recommendations to the APR Forum; (f) Submit to the APR Forum all country review reports with recommendations on measures that could be taken to assist the country in the improvement of its governance and socio-economic development performance; and (g) Develop its own rules of procedure, submit these to the APR Forum for approval and approve those of the APR Secretariat and the APR Teams.

The IPEP, an independent panel of seven eminent persons from the various regions of the continent, is composed of Africans who have distinguished themselves in careers and service that are considered relevant to the APR process.[759] Once appointed, members of the IPEP shall serve in their individual capacities and not as country or sub-regional representatives, nor as representatives of any organisation. They shall not seek or receive instructions from any government or be influenced by any other authority external to the NEPAD/APRM Secretariat with regard to peer review matters under their consideration.

The members of the IPEP should be able to portray a country accurately. The APRM must overcome the incentives for a superficial review; it must convey an important signal of the mechanism's potential to deliver an accurate reading of a country's policies. The APRM panel's credibility will depend on whether the reputation they have built will suffer if they approve a less than realistic picture of a particular country. In other words, conveying the impression of 'covering up' for bad regimes will cost the APRM panel members later. Hence, the political and institutional backgrounds of the peer review panel should constrain them to portray an accurate picture of a country's situation; the members of the APRM panel should be above reproach and independent of Africa's patron-client network.

c. The APRM Secretariat (APR Secretariat)[760] will provide the secretarial, technical, coordinating and administrative support services for the APRM.. It

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759 See APRM Base Document (note 729 above) para 6. The seven Experts appointed include: Graça Machel, Adebayo Adedeji, Marie-Angelique Savané, Bethuel Kiplagat, Dorothy Njeuma, Mourad Medelci, and Chris Stals.

760 The functions of the APR Secretariat will include: (a) Maintaining extensive database and information on the four areas of focus of the APRM and the political and economic developments in all participating countries; (b) Preparation of background documents for the APR Teams; (c) Facilitating technical assistance to participating countries; (d) Proposing performance indicators and tracking the performance of each participating country; (e) Liaising with participating countries and partner institutions to follow progress of technical assessments; (f) Plan and organize the Country Review Visits; (g) Recommend to the APR Panel on the composition of APR Teams and recruit the experts required for research and analysis; (h) Liaising with interested external partners and support participating countries in resource mobilization for

must have both the technical and administrative capacity to undertake and manage the analytical work that underpins the peer review process and also conform to the principles of the APRM.

The APR Secretariat collaborates with other units of the AU Commission or organs of the AU, especially in the area of technical assessments. The APR Secretariat has produced guidelines for the conduct of the country review visits and a code of conduct for the APR Teams.

d. The Country Review Team (APR Team) is appointed to visit the country to review progress with the county's Programme of Action, and as envisaged in paragraph 13 of the APRM Base Document, it produces the APRM report on the country. The APR Team is constituted only for the period of the country review visit. The composition of the APR Teams will be carefully designed to enable an integrated, balanced, technically competent and professional assessment of the reviewed country and will be approved by the APR Panel.

At the national level, each APRM country must establish an APRM focal point (preferably at ministerial level or higher), to facilitate access to the Heads of State and relevant ministries that will participate in the review.[761]

As recommended by the eminent persons to the APR Forum, the country must also set up a national coordinating mechanism, including all the key government and civil society stakeholders that should be part of the review. The exact nature of the national focal points and coordinating mechanism varies from one country to another, depending on each country's resources

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capacity building; (i) Organising regional networks in the various areas of focus of the APRM and convene workshops for the sharing of experience and best practice and to address constraints experienced in the implementation of country programmes of action; (j) Liaising with the institutions issuing the standards and codes listed in the Declaration on Democracy, Political, Economic and Corporate Governance (AHG/235(XXXVIII); and (k) Ensure full documentation of the APR processes at country, sub-regional, and continental levels to facilitate learning.

761 Communiqué issued at the end of the First Summit of the Committee of Participating Heads of State and Government in the African Peer Review Mechanism (APR Forum) Kigali, Rwanda, 13 February 2004, para 24.

and geo-political makeup. Ghana, for example, has a Ministry for NEPAD; Kenya, on the other hand, established a semi-autonomous national NEPAD Secretariat.

7.3 The APRM – scope and process

The reviews to be undertaken within the APRM are concerned with four major areas - democracy and political governance; economic governance and management (which involves macroeconomic management, public finance accountability, corruption and regulatory oversight bodies); banking and finance standards (which includes the entirety of corporate governance); and socio-economic development (which concerns itself with the provision of basic needs and improvements in the quality of life in the country under review).

Eighteen months after a country becomes a member of the APRM process, it must submit to a base review, followed by mandatory reviews which take place between three and five years thereafter. The APRM also provides for *ad hoc* reviews under special circumstances. Further, the APRM Base Document envisages five stages of the APRM with a number of processes both at country and continental level. Some of these critical processes include the conduct of technical assessments by the APR Partner Institutions as part of the APRM.

The first stage involves a background study and collection of information from different sources by the APRM Secretariat, including the completion of a detailed questionnaire by the government of the country being reviewed. It entails a careful analysis of the governance and development environment in the country being reviewed.

In the second stage, the APRM Review Team will pay a visit to the country to consult with the government, political entities (such as the parliament and political parties), and civil society broadly construed. This stage will be informed by the analysis conducted in the first stage, and the team will consult and extensively interview relevant government officials, members of opposition parties, private sector representatives, and relevant stakeholders.

In the third stage, the report is prepared in draft form and discussed with the government. The government's responses are to be attached to the report as it goes to the next stage. The fourth stage is the crux of the process. The report is submitted to the Participating Heads of State and Government and considered by them.

> If the Government of the country in question shows a demonstrable will to rectify the shortcomings, then it will be incumbent upon participating Governments to provide what assistance they can, as well as to urge donor governments and agencies also to come to the assistance of the country reviewed. However, if the political will is not forthcoming from the Government, the participating states should first do everything practicable to engage it in constructive dialogue, offering in the process technical and other appropriate assistance. If dialogue proves unavailing, the participating Heads of State and Government may wish to put the Government on notice of their collective intention to proceed with appropriate measures by a given date. The interval should concentrate the mind of the Government and provide a further opportunity for addressing the identified shortcomings under a process of constructive dialogue. All considered, such measures should always be utilized as a last resort[762]

The fifth and final stage entails lodging the report with regional and sub-regional institutions.

7.4 Case studies - APRM Implementation in Ghana and Rwanda

The African Peer Review Mechanism, as indicated above, is a mutually agreed self-monitoring mechanism voluntarily acceded to by the member states of the African Union. The APRM process is more inclusive than most

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762 APR Base Document (note 729 above) para. 24.

ongoing government development programmes as it embraces all sectors of society, namely key stakeholders from Government, civil society organisations, community-based organisations, minority groups and so forth.

It requires the peer reviewed country to sign various Memoranda of Understanding with the APRM Secretariat: to contribute to the funding of the process; to appoint a national focal point and other representative structures; to develop a realistic National Programme of Action (NPA) that is harmonised with APRM goals; and to start implementing the NPA.

To date, 27 member countries of the AU[763] have acceded to the initiative. Ghana and Rwanda have already completed the main stages of the review process and are in the process of implementing their NPAs.

This section examines the implementation of the APRM in these two countries, and in particular, analyses how this has contributed in strengthening human rights, development, and peace in these countries.

Ghana was the first country to accede to the APRM. The first APRM Country Review Mission (CRM) was fielded to the Republic of Ghana between the 4th and16th of April 2005. Ghana submitted its self-assessment report and a draft national programme of action to address capacity constraints to the APRM Secretariat in March 2005. The APRM Secretariat in conjunction with partner institutions had also compiled background information on Ghana within the four assessment areas.

Rwanda was the second country to accede to the APRM process.[764] In February 2004, it hosted the 1st APR Forum of the Heads of State and Government in Kigali, at which the country volunteered to be among the first countries to be reviewed. A National APRM Focal Point was appointed, and a

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763 These are Algeria, Angola, Benin, Burkina Faso, Cameroon, Comoros, Congo, Djibouti, Ethiopia, Egypt, Gabon, Ghana, Kenya, Lesotho, Malawi, Mali, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Uganda, and Zambia.

764 Rwanda acceded to the APRM principles by signing the Memorandum of Understanding (MoU) on 9th March 2003.

National Commission nominated from a cross section of Rwandan society to oversee the process. Broad and participatory consultations began in March 2004, including regular advocacy and media campaigns. The APR support mission visited Rwanda on 21-24 June 2004, after which the panel Chairperson signed an MOU with the Government of Rwanda regarding external review process and provided advice on the on-going self-assessment process. In April 2005, the APRM Panel fielded a mission of experts to Rwanda.

They subsequently produced a draft Country Review Report (CRR) that was presented to the Forum of Heads of State and Government meeting in Abuja, Nigeria, on 19th June 2005. This was followed by a series of activities, including a quality control by an APR Country review and a final APR report. In July 2006, the APR Report for Rwanda was adopted.

7.5 Challenges faced by these two countries

When preparing for the APRM, Ghana being the first country to be reviewed faced the challenge of un-chartered waters. Among the initial challenges that the country had to contend with were facilitating popular participation, creating synergies, building, widening and deepening the support base for the process among the various stakeholders, leadership, and management in new areas, building the required bridges in a highly contested polity, dispelling wrongly perceived notions of the APR process and funding operation of the process.

The implementation of APRM in Rwanda faced similar challenges, including the identification of the linkages between the APR and existing national and international initiatives (eg, Vision 2020, PRSP, MDGs), the need for creating awareness about the initiative among the general public, the constraints of time, the logistical problems of meeting stakeholders in various parts of the country, and the problem of consultation fatigue by people exposed to several consultations (eg, HIV/AIDS, Gacaca, Sector Strategies, Corruption).

The implementation of the Plan of Action shall require resources that the government and people of Rwanda alone may not have. As a result, stronger

coalitions of development partnership around the Plan of Action are needed, with more concrete resources support. Besides the obvious need for additional resources for the Plan of Action, there is an immediate challenge to integrate the recommendations into existing national programmes, to link them with overall national development processes, and to establish effective mechanisms to monitor their implementation.

The sustained commitment by the governments to improve governance regimes through the Programme of Action will be the challenging aspect of this initiative. Ghana's local and national institutions have been mandated with the development and implementation of the Programme of Action. It was crucial to ensure that countries owned their own Programmes of Action, which would inform on their development programmes and implementation.

7.6 Benefits and lessons learned from the exercise

According to Dr. Abdullai H Alhassan, Ghana's Minister of Regional Cooperation and NEPAD, the APRM exercise holds good prospects for Ghana and it has already engendered a lot of goodwill toward Ghana. He added that Ghana's APRM has been cited in Ghana's debt cancellation of 4.5 billion dollars and the Millennium Challenge Account of 290 million dollars. He also stated that Ghana has been chosen among 10 countries in Africa to launch the NEPAD School Feeding Programme. Ghana has also been chosen as one out of sixteen Countries in Africa to implement the NEPAD E-Schools Project. He said that Ghana continues to feature prominently in the Blair Commission Report and stands to benefit tremendously from the support of the Blair Initiative.[765]

Rwanda's accession to the exercise was based on events that featured in the country's recent political history, which made a number of governance reforms

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765 Report on workshop for media in the Northern Zone of Ghana on APRM implementation and update on Ghana's APRM programme of action, organised by the Ghana Ministry of Regional Cooperation & NEPAD, Kumasi , 13 August 2005.

extremely high priorities. The APRM process was in this context a logical part of ongoing governance reform initiatives in the country.

According to Mr. Claver Gatete,[766] one of the main insights from the experience in Rwanda is that the common people were very surprised about being actively involved in the decision making process rather than only being informed by the government on the decisions.[767] The APRM process has defined ways and means to improve the country's approach to governance and socio-economic development, through a gap analysis. Popular participation was ensured through the effective usage of the media in sensitizing stakeholders. The sensitising and advocacy campaign was vital in attracting a support base for the process.

The APRM process is clearly a unique but novel approach to governance. In effect, these countries had no previous mode to draw upon. However, a number of useful guides and lessons emerged from the APRM exercise in Ghana and Rwanda. For a successful implementation of the APRM, there is the need for a firm statement of commitment and demonstration of political will. Political leadership leads the process by affirming its belief in the vision and strategic import of the APRM process in fostering good governance. Political leadership must also subscribe to APRM shared ideals and values of an accountable, participatory and transparent Pan-African vision.

The successful implementation of the APRM in Ghana and Rwanda was premised on the ability to respond to challenges and the unwavering commitment of the political leadership, in particular, the Presidency. Strong political leadership was thus a critical factor in the successful implementation of the APRM process in Ghana and Rwanda.

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766 NEPAD Advisor to the President of Rwanda and Rwandan Personal Representative on the NEPAD Steering Committee.

767 Report of a meeting organized by the Overseas Development Institute on Rwandan Implementation of the NEPAD and Progress on the African Peer Review Mechanism (APRM), 12 May 2006, Kigali, Rwanda.

According to Professor Asante, it was the political commitment within Ghana that made it a success,[768] and that the Review drew Ghana one-step closer to achieving regional growth and development. In Rwanda, the President personally committed his Government to implement the recommendations of the report. The set of recommendations made by the Panel of Eminent Persons has been translated into a National Plan of Action.

