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Towards a People-Driven African Union

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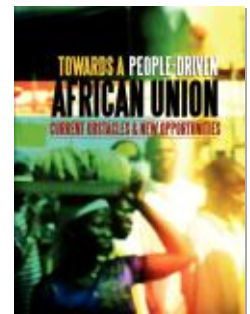
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5. REGIONAL ECONOMIC COMMUNITIES AND THE AFRICAN UNION

The OAU produced two fundamental legal documents that form the basis for Africa's integration: the 1980 Lagos Plan of Action for the Development of Africa and the 1991 Treaty establishing the African Economic Community (also referred to as the Abuja Treaty). The former envisages the development of Africa through regional integration, providing the first legal basis for the creation of regional economic communities (RECs)¹⁰⁴; the latter proposes the establishment of sub-regional configurations in Africa's five geographical regions and envisages the creation of a continental economic community bolstered by RECs by 2030.¹⁰⁵

Currently, there are a number of overlapping regional bodies, some of them recognised by the AU and some operating outside AU structures. The following eight configurations are recognised by the AU as RECs: the Economic Community of Central African States, Economic Community of West African States, Common Market for Eastern and Southern Africa, Inter-governmental Authority for Development, Arab Maghreb Union, East African Community, the Community of Sahelo-Saharan States and the Southern African Development Community.¹⁰⁶ Many states belong to more than one of these bodies.¹⁰⁷ There are also competing and conflicting interests between the RECs and the AU: coordination and harmonisation is urgently needed.¹⁰⁸

One of the objectives of the AU as stated in the Constitutive Act is to 'coordinate and harmonise the policies between the existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union',¹⁰⁹ and the Banjul summit of June/July 2006 was themed on 'rationalisation of RECs'. The Economic Affairs Department of the AU Commission coordinates the relationship between RECs and the AU.

There is no formal legal framework through which RECs engage with the AU. A proposed protocol on relations between RECs and the AU,¹¹⁰ drafted by the Office of the Legal Counsel and the Economic Affairs Directorate in 2004, would provide such a framework, but the AU has to finalise the draft protocol before it will be open for signatures. The protocol would establish a coordinating committee, including representatives of the heads of the RECs, to monitor the extent that RECs are progressing in the implementation of the Abuja Treaty and ensure the implementation of decisions taken by the Executive Council relevant to RECs.¹¹¹

In the meantime, although RECs accredited to the AU attend summits, where their representatives meet also with the AU Commission, their participation at meetings of the PRC, Executive Council and Assembly of the AU is in practice limited to delivering a single speech (on activities and challenges) and observing proceedings.¹¹² At the 2006 Banjul summit, for example, the representative of the Southern African Development Community (SADC) made comments only on regional integration and not on other agenda items. On other points it is an individual member state of the REC that will articulate the position of the REC. REC officials

believe that the AU should provide a formal opportunity for RECs to state their position on AU summit agenda items.¹¹³

However, REC representatives do participate in ministerial and other meetings convened ahead of summits under the auspices of the AU. During 2006, specific issues discussed included agriculture, customs policies, infrastructure and trade.¹¹⁴ There was also a ministerial conference on regional integration in Ouagadougou, Burkina Faso.¹¹⁵ The meetings closed with resolutions, which were presented to the Executive Council and the Assembly at the summit.

SADC, perhaps the best organised of the RECs in this context, makes regular contributions on legal matters at the AU, including comments to the protocol establishing the AU Court of Justice;¹¹⁶ while the SADC Secretariat Gender Unit participated in deliberations of the Protocol on the Rights of Women in Africa under the African Charter on Human and Peoples' Rights.¹¹⁷ The AU focal point at the SADC Secretariat prepares a briefing document for the SADC Council of Ministers meeting in February each year, including issues relevant to the June AU summit; though lack of capacity may prevent adequate responses on some agenda items.¹¹⁸ The Council meeting will consider and coordinate the positions of member states in relation to the AU agenda.

The SADC heads of state summit in August 2006 discussed the decisions of the July AU summit, and called for a meeting of the troika of the SADC Organ on Defence, Politics, and Security Cooperation to prepare a SADC position on issues relevant to African integration and harmonisation of the RECs prior to the January 2007 AU summit.¹¹⁹ There was, however, apparently no discussion about the membership in SADC of the Democratic Republic of the Congo, geographically not part of the southern region,¹²⁰ nor of the Draft Protocol on the Relations between Regional Economic Communities and the African Union.

The Economic Community of West African States (ECOWAS) is the only REC that has restructured its institutions in order to harmonise them with those of the AU. In January 2006, the Authority of Heads of State and Government, the supreme institution of ECOWAS, decided to transform the ECOWAS Secretariat into an ECOWAS Commission, set up in a similar way to that of the AU. The powers of the ECOWAS parliament were strengthened; the Court of Justice was also restructured in order to separate its administrative and judicial functions; and the Authority also moved further towards the establishment of a new supranational legal regime directly applicable in member states.¹²¹

Civil society engagement with regional institutions

Efforts by civil society to influence decision-making at REC level have increased in strength as the RECs themselves have acquired a broader agenda and greater importance within the AU. The REC documents in some cases also acknowledge the importance of civil society participation in regional integration. For example, Article 23 of the SADC Treaty reads:

In pursuance of the objectives of this Treaty, SADC shall seek to involve fully the people of the region and non-governmental organisations in the process of regional integration. SADC shall cooperate with and support the initiatives of the peoples of the region and non-governmental organisations contributing to the objectives of this Treaty in the areas of cooperation, in order to foster closer relations among the communities, associations and people of the region.¹²²

