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## Towards a People-Driven African Union

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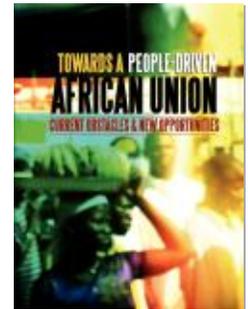
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# 1. FINDINGS AND RECOMMENDATIONS

This report presents research on the preparations for and conduct of African Union summits, from some of the civil society organisations currently working with the African Union to realise its own vision. It concludes that, although significant space has been opened up for greater and more sustained participation by a diversity of interested groups, the promise of a people-driven African Union (AU) remains largely unfulfilled. Inadequate institutional capacity and inappropriate policies and procedures have hindered the realisation of the vision that the AU should build ‘a partnership between governments and all segments of civil society ... to strengthen solidarity and cohesion among our peoples’.

The advent of the AU in 2001 raised hopes of a strong, united continent composed of peaceful, democratic states respectful of good governance, human rights and the rule of law. The establishment of new organs, including the Peace and Security Council, the Pan-African Parliament and the Economic, Social and Cultural Council (ECOSOCC), as well as the AU’s absorption of the New Partnership for Africa’s Development (NEPAD) and the African Peer Review Mechanism (APRM), added to the widespread belief that a new African era could be in the making.

For virtually the first time since the founding of the AU’s predecessor, the Organisation of African Unity (OAU), in 1963, African civil society was recognised as an important player in developing the continent. Nowhere was this more evident than in the inclusion of ECOSOCC in the organs created by the AU Constitutive Act, giving civil society representatives a formal advisory role in AU institutions and decision-making processes.

On a number of fronts, the mood was optimistic. The setting up of the Pan-African Parliament in March 2004 provided further affirmation that, unlike the OAU, the AU would operate on the basis of a decentralised model with several sources of authority. On his appointment to head the AU Commission in 2002, Chairperson Alpha Konaré reiterated his personal commitment to involving civil society in the development of the Commission’s vision and mission. Key civil society organisations reoriented their programmes around AU priorities.

However, many institutional obstacles still block the realisation of the African Union’s original vision. There is a growing perception among civil society organisations that the initial AU enthusiasm for non-state participation in its policy development processes has given way to a more closed stance. Despite the reorganisation of the former OAU secretariat into the AU Commission, many staff seemed to retain their old habits and attitudes. There are still considerable difficulties in obtaining access to information about policies and documents under discussion by AU organs, preventing effective participation by Africa’s citizens in continental decision-making processes.

Moreover, as this report shows, the sheer proliferation of AU ministerial meetings, ordinary and extraordinary summits is taking a heavy toll on both the AU Commission and governments. Unless Commission budget shortfalls and capacity constraints in member states are remedied, the African Union will not be able to deliver on the promise of its decisions, resolutions and treaties. The report calls on the African Union Commission and member states to take urgent action to simplify and improve the multiplicity of legal frameworks, incoherent institutional arrangements and unclear policies and procedures, and to provide more consistent and timely access to documentation in all its processes.

The planned review of the working methods of the AU's institutions constitutes an important opportunity to regain momentum. To this end, the findings and recommendations below are offered in the hope that they can contribute constructively to this process.

## **Member states**

The office of the president and ministry of foreign affairs are the key agencies in most countries for preparations for AU summits. The ambassadors based in Addis Ababa, who sit on the Permanent Representatives Committee (PRC) of the AU, form the critical link between national governments and the AU institutions.

Many of the national policy-makers interviewed for this report clearly acknowledged the significance of the transition from the OAU to the AU. Yet we found little evidence at the national level of steps taken to put in place institutions and processes that respond to the new continental architecture. Only a few states prepare adequately for the AU summits. In some cases, lead ministries relevant to thematic issues being discussed at a summit had not been informed or their input sought. The capacity of governments and Addis Ababa embassies to collate, analyse and distribute information was identified as a serious constraint.

Of significant concern is the almost total absence of efforts by national executives to engage parliament or civil society organisations in discussions around national positions.

Member states should thus broaden and deepen their consultation processes in advance of summits, both to ensure that all relevant ministries and agencies are informed of issues to be debated, and to brief parliament, the media and civil society about issues on the AU agenda and proposed national positions.