Development partners have welcomed the decision by Rwandan government to integrate the APRM Plan of Action into the Economic Development for Poverty Reduction Strategy (EDPRS). [769] The government's decision to mainstream the APRM Plan of Action into the forth coming EDPRS, was acknowledged by participants at a meeting organised by the Overseas Development Institute noting that 'the two are consistent with one another and partners are committed to support its implementation through existing channels of cooperation'.[770]

The APRM constitutes a major plank of the quest to build a democratic, accountable and transparent government. As a product of the African Union, it is also recognized that the APRM fits into the vision of the founding fathers of the OAU. When at the time of Ghana's independence, Kwame Nkrumah, declared that 'the independence of Ghana is meaningless unless it is linked up with the total liberation of the African continent',[771] it became clear too that the fortunes of any one country are tied to the growth and development of Africa as a whole. There is no doubt that the APRM can contribute

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768 Strategies for Promoting Effective Stakeholder Participation in the African Peer Review Mechanism (APRM), UN ECOSOC, UNECA**,** Third meeting of the Committee on Human Development and Civil Society, 4-6 May 2005, Addis Ababa, Ethiopia; E/ECA/CHDCS.3/5.

769 See communiqué issued at the end of the Sixth Annual Government of Rwanda and Development Partners Meeting held on 22nd to 23rd November 2006 at the Intercontinental Hotel in Kigali.

770 Note 768 above.

771 Ibid.

significantly to Africa's renaissance and turn around the poverty and marginalization of the continent.

7.7 Peer Review in other jurisdictions

To assess the concept, design and potential success of the APRM, it may be useful to consider some functioning peer review mechanisms in order to derive criteria for assessment. The most established peer review systems that come to mind are the OECD country review and the IMF Article IV consultations.[772] This thesis will focus for the purpose of this research on the OECD process, since it comes closest to what the design of APRM is aiming at.

The OECD review process is not an all-encompassing review as that envisaged by the APRM. Most OECD reviews are specific, focusing on particular sectors or particular policies. A key role is played by 'examiner countries'. These are the countries in the peer group who will conduct the review. In fact, it will be officials from the examiner countries who will lead the review, but they represent not themselves or their countries, but the collectivity. Once the topic of the review, the principles, standards and criteria are decided by the collectivity, there are three phases of an OECD review - the preparatory phase, the consultation phase, and the assessment phase.

The first phase (the preparatory phase) corresponds to the APRM's first stage. Information is collected from existing sources and from questionnaires, sent to the reviewed country government, and background studies are conducted. The second phase (the consultation phase) corresponds to the second and third stages of the APRM. There are site visits, discussions with

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[772] Under Article IV of the IMF's Articles of Agreement, the IMF holds bilateral discussions with members, usually every year. A staff team visits the country, collects economic and financial information, and discusses with officials the country's economic developments and policies. On return to headquarters, the staff team prepares a report, which forms the basis for discussion by the Executive Board. At the conclusion of the discussion, the Managing Director, as Chairman of the Board, summarizes the views of Executive Directors, and this summary is transmitted to the country's authorities.

government and broad civil society, and a draft report which is usually discussed with government. The third phase of the OECD review (the assessment phase) corresponds to the crucial fourth stage of the APRM. Pagani elucidates further:

> At the assessment phase, the draft report is discussed in the plenary of the body responsible for review. The examiners lead the discussion, but the whole body is encouraged to participate extensively. Following discussions, and in some cases negotiations, among members of the body, including the reviewed State, the final report is adopted, or just noted, by the whole body. Generally, approval of the final report is by consensus, unless the procedures of the particular peer review specify otherwise. In some cases, the procedures may call for the final report to state the difference among the participants. In some cases, non-governmental organizations also have the opportunity to influence the decision by submitting papers and documents[773]

7.8 Challenges to be overcome by the APRM

Amidst the optimism regarding the APRM, there are several challenges to be overcome. One key challenge is the inadequacy or unavailability of resources. The process of peer review envisaged in the APRM is complex and expensive. Compared to other review mechanisms, such as the OECD, the African approach to peer review is 'a multi objective process, defined by multiple criteria and standards, covering multiple countries, involving multiple stakeholders and reporting to multiple principals'.[774] In principle, all AU member states have agreed to finance the initiative, but it is unlikely that non-participating countries will make financial contributions. The APRM has been widely mooted as an all - African initiative; it is envisaged that peer review will be funded primarily via a contribution from each country that accedes to being

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773 R Kanbur 'The African Peer Review Mechanism (APRM): An Assessment of Concept and Design' *Working Paper WP (2004) 01*. See also <http//www.people.cornell.edu>.

774 Monica (note 730 above).

reviewed, but thus far, several countries have failed to meet this obligation due to resource constraints. Furthermore, various analysts have estimated that the figure of $100,000,[775] as contribution per country, will be insufficient to adequately assess the governance situation in the depth that is specified by the APRM documents, with Herbert suggesting that a proper analysis would require this amount to be quadrupled.[776]

Experience has shown that countries are often reluctant to make prompt payments to multilateral organizations.[777] The problem of resources is not limited to the review process but extends to the implementation of the recommendations after the review. For instance, according to Dr. Konadu Apraku, Ghanaian Minister for Regional Cooperation and NEPAD, it will cost Ghana a total of $3.2 billion to implement the recommendations of the APR.[778] Claver Gatete comments as follows:

> The APRM exercise is time-consuming, requiring anything from six to nine months of consultations. It is also expensive in terms of logistics required, preparation of workshops, conferences and meetings all over the country … expenses may include setting up a fully equipped secretariat to service national commissions, reproducing documents, translating

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775 The APR Forum recommended that each participating country contribute the sum of $ 100,000 to ensure the execution of the process. See Communiqué issued at the end of the First Summit of the Committee of Participating Heads of State and Government in the African Peer Review Mechanism (APR Forum), Kigali, Rwanda, 13 February 2004, para 26.

776 R Herbert 'Becoming my brother's keeper' *in: e-Africa: The Electronic Journal of Governance and Innovation. Vol1: October 2003,* Johannesburg: SAIIA. See also *A Kaje,e* The African Union Organs and the African Peer Review Mechanism: Implications for Regional Integration in the Context of Continental Structures (unpublished).

777 The AU is owed more than 45 million Dollars of dues by its members states. The issue of resources was discussed at the first summit of the Participating Heads of State and Government in Kigali, Rwanda, in February 2004, and it was reslved that participating countries bear the primary responsibility for financing the APRM. Each participating country agreed to donate a minimum of $100,000 anually for the work of the IPEP.

778 *Business News*, Accra, 13 July 2005. In June 2004, Ghana became the first country to launch a country review after satisfying the necessary conditions to engage with the process.

> and disseminating those documents, and conducting workshops and informing citizens[779]

Apart from the challenge posed by the inadequate resources, another key challenge will be to secure the necessary political commitment to stay the course and not to manipulate the process for political gains.[780] Success in the APRM will depend on the extent to which political actors conceive of it as a process that can add value and tackle the real obstacles to better governance.

A related challenge lies at the continental level, the extent to which African leaders will be prepared to exert pressure on their peers to comply with the recommendations of the panel. For the process to be effective there must be a collective resolve to exert pressure on each other and abide by the recommendations of the panel. The AU and participating states will find it difficult to exert pressure on powerful states like Zimbabwe or Nigeria or South Africa and may flex their muscles only on weaker states like Togo or Madagascar. According to Ravi Kanbur, 'the success of the programme will depend on the countries implementing it fully'.[781]

The APRM also needs the support of the people and the international community to give it legitimacy and to encourage participating countries to stay the course. However, in many countries, the citizens are not aware of the process. In Ghana, for example, when the review process started, the citizens were under the impression that it was limited to the executive arm of government. Mr. Kojo Assan noted that

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779 M Gumisia 'States call each other to account – New African Peer Review Programme promotes rights and accountability', *African Renewal,* Vol. 18 #4, January 2005.

780 During the Ghana review, in view of the fact that Ghana's Presidential and General Elections were due in December 2004, the review panel decided that, in order to try and stop the review being used as a political campaign, its recommendations and report would be released only after the elections.

781 Gumisai (note 780 above).

> it was therefore important to inform the population that all three arms of government would be reviewed, including independent institutions such as the Electoral Commission, the Commission on Human Rights, civil society organizations and the private sector, adding that the success of the APRM is premised on the open participation by all in the process[782]

Participation in the review process by the citizens and members of civil society is very important. The process would benefit from a vibrant civil society dialogue and a wide range of reviews conducted by various sectors of society. This can only happen if the people are sensitized and aware of the review processes. Kanbur therefore argues that it is important for the NEPAD to 'set aside significant resources to allow civil society in the reviewed country to do assessment of its own and to critique the APRM assessment'.[783]

Sam Mpasu, Speaker of Malawi National Assembly, believes the whole NEPAD programme itself needs to be explained properly to the people if it is to succeed. He argues that the NEPAD has generated much excitement in Africa and abroad. Some of the reactions are clearly based on misconceptions. For instance, at one end, NEPAD is perceived as a Marshall Plan which will mobilize financial and technical resources abroad for the economic development of Africa much the same way as the Marshall Plan did for a devastated Europe. At the other end, the NEPAD is perceived as a new Western foreign policy tool, to be used in the usual carrot-and-stick manner, to force African states to practice good governance, which is itself seen as a code for Africa's economic re-colonization.[784] NEPAD has to be explained comprehensively, especially to the Africans themselves, if it is going to be

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782 Ibid.

783 Ibid.

784 'Peace and Security - Sine Qua Non for NEPAD'. Address by Hon. Sam Mpasu, Speaker, Malawi National Assembly, to an International Policy Dialogue organized by the Development Policy Forum of Capacity Building International, Berlin, Germany) in cooperation with the Federal Ministry for Economic Cooperation and Development (BMZ) and the Federal Foreign Office (AA), on the theme 'A New Dawn for Africa - Who is supporting the New Partnership for Africa's Development?' from 14 and 15 January 2003.

understood and supported. It has no chance of succeeding unless it is understood properly.

These challenges notwithstanding, experience from elsewhere, particularly the OECD, shows that the peer review can provide an effective way for countries to hold each other mutually to account. Unlike treaties and other legal enforcements, peer review allows for flexibility. According to Pangani,

> peer review can prove better suited in encouraging and enhancing than traditional enforcement mechanisms. For example, unlike a legal enforcement body, peer reviewers have the flexibility to take into account the country's policy objectives and to look at its performance in a historical and political context[785]

A peer review of political governance is a novel practice, never before tried anywhere in the world. It is the most challenging aspect of review as many African conflicts are the result, in part, of poor governance practices. Political governance peer review requires the resolution of major questions. The APRM Document singles out issues such as electoral democracy, human rights, and an active civil society that need to be addressed. It also raises questions about what institutions and mechanisms should be established in African countries to realise the APRM's objectives. At the time of writing, there was growing pessimism over the unwillingness of almost 50% of the AU states to subject themselves to peer scrutiny. This clearly poses a threat to NEPAD's objectives and the APRM outcomes.

Another negative aspect about the process is that it is likely that states may water-down some ARPM guidelines due to the conditions pertaining in African states and their systems of governance. Many of the states that are to take part have yet to conform to the criteria and indicators stipulated in the APRM Accord. It is still unclear whether the APRM will be able to be implemented

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785 F Pagani 'Peer Review: A Tool for Cooperation and Change—An Analysis of the OECD Working Method' OECD SG/LEG (2002)1, <http://www.oecd.org/dataoecd/33/16/1955285.pdf>. See also *African Security Review*, Vol. 11, no 4 (2002), 7-13.

effectively in an environment of dictatorship and authoritarianism. Yet because the NEPAD is aimed at Africa's reconstruction, it is unlikely to receive resources from outside the continent if it fails to discipline dictators and authoritarian leaders.[786]

Finally, if the APRM is to be credible and effective, it will need to be transparent and accessible to all components of the state, including civil society. If it is run in a professional (un-partisan) and transparent manner, the APRM can be a major regional instrument for promoting human rights, the rule of law, good governance and democracy. The African peer review process is likely to dissipate over time if participating states do not conform to the tenets of democracy demanded by the APRM - respect for human rights and the rule of law - in their governance programmes.

7.9 Criticisms of the APRM

In a continent previously crowded with despotic leaders, the idea of peer review is a remarkable innovation of the new generation of progressive African leaders. This notwithstanding, some political analysts believe that the mechanism does not go far enough to adequately address the question of governance on the continent. According to Ikome, the APRM does not impose an overarching central authority. Rather, it is founded on a model of self-restraint by still perceivably unresponsive, unaccountable, and politically insecure African governments.[787] Self-control as well as self-censorship appears difficult for top-level African political leaders to accept. This situation can become a real blockade to putting the APRM into practice, and thus it deserves a profound analysis resulting in alternative solutions. Africa has to construct itself, and to do this it needs reforms, in order to transform to become much more attractive in the eyes of foreign investors.

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786 M Mathoho 'An African Peer Review Mechanism: a panacea for Africa's governance challenges?' *Policy brief 29*. See also < http//www.cps.org.za/cps%20pdf/polbrief29.pdf>.

787 Ikome (note 14 above) 319.

Another major criticism is the scope and length of the indicators developed for the review process. For each of the areas (democracy and political governance, economic governance and management, corporate governance and socio-economic development), there is a list of about 100 indicators, standards, and criteria to be used for the review. There is a sense that this list is too long to be competently implemented. Kanbur suggests that the areas covered be limited, at least initially, to democracy and political governance, 'to ensure that the whole effort does not sink under its own weight'.[788]

7.10 Benefits of the APR Mechanism

The effective start of the NEPAD and of the peer review mechanism is a signal given by Africans to their development partners of a new beginning in the administration of public affairs, ie, public administration in a transparent way that favours the consolidation of democracy and the strengthening of capacities required for sustainable development.

The APRM is rooted in the principle that achieving good governance is its own reward. Good governance is expected to generate popular confidence in institutions and processes of government. It will foster an enabling environment for the private sector to generate economic growth, unlocking the resources to overcome poverty and provide better education and health care, for example. It is also essential for making efficient use of scarce public resources. In addition, good governance is also instrumental for effective partnerships with the international community, and here also the APRM could make a significant long-term contribution. A robust and credible mechanism of peer review could reconcile the principles of African ownership with the obligation that donor countries have to their tax payers to account for their funds. It would help retain African leadership while ensuring donor confidence and buy-in.