The SADC Council of Non-Governmental Organisations (SADC-CNGO), created in 2002 in response to Article 23, is an institution recognised by the SADC Secretariat, though it has still had problems gaining access to the

decision-making system of the SADC.¹²³ The SADC-CNGO held its first civil society forum ahead of the SADC summit in Gaborone in 2005, and the second in Maseru, Lesotho ahead of the August 2006 SADC summit. There the regional representative of ECOSOCC gave an overview of the ECOSOCC structures,¹²⁴ and participants also discussed human rights and democracy within the sub-region. NGOs also organise autonomous meetings in the margins of SADC summits. For example, Ditshwanelo, a human rights organisation, held a meeting in the margins of the SADC summit in Gaborone in 2005 to raise awareness of the situation in Zimbabwe.¹²⁵

SADC member states are also supposed to establish 'national committees' of government and civil society,¹²⁶ though these are not yet functional in all countries.¹²⁷ Botswana, which is also the seat of the SADC secretariat, has a functional national committee, which, according to the Botswana Council of Non-Governmental Organisations, serves as an information-sharing forum on implementation of SADC policies.¹²⁸

More interesting as a model for civil society engagement with an intergovernmental body, however, is the West African Civil Society Forum, established in 2003.

The West African Civil Society Forum

In June 2003, following contacts made by the Nigeria-based Centre for Democracy and Development and International Alert, headquartered in Britain, the ECOWAS Secretariat organised a consultative meeting in Abuja, Nigeria, to analyse issues of regional human security and propose strategies to address them, bringing together participants from civil society organisations, government representatives, donors and experts from the region. The meeting decided to create a number of mechanisms and processes for strengthening human security capacities in the sub-region, including:

- A civil society unit within the Executive Secretariat of ECOWAS;
- An autonomous civil society secretariat to facilitate liaison between West Africa's civil society organisations and ECOWAS institutions;
- A regular Assembly of West African Peoples and Organisations, coinciding with the Ministerial Council meeting preceding the annual summit of the Authority of Heads of State and Government of ECOWAS;
- A joint task force between ECOWAS institutions and civil society to help in developing a strategic plan for safeguarding human security in West Africa and an operational and resource mobilisation plan for implementing such strategy.¹²⁹

In December 2003, the first West African Civil Society Forum (WACSOF) took place in Accra, Ghana, sponsored by ECOWAS and with the participation of over 150 people representing 100 organisations. The forum adopted a charter to govern the new body, and a programme of action for the short, medium and long term.

WACSOF is a membership organisation¹³⁰ based on relevant community norms.¹³¹ Importantly, it is not an organ of ECOWAS but a free-standing body funded primarily by external donors.¹³² Its objectives include the pursuit and promotion of permanent dialogue and engagement between civil society organisations in the sub-region, ECOWAS and national authorities, and supporting the process of political and socio-economic development and integration of the sub-region and Africa.¹³³ Two deliberative organs (the Peoples' Forum and the Executive Committee), technical organs (ten working committees elected by the Peoples' Forum for a period of two years¹³⁴) and an executive organ (the secretariat led by a secretary-general) constitute the structure of WACSOF.

The Peoples' Forum is composed of all the representatives of the civil society organisations registered as members of WACSOF and all the associate members; its meetings are also attended by observers,

including representatives of the ECOWAS Secretariat.¹³⁵ The Peoples' Forum meets annually prior to meetings of the ECOWAS Authority and Council of Ministers.¹³⁶ The Forum reviews the activities of the ECOWAS Secretariat and ECOWAS member states and makes appropriate recommendations to the summit, considers the report of the secretary-general as submitted to it by the Executive Committee, approves the appointment of the secretariat upon the recommendation of the Executive Committee, and annually appoints a civil society focal point in each country, which liaises between WACSOF Secretariat, WACSOF members in the country and ECOWAS organs based in the country.

The Executive Committee is elected by the Peoples' Forum, and is responsible for the functioning of WACSOF between sessions of the Peoples' Forum and for appointing the secretary-general and other staff.¹³⁷ Members of the Executive Committee are elected for a term of two years renewable once and attend the meetings of the organs and components of ECOWAS.¹³⁸

Soon after its establishment, the ECOWAS Council of Ministers and Authority of Heads of State and Government of ECOWAS expressed support for the creation of WACSOF and called on the ECOWAS Secretariat to support and collaborate with the new body.¹³⁹

WACSOF has so far organised three annual forums, each of which has adopted recommendations for the ECOWAS Council of Ministers to transmit to the heads of state and government.¹⁴⁰ These recommendations have dealt with a variety of subjects, including regional integration, democracy, good governance, human rights, corruption, globalisation, gender issues and trafficking in persons.¹⁴¹ WACSOF has sent observer missions to elections in West Africa¹⁴² and has held regular meetings with ECOWAS organs, participating in consultations related to programme reviews as well as attending official meetings. WACSOF has established national sections in Burkina Faso, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone and Togo.

WACSOF has not spent much time considering the AU. However, in its first communiqué, it expressed its reservations on the 'process of establishment of norms and standards in relation to governance under the form of an African Peer Review Mechanism (APRM)'.¹⁴³ The recommendations from the last forum in Accra, 'invited ECOWAS member states to take concrete steps to implement the Solemn Declaration of the AU on Gender Equality' within the west African region.¹⁴⁴ The Hissène Habré case was considered during the forum held in Niamey, Niger, at the request of Senegalese organisation RADDHO, a member of the WACSOF Executive Council, but no recommendation was adopted by the forum.¹⁴⁵

Despite the strength of the model in theory, WACSOF has not yet had a significant impact on the functioning of ECOWAS nor has it contributed to a greater awareness among West African citizens about the vision and mission of ECOWAS. This is in part attributable to the newness and inexperience of the network, but also the institutional weakness of the organisations that make up the forum and their lack of knowledge of ECOWAS and the issues relating to African integration.¹⁴⁶