### *Recommendations for member states at national level*

1. Ministries of foreign affairs should ensure that all relevant ministries and other branches of the executive are informed about and invited to contribute on the agenda items that concern them at forthcoming summits. This may require providing additional staff at embassies in Addis Ababa whose responsibility it is to collate and forward material related to AU business to the appropriate agencies.
2. Ministries of foreign affairs should also broaden the set of institutions that contribute to the development of national positions on AU policy proposals. This should include relevant parliamentary committees, constitutional bodies such as national human rights institutions, ECOSOCC national chapters, the media and other fora organised by civil society organisations. 'Best practices' in this regard should be encouraged in all member states.
3. In civil law countries where the responsibilities of government departments are regulated by decree, states should update these decrees to reflect the new institutions of the African Union.
4. Member states should create civil society/ECOSOCC focal points in their departments of foreign

affairs and provide guidance to embassies in Addis Ababa to respond to requests for information from civil society organisations.

5. Member states should meet assessed financial contributions to the AU. Failure to do so undermines the AU Commission's ability to fulfil its responsibilities.

## Conduct of and follow-up to summits

Decisions taken in meetings of the Permanent Representatives Committee, Executive Council of Ministers and Assembly of Heads of State and Government are key to the success or failure of the African Union and its institutions. Yet the report finds that there is no effective mechanism to monitor and ensure implementation of decisions taken at summits. This vacuum threatens to undermine the entire purpose of the AU.

The recently introduced practice of holding two summits a year places great stress on the administrative capacity of the AU Commission to prepare for and implement the decisions of the heads of state. Many decisions require other meetings to be organised to develop policies and implementation strategies, so that the entire time of the Commission can be taken up in organising meetings. Furthermore, member states often fail to respect rules of procedure in relation to summit preparations and conduct, increasing the administrative burden. The distribution of preparatory documentation prior to summits was described by one diplomat as 'catastrophic'. Many spoke about agenda items not being adequately considered by member states before the summit is required to make a decision upon them.

The role of the regional economic communities (RECs) at summits is unclear. In addition, because membership of the RECs is not the same as the regional political blocs within the Permanent Representatives Committee, it is difficult to understand how African regions form common positions and can be held publicly accountable at the AU-level.

Inadequate obligations on states hosting the summits to be open to civil society participation and unclear rules of accreditation continue to limit African citizens' access to AU summits. Civil society leaders interviewed for the report recounted their recurrent difficulties in obtaining visas to enter the country where the summit is being held, accreditation to attend meetings, or even meeting space to hold civil society discussions alongside the summits.

Procedures around preparations for summits need to be revised and strengthened so that fewer meetings are held and so that deadlines for submission and distribution of documents are adhered to. Either more resources need to be allocated to the Commission by member-states or the number of summits should be reduced to one each year. Follow-up mechanisms to summits must also be strengthened as a means to ensure better compliance with and effectiveness of summit resolutions.

### *Recommendations for member states in AU decision-making fora*

Member states, in the appropriate meetings of the Permanent Representatives Committee, Executive Council of Ministers and Assembly of Heads of State and Government, should:

6. Establish a committee of the PRC to monitor implementation of decisions by AU organs and report to the Assembly at each summit, in order to ensure better compliance and effectiveness of AU decision-making, and instruct the AU Commission to prepare reports for this committee.
7. Increase the AU Commission budget to enable the Commission to prepare effectively for summits and other AU processes.

8. In the absence of additional financing to the Commission, consider reducing, at least in the short term, the number of meetings of the AU Assembly of Heads of State and Government to once a year, with scheduled meetings of the Permanent Representatives Committee and Executive Council of Ministers twice a year as currently. Reduce the number of extraordinary summits.
9. Require any country hosting a summit to commit in advance (at the time the offer to host the summit is made) to facilitate civil society access. This should include easy granting of visas, freedom from harassment for civil society representatives, facilitation where necessary for civil society meetings and ensuring that adequate accommodation is available for delegates from civil society as well as government. The AU Commission should include these requirements in the agreement signed with the host country.
10. Amend the rules of procedure of the Executive Council of Ministers and the Assembly to require all meetings whose deliberations and resolutions will be considered at a summit to be held at least six weeks before the summit. This should enable reports of meetings to be translated and circulated in good time.
11. Establish and publish a calendar for AU meetings at the outset of each year. This calendar should indicate deadlines for documents to be received in respect of each meeting.
12. Respect the rules of procedure of the Executive Council of Ministers and Assembly of Heads of State and Government. In particular, if member states do not submit proposed agenda items on time and with appropriate documentation the items should not be listed on the summit agendas for discussion. A separate procedure could be specified for exceptional situations where the rule may be waived.
13. Ensure that draft decisions considered at summits are thoroughly debated and properly prepared before they are presented to the Executive Council and Assembly. This should lead to smoother functioning of the decision-making process.
14. Establish and respect official hours of work for summit meetings. There should be time limits for debates on individual agenda items and member state contributions to the debates.
15. Make use of the rules of procedure that enable the PRC to form committees and hear briefings from civil society organisations in relation to any topic in which their expertise may be useful.
16. Review and clarify the role of regional economic communities at summits. As already recognised, the various RECs should be rationalised, and a mechanism should be devised to enable a meaningful role during summits. In principle, the regional blocs organised within the PRC and the RECs should be congruent, in order to make the regional decision-making processes more transparent.