If it works, the APRM will give African reformers the credibility they desperately need at a time of growing donor fatigue and deep cynicism

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788 Gumisia (note 780 above).

abroad. More crucially, it will legitimize the process of reform and could help transform the relationship with external partners through agreed performance targets and standards for both donor and recipient, replacing the old model of donor-imposed conditions and warding off the external pressure that is usually associated with conditionalities - often deemed insensitive to African countries' specific needs and circumstances.

At home, peer review will be critical in building credibility. It will reorient leaders to think beyond partnership with aid donors and restore the long-neglected partnership between governments and citizens. The APRM also provides an opportunity for civil society to hold leaders accountable for their public promises. The final reports of the IPEP will provide a useful tool for civil society groups to use to demand governments fulfil their commitments to reform. The APRM has the potential of returning governance to the people of Africa.

The practical benefits of the African Peer Review Mechanism will however be determined by the level of commitment in participating countries and the effectiveness with which they manage the process. This makes it very important that a participatory and open approach to implementing the Mechanism be adopted. The approach should build transparency and trust in the pursuit of national development goals.

7.11 Factors that will influence the APRM's success

Pillars of the APRM include democracy, political, economic, and corporate governance. The NEPAD aims to tap massive Western aid for rapid development of the world's poorest continent in return for a commitment by its leaders to adhere to good governance and democracy. The NEPAD's APRM envisages setting such good standards for review that those donor countries will substitute their own monitoring and conditionality processes with its and accept the outcomes of the APRM. The risk is that, if African states that engage in the APRM fail to meet the set standards, donors willing to support NEPAD programmes could freeze their support. If that happens, the view that Africans do not own NEPAD will gain currency.

There are many reservations about whether the APRM will achieve its objectives, as many African states are unlikely to meet the NEPAD standards of democracy and political governance.

As previously stated, the APRM broadly echoes the OECD peer review mechanism, which is regarded as a successful means of identifying and promoting best practices among partner countries. Peer review in the OECD is not bound to any conditions from any other continent. The rationale for a peer review mechanism in Africa should be that Africa should move away from donor-imposed conditionalities – a practice that has been found to be ineffective and burdensome. Instead, there should be a move towards mutual accountability among development partners – specifically in the areas of poverty reduction. It could be argued that the successes of any peer review process rests on three interrelated requirements: competence, independence and competition.

As regards competence, a lot will depend on the quality of the APRM Secretariat. This is of course partly a matter of resources, but also a matter of hiring staff based solely on criteria of technical competence. However, no matter how technically competent a staff is, if he/she is asked to do too much and is stretched too thin, he/she will become incompetent to deliver what is asked. The APRM review is too broad, and too detailed, to be sensibly handled. Any suggestion of influence on the reviewers, either from those reviewed or from forces extraneous to the review, would undermine the integrity of the review. OECD peer reviews explicitly include a political phase where the reports and their conclusions are discussed and negotiated, but prior to this, in the analysis and fact-finding stage, there is independence of the technical work. This is helped by the fact that there is (most of the time) no resource flow directly attached to OECD peer reviews. As regards independence and APRM, much depends initially on the personal authority of the APRM Panel. Certainly, very distinguished Africans have been chosen for the Panel.

Peer review mechanisms work best when they are part of a wide range of assessments. OECD Peer reviews feed into a rich and ongoing policy

dialogue and debate in the reviewed country. When a review is, or is perceived to be, the 'only game in town', or 'too big a game in town', the high stakes set up a dynamic of pressures that can undermine trust. On competition and APRM, there is a mixed picture.

There is a worry that the APRM will be 'too big' a game in an African country, especially if the domestic policy dialogue, and domestic civil society, is not sufficiently well developed and active to provide a range of counterweights to it.

Lessons from peer reviews done elsewhere suggest that the greatest impact is derived when the outcomes of peer reviews are made available to the public. When the media is provided with information on peer reviews, the story can then be mass distributed to the public. That public scrutiny is most likely to coerce change and corrective actions. The OECD has used this method of assessment since its creation more than four decades ago.

7.12 The APRM and other similar organs of the African Union: harmonizing AU and NEPAD structures

The challenge within the AU since the establishment of the APRM has undoubtedly been the harmonization of APRM with other similar institutions responsible for the promotion of human rights, peace, stability, and political and economic governance on the continent. The rationalization of peer review systems within a single system will assist in the implementation and adherence to the common commitments and standards across the continent, and it will do so without competing with the AU for resources, attention, and political space.

The establishment of the APRM has fueled the concern that, if not managed judiciously, it might lead to proliferation and duplication of, among others, African structures and mechanisms for standard setting, including mechanisms for monitoring the promotion and protection of human rights.

To take the African Commission on Human and Peoples' Rights as an example, one can argue that Africa already has a regional human rights mechanism operating under the auspices of the AU. The African Commission was established in 1987 with the mandate to promote human and peoples' rights and ensure their protection on the continent.[789] The African Commission undertakes fact-finding and promotional visits to members states to investigate allegations of human rights violations and to sensitise the population on the African human rights system. The Commission also receives and considers complaints, from individuals, NGOs, and States Parties to the African Charter, alleging violations of the African Charter on Human and Peoples' Rights. Similar to the APRM panel of eminent persons, the Commission is composed of eleven members, Africans known for the high morality, integrity and reputation in matters of human and peoples' rights.[790] It has also over the years appointed Special Rapporteurs[791] and established working groups[792] on thematic human rights issues.

These special mechanisms visit member states and engage civil society and government in dialogue on specific human rights issues to explore ways of enhancing the enjoyment of human rights. Article 62 of the African Charter requires States Parties to the Charter to submit, every two years, reports indicating the measures they have adopted to give effect to the provisions of the Charter. These reports are examined in the public sessions of the Commission and states are engaged in constructive dialogue on how to improve their human rights record. The African Commission submits its

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789 African Charter (note 7 above) Article 30.

790 African Charter (note 7 above) Article 31.

791 The Commission has appointed five Special Rapporteurs: on prisons and conditions of detention in Africa; on the rights of women in Africa; on the protection of human rights defenders in Africa; on refugees, asylum seekers and internally displaced persons in Africa; and on freedom of expression in Africa.

792 The Commission has established five working groups: on the implementation of the Robben Island Guidelines on the Prohibition and Prevention of Torture in Africa; on the enjoyment of economic and social rights in Africa; on specific issues on the work of the African Commission; on indigenous populations/communities in Africa; and on the death penalty in Africa.

Activity Report to the Assembly of Heads of State and Government of the AU. All these measures taken by the African Commission seek to set standards and develop best practices in the field of human rights in Africa. They are the same activities to be undertaken by the APRM process.

In addition, the Constitutive Act of the AU provides for the establishment of many other organs with mandates to monitor compliance with international standards of human rights, good governance, stability, and peace. The mandate of the APRM covers the mandate assigned to almost, if not all, the other organs of the AU, including the African Commission on Human and Peoples' Rights, the Pan African Parliament, the Peace and Security Council, and the Economic, Social and Cultural Council.

The problem of proliferation of international institutions is by no means unique to Africa. However, in under-resourced Africa, it should be a source of concern, since under-funding and understaffing plague the existing institutions in the continent. Magliveras and Naldi warn that '[t]he number of organs in the Union appear to be very large and in the long run it could not only result in the cumbersome operation of the Union but also present a financial burden',[793] In addition, the creation of more institutions and mechanisms at the regional level is likely to present problems to African states regarding how to allocate resources and personnel to deal with obligations arising from their involvement in these institutions and mechanisms. For example, the APRM is to develop a review procedure, which is similar to the State Reporting under the African Charter, thus, adding yet another burden on the bureaucracies in many African states.

Institutions, structures, and mechanisms established under the NEPAD and the AU will have similar regional focus and will operate under the auspices of a common international organisation, the AU. They are also likely to operate on the basis of the treaties, standards, and regulations that are at least

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793 E Baimu 'Human rights mechanisms and structures under the NEPAD and the African Union: emerging trends towards proliferation and duplication', *Occasional Paper 15*, Centre for Human Rights, University of Pretoria, August 2002.

compatible, if not similar to one another. This presents ample opportunities for synergies between these structures and mechanisms. However, this potential will remain untapped unless there is a determined drive to develop strategies for co-operation and co-ordination among these structures and mechanisms.

There is no denying that the NEPAD holds great promise of unraveling the complex web of conflicts, diseases, and poverty entangling the African continent at the moment. Besides espousing a philosophy of African ownership in its conception, management, and implementation, the NEPAD looks set to avoid pitfalls that doomed previous regional development plans by synchronizing itself with contemporaneous development endeavours, such as the UN Millennium Declaration. A coherent strategy emanating from this wholesome and integrated approach offers a real hope of progress. However, in furtherance to this approach, there should be concerted efforts to link up the NEPAD with other AU institutions in order to avoid duplication, overlap, and misuse of meager resources.

7.13 Summary and conclusion of Chapter seven

The success of the APRM depends on the seeds of its assessment of a country falling on the fertile soil of a vibrant civil society dialogue in that country. This requires a civil society that is competent to understand and respond to the APRM assessments. Somewhat paradoxically perhaps, but in keeping with the OECD peer reviews experience, the success of a peer review mechanism depends on it being only one of a range of reviews that are carried out by the civil society of a country.

The APRM is Africa's attempt to combine the benefits of good governance and mutual partnership with the developed world to contribute towards the enhancement of the standard of living of its people. Good governance is a process whereby public institutions conduct public affairs, manage public resources, and guarantee the realization of human rights to promote sustainable human development and peace. Good governance accomplishes this in a manner essentially free of abuse and corruption, and with due regard for the rule of law. The true test of good governance is the degree to which it

delivers on the promise of human rights: civil, cultural, economic, political and social rights.

In its resolution 2000/64,[794] the UN Commission on Human Rights expressly linked good governance to an enabling environment conducive to the enjoyment of human rights and 'prompting growth and sustainable human development'.[795] And more importantly, in underscoring the importance of development cooperation for securing good governance in countries in need of external support, the resolution recognized the value of partnership approaches to development cooperation and the inappropriateness of prescriptive approaches.[796]

It is precisely the inappropriate prescriptive measures that the West seeks to implant into the APR Mechanism that the African leaders are resisting. African leaders have therefore described this approach of the West as a misreading of the entire process. Ambassador J.K Shinkaiye comments on the issue:

> As far as African leaders could see, the G8 will want a mechanism that will enable them pursue more or less the similar role (conditionality) that the World Bank and the IMF imposed on the continent in the 1980s. Their perception of the APRM is therefore that of a regime of sanctions. However, this is not in line with the African leadership's conception of the APRM. Moreover, African leaders have agreed to democratic values, the rule of law and the respect for human rights, not because the G8 and other external actors desire it, but more because African leaders have realized that these values and practices are good and necessary for their peoples, their countries and their continent.[797]

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794 UN Commission on Human Rights resolution 2000/64, on the theme 'The role of good governance in the promotion of human rights' adopted at its 66th Meeting on 26 April 2000.

795 Id para. 3.

796 Id para. 8

The above statement suggests that the APRM is an exclusively African process that has nothing to do with the expectations of the continent's external partners. However, a closer reading of the NEPAD Document reveals that there is an implied trade-off in the new form of relationship that Africa intends to enter with the North.[798]

By linking good governance to sustainable human development, emphasizing principles such as accountability, participation and the enjoyment of human rights, and rejecting prescriptive approaches to development assistance, the resolution stands as an implicit endorsement of the rights-based approach to development.

The APRM is therefore an innovative and very ambitious process. It provides Africans with a lot of hope and optimism. However, there should be cautious optimism as the process is still at its infancy and faces numerous challenges. The APRM must not spread itself too thin. It must, initially, at any rate, narrow down the scope of its reviews, and focus on what it can do well. This is a general point about the NEPAD, but it applies with equal force to the APRM.

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797 See Ikome(note 14 above).

798 Id at 335.

8.0 Chapter Eight - Conclusion and summary of findings

This study has examined the intrinsic relationship between human rights, human development, and peace as indispensable components of prosperity and socio-economic and political development in general and in particular, within the context of the new African initiatives - the AU and the NEPAD. The study has attempted to demonstrate the extent to which human rights, human development, and peace, coupled with good economic and political governance could determine the success or otherwise of these initiatives. It concluded that Africa's development miracle is linked to the realization that respect for human rights, the promotion of human development, and the consolidation of peace are interdependent, interrelated, indivisible and indispensable to Africa's quest for prosperity.

Chapter two of the described the concepts of human rights, human development, and peace and demonstrated the link that binds them, and concluded that human rights, human development, and peace are interdependent and mutually reinforcing and indispensable and *sine qua non* for any meaningful socio-economic and political rebirth of the continent. It is argued in this chapter that good socio-economic and political governance must support these three components in order to provide a conducive environment for investment and for individuals to fully express their potentials in any given society. It is argued further that a country that promotes these fundamental traits is more likely to exhibit signs of tolerance, development, and accountability and would be open to other members of the international community. While a country with a poor human rights record would throw its citizens into an unstable environment characterized by conflicts, corruption, and misery, the chapter concluded that the intersection of these elements is essential for Africa's quest for prosperity.

In Chapter three, the study concludes that the slave trade and colonialism were cruel and exploitative systems designed to enhance the ability of the Europeans to exploit African resources for the benefit of their metropolitan economies. It has been demonstrated in this chapter that, although many

apologists for colonialism have often argued that the Europeans came to Africa to 'civilise' the people and save them from their backward and dangerous ways, as well as offer Africans the benefits of the Christian religion, the evidence points to colonialism as a purely economic exploitation mission. Colonialism was not for an opportunity to help Africans improve their lives but to secure natural resources to feed European industrial production and markets for excess output from metropolitan factories. Like other commentators, it is noted in this chapter that no other continent suffered as much destruction of its social fabric through foreign imperial domination as did Africa.

