

# BENCHMARKING THE PERFORMANCE OF AFRICAN HEADS OF STATE ON COMMITMENTS TO COOPERATE WITH CIVIL SOCIETY ORGANIZATIONS AND GROUPS WITH FOCUS ON 8 COUNTRIES

## CONCEPT NOTES AND TERMS OF REFERENCE

### INTRODUCTION

A core network of seven African Non-Governmental Organizations have embarked upon a process of benchmarking the performance of key African governments in respect of human security issues measured against the commitments taken at the level of OAU/AU heads of state meetings and summits. The project focuses on 8 countries (Algeria, Ethiopia, Ghana, Kenya, Nigeria, Senegal, South Africa, and Uganda). These countries are among the African states that have acceded to the NEPAD African Peer Review Mechanism. Seven clusters (Human Rights, Democracy and Governance, Civil Society, Small Arms and Light Weapons, Peacekeeping and Conflict Resolution, Anti-Corruption, and Terrorism and Organised Crime) are the focus for the study. The West Africa Network for Peacebuilding (WANEP) was selected by the Network to focus on the Civil Society Cluster. The study posits that by ***enhancing cooperation between states and civil society groups and organizations and encouraging the latter's participation in governance, the full realization and sustenance of human security in Africa would be assured.***

In 2001 the Organization of African Unity (OAU) now African Union (AU) hosted its first OAU-Civil Society Conference titled, "Building *Partnership for Promoting Peace and Development in Africa*". The aim of the Conference was to promote partnership between the OAU and civil society groups and organizations in Africa. The Conference was preceded by the Assembly of Heads of State and Governments in Lome, Togo and coincided with the entry into force of the Constitutive Act of the African Union. The Heads of State Summit in Togo adopted the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA). The CSSDCA makes provision for the views of the civil society to be conveyed to the CSSDCA Standing Conference that was designed to meet every two years. In the same vein the Constitutive Act recognizes the need to build partnerships between governments and all segments of Civil Society, in particular women, youths, and professional. Additionally, the ECOSOC, one of the organs established by the Constitutive Act of the Africa Union, provides for a composition made up of professional Groups and Associations.

These developments point to the fact that, more and more, governments in Africa are beginning to recognize the critical roles played by civil society groups and other non-state actors in maintaining the health and stability of the state and enhancing human security. It is important, however, to point out that the recognition of the role of civil society varies from state to state. Also, protocols and policies designed to facilitate cooperation between states and their civil societies are yet to be fully operationalized.

The study will focus on progress governments have made thus far to build constructive relationship with civil society. It will also assess the level of preparedness of civil society to respond to this new emerging partnership with state governments and the African Union.

### ***Civil Society and Human Security in Africa***

The United Nations Development Program (UNDP) describes governance as the interaction between government, the private sector, and civil society (UNDP:1995). The emergence of what has come to be called civil society as a critical actor in the state equation is a post-Cold war development which begs conceptual, technical, and political clarity. Richard Norton broadly describes civil society as "the place where a melange of groups, association, clubs, guilds, syndicates, federations, unions, parties, and groups come together to provide a buffer between state and citizen" (Schwedler, 10). It is a function, rather than a structure. Civil society groups and organizations originally focused on either community-based development interventions or academic research with no viable framework for coordination and concerted actions for policy influencing and participation in governance. Only a few interest groups such

as trade unions, women movements, and student unions have a long history of engaging the state—serving as watchdogs against behaviours and performance of governments. Even this robust force was largely antagonistic and always in opposition. As a result mutual suspicion and fear persisted between what was called civil society and the state.

Civil society has now broadened to include non-governmental organizations. NGOs originally focused on development interventions in communities. They made deliberate efforts to stay away from the business of governments. That now has changed. NGOs have fused into the new definition of civil society and are seriously concerned with the fate of society as a whole. Moving upward from grass root development oriented engagement to policy engagement (formulation, influencing, and monitoring) requires some kind of leverage. So far, the only viable political leverage of civil society is in their organization in broader and larger groups (numerical power), demonstrated professionalism (knowledge power), and ability to link governments to the ordinary people (representative power). These comparative advantages are still a potential for most civil society groups.

The Commission on Human Security describes human security as a means of protecting people from the critical and pervasive threats and situations, building on their strengths and aspirations. It is concerned with giving people the building blocks of survival, dignity, and livelihood. Human security, the Commission posits, connects different types of freedoms—freedom from want and fear and freedom to take action on one's own behalf. Human security therefore focuses on protection and empowerment of individuals and groups. Protection shields people from dangers. It requires concerted effort to develop norms, processes, and institutions that systematically address insecurities while empowerment enables people to develop their potential and become full participants in decision-making. Both protection and empowerment are mutually reinforcing.<sup>1</sup>

The link between civil society's participation in governance and human security is theoretically and empirically established. Insecurity is directly correlated to disempowerment and the lack of protection for the individual. That is why African governments committed themselves to inviting and working hand in hand with civil society groups in the new Africa epitomized by the creation of the African Union and the New Partnership for Africa's Development (NEPAD).