## **The AU Commission**

Government officials interviewed for this report cited the late distribution of documents in advance of summits as a key problem affecting their participation in decision-making. Civil society organisations find it far more difficult to obtain information about what will be discussed at upcoming AU meetings. The Commission should exercise the considerable autonomy it has under the Constitutive Act to find alternative and more efficient ways of enabling public access to information.

The pre-summit civil society and women's forums organised by the AU Commission could become important spaces to inform participants, listen to their views and build continental consensus on priorities and issues to be discussed during the summits. However, procedures for selection and accreditation of participants are unclear. The quality of debate at the main civil society forum is often poor and insufficiently linked to the Assembly agenda; though in recent years, the women's forum has tended to be more open and more strategic in its interaction with the summit debates. There is a need to learn from these early experiences, both to strengthen these meetings and to define the best ways for them to interact with the newly established ECOSOCC.

Since 2004, the Women, Gender and Development Directorate at the AU Commission has led the way in working with civil society organisations. This openness and the strength of women's rights organisations' advocacy is reflected in the AU's adoption of the Solemn Declaration on Gender Equality in Africa, as well as the entry into force in record time of the Protocol on the Rights of Women in Africa to the African Charter on Human and Peoples' Rights. The African Citizens' Directorate (CIDO) of the AU Commission, charged with the main responsibility to facilitate civil society engagement with the AU organs and processes, has also assisted civil society participation at AU summits. However, current capacity in both institutions and in other directorates is insufficient to ensure that the AU Commission engages seriously with civil society on each of the policy areas in which it is working.

To remedy these defects perhaps the most urgent requirement is for mechanisms to improve access to and distribution of information about AU processes, both for member states and civil society organisations. In addition, the AU Commission's interaction with civil society organisations should be more transparent and more open to a wider range of groups.

### *Recommendations for the AU Commission*

The African Union Commission should:

17. Prepare a policy on information disclosure and access for adoption by the PRC, modelled on international best practice. This policy should provide for automatic publication of most documents, as well as the right for African citizens to request and obtain access to all official documents, except where explicitly categorised as confidential according to published, restrictive criteria. Denial of access should be subject to an appeal procedure.
18. Seek and invest more substantial resources for the rapid translation and distribution of documents needed for summits and other meetings. This should include exploring new media technologies that could allow for papers to be downloaded directly by state officials in their capital cities, thus circumventing the need for the embassy in Addis Ababa to pass on the documentation manually.
19. Adequately resource and improve the AU website, in particular to keep all details up to date, provide a search function and archive system and complete those sections that are currently empty.
20. At minimum, publish on the AU website the draft agendas for summit meetings and supporting documents (including the AU Commission Chairperson's report on activities and documents submitted on agenda items by states) as soon as they are distributed to states.
21. Ensure that an accurate record of the proceedings of each summit is prepared and circulated within one month of the summit to all accredited participants and made available on the AU website.

22. Initiate consultations on revised criteria for observer status for civil society organisations at the AU that would increase the number of qualifying organisations.
23. Adopt clear criteria to govern and advertise the process by which civil society organisations may obtain support from the AU Commission for their accreditation to attend AU summits.
24. Instruct all departments to consult as widely as possible with non-state actors in the development of decisions to be adopted at summits, including civil society organisations and representatives of those people directly affected by the issues being discussed.
25. Clarify and publicise the different functions of CIDO and ECOSOCC. CIDO should be required and given the resources to enable it to respond promptly to all inquiries about AU procedures and processes.
26. CIDO and the Women, Gender and Development Directorate should establish a steering committee to draw up the programmes for their respective pre-summit forums, publicly announce the meetings, invite papers and presentations on the summit themes and solicit interest in participation. The composition of the steering committee should rotate among organisations to ensure there is no 'AU capture' by a small set of insiders. The role of ECOSOCC in these fora should be clarified.
27. Compile a database of all NGO coalitions and networks in Africa, especially those that are engaged in key issues for the AU. Where the lead organisations are apparent on a particular issue, the AU Commission should send papers to the relevant organisation(s) with the requirement that they in turn distribute the documents further. These organisations should be listed on the AU Commission website.