The point made here is that through the twin evils of the slave trade and colonial rule perpetrated by the European powers between 1445 and the 1960s, coupled with greedy and corrupt African leaders, the continent was swindled, pillaged, plundered, exploited, and balkanized. Today, most African states cannot be considered viable polities, with economies that are capable of supporting their population - these entities are the result of artificial creations, designed to serve the narrow interests of the colonizing powers. Thus, the balkanization of Africa was undertaken to meet the administrative convenience and economic imperatives of the colonizers, without due consideration of Africa's historicities and cultural realities.

Chapter four examined the emergence of black consciousness and the attempt at addressing the negative legacies of the slave trade and colonialism on the continent. This chapter has demonstrated that the establishment of the OAU did a lot in bringing an end to colonialism and apartheid in Africa and it brought the cause of the African people to the international scene. The OAU became the voice of the African people in condemning the gross human rights violations and violence perpetrated on the continent by the colonialists. However, the OAU had a limited objective - eradication of colonialism and apartheid - and was constrained by its own enabling instrument from fostering programmes and policies to deal effectively with human rights, human development, and peace on the continent.

That the OAU became incapable of meeting the new challenges facing the continent was less surprising. The organisation was formed at the height of the struggle against colonialism and apartheid and at a time when the cold war was gearing up. Nearly four decades had passed, the cold war had ended, colonialism and apartheid had been defeated, but new issues had emerged that challenged the efficacy of the OAU's institutions.

The forces of globalisation; the dominance of neo-liberal doctrines; the phenomenon of rebel movements; national and international terrorism; and the threat of general human insecurity, human rights, good governance are among the many novel issues that could not be effectively addressed by the largely anachronistic institutions of the OAU. The cold war institutions of the OAU were seen as largely incompatible with post-cold war realities. It was against this backdrop that the AU was formed – to perform the tasks that were simply too modern for the OAU to handle.

It is argued that the cold war contributed significantly in shaping Africa's approach to human rights. During the cold war, Western countries, wary of the reaction of African countries, hardly insisted on respect for human rights as a condition for aid and other bilateral and/or multilateral agreements. The Chapter has demonstrated further that African countries neglected their human rights obligations and failed to appreciate the importance of human rights in fostering human development and durable peace. The OAU's inability to integrate human rights, human development, and peace in its policies and programmes and the West's reluctance to encourage respect for human rights in bilateral and multi-lateral agreements contributed to the deteriorating human rights, human development, and peace conditions and encouraged bad governance in many African States from the 1970s to the early 1990s. The 1980s in particular was termed 'the lost decade'. Human rights violations, poverty, dictatorship, diseases, underdevelopment, and violence characterized the land. African citizens lost faith in their leaders and African leaders lost confidence in the OAU. The OAU had become almost irrelevant as we inched into the 21st century international world order. To meet the 21st

century challenges and claim this century as a truly African century, the replacement of the OAU became inevitable.

In Chapters five and six, the thesis examined the new African initiatives developed by African leaders to replace the OAU and its institutions, initiatives aimed at countering the challenges posed by globalization and the new world order and believed to be the strategies to reverse the almost five centuries of marginalization, exclusion, discrimination and underdevelopment of the continent. To this end, chapter five analyzed how the African Union came into being and how it is different from the OAU and the measures put in place to meet the challenges of the 21st century. Chapter six looked at the establishment of the NEPAD and how it is different from past African development initiatives and why it stands out as the last hope for Africa.

In Chapter five, the study demonstrated that the AU has set for itself lofty goals and principles and put in place viable institutions with powers and functions to absorb the challenges posed by the new world order. It has illustrated that the objectives, principles, and institutions of the AU are not perfect but provide hope for a continent that has known only humiliation and marginalization and has seen its dignity trampled upon for centuries. The African Union provides a fresh opportunity to review the continent's structures, procedures, and working methods to enhance its effectiveness and relevance in streamlining human rights, human development, and peace, as they are interdependent and mutually reinforcing.

Though the African Union promises to be more responsive in dealing with questions of human rights, human development, and peace, it is noted in this thesis that its leaders are yet to fully embrace the lofty principles enshrined in the Constitutive Act of the Union such as good governance and democracy.

The chapter has asserted that the African Union must function in sustained conditions of peace and security; and that it must function in an environment where human rights and the rule of law are respected. In addition, African states should develop internal mechanisms and institutions that can sustain peace, security and stability based on universally accepted human rights

principles and values such as justice, equity, solidarity, fairness, accountability, transparency, and respect for the rule of law.

It noted further that the success of the African Union, including the fulfilment of its human rights, human development, peace, security, and democratic agendas, will rest largely on the involvement of the African people and their representatives and on their invaluable contribution. It is recommend in this regard that a country's membership in the Union should be regularly reviewed by assessing its commitment to respect human rights, democracy and the rule of law. It is essential for African leaders to recognize the centrality of human rights and the need to incorporate the human rights dimension in all the work of the Union.

The Chapter concluded by restating that the AU was born out of the conviction among African leaders that its predecessor, the OAU, was considerably frail and demonstrated an inability to truly unite the continent. This fundamental weakness was reflected, among other things, in the inability of the OAU to effectively contain, manage, or terminate conflicts on the continent; to fashion a workable developmental paradigm; or to make member states meet their human rights and other commitments. It is only by streamlining human rights, human development, and peace and ushering in open societies that African governments can show that the African Union can make a difference and is more than just a mere change of name from the OAU. Without a concerted policy, both from the AU itself and from its members, to streamline human rights, human development, and peace, the Union may be unlikely to strengthen intra-African relations, and thus, seriously alter the current direction and content of African relations with the rest of the world.

Chapter six examined the impact of the NEPAD as the most acclaimed initiative ever developed to deal with African underdevelopment and argued that the formulation of the NEPAD, its objectives, structures, monitoring mechanisms, including the period of its establishment make it different from past African development initiatives. African-developed and African-led, the NEPAD is the first development initiative on the continent to recognise the link

between human rights, human development, peace and prosperity and expressly link development and good governance. Initially given a lukewarm reception by the African populace, the NEPAD has almost become a household name on the continent. Its recognition of human rights as the bases for peace and development has earned it a lot of support from the international community, and its innovative peer review mechanism has sent a signal to the international community and to the African people themselves that African leaders mean business. Although the good governance agenda was beginning to take root in some African institutions and amongst many African states since the late 1980s, its strong endorsement in the NEPAD sets the initiative apart from all previous African initiatives.

The chapter noted that, in seeking partnership with the international community, the NEPAD attempts to accelerate the integration of the increasingly marginalised African continent into the global economy. It also noted however, that although it seeks mutual partnership, the NEPAD is heavily dependent on financial aid from the North. It is therefore argued that, by relying on external funding, the NEPAD is unlikely to change the current configuration in Africa's international relations with the North due to Western hypocrisy.

It has been demonstrated in this thesis that, throughout the three main historical epochs of the continent - slave trade, colonialism and post independence - there had been no concerted efforts to initiate development on a foundation based of respect for human rights, the promotion of peace and human development. Each of these components has been pursued differently at different times for different purposes. As a result of this lack of recognition for the indispensable relationship between human rights human development and peace many development initiatives could not stand the test of time and in spite numerous attempts at dealing with the continent's numerous problems, underdevelopment has remained synonymous to Africa.

Chapter seven looked at the African peer review mechanism, considered as the sharpest tool in the NEPAD tool kit. It concluded that the voluntary accession approach of the APRM could weaken the effectiveness of the

mechanism, and noted further that, if judiciously monitored, could serve as a useful tool for promoting good practices of political and economic good governance on the continent.

This study has examined the manner in which human rights, human development, and peace had been approached in the different historical periods that characterized the continent, that is, from slave trade through colonialism to post-independence and neo-colonialism, and the effects of the legacies of these historical epochs on the current socio-economic and political situation on the continent. The study thus established a causal design aimed at linking the different historical epochs with the efforts at promoting human rights, human development, and peace, and concludes that for over five centuries, from the slave trade to the end of colonialism, no concerted effort was made to simultaneously streamline/incorporate these variables towards Africa's development. Rather, the thesis establishes that the socio-economic and political legacies implanted on the continent during these different historical eras are principally responsible for the current situation in Africa. The thesis also attributes the problems afflicting Africa to other factors, notable amongst them, Western hypocrisy, bad economic and political governance, globalization, and unipolarism.

Modern Africa's relationship with the world has been primarily shaped by its continuous contact of more than 500 years with the West, involving slavery, colonialism, and now, the real threat of neo-colonisation through globalisation. It has been a relationship of domination, exploitation, marginalisation, exclusion and oppression.

From the above analysis, the thesis draws the following conclusions: first, that the uncoordinated approach and seeming neglect in streamlining human rights, human development, and peace for over five centuries have had serious socio-economic and political consequences on the continent resulting in underdevelopment, regression, violence, poverty, bad governance, instability, marginalization and social exclusion that characterize the continent till this day. Second, the poor economic and political governance over the years have exacerbated the deplorable human rights, peace and development

conditions left behind by the colonialists. Second, that the black consciousness struggle, leading to the Pan-African spirit and the eventual establishment of the OAU, laid the foundation for reversing the neglect of the continent. The transformation of the OAU into the AU and the establishment of the NEPAD was a continuation of this quest for a united, prosperous, and powerful Africa based on respect for human rights, advanced human development, and durable peace and stability. The establishment of the AU and the NEPAD, coupled with the end of the cold war, the emergence of dynamic African leadership, and a vibrant civil society, provide the continent with a golden opportunity to re-orientate its development paradigm, making human rights, human development, and peace as central and cross-cutting components in policies and programmes design.

Third, that the new African initiatives, the African Union and the NEPAD, are under serious threat as there is manifest Western hypocrisy and a Western desire to see Africa perpetually underdeveloped and therefore locked in a relationship of dependency.

It is important to note that although colonialism and the legacy of slavery played an important role in the deterioration of the situation in Africa, Africans have had Africa in their hands for over half a century. While it is important to examine the past to understand the present so as to plan for the future, Africa cannot blame colonialism and slavery forever. Responsibility for the current state of affairs in the African continent lies in the hands of African leaders who must assume their responsibility to develop a clear strategy for Africa's future that takes advantage of all of its human capabilities and natural resources.

The new generation of African leaders are accepting the responsibility for creating conditions for sustainable development, namely, ending conflicts, consolidating democracy, promoting good political and economic governance, increasing the pace of regional economic integration, and instituting peer review mechanism.

As the 1980s drew to a close, the world witnessed momentous changes. The Berlin Wall was brought down, the entire Soviet Union was shattering and the

Cold War had ended, catalyzing a trend toward cooperation rather than competition among former superpower adversaries. The bipolar international political system promptly ended, setting the stage for a new international political system with new sets of demands. Since then, the phenomenon of globalization, democracy, respect for human rights, and regional integration have continued to develop in almost every region of the globe.

Africa was not immune to these dramatic shifts in the world economic and political order. The realities of the situation encouraged African leaders to seriously reconsider the norms of external intervention in the affairs of the continent. This, in turn, has necessitated a rethinking by African leaders of the meaning and consequences of the new world order to socio-economic and political developments and the whole notion of state sovereignty in Africa.

Today, the African leadership and its people have accepted the reality that there is a new world order, that the era of super power rivalry is over, that Africa's geopolitical strategic position in world politics is waning, that Africa must either join the globalisation train or be left behind forever, and that security and national interest have become the priority of the developed countries.

This transformed international environment coincided with important changes in Africa's political landscape, providing the impulse for the policy shifts defined in the AU and the NEPAD. These internal changes included the rebirth of political pluralism in a majority of African states (which itself gave rise to a vibrant civil society and a new breed of African leadership), the emergence of a non-racial South Africa, and the end of military dictatorship in many African countries.

While the limitations are obvious, and while many of the questions remain unanswered, a process of African renaissance has begun. Clearly, the hyped expectations raised will prove difficult to realize - the reality is that the NEPAD and the AU initiatives will not be able to resolve all of Africa's woes. Indeed, while pan-continental initiatives might go some way towards reversing

negative trends, many of the key developmental and governance challenges require action not by an intergovernmental organization but by national governments.

Despite the many hurdles, something new is in the offing. These African-driven initiatives are taking duties and responsibilities to the citizens of the continent seriously, demonstrating that there is a new resilience and a new will to succeed in the African continent.

According to the most pessimistic assessment, despite the change in international focus following the events of 11 September 2001, the AU and the NEPAD initiatives have served to place debate about Africa's future and its interests on the world agenda. The initiatives have also started a continental debate on the limits of state sovereignty. If the days of the autocratic despot despoiling his country and its peoples in the interests of personal aggrandizement are not yet over, they are now numbered.

However, the below-average human rights records of most African rulers, past and present, make it difficult for Africans to repose any confidence in these initiatives. Such poor performances constitute the greatest threat to the survival of the newly conceived initiatives.

Fortunately, the end of the cold war has created unprecedented convergence in priorities and values across the globe. The eradication of poverty for example, has become an accepted global priority, with democracy, human rights, market-based economies, and globalisation, the most dominant features of the New World Order. The result has been the emergence of a new African leadership committed to the ideals of democracy, human rights, and good political and economic governance as vehicles for African prosperity. It is these leaders who are leading the search for a new partnership with the African people and like-minded leaders in the developed countries.

By the mere fact that both the AU and the NEPAD initiatives recognised the significance of integrating human rights, human development, and peace as a *sine qua non* for prosperity and socio-economic and political development on the continent means there is a new thinking in the way the new African leaders want to lead the continent. The process of streamlining human rights and peace within the programmes and policies of these new initiatives may have been slow, and the benefits less visible by the masses, but the determination of the leaders and the African people for change, expressed through the establishment of important institutions and the willingness to enter into partnership, provide sufficient reason to hope that eventually there will be light at the end of the tunnel.

