

**CIVIL SOCIETY ORGANISATIONS' ENGAGEMENT
WITH REGIONAL ECONOMIC COMMUNITIES IN
AFRICA**

PEOPLE FRIENDLY OR PEOPLE DRIVEN?

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ACRONYMS

AEC	African Economic Community
AFRIMAP	African Governance Monitoring and Advocacy Project
AFRODAD	African Forum and Network on Debt and Development
APRM	African Peer Review Mechanism
AU	African Union
AWCPD	African Women's Committee on Peace and Development
BBC	British Broadcasting Cooperation
CEMAC	Economic and Monetary Union of Central African States
CEWS	Conflict Early Warning System
CSSDCA	Conference for Security, Stability, Development and Cooperation in Africa
CIDO	Citizens' Directorate
CNN	Cable News Network
COMESA	Common Market for Eastern and Southern Africa
CPGC	Economic Community of the Great Lakes States
CPS	Centre for Policy Studies
CSOs	Civil Society Organisations
CUTS-ARC	Consumer Unity and Trust Society Africa Resource Centre
DDR	Demilitarization, Demobilization and Re-Insertion
EABC	East Africa Business Council
EAC	East Africa Community
EALA	East Africa Legislative Assembly
EALS	East Africa Law Society
ECCAS	Economic Community of Central African States
ECOSOCC	Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
EISA	Electoral Institute of Southern Africa
EPAs	Economic Partnership Agreements
FAS	Femmes Africa Solidarite
FAWE	Federation of African Women in Education
FOMAC	Central Africa Multinational Force
FTA	Free Trade Area
HSRC	Human Science Research Council
IDASA	Institute for Democracy in South Africa
ILO	International Labour Organisation
ISS	Institute for Security Studies
LRRW	Land Rights Research and Resources Workshop
MARAC	Central African Early Warning Mechanism
MISA	Media Institute of Southern Africa
MP	Member of Parliament
NCPs	National Contact Points
NEPAD	The New Partnership for Africa's Development
NGOCEA	NGO Coalition for East Africa
OAU	Organisation of African Unity

PAP	Pan African Parliament
PCRD	Post Conflict Reconstruction and Development Programme
PSC	Peace and Security Council
PS-CSD	Private Sector-Civil Society Desk
RECs	Regional Economic Communities
SACU	Southern Africa Customs Union
SADC	Southern Africa Development Community
SADC-CNGOs	SADC-Council of NGOs
SADC-PF	SADC Parliamentary Forum
SDGEA	Solemn Declaration on Gender Equality in Africa
SAIIA	South African Institute for International Affairs
SARPN	Southern Africa Regional Poverty Network
SAT	Southern Africa Trust
WACSOFF	West African Civil Society Forum
WANEP	West Africa Network for Peace-building
WANSA	West Africa Network on Small Arms
WASU	West Africa Students Association
WILDAF	Women in Law and Development
WILSA	Women in Law in Southern Africa
WTO	World Trade Organisation
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa

EXECUTIVE SUMMARY

Are Regional Economic Communities people friendly or people driven or both? This question in many ways captures the essence of this study which sought to explore the different dimensions of the relationship between civil society groups and regional intergovernmental groupings, particularly in the domain of policy formulation and its implementation. Beyond that, an important question is how accountability is operationalised. And are reviews and monitoring exercises effective? Indeed many of these regional institutions have working relations with civil society groups and citizens in many capacities as is shown by this study. And yet the critical question under review is whether or not civil society groups can influence effectively policy at its different phases: formulation, implementation and monitoring. This study showed that more often effectiveness is hampered by the serious absence of capacity; whether it is RECs or civil society. The study explored the deep intellectual domains of the environment for participation; capacity needs for both RECs and civil society; modalities for collaboration; forms of existing networks around RECs; effectiveness of engagements; challenges of engagements; and global forces that affect implementation of policies in the African continent. Three broad areas are covered in the study. These are around modalities for reaching out in the case of RECs and modalities for reaching in regarding civil society groups; the capacity needs of both RECs and civil society groups; and the nature of environment for participation.

Context

Regional Economic Communities and civil society organisations operate under very difficult situations. The forces affecting implementation of projects and programmes are both internal and external. Internally, issues of capacity, human and financial resources, politics, inadequate skills and other general inadequacies affect the effectiveness of these institutions. Externally the pressures are varied: some are domestic (within the continent) while others are externally driven, particularly by the superpowers and super financial institutions more often under the guise of globalisation. As the introduction of this study shows, Africa is confronted by a myriad of challenges, primarily around the peace and security area, governance, dependency, abuse of natural resources, poverty and underdevelopment, diseases especially opportune ones, inaccessibility to coastal areas and nature-based challenges such as global warming and climate change, among others. In almost all the regions under study, the crisis of conflicts has occupied the development agenda of the regional groupings. In West Africa, the Economic Community of West African States has been involved in conflict resolution, management, prevention and peace-building in war torn zones such as Liberia, Sierra Leone, Ivory Coast and Guinea Bissau. The Community also played decisive roles in Mauritania, Togo and continues to detect any warnings related to the destabilisation of peace. In Central Africa, the Economic Community of Central African States has also put in place mechanisms and instruments around its peace and security architecture. The same applies to the Southern Africa Development Community, the East Africa Community and the Inter-Governmental Authority on Development. In addition to the peace and security agenda of the African Union, RECs have to respond to concerns around bad governance practices by member states. The implementation of the African Peer Review Mechanism is one

such way of a proactive approach. Developing a framework and then monitoring and observing elections are other ways that RECs have continually practiced. At the AU level the Charter on Democracy, Elections and Good Governance is one such instrument and at REC level, there are multiple such instruments. The democracy deficit in most of these regions also has implications on how resources are distributed and then utilised. In most natural resource rich countries, increasingly there is a relationship between an abundance of natural resources and increasing dictatorship and authoritarianism. Leaders use the surplus resources not for developmental purposes but to buy votes, alter constitutional provisions and basically retard the speed of democracy. And where there are not many natural resources, countries are very dependent on international donors for their functions and existence. This as we argue in the study, disempowers the very agents of change. And if things continue as they are, no structural or systemic change will ever occur. The aid system needs some fundamental reconfiguration. And this relates to the challenge of being landlocked and the need for infrastructure development. Not many development actors or bilateral agencies are keen on this, resulting in piecemeal interventions. Other challenges that these institutions face include other areas that are one or way or another impacted on by the ones above. Pulling countries and regions out of these traps is the Achilles Hill of RECs and civil society organisations in consensus with development actors, governments and other interested stakeholders.

There have been opportunities as well presented by the current configuration of power. Increasingly governments and intergovernmental institutions are realising that they need the support of citizens in implementing any developmental project. The various initiatives in the continent now take into account the inclusion of civil society and populations. And indeed there is serious interest in Africa today than it was before. Internally projects such as the New Partnership for Africa's Development, the Peer Review Mechanism and the general location of Africans at the centre of development at least in principle are positive developments. Internationally there have been a number of initiatives that seek to uplift Africa and address some of the traps discussed above.¹ In short this is the context under which RECs and civil society organisations are operating. More often they are reacting to these challenges and seeking solutions to them. Hence increasingly there has been a realisation that comprehensive approaches involving all stakeholders are more effective than fragmented and individual efforts.

Interface Mechanisms

All RECs have in principle put in place provisions and modalities for involving civil society groupings in their programmes. Most of their founding instruments such as protocols establishing each of them provides for populations to be included in their development. A number of declarations and decisions also further increase spaces for people-driven RECs and development. As the discussion of each