## **ECOSOCC**

The research for this report found a general welcome for the establishment of ECOSOCC. However, key policy and institutional obstacles constrain its ability to deliver on the promise of a civil society voice within the AU. First, the structures of ECOSOCC are not sufficiently supported at the continental level. The Interim Standing Committee of ECOSOCC remains too reliant on the African Citizen's Directorate for funding, advice and administrative support. Secondly, the processes for election of ECOSOCC national chapters and continental representatives are unclear and flawed, while eligibility criteria established by the ECOSOCC Statutes exclude many civil society organisations with a contribution to make. Thirdly, despite sub-regional and national consultations, there is need to increase publicity and knowledge of ECOSOCC. A number of national chapters are yet to be activated or are poorly functioning. Finally, ECOSOCC's legal framework as an organ with only advisory status, and without its own treaty, significantly weakens its position. For these reasons, as currently constituted, ECOSOCC is unable to speak credibly as an independent civil society voice. If the ECOSOCC and civil society leadership are able to break through these obstacles, ECOSOCC has the potential eventually to become a genuine voice for Africa's citizens within the AU system.

The report also considers organised civil society interaction with two African inter-governmental bodies at the regional level: the Southern Africa Development Community (SADC) and the Economic Community of West African States (ECOWAS). The West African Civil Society Forum, in particular, is a useful model: it is not an organ of ECOWAS but an autonomous structure with its own sources of funding. ECOSOCC could and should learn lessons from these experiences.

If ECOSOCC is to play the role intended for it, it must become a much more genuinely representative body; this will require both significant strengthening of the processes for electing representatives to its structures and a stronger position for ECOSOCC itself within the AU organs.

### *Recommendations for ECOSOCC*

28. The ECOSOCC Interim Steering Committee should initiate a widely consultative planning process to take into account recommendations in this report and elsewhere relating to the future role and function of ECOSOCC.
29. The ECOSOCC Interim Steering Committee should provide procedural guidelines and secure adequate resources for the election of final ECOSOCC structures at national and continental level. These elections should be as transparent and democratic as possible.
30. The rules of procedure of the PRC, Executive Council and Assembly, and the ECOSOCC Statutes, should be amended to require ECOSOCC to be consulted prior to draft decisions being forwarded to heads of state by the PRC or Executive Council.
31. The public profile and role of ECOSOCC national chapters in relation to information distribution should be strengthened. The AU Commission could be required to distribute all documents relevant to AU summits directly to the ECOSOCC national chapters at the same time as they are distributed to states. The ECOSOCC national chapter could then distribute the documents to all national civil society organisations registered with it and convene a meeting in advance of each summit. In this meeting, foreign affairs ministries could brief civil society organisations and seek their opinions on draft government positions. The ECOSOCC national chapters should conduct awareness campaigns about their role.
32. The ECOSOCC Interim Steering Committee should publicise its role and purpose through active leadership and participation in the AU-CSO Forum and other civil society meetings.
33. The ECOSOCC Assembly should meet during the time of the AU summits and in the same location. Its agenda should relate closely to the summit debates. In this way it would promote interaction between the AU's civil society body and state representatives.

## **Civil society**

Civil society organisations are playing an increasingly visible role in engaging directly with the AU Commission – outside the ECOSOCC framework – around a diverse set of policy issues, including HIV/AIDS, women's rights, debt, trade, human rights and the culture of impunity. Space for this autonomous, direct civil society interaction with the AU will remain of critical importance to promote the ability of civil society to contribute to the AU.

### *Recommendations to civil society organisations*

34. Widely distribute information about the AU and adapt it to different audiences, including the media, academia, parliaments, and schools. Civil society organisations have a responsibility to ensure that the message of African unity is popularised to the widest extent.
35. Increase coordination around autonomous interaction with AU summits and make greater efforts to transmit civil society conclusions and recommendations to official summit participants. This will

increase the effectiveness of civil society advocacy and help to ensure a genuine dialogue between Africa's citizens and leaders.

36. Mobilise resources and support for current initiatives to establish independent civil society offices and facilities in Ethiopia and South Africa to facilitate access for African citizens to AU institutions and disseminate information about the AU processes as widely as possible.