The same vigour with which the continent united against a common enemy (colonialism) should inspire Africans to unite and challenge underdevelopment, neo-colonialism, globalisation, and the hegemonic behaviour of the industrialised countries. This can be achieved only if the new African transformation ethics is based on a human-centred development paradigm, which puts the people at the centre of the development process, and should be predicated, above all, on the rational proposition that development has to be engineered and sustained by the people themselves through their full and active participation. In other words, the new African transformation ethics rests on the firm belief that development should not be undertaken on behalf of a people, rather, that it should be the organic outcome of a society's value system, its perceptions, its concerns, and its endeavours.

The renewed determination of African leaders to press forward with Pan-Africanism, and to reactivate and rejuvenate inter and intra-African partnerships, and partnership between Africa and the international community, at the dawn of the 21st century is of tremendous historic significance. The transformation of the OAU into the AU and the adoption of the NEPAD provides a solid and sustainable foundation for the realisation of African unity and development.

African leaders should thus work closely with their peoples and civil society to make the NEPAD and the AU more inclusive and participatory. They must be prepared to accommodate alternative views on how to address Africa's socio-economic and political crisis. It is principally by so doing that Africa will not merely leapfrog but actually race into the 21st century, and make this century a truly African century. A century, which according to President Thabo Mbeki of South Africa, will be seen by historians as one in which 'Africa has at last emerged from a long period of darkness and fear into one of light and a dream fulfilled',[799] to construct an Africa in which it will be acknowledged that 'through our persistent efforts we have redefined ourselves into something other than a place of suffering, a place of wars, a place of oppression, a place of hunger, disease, ignorance, and backwardness'.[800] This requires fundamental reshaping of the political economies, the democratisation of the development process, and the ushering of a new national and regional economic order.

On the face of it, the argument is simple, increased respect for human rights will reduce the possibility of conflict and make development and good government more likely. In turn, development and good government should bring about the political stability, the institutional consolidation, and the operation of the rule of law that are universally seen as necessary for human development. The promotion of human development should facilitate economic growth, promote further development which provide the foundation for peace. And so the triangular elements of human rights, human development and peace remains in the Africa developmental lexicon if, Africa is to claim the 21st century as a truly African century.

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799 M Thabo 'New Partnership for Africa's Development and the African Union', address to the Joint Sitting of the National Assembly and the National Council of Provinces, Pretoria, 31 October 2001, 1.

800 Ibid.

Bibliography

Books

A Claude (2001) Democracy and Development in Africa, (Washington, D. C, Brookings Institution).

A Pollis & P Schwab (1979) Human Rights: Cultural and Ideological Perspectives, (New York, Praeger Press).

A Porter (1991) From David Livingstone to King Leopold's Congo, (London, Weidenfeld and Nicolson.)

AA Sikainga (1996) Slaves into Workers: Emancipation and Labor in Colonial Sudan, (Texas, University of Texas Press).

AD Renteln (1990) International Human Rights: Universalism Versus Relativism, (Newbury Park: Sage Publications).

AG Edwin & IU UJuha (1997) Environment, Biodiversity and Agricultural Change in West Africa: Perspectives from Ghana, (United Nations University Press).

AK Sen (1987) Commodities and Capabilities, (Oxford, Oxford University Press).

B Lewis & L Bernard (1992) Race and Slavery in the Middle East, (New York, Oxford University Press).

B Nwabueze (1973) Constitutionalism in the Emergent States, (London, C Hurst and Co).

C Clapham (2000) Africa and the international system: the politics of state survival, (3rd ed), (Cambridge, Cambridge University Press).

CE Welch (1984) Human Rights as a Problem in Contemporary Africa (Albany, State University of New York Press).

DR Smock & RS David (1993) Making War and Waging Peace: Foreign intervention in Africa, (Washington, DC, United States Institute of Peace Press).

E M'Bokolo (1995) Afrique noire-Histoire et Civilisations, (Haiter-Aupelf, Paris).

EG Bello (1985) The African Charter on Human and Peoples' Rights: A legal Analysis, (The Hague, Recueil ML Balanda).

EJ Keller & D Rothchild (1996) Africa in the New International Order: Rethinking state sovereignty and regional security, (London, Lynne Rienner Publishers).

F Edoho (1997) Globalization and the New World Order: Promises, Problems, and Prospects for Africa in the Twenty-First Century, (Westport, Praeger Publishers).

FM Deng (1987) Tradition and Modernisation: a challenge for law among the Dinka of Sudan, (New Haven, Yale University Press).

GBN Ayittey (1992) Africa Betrayed, (New York, St. Martin's Press).

GJ Naldi (1992) Documents of the Organisation of the African Unity, (London, Mansell).

H Goran (1992) Governance and Politics in Africa, (Boulder, Colorado and London, Lynne Rienner Press).

HB Mia (2000) From the Ancient Sahara and Americas and into the New World, (Massachusetts, Houghton Mifflin Company).

I Shivji (1989) The concept of human rights in Africa, (Dakar, Senegal Codesria).

IM Ronald & CE Welch (1984) Human Rights and Development in Africa, (Albany, State University of New York Press).

J Donnelly (1985) The Concept of Human Rights, (London, Croom Helm).

J Donnelly (1989) Universal Human Rights in Theory and Practice, (Ithaca, NY: Cornell University Press).

J Humphrey (1989) No Distant Millennium: the International Law of Human Rights, (Paris, UNESCO).

J Inikori (1982) Forced Migration: the impact of the export slave trade on African societies (London, Hutchinson).

J Nyerere (1968) Freedom and Socialism/Uhuru na Ujamaa, (London, Oxford University Press).

J Stiglitz (2002) Globalisation and its discontents, (London, Allen Lane).

JF Barnes (1992) Gabon: beyond the Colonial Legacy, (Westview Press, Boulder, CO)

JG Starke (1989) Introduction to International Law, (10 ed), (London, Butterworths).

JJ Madut (2001) War and Slavery in Sudan, (University of Pennsylvania Press).

JL Nelson & VM Green (1980) International Human Rights: Contemporary Issues (Stanfordville, Human Rights Publishing Group).

K Ayesha (2003) The African Union Organs and the African Peer Review Mechanism: Implications for Regional Integration in the Context of Continental Structures (unpublished).

K Nkrumah (1961) I Speak of Freedom: A Statement of African Ideology (London, William Heinemann).

K Nkrumah (1963) Africa Must Unite, (New York, International Publishers).

K Nkrumah (1965) Neo-colonialism: the last stage of imperialism (London, Thomas Nelson & Sons).

KA Busia (1962) The Challenge of Africa (New York, Praeger).

L Levin (1981) Human Rights: Questions and Answers (Paris, UNESCO).

M Ishay (1997) The Human Rights Reader: Major Political Essays, Speeches, and Documents from the Bible to the Present (New York, Routledge).

M Mamdani (1996) Citizen and Subject: Contemporary Africa and the Legacy of Late Colonialism, (Princeton, Princeton University Press).

N Azikiwe (1962) The Future of Pan-Africanism, (Paris, Présence Africaine).

N Sithole (1968) African Nationalism, 2ed. (London: Oxford University Press).

N Van de Walle (2001) African Economies and the Politics of Permanent Crisis, 1979 -1999, (Cambridge, Cambridge University Press).

O Patterson (1982) Slavery and Social Death - A Comparative Study, (Cambridge, Harvard University Press).

OC Eze (1984) Human Rights in Africa: Some Selected Problems (Lagos, Nigeria Publishers & Macmillan Press).

P Lauren (1998) The Evolution of International Human Rights: Visions Seen, (Philadelphia, University of Pennsylvania Press).

P Manning (1990) Slavery and African Life: Occidental, Oriental, and African Slave Trades, (Cambridge, Cambridge University Press).

P Thomas (1990) The Scramble for Africa, 1870-1912, (London, Weidenfeld and Nicolson).

P Thomas, J Clifford & K Hagan (1995) American Foreign Relations: A History Since 1895, (Lexington, Heath and Co.).

PD Curtin (1969) The Atlantic Slave Trade. A Census, (Madison, University of Wisconsin Press).

PE Lovejoy (2000) Transformations in Slavery, (Cambridge, Cambridge University Press).

R Austen (1987) African Economic History, (London, James Curey Ltd).

R Howard (1986) Human Rights in Commonwealth Africa, (Totowa, Rowman & Littlefield).

R Murray (2004) Human Rights in Africa: From the OAU to the African Union, (Cambridge University Press).

R Pankhurst (1997) The Ethiopian Borderlands: Essays in Regional History from Ancient Times to the End of the 18th century. (Cairo, The Red Sea Press).

AD Renteln (1990) International Human Rights: Universalism Versus Relativism (Newbury Park, Sage Publications).

RJ Vincent (1986) Human Rights and International Relations, (Cambridge, Cambridge University Press).

S Kiwanuka (1973) From Colonialism to Independence: A Reappraisal of Colonial Policies and African Reactions, 1870-1960, (Nairobi, East African Literature Bureau).

SE Finer (1979) Five Constitutions, (Sussex, Harvest Press).

TO Elias (1956) The Nature of African Customary Law (Manchester University Press).

W Paul (2002) Africa in Crisis: New Challenges and Possibilities, (London, Pluto Press).

W Rodney (1973) How Europe Underdeveloped Africa, (Washington, D.C., Howard University Press).

Book Chapters

A Legesse (1980) 'Human Rights in African Political Culture' in KW Thompson (ed) *The Moral Imperatives of Human Rights: A World Survey* (Washington, D.C., University Press of America).

M Roberts (1964) 'A Socialist Looks at African Socialism' in WH Friedland & CG Rosberg (eds) *African Socialism* (Stanford, Stanford University Press).

AK Sen (1993) 'Capability and Well-Being', in MC Nussbaum & A Sen (eds) *The Quality of Life*, (Clarendon Press, Oxford).

CC Mojekwu (1980) 'International Human Rights: The African Perspective' in JL Nelson & VM Green (eds) *International Human Rights: Contemporary Issues* (Stanfordville, Human Rights Publishing Group).

D Kaufmann (2005) 'Human Rights and Governance: The Empirical Challenge', in P Alston & M Robinson (eds) *Human Rights and Development: Towards Mutual Reinforcement*, (Oxford, Oxford University Press).

D Nelkin (1964) 'Socialist Sources of Pan-African Ideology' in WH Friedland & C.G. Rosberg, (eds) *African Socialism* (Stanford, Stanford University Press).

DM Hill (1989) 'Human Rights and Foreign Policy: Theoretical Foundations' in DM Hill (ed) *Human Rights and Foreign Policy: Principles and Practices* (London, Macmillan Press).

DM Wai (1979) 'Human Rights in Sub-Saharan Africa' in A Pollis & P Schwab, (eds) *Human Rights: Cultural and Ideological Perspectives* (New York, Praeger).

E Groffier (1991) 'Les aspects juridiques de la tolérance: essai de terminologie' in E Groffier & M Paradis, (eds) *The Notion of Tolerance and Human Rights* (Ottawa, Carleton University Press).

HWO Okoth-Ogendo (1999) 'Human and Peoples' Rights: What Point Is Africa Trying to Make?' in R Cohen, G Hyden & W Nagen, (eds) *Human Rights and Governance in Africa*, (Gainesville, University Press of Florida).

J Jim (1989) 'Lecture on Southern Africa 1800-1875' in K Shillington (2 ed) *History of Africa*, (New York, St. Martin's Press)

L Diamond (2004) 'Promoting real reform in Africa', in E. Gyimah-Boadi (ed) *Democratic reform in Africa: The quality of progress* (Boulder, London: Lynne Rienner Publisher).

L Marasinghe (1984) 'Traditional Conceptions of Human Rights in Africa' in CE Welch, Jr. & RI Meltzer (eds) *Human Rights and Development in Africa* (Albany, State University of New York Press).

LO Adegbite (1968) 'African Attitudes to International Protection of Human Rights' in A Eide & A Scheu (eds) *International Protection of Human Rights* .

M Callaghy (1987) 'The state as lame leviathan: The patrimonial administrative state in Africa', in Z Ergas (ed) *The African state in transition* (Basingstoke, Macmillan).

N Graeger (2000) Human Rights and Multifunctional Peace Operations in RG Patman (ed) Universal Human Rights? (Great Britain, Macmillan Press).

RE Howard (1986) 'Is there an African Concept of Human Rights?' in RJ Vincent, (ed) *Foreign Policy and Human Rights: Issues and Responses* (Cambridge, Cambridge University Press).

Journal, Magazine and Newspaper Articles

Journal Articles

A De Waal (2002) 'What's new in the New Partnership for Africa's Development?' *International Affairs*, no. 78, July.

A El-Obaid & A Appiagyei-Atua (1996) 'Human Rights in Africa: A New Perspective on Linking the Past to the Present', 41 *McGill Law Journal.*

A Kunle (2003) 'Globalisation, NEPAD, and the Governance Question in Africa.' *African Studies Quarterly* no. 3.

A M'baye (2002) 'NEPAD: The Wrong Plan?' in *West Africa Issue* 4333.

A Samir (1972) 'Underdevelopment and Dependence in Black Africa: Historical Origin', *Journal of Peace Research* no. 9 .

A Sengupta (2004) 'The Human Right to Development' *Oxford Development Studies*. Vol. 32.

A Young-Anawaty (1980) 'Human Rights and the ACP/EEC Lome Convention: Business as usual at the ECC', 13 *New York University Journal of International Law and Politics* no. 63.

A Zolberg (1968) 'The structure of political conflict in the new states of tropical Africa' , *American Political Science Review no.* 62.