## **RESEARCH GOAL**

The study seeks to benchmark the performance of 8 African governments against commitments made at the level of OAU/AU to strengthen and cooperate with civil society groups and organizations for the promotion of peace and human security.

## **OBJECTIVES**

The study is expected to:

- (i) Identify and track the extent of implementation of commitments made by 8 African governments through the OAU/AU to forge cooperative relations with their civil society groups and organizations;
- (ii) Evaluate strategies and programs instituted by governments to promote civil society and state cooperation;
- (iii) Map and assess the efficacy of laws promulgated for civil society empowerment and protection;
- (iv) Propose a mechanism for monitoring the instruments and processes pertaining to state engagement with civil society groups;
- (v) Evaluate the level of civil society participation in the implementation of programs and laws to promote the other clusters—human rights, small arms and light weapons,

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<sup>1</sup> Final Report of the Commission on Human Security, <http://www.humansecurity-chs.org/finalreport/outline.html>.

Organised Crime and Terrorism, Peacekeeping and Conflict Resolution, Anti-Corruption, and Democracy).

The study is to produce a comprehensive report that will form the basis for monitoring and accelerating programs and institutions proposed to empower and engage civil society.

## KEY COMMITMENTS AND BENCHMARKS

The following is a summary of the key commitments made by African Heads of State and Governments in recent years at the level of Summit/Meeting of the OAU/AU. These commitments are derived from decisions, conventions, recommendations, treaties, protocols and acts. The scope of this research is limited and does not include UN resolutions and other international sources.

### *i. Involvement of civil society in Governance*

- Pan-African Parliament - Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament (Libya 2<sup>nd</sup> March 2001)

The African heads of State agreed to the establishment of a Pan-African Parliament (PAP) as an organ of the African Union. The aim of the PAP is “**to ensure the full participation of African peoples in the development and economic integration of the continent**”.<sup>i</sup>

By end of November 2002 the Protocol establishing the Pan-African Parliament (PAP) had received 24 signatories but only 9 ratifications, still far short of the 27 ratifications required for the Protocol to come into effect. Once established the PAP will be composed of five delegates from each Member State and have consultative and advisory powers only, although the intention is that it develops into an institution with full legislative powers, whose members are elected by universal adult suffrage.

Should sufficient countries ratify the Protocol in the next few months, the modalities and logistics required by the PAP would indicate that several years would be required before the Parliament is operative as part of a peer review process.

- ECOSOCC - Economic, Social and Cultural Council (ECOSOCC) of the African Union (Lusaka Summit in 2001)

As regards the participation of civil society in the AU, African Heads of State committed themselves to additional measures.<sup>ii</sup> The AU Treaty establishing the African Economic Community of 1991 already provided for relations between the community and African NGOs, which included the establishment of a mechanism for consultation (Economic and Social Council) with African NGOs.<sup>iii</sup> The Heads of State agreed to replace this Council with the Economic, Social and Cultural Council (ECOSOCC)<sup>iv</sup> of the African Union following the Lusaka Summit in 2001. The proposed establishment of ECOSOCC further provides an important opportunity for civil society to engage the State. In accordance with Article 22 of the Constitutive Act:

1. *“The Economic, Social and Cultural Council shall be an advisory organ composed of different social and professional groups of the Member States of the Union.*

2. *“The functions, powers, composition and organization of the Economic, Social and Cultural Council shall be determined by the Assembly.”*

At present ECOSOCC Statutes are being circulated for civil society input and consultation. Approval by AU Heads of State is only expected in mid-2004.

The establishment of ECOSOCC, unlike the Pan-African Parliament is by approval of the Assembly of a set of statutes as oppose to legally-binding protocols or conventions. The implications are that once the statutes are adopted, the Council could be convened immediately.<sup>v</sup> The draft statutes submitted at the Maputo Summit states that the Council would consist of 150 civil society organisations(CSOs) representing various social groups (women and children), Non-governmental organisations (NGOs), Community-based organisations (CBOs), traditional leaders, academia and religious and cultural institutions. Further, to

ensure the independence of ECOSOCC, there is recognition that “**civil society organisations would actively participate in the Selection Committee and process applications for membership to the Council**”.<sup>vi</sup>

The ECOSOCC, according to Article 4(c) of the Constitutive Act of the African Union, agreed to give effect to the principle of “**participation of the African peoples in the activities of the Union**” and recognising “**the need to build a partnership between governments and all segments of civil society**”.