AA Abdullahi (1997) 'The Contingent Universality of Human Rights: The Case of Freedom of Expression in African and Islamic Contexts', *11 Emory International Law Review*, no. 55 (Spring).

AA Goldsmith (1999) 'Slapping the Grasping Hand: Correlates of Political Corruption in Emerging Markets', 58 *American Journal of Economics & Sociology.*

AB Akinyemi (1972-1973) 'The Organisation of African Unity and the Concept of Non-Interference in Internal Affairs of Member-States' 46 *Britanica International Law.*

AW Chanda (1992) 'The Organisation of African Unity: an appraisal' (1989-1992) eds *21-24 Zambia Law Journal*.

AY Yansané (1976) 'Some problems of monetary dependency in West African States of French colonial legacy' in *The Review of Black Political Economy* vol 7, no. 1 (September).

B Kamborumbe (2003) 'NEPAD: A new partnership between rider and horse?' *Labour Resource and Research Institute (LaRRI*), Namibia, (February).

B Nowrojee (2004) 'Africa on its Own: Regional Intervention and Human Rights' in *Human Rights Watch World Report*.

C Gray & M Macpherson (2001) 'The leadership factor in African policy reform and growth', *Economic Development and cultural Change* no. 49.

C Nwankwo (1993) 'The OAU and Human Rights' in *Journal of Democracy*, 4/3.

CA Philip (2000) 'Nigeria: The Need for an Effective Policy of Ethnic Reconciliation in the New Century', *14 Temp. International and Comparative Law Journal*, no. 327.

CE Welch Jr. (1999) 'The African Charter and Freedom of Expression in Africa' *4 Buffalo Human Rights Law Review* .

D Marantis (1994) 'Human Rights, Democracy and Development: the European Community Model' in *Harvard Human Rights Journal*, vol. 7.

DE Moses (1979) 'Britain and Slavery in East Africa' in *ASA Review of Books*, vol. 5.

E Esimokhai (1981) 'Towards an Adequate Defence of Human Rights in Africa' 21 *Indian Journal of International Law.*

E Keller (1995) 'African Conflict Management and the New World Order', University of California, Los Angeles, *Policy Paper no. 13*, May.

E Kiki (2004) 'Promoting African 'Owned and Operated' Development: A Reflection on The New Partnership for African Development (NEPAD', *African and Asian Studies,* vol 3, no. 2.

EO Iheukwumere & CA Iheukwumere (2003) 'Colonial Rapacity and Political Corruption: Roots of African Underdevelopment and Misery' *Journal of International & Comparative Law* vol. 3, Spring.

G Abraham (2003) 'Africa, the tragedy; Africa, the challenge: NEPAD and the new humanitarian agenda', *International Review of the Red Cross (IRRC)* vol. 85 no 852.

G Martin (1985) 'The Historical, Economic, and Political Bases of France's African Policy' in *The Journal of Modern African Studies* vol. 23, no. 2.

G O'Donnell (1994) 'Delegative Democracy' in *Journal of Democracy*, vol 5, no. 1.

G Palast (2002) 'World Bank Insider Speaks Out'' in *SF Indymedia,* February.

J Cilliers (2001) 'Commentary: Towards the African Union', *African Security Review,* vol 10, no. 2.

J Donelley (1984) 'Human Rights, Humanitarian Intervention and American Foreign Policy: Law, Morality and Politics' 37 *Journal of International Affairs*.

J Donnelly (1989) 'Cultural Relativism and Universal Human Rights', 6 *Human Rights Quarterly.*

J Nyerere (2002) 'The Intellectual Pan-Africanist and the Question of African Unity' in *African Journal of International Affairs* Vol 5.

JAM Cobbah (1987) 'African Values and the Human Rights Debate: An African Perspective' (1987) 9 *Human Rights Quarterly* .

JD Whaley & B Piazza-Georgi (1997) 'The Link Between Peacekeeping and Peacebuilding' in *Monograph No. 10*, *Conflict Management, Peacekeeping and Peace building,* ISS Pretoria.

JF Kollie Jr 'Why most African leaders like Taylor failed' in *The Perspective,* January 8, 2004.

JG Speth 'Building Peace through Development' *UNDP Today*, (June 1998), United Nations Development Programme, New York.

JK Ingram & D Freestone (2005) 'Human Rights and Development' *Development Outreach* (November).

JM Demetrois (1994) 'Human Rights, Democracy and Development: the European Community Model' in *Harvard Human Rights Journal*, Vol. 7.

JN Udombana (2002) 'A Harmony or a Cacophony? The Music of Integration in the African Union Treaty and the New Partnership for Africa's Development', 13 *Indiana. International and Comparative Law Review* 185.

JN Udombana (2002) 'Can the Leopard Change His Spots? The African Union Treaty and Human Rights' 17(6) *American University International Law Review .*

K Kibwana & K Acheampong (1994) 'Human Rights and Diplomacy in Africa: A Critical Perspective' *Kent papers in Politics and International Relations, series No 5.*

K. M'baye & B Ndiaye (1982) 'The Organisation of African Unity' in K. Vasak (ed.) *The International Dimensions of Human Right*s, vol. 2.

M Azevedo (1982) 'Power and Slavery in Central Africa: Chad (1890-1925)', *The Journal of Negro History*, Vol. 67, No. 3.

M Baderin & A Abbas (2002) 'Towards Effective Collective Security and Human Rights Protection in Africa: An Assessment

of the Constitutive Act of the New African Union' in *Netherlands International Law Review*, Autumn.

M Gumisia (2005) 'States call each other to account – New African Peer Review Programme promotes rights and accountability', *African Renewal,* Vol. 18, no 4, January.

M Simon & M Christiansen (2002) 'Negotiation as simultaneous equation: building a new partnership with Africa' *International Affairs*, 78.

M wa Mutua (1995) 'The Banjul Charter and the African Cultural Fingerprint: An Evaluation of the Language of Duties,' *Virginia Journal of International Law*, vol 35.

MD Nwulia (1979) 'Britain and Slavery in East Africa' *African Studies Association (ASA) Review of Books*, vol. 5.

O Okongwu (1973) 'The OAU Charter and the Principles of Domestic Jurisdiction in Member-States, *13 Indian Journal of International Law.*

O Umozurike (1979) 'The Domestic Jurisdiction Clause in the OAU Charter' 78 *African Affairs*.

P Bond (2002) 'Raised expectations for the 'New Partnership for Africa's Development: NEPAD and Human Rights', *Southern Africa Human Rights Review*, Issue no. 10.

P Cornish (2001) 'Terrorism, insecurity and underdevelopment', *Journal for Conflict, Security and Development*, vol. 1, no. 3.

P Fabrizio (2002) 'Peer Review: A Tool for Cooperation and Change - An Analysis of the OECD Working Method,' OECD SG/LEG (2002)1, *African Security Review*, vol. 11, no 4.

P Nana (2002) 'Poverty, Debt and Africa's HIV/AIDS Crisis' *International Affairs*, 78, 3, July.

R Caplan (1998) 'International Diplomacy and the Crisis in Kosovo', 74 *International Affairs*.

R Emerson (1961) 'Crucial Problems Involved in Nation-Building in Africa' in *The Journal of Negro Education*, vol. 30, no. 3, (Summer).

R Herbert (2003). 'Becoming my brother's keeper', *e-Africa: The Electronic Journal of Governance and Innovation*. vol 1, October, Johannesburg: SAIIA.

R Howard (1983) 'The Full-Belly Thesis: Should Economic Rights Take Priority Over Civil and Political Rights? Evidence from Sub-Saharan Africa', 5 *Human Rights Quarterly .*

R Kempe (2002) 'The African Peer Review (APR) Mechanism: The ECA View', in *African Security Review* vol 11, no 4.

RM Zwanenberg (1975) 'Colonial Capitalism and Labour in Kenya, 1919-1939' *East African Literature,* Nairobi, Kenya.

S Amin (1972) 'Underdevelopment and Dependence in Black Africa: Historical Origin', *Journal of Peace Research* vol. 9.

S Maxwell & C Karin (2002) 'Negotiation as simultaneous equation: building a new partnership with Africa' *International Affairs*, 78.

S Touval (1966) 'Africa's Frontiers: Reactions to a Colonial Legacy' in *International Affairs* vol 42, no. 4 (October).

SKB Asante (1969) 'Nation Building and Human Rights in Emergent African Nations', 2 *Cornell International Law Journal*.

TF Maranga (1993) 'The Colonial Legacy and the African Common Market: Problems and Challenges Facing the African Economic Community', *10 Harvard Blackletter Journal.*

UE Effeh (2005) 'Sub-Saharan Africa: a case study on how *not* to realize economic, social and cultural rights, and a proposal for change', *North-western University Journal of International Human Rights,* vol 3 (spring).

Y Lydie (1999) 'Human Rights and Cultural Relativism – An African Perspectives', *International Law of Human Rights,* December.

Magazine and Newspaper articles

A Akosile (2004) 'African Union: One Year, What Progress?' *ThisDay Magazine*, 16 November.

B Keller (1994) 'One of Africa's Last Dictators Bows to Democracy', *The New York Times*, May 20.

C Akukwe (2002) 'Africa and the NEPAD: What about HIV/AIDS'? *The Perspective*, June.

C Akukwe (2002) 'Africa and NEPAD: Are All Bases Covered?' *The Accra Daily Mail,* April 15,

C Cobb (2002) 'NEPAD Embraced but Questioned at House Hearing', *Global Policy Forum*, September 19.

D Connel & F Smyth (1998), 'Africa's new Bloc', *Foreign Affairs* 77, 2 (March/April).

D Gqubule (2002) 'NEPAD is the plan Africa needs' *The Sowetan*, September 9.

E Blunt (2002), BBC Africa analyst, *ONLINE News*. September 13.

E El-Ayouty (1999) 'Forging a Dynamic Partnership for Development' *OAU Partnership, No. 2, September.*

E Harsch (2001) 'Transforming the Organization of African Unity into the African Union' *Africa Recovery* Vol.15 , October.

E Harsch (2002) 'African Union: a dream under construction' *Africa Recovery,* Vol.16, April.

E Harsch (2003) 'Africans ponder New Partnership: NEPAD stimulates debate on development, democracy and global ties', *Africa Recovery, vol.16,* February.

E M'Bokolo (1998) 'A hundred and fifty years after France abolished slavery', *Le Monde Diplomatique,* April.

E Rotberg (1983) 'The World Bank Approach to Debt,' *Euromoney*, December.

E Squire (2003) 'Governance, NEPAD and the G-1/8', *SEATINI Bulletin* vol. 5, July.

F Granell (2002) 'The European Union and the New Partnership for Africa's Development (NEPAD)', *The Courier ACP-EU* n° 194, September/ October.

F Ogbunwezeh (2005) 'Scandal of African Poverty' *Global Politician*, August.

F Pagani (2002) ' Peer Review: A Tool for Cooperation and Change - An Analysis of the OECD Working Method,' OECD SG/LEG, 1.

G Mutume (2005) 'States call each other to account – New African Peer Review Programme promotes rights and accountability', *African Renewal,* vol. 18 No. 4, January.

H Will (2001) '*Bi*g Men, Little People: The Leaders Who Defined Africa', *The Boston Globe,* February 21.

J Loxley (1983) *Review of African Political Economy* - vol. 10 No. 27/28 (Winter).

J Derrick (1999) 'Towards the African Union', *African Topics* 4 (Nov. – Dec.).

J Edlin (1988) 'Zimbabwe's Deadly Cancer', *The Toronto Star*, April 1.

J Maria das Neves (2006) 'Africa must stop blaming colonialism for its woes' *Agence France Press (AFP)*, December, 21.

J Rupert (1998) 'Nigeria's Strongman Dies: Abacha Oversaw Mass Corruption'; *The Toronto Star*, June 9.

J Swain (2000) 'A Journey to Congo Reveals a Regime Collapsing into Lawlessness and Absurdity and a Country on the Slide', *The Sunday Times (UK),* August 13.

JS Gustave (1998), 'Building Peace through Development', *UNDP Today*, June.

L Wiseberg (1976) 'Human Rights in Africa: towards the definition of the problem of double standards', *Issues,* April-June.

MA Geo-JaJa (2000) 'Underdevelopment and Education in Africa'**,** *Africa Economic Analysis,* January-March.

M Mathoho (2004) 'An African Peer Review Mechanism: a panacea for Africa's governance challenges?, *Policy brief 29*.

M Rosenberg (2004) Berlin Conference of 1884-1885 to Divide Africa < http://geography.about.com/library/weekly/aa021601a.htm>

M Thabo (2003) 'Letter from the President', *ANC Today* Volume 1, No. 26 20 - 26 July.

M Turner (1999) 'Africans Off Target in War on Poverty', *Financial Times* (London), May 10.

N Ndungane (1998) 'A clean slate: Africa's springboard to new hope' *Jubilee 2000,* April.

O Olusegun (2002) *The African Economist, v*ol. 4, n° 12, February.

P Bond (2002) 'Cultivating African Anti-Capitalism', *Z magazine*, February.,

P Bond (2002) 'Embryonic African anti-capitalism', *Z Magazine / ZNet* , August.

P Reynolds (2002) 'African Union replaces dictators' club' *BBC News Online,* 8 July.

P Sunwabe (2001) 'Democracy, Western Deception and the African Buffoons', *The Perspective,* April 6.

R Call (2003) 'Keeping the Show on the Road'. *Mail and Guardian*, Johannesburg.

R Mshana (2002) 'The New Partnership for Africa's Development (NEPAD): Its success depends on participation of African people, *Issue* 21.

R Rowden (2001) 'A World of Debt - Why *Debt Relief* Has Failed to Liberate Poor Countries' *The American Prospect Magazine,* July/September.

RC Rand (2001) 'History as Tragedy: Lumumba,' *Commonweal,* vol. 128, October 12.

RW Johnson (2001) 'Lords of Misrule Who Condemn Africa to War, Famine, and Tyranny', *The Times of London,* January 18.

S M'baye (2002) 'NEPAD: The Wrong Plan?' in *West Africa Issu*e 4333, 8-14 July .

SKB Asante (2003) 'What really is the African Union?' *West Africa Magazine,* Issue 4383, 7-13 July.

T Leedy (1998) The reparations debate: issues and ideas', *African Studies Association*, November, 1998.

T Masland (2000) 'The Forgotten Genocide*', Newsweek*, August 21.

T Pochari (1997) 'From the Dark Continent to the forgotten continent: Black Africa's 500 years of economic distress, isolation, and rejection', *World Monthly Affairs,* October.

VJ Ngoh (1996) 'The OAU Charter: On the eve of the Third Millennium', *African Star*, October.

W Abdoulaye (2003) 'Omega Plan for Africa: An African Strategy for Globalisation', *The African Economist, vol.* 4, n° 12, February.

W Pfaff (1997) 'Africa: Can a Formula for Stability and Progress be Found?' *International Herald Tribune*, August 23.

*Africa Recovery, v*ol.16 no1, April 2002,

African Centre for Democracy. & Human Rights Studies, Editorial 'African Union Established', 11(2) *African. Human. Rights. Newsletter*. 1, 13 (2003).

African Contemporary Report (1975 – 1976) 22

NEPAD Business Monitor , (2003) 'A critical review of the business of African development under NEPAD: Is there a role for business yet?', Volume 1 No. 1 July/August .

New Africa Magazine, August-September 2003, No. 421.

West Africa Magazine, Issue 4383, 7-13 July 2003.

Reports, monographs and research and background or working Papers

A Garth (2002) 'A New World Order? The Implications of 11 September 2001, SAIIA, Johannesburg, & Centre for Defence and International Security Studies, Lancaster, 2002.

A Kofi. (1997) 'The Causes of Conflict and the Promotion of Durable Peace and Sustainable Development in Africa'. United Nations G. A.

A Kofi. (2000) Millennium Report, April 3, 2000.

B Karuuombe *(2003) 'The NEPAD: A new partnership between rider and horse'? Labour Resource and Research Institute (LaRRI), Namibia, February.*

B Rotolo (2001) 'What is the Concept of Peace in a Globalised World?' Royal College of Defence Studies, (August 2001) p 1 (unpublished).

C Landsberg (2004) 'NEPAD: What is it? What is missing'? Paper written for NALEDI.

C Landsberg and Mackay, S. (2004) 'Southern Africa post-apartheid: the search for democratic governance', A publication of the Centre for Policy Studies (CPS), Institute for Democracy in South Africa (IDASA) and the Netherlands Institute for Multiparty Democracy (NIMD), Johannesburg, Sept. 2004.

C Patton (2001) 'The Development of Pan Africanism', *Freedom Journal, (*2001), Part 6

DJ Whaley & B Piazza-Georgi (1997) 'The Link Between Peacekeeping and Peacebuilding', United Nations Development Programme, South Africa, Published in Monograph No. 10, Conflict Management, Peacekeeping and Peacebuilding, ISS Pretoria, April 1997.

E Baimu (2002) 'Human rights mechanisms and structures under NEPAD and the African Union: emerging trends towards proliferation and duplication', *Occasional Paper No 15* August, Centre for Human Rights, University of Pretoria.

RE Howard-Hassmann (2001) 'Moral Integrity and Reparations for Africa' Human *Rights Working Papers, Number 16* 27 September.

ET Grant (2004) 'Governance quality and government commitment to the NEPAD African Peer Review Mechanism,' *EISA Research Report* no. 5.

J Cilliers (2002) 'NEPAD's Peer Review Mechanism,' *ISS Paper 64* (November) Duesenberry, J (2000) 'Restarting and Sustaining Growth and Development in Africa', *African Economic Policy Discussion Paper No. 28*, January 2000.

J Stremlau (2002) 'New Partnership for Africa's Development (NEPAD): Democracy and political governance initiative,' Draft paper (Department of International Relations, University of the Witwatersrand, April 2002).

JK Edmond (1995) 'African Conflict Management and the New World Order', University of California, Los Angeles, *Policy Paper No. 13* May 1995. Institute on Global Conflict and Cooperation.

M Parlevliet (2002) 'Bridging the Divide: Exploring the relationship between human rights and conflict management' *Tract Two - Occasional Paper* – Centre for Conflict Resolution, vol 11 No 1, March.

P Bond (2002) 'The New Partnership for Africa's Development – an annotated Critique', January 2002.

P Michelle (2002) 'Bridging the Divide: Exploring the relationship between human rights and conflict management' *Tract Two - Occasional Paper* – Centre for Conflict Resolution, vol 11 No 1 March.

R Jean-François & H Robin (1996) 'Development, Peace and Security: the Possibilities and Limits of Convergence' Development Express, No. 06, 1996. International Development Information Centre (IDIC), a Publication of the Canadian International Development Agency.

R Kanbur (2001) 'The New Partnership for Africa's Development (NEPAD): An Initial Commentary'.

R Kanbur (2004) 'The African Peer Review Mechanism (APRM): An Assessment of Concept and Design' *Working Paper 2004, 01*, January.

RB Benjamin (2002) 'Jihad vs. McWorld: The Battle For Democracy Joined', Democracy Collaborative Occasional Paper, March

SB Robert & RJ Cummings (1994) 'The Lagos Plan of Action versus the Berg Report: contemporary issues in African economic development', Monograph (Virginia, Lawrenceville: Brunswick Publishing Company, 23.

SBO Gutto (2003) 'The African Union and the New Partnership for Africa's Development: Human and Peoples' Rights challenges', Statement before the 31st Ordinary Session of the African Commission on Human and Peoples' Rights, Pretoria, South Africa, 2-16 May.

SP Marks (2003) 'The Human Rights Framework for Development: Seven Approaches' *Working Paper No. 18.*

SP Marks (2003) 'Obstacles to the Right to Development' *Working Paper No. 17*.

YM Tsikata (2001) 'Owning Economic Reforms: a comparative study of Ghana and Tanzania' Discussion Paper No. 2001/53 (United Nations University/World Institute for Development Economics Research, Helsinki),

Z Randriamaro (2002) 'The NEPAD, Gender and the Poverty Trap: the NEPAD and the challenges of financing for development in Africa from a gender perspective', Gender & Economic Reforms in Africa Programme , paper presented at the Conference on Africa and the Development Challenges of the New Millennium, La Palm Royal Beach Hotel, Accra, Ghana, 23 – 26 April.

Lectures, Address, Conference/Seminar Papers

A Adedeji (2002) 'From Lagos Plan of Action to the New Partnership for African development and from the Final Act of Lagos to the Constitutive Act: Wither Africa?', Keynote address presented at the African Forum for Envisioning Africa, Nairobi Kenya, April 26-29.

A Aderemi (2002) 'Towards An Interpretation of Africa's Development Process: NEPAD And The New Global Orthodoxy' being Paper Presented at the International

Conference on The Challenges of NEPAD. AfricAvenir Foundation for Development, International Cooperation and Peace, Yaoundé, Cameroon. Theme: New Partnership for Africa's Development & The Nigerian Economy Held at the AfricAvenir Foundation Yaoundé, Cameroon. October 24-25, 2002.

A Olukoshi (2002) 'Governing The African Development Process: The Challenge of the New Partnership for Africa's Development *(NEPAD)',* Unpublished paper delivered at Nigeria Institute for International Affairs, July 2002.

A Perbi (2001) 'Slavery and the slave trade in pre-colonial Africa', paper delivered on 5th April 2001 at the University of Illinois, U.S.A.

CI Obi (2002) 'Reconstructing Africa's Development in the New Millennium through NEPAD: Can African Leaders Deliver the Goods?' Paper presented at the 10th CODESRIA General Assembly, Nile International Conference Centre, Kampala, December 8-12, 2002.

CR Mahalu (1979) 'Africa and Human Rights' , address delivered by HE Mr. Leopold Sedar Senghor, President of the Republic of Senegal, on 28 November 1979, 121-124.

D Bikoe & C Landsberg, (2002) 'NEPAD: African initiative, new partnership?' Draft Report of the Policy Forum on the New Partnership for Africa's Development, International Peace Academy in cooperation with the Permanent Missions of Algeria, Egypt, the Netherlands, Nigeria, Senegal, and South Africa to the United Nations (New York: UN, July 2002): 38-43.

D Nabudere (2002) 'NEPAD: Historical background and its prospects', paper prepared for presentation at the African Forum for Envisioning Africa held in Nairobi, Kenya, 26 – 29 April 2002.

G Emeagwali (1998) 'Colonialism and Science: The African Case,' paper presented at the Conference on Matrices of Scientific Knowledge, Oxford University, UK, March 7, 1998.

G Mjema & A Kilindo (2002) 'Globalization and Current African Development Challenges: NEPAD as a Viable Strategy' paper prepared for Presentation at a Workshop Organized by the International Association of Ports and Harbours – Africa Europe Region and Pan African Association of Ports Cooperation – Ngorongoro, 10-11 December 2002.

GW Bush Address to a Joint Session of Congress Concerning the Sept. 11, 2001 Terrorist Attacks on America.

H Jauch (1998) 'Structural Adjustment Programmes: Their origin and international experiences', discussion paper prepared by *Labour Resource and Research Institute (LaRRI), Namibia,* March 1999.

I Tokumbo. (2002) '*NEPAD and African women: Mechanism for Engagement, Input and Ownership*', paper presented at the Regional Conference on African Women and the New Partnership for Africa's Development (NEPAD) organized by the Africa Leadership Forum, ALF in collaboration with the United Nations Educational Scientific and Cultural Organisation, UNESCO, convened at the ALF Secretariat, in Ota, Nigeria from 3 – 5 February 2002.

J Adésínà (2002) 'NEPAD and the challenge of Africa's Development: towards a political economy of a discourse', paper prepared for the 10th General Assembly of the Council for the Development of Social Science Research in Africa, 8 to 12 December 2002, Kampala, Uganda under the Sub-theme: *Rethinking (African) Development*.

J Matringe (1996) 'Tradition et modernité dans la Charte africaine des droits de l'homme et des peuples : étude du contenu normatif de la Charte et de son apport à la théorie du droit international des droits de l'homme » *Bibliothèque des sciences humaines et socials, Droit-Science politique* (1996) 572.

JO Ihonvbere (1994) 'Pan-Africanism: Agenda for African Unity in the 1990s', Keynote address at The All-African Student's Conference, Peter Clark Hall, University of Guelph, Guelph, Ontario, Canada, May 27, 1994.

JT Daniel (2000) 'A rights based approach to development', presentation to the World Social Forum – Seminar on Globalisation and Human Dignity, Porte Alegre, March 2000.

K M'baye (1985) 'Keynote Address on the African Charter on Human and Peoples' Rights', Report of a Conference held in Nairobi from 2-4 December 1985 convened by the International Commission of Jurists.

KY Amaoko (2001) 'Fulfilling Africa's promise', Millennium Lecture at 10 Downing Street, London, 17 December.

M Glélé (1984) 'Introduction à la Charte Africaine des Droits de l'Homme et des Peuples' in Etudes Offerts à CA Colliard, Pedone, Paris, (1984).

M Thabo (2001) 'New Partnership for Africa's Development and the African Union', Address to the Joint Sitting of the National Assembly and the National Council of Provinces, Pretoria, 31 October.

M Thabo (2001) 'New Partnership for Africa's Development and the African Union', Address to the Joint Sitting of the National Assembly and the National Council of Provinces, Pretoria, 31 October 2001.

M Thabo. (2003) 'NEPAD: a new era for Africa in a globalising world', address to UNESCO, Paris, France, 19 November 2003.

P Nyong'o (2002) 'From the Lagos Plan of Action to NEPAD: The dilemmas of progress in independent Africa' - paper delivered at the Renaissance South Africa Programme of continental Experts Meeting, Pretoria.

S Mpasu (2003) 'Peace and Security - Sine Qua Non for NEPAD' - Address by Hon., Speaker, Malawi National Assembly, to an International Policy Dialogue organized by the Development Policy Forum of InWEnt Capacity Building International, Berlin, Germany) in cooperation with the Federal Ministry for Economic Cooperation and Development (BMZ) and the Federal Foreign Office (AA), on the theme 'A New Dawn for Africa - Who is supporting the New Partnership for Africa's Development?' from 14 and 15 January, 2003.

SBO Gutto (2002) 'The Rule of Law, Human and Peoples' Rights and Compliance/Non-compliance with Regional and International Agreements and Standards by African States', paper prepared for presentation at the African Forum for Envisioning Africa to be held in Nairobi, Kenya, 26 – 29 April 2002.

T Leedy (1998) 'The reparations debate: issues and ideas', Edited transcripts of oral presentations given at the Walter Rodney International Conference held at Binghamton University, State University of New York, Binghamton, on November 6-8, 1998.

T Taillant (2000) 'A rights based approach to development', presentation to the World Social Forum – Seminar on *Globalisation and Human Dignity*, Porte Alegre, March.

Z Randriamaro (2002) 'The NEPAD, Gender and the Poverty Trap: the NEPAD and the challenges of financing for development in Africa from a gender perspective, Gender & Economic Reforms in Africa Programme' , paper presented at the Conference on Africa and the Development Challenges of the New Millennium, La Palm Royal Beach Hotel, Accra, Ghana, 23rd – 26th April, 2002.

Dissertations

RW Eno (1999) 'The African Commission on Human and Peoples' Rights as an instrument for the protection of human rights in Africa', unpublished LLM Dissertation, University of South Africa, (1999).