**ii. Participation in the decision-making process**

A further commitment made by the African Heads of State was in relation to the “**active and genuine participation of every citizen of every country in the decision making processes and that the conduct of public affairs must be fostered and facilitated**”.<sup>vii</sup>

**iii. Civil Society and Democracy**

The African leaders agreed that the linkage between democracy, peace and development is a critical one (demonstrated by the numerous statements and commitments between stability and development within and between African countries). Promotion of political pluralism; allowing for the existence of several political parties and workers’ unions; the participation of African civil society, including enhancing and ensuring gender balance in the political process are indicators for measuring the development of democracy. Furthermore, by committing themselves to abide by a set of minimum common values and principles on democratic governance, the African heads of State recognized civil society’s contributions to democracy and thus agreed that their participation should be encouraged.<sup>viii</sup>

| Key commitments  | Sources   | Strategy / Evaluation   |
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| <ul style="list-style-type: none"> <li>Ensure the full participation of African Peoples in the development and economic integration of the continent</li> <li>Allow for parliamentarians to vote in their personal and independent capacity</li> <li>Additional measures regarding the participation of the African Peoples in the activity of the African Union</li> <li>Civil Society Organisations would actively participate in the Selection Committee and process applications for membership to the Economic, Social and Cultural Council (ECOSOCC)</li> <li>Participation of the African peoples in the activities of the Union and recognising the need to build a partnership between governments and all segments of civil society</li> <li>Active and genuine participation of citizens of every country in the</li> </ul> | <ul style="list-style-type: none"> <li>Article 17 (1) of AU Act</li> <li>Article 6 of PAP Protocol)</li> <li>Article 4(c) of AU Act</li> <li>Article 22 of Constitutive Act</li> <li>Article 4(c) of Constitutive Act</li> <li>Par 11 (b) of CSSDA Declaration, 2000</li> </ul> | <ul style="list-style-type: none"> <li>Focus research on OAU/ AU instruments</li> <li>Analyse legislative and non legislative measures</li> <li>Status of conventions (ratification)</li> <li>Joint strategies or initiatives between States and civil society</li> <li>Actions taken by States to build an enabling environment for civil society participation and engagement</li> <li>Level of consultation between governments and civil society</li> <li>When, how and who do governments consult from civil society</li> <li>Obstacles to civil society participation</li> <li>Participation of civil society in State affairs</li> <li>The extent to which civil society have the capacity to engage actively with the State</li> <li>What elements of civil society are governments comfortable with and perhaps are close to?</li> <li>Link civil society engagement to</li> </ul> |

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| <p>decision making processes and that the conduct of public affairs must be fostered and facilitated.</p> <ul style="list-style-type: none"> <li>• Civil society contributes to Democracy and their participation should be encouraged.</li> <li>• Promotion of political pluralism, allowing for the existence of several political parties and workers' unions, the participation of African civil society, including enhancing and ensuring gender balance in the political process</li> </ul> | <ul style="list-style-type: none"> <li>• Par 14 (c) of CSSDA Declaration, 2000</li> <li>• Par 14 (i) of CSSDCA Declaration, 2000</li> </ul> | <p>commitments made in other thematic areas</p> <ul style="list-style-type: none"> <li>• Number of established grass-roots NGOs</li> <li>• Look at consultative mechanisms at various levels established with governments on various aspects of democratic participation</li> <li>• Attempts to develop links nationally, sub-regionally and regionally to share lessons and awareness raising</li> <li>• The role of women and eliminating biases to ensure their full equality and effective participation.</li> </ul> |
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## METHODOLOGY

### Phase 1:

- Review all related commitments made by OAU/AU on civil society participation in state governance; particular areas of interest include:
  - AEC Treaty 1991 – Gabon has not ratified
  - AU Constitutive Act, 2000
  - CSSDCA Solemn Declaration, 2000
  - Protocol on Pan-African Parliament (2001) – 16/27 ratified including Burkina Faso, Cameroon, Ethiopia, Gabon, Ghana, Nigeria, Senegal, South Africa, Uganda. Not ratified are Algeria, Congo, Kenya, Mali, Mozambique and Rwanda.
  - African Charter for Popular Participation in Development and Transformation (Arusha Declaration (1990)
- Finalize the benchmarks and indicators
- Develop an assessment tool
- Locate 1 local researcher and disseminate project concept note and TOR

### Phase 2:

- Conduct desk research on state compliance
- Administer assessment tool in the various countries
- Collect and collate data from the field

### Phase 3:

- Data analysis
- Preparation of report
- Disseminate report to network members

<sup>i</sup> Art 17(i) of AU Act. Originally the establishment of the PAP would have been part of the Sixth Stage of the establishment of a Pan-African Economic and Monetary Union (AEC Treaty, Art 6 (2)(f)(iv)

<sup>ii</sup> Art 4 (c) of AU Act

<sup>iii</sup> Art 90 AEC Act

<sup>iv</sup> ECOSOCC is an advisory organ composed of different social and professional groups of the Member States of the AU

<sup>v</sup> At the Maputo Summit, it was hoped that ECOSOCC would convene for the first time before the end of 2003.

<sup>vi</sup> Art 22(2) of the Constitutive Act suggested that the AU Assembly would be responsible for the selection of membership to the Council.

<sup>vii</sup> Par 11(b) of CSSDCA Declaration 2000

<sup>viii</sup> Par 14(c) of CSSDCA Declaration 2000