FN Ikome (2004) 'From the Lagos Plan of Action (LPA) to the New Partnership for Africa's Development (NEPAD): the political economy of African Regional initiatives'. PhD Thesis, Department of International Relations – University of the Witwatersrand, December, 2004.

TB Knudsen (1999) 'Humanitarian Intervention and International Society: Contemporary Manifestations of an Explosive Doctrine' 357 (1999) (unpublished Ph.D. dissertation, University of Aarhus).

Policy documents, communiqués and reports

a. Final Communiqué at the end of the Inaugural Meeting of the Implementation Committee of Heads of State and Government on the New Partnership for Africa's Development (NEPAD), 23 October 2001, Abuja, Nigeria.

b. Final Communiqué issued at the end of the First Summit of the Committee of Participating Heads of State and Government in the African Peer Review Mechanism (APR Forum) Kigali, Rwanda 13 February 2004.

c. Final Communiqué issued at the end of the second meeting of HSIC in Abuja, Nigeria, 26 March 2002.

d. Final Report on debate on 'Africa can do it itself: promise or reality? 'SHAPING A NEW AFRICA' De Balie, Amsterdam, February 2003-, Amsterdam 24.

e. Human Rights and Democratic Development in Africa - Policy Considerations for Africa's Development in the New Millennium, in Preparation for the G8 Summit, *Rights & Democracy* (International Centre for Human Rights and Democratic Development) May 21, 2002, 1001 de Maisonneuve Blvd. East, Suite 1100, Montreal (Quebec) Canada H2L 4P9.

f. Integrating Human Rights with Sustainable Development: A UN Policy document by UNDP, January 1998.

g. Joint OAU/ECA Progress Report on the Implementation of the Abuja Treaty Establishing the African Economic Community, 14 March 1996, E/ECA/CM.22/8.

h. Peace and security through good governance: A guide to the NEPAD African Peer Review Mechanism,' *ISS Paper No. 70* (April 2003)

i. Peacekeeping in Africa' Report of the Pretoria Seminar – South Africa, 1995, ACCORD.

j. Progress Report of H.E. Chief Olusegun Obasanjo, President of the Federal Republic of Nigeria and Chairperson of the NEPAD HSGIC, to the Second Ordinary Session of the Assembly of Heads of State and Government of the African Union, Maputo, Mozambique, 10-12 July 2003. www.nepad.org.

k. Report of an International Seminar organised by the World Social Forum in Porto Alegre, Brazil on the theme 'Globalising Human Dignity: The Challenge for a Rights-Based Approach' 1-2 February 2002.

l. Report of The African Development Bank Group - African Civil Society, Regional Stakeholders Consultation on New Partnership for Africa's Development (NEPAD) Abidjan, Cote d'Ivoire, 4-5 April 2002.

m. Report of the OAU Secretary General on the Implementation of the Sirte Decision on the African Union, (EAHG/DEC.1 (V), CM/2210 (LXXIV).

n. Report of the World Bank on the theme *Development and Human Rights: the role of the World Bank*, - in commemoration of the 50th Anniversary of the Universal Declaration of Human Rights, September (1998).

o. *Report on the Oslo Symposium*, on the theme Hu*man Development and Human Rights,*. Conceptual Issues in Human Development and Human Rights - interdependence and interrelationship among civil, political, social, economic and cultural domains', Oslo, Norway, 2-3 October 1998.

p. UNDP - Human Development Report – New Dimensions of Human Security, New York, Oxford University Press (1994).

q. UNDP - Human Development Report 1990: Definition and Measurement of Human Development, Economica, Paris. 1990.

r. UNDP – Human Development Report 2002 - 'Deepening democracy in a fragmented world'.

s. World Bank, 'From Sustainable Development to Growth in Africa', World Bank Publications (1989).

International instruments – treaties, declarations and resolutions

a. Abuja Declaration on HIV/AIDS, Tuberculosis and other Related Infectious Diseases, Abuja, Nigeria, 26-27 April 2001.

b. African [Banjul] Charter on Human and Peoples' Rights, adopted June 27, 1981, OAU Doc. CAB/LEG/67/3 rev. 5, 21 I.L.M. 58 (1982), entered into force October 21, 1986.

c. Algiers Declaration, OAU Doc. AHG/Dec.1 (XXXV) (July 1999).

d. Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, adopted by the OAU Ministers' meeting in Bamako, Mali, from 30 November to 1 December 2000.

e. Charter of the Organisation of African Unity (OAU), 479 U.N.T.S. 39 (1964), entered into force September 13, 1963.

f. Charter of the United Nations, signed at San Francisco on 26 June 1945, *entry into force* 24 October 1945, in accordance with Article 110. 59 Stat. 1031, T.S. 993, 3 Bevans 1153.

g. The Constitutive Act of the African Union, OAU Doc. CAB/LEG/23.15, was adopted 11 July 2000 in Lomé, Togo and entered into force May 26, 2001.

h. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, G.A. res. 39/46, annex, 39 U.N. GAOR Supp. (No. 51) at 197, U.N. Doc. A/39/51 (1984), *entered into force* June 26, 1987.

i. Declaration on the Granting of Independence to Colonial Countries and Peoples, G.A. res. 1514 (XV), 15 U.N. GAOR Supp. (No. 16) at 66, U.N. Doc. A/4684 (1961).

j. European Convention for the Protection of Human Rights and Fundamental Freedoms and its protocols, 4 November 1950 (213 U.N.T.S. 222).

k. Fourth ACP-EEC Convention, (Lomé IV) December 1 1989, 29 ILM 783 (1990).

l. G8 Africa Action Plan, Kananaskis, Canada, June 27, 2002.

m. Grand Bay Declaration and Plan of Action, CONF/HRA/DECL (I), adopted by the First Ministerial Conference on Human Rights in Africa, held from 12th to 16 April 1999 in Grand Bay, Mauritius.

n. Inter-American Convention on Human Rights (1969)

o. International Convention on the Elimination of All Form of Racial Discrimination (CERD), 1965.

p. International Covenant on Economic, Social and Cultural Rights U.N. Doc. A/6316 (1966), 993 U.N.T.S. 3. The Covenant was adopted by UNGA Resolution 2200A (XXI), 21 U.N.GAOR Supp. (No. 16) 49, and entered into force January 3, 1976.

q. International Covenant on Civil and Political Rights, U.N. Doc. A/6316 (1966), 999 U.N.T.S. 171. The Covenant was adopted by UNGA Resolution 2200A (XXI), 21 U.N. GAOR Supp. (No. 16) 52 and entered into force March, 23, 1976.

r. Kigali Declaration, MIN/CONF/HRA/Decl.1 (I), adopted at the First AU Ministerial Conference on Human Rights in Africa, on 8 May 2003 in Kigali, Rwanda.

s. New Partnership for Africa's Development (NEPAD Basic Document), Abuja, Nigeria, October 2001.

t. Proclamation of Teheran, Final Act of the International Conference on Human Rights, Teheran, 22 April to 13 May 1968, U.N. Doc. A/CONF. 32/41 at 3 (1968).

u. Statute of the Inter-American Court on Human Rights, O.A.S. Res. 448 (IX-0/79), O.A.S. Off. Rec. OEA/Ser.P/IX.0.2/80.

v. The 1964 Cairo Resolution on the Inalienability of Colonial Boundaries.

w. The Durban Declaration on Tribute to the Organisation of African Unity and the launching of the African Union – Assembly of the African Union (AHG/AU/Decl.2 (1).

x. The Lagos Plan of Action for the Economic Development of Africa, 1980-2000.

y. The Maastricht Treaty, Maastricht 7 February 1992. See official journal of the European Communities, c 325/1, 24.12.2002.

z. Treaty Establishing the African Economic Community, adopted on 3 June 1991, 30I.L.M1241 (entry into force May 11, 1994).

aa. UN Declaration on the Right to Development, G.A. res. 41/128, annex, 41 U.N. GAOR Supp. (No. 53) at 186, U.N. Doc. A/41/53 (1986).

bb. United Nations Millennium Declaration. General Assembly resolution 55/2 of 8 September 2000.

cc. Universal Declaration of Human Rights, G.A. res. 217A (III), U.N. Doc A/810 at 71 (1948).

dd. Vienna Declaration and Programme of Action, 1993, UN General Assembly A/CONF.157/23 12 July 1993.

Websites Visited

1. <http//www.un.org/reform/track2/focus.htm>. Site visited on 29 June 2004.
2. <http//www.undp.org/rbap/rights/index/html>. Site visited on 29 June 2004.

3. <http://web.africa.ufl.edu/asq/v6/v6i3a4.htm>. Site visited on 14 May 2004.
4. <http://www.dfa.gov.za/for-relations/multilateral/treaties/oauchart.htm> Site visited on 13 May 2002.
5. <http://www.du.edu/humanrights/workingpapers/papers/16-hassmann-09-01.pdf>. Site visited on 20 March 2005.
6. <www.utexas.edu/conferences/africa/ads/232.html.> Site visited in 22 October 2005.
7. <http//.www.news.bbc.co.uk/1/low/world/Africa> Site visited on 15 May 2004.
8. <http:// www.ppu.org.uk/indexa.html>. Site visited on 27 April 2005.
9. <http://www.iss.co.za/Pubs/ASR/10No2/Cilliers.html>. Site visited Sept. 15, 2002.
10. <http//:www.uneca.org/adfiii/riefforts/hist.htm> Site visited on 27 March 2004.
11. <http://english.peopledaily.com.cn.english/home/html>. Site visited on 17 September 2004.
12. <http://www.africa-union.orghome/Welcome.htm>. Site visited on 30 April 2006.
13. <http://www.un.org/ecosocdev/geninfo/afrec/sgreport/report.htm>. Site visited on 12 June 2005.
14. <http//www.worldbank.org/html/extdr/rights/hrintro.htm>. Site visited on 15 March 2003.
15. <http://aidc.org.za/NEPAD/nepadannotatedcritique.pdf>. Site visited on 14 May 2002.
16. <http://www.afrst.uiuc.edu/SEMINAR/perbi.rtf.> Site visited on 11 May 2003.
17. <http://www.lse.ac.uk/collections/LSEPublicLecturesAndEvents/events >. Site visited on 20 December 2003.
18. <http://www.jullep.free.fr/lydie/lydiehr2.htm> Site visited on 14 August 2004.
19. <http://www.oau-oua.org/LOME2000/ Africa>. Sites visited on 20 September 2001.

20. <http//www.cedwa.org/from_the_dark_continent_to_the_f.htm,>. Site visited on 23 March 2003.
21. <http://www.uneca.org.eca>. Site visited on 11 February 2004.
22. <http://www.globalsouth.org/AFRICA_CALLING>. Site visited on 3 January 2005.
23. <http//:www.reliefweb.int/w/rwb.nsf>. Site visited on 15 May 2004.
24. <http://www.historyonthenet.com/Slave_Trade/effectsonafrica.htm>. Site visited on 22 January 2005.
25. <http://www.socialistinternational.org/9SocAffairs/affairs.html>. Site visited on 27 December 2002.
26. <http://www.un.org/aboutun/charter>. Site visited on 22 May 2003.
27. <http://www.un.org/Overview/rights.html>. Site visited on 27 August 2003.
28. <http://www.sarpn.org.za/documents>. Site visited on 16 September 2004.
29. <http//.www.hrw.org/wr.htm>. Site visited on 8 February 2004.
30. <http//www.unhchr.ch/html/menu3/b/74.htm>. Site visited on 12 August 2003.
31. <http//www.worldatlas.com/aatlas/world/htm>. Site visited on 3 September 2003.
32. <http.//www.wikipedia.org/wiki/World_population>. Site visited on 12 May 2003.
33. <http://.www.inwent.org/index.en.shtml >. Site visited on 13 May 2004.
34. <http://www.worldbank.org/wbi/governance/pdf/humanrights>. Site visited on 30 November 2005.
35. <http//:www.acdi-cida.gc.ca>. Site visited on 14 February 2004.
36. <http//www.AfricaEconomicAnalysis.org>. Site visited on 3 June 2005.
37. <http://www.afbis.com/analysis/slave.htm>. Site visited on 16 June 2003.
38. <http//_www.ama.africatoday.com/legacy_m.htm>. Site visited on 12 April 2004.
39. <http//.www.bbc.co.uk/worldservice/people/highlights.html>. Site visited on 18 March 2005.

40. <http//:www.uneca.org.eca resources/speech>. Site visited on 20 March 2005.
41. <http//:www.kent.ac.uk/politics/research/kentpapers/kibwana.html>. Site visited on 10 January 2004.
42. <http://archive.lib.msu.edu/DMC/African%20Journals/pdf>. Site visited on 15 April 2004.
43. <http://www.questia.com/library/encyclopedia/united-nations-members.jsp>. Site visited on 19 June 2004.
44. <http://www.britannica.com/eb/article>. Site visited on 23 May 2004.
45. <http:// www.un.org/Overview/unmember.html>. Site visited on 26 2003.
46. <http://www.wfm.org/WFM NEWS/wfmpubs.html>. Site visited on 14 August 2004.
47. <http//www.dehai.org/ demarcation-watch/articles>. Site visited on 1 April 2004.
48. <http//www.africainformation.net/nepad.htm>. Site visited on 13 April 2003.

<http://-www.polity.org.za/html/govdocs/speeches/1999/sp0920.html>. Site visited on 12 June 2004.

50. <http://www.sabcnews.com>. Site visited on 23 February 2003.
51. <http://www.people.cornell.edu/pages>. Site visited on 13 May 2004.
52. <http://www.g8.gc.ca/kan docs/afraction-e.asp>. Site visited on 15 June 2003.
53. <http://www.oecd.org/dataoecd/33/16/1955285.pdf>. Site visited on 14 April 2003.
54. <http//www.cps.org.za/cps%20pdf/polbrief29.pdf>. Site visited on 12 May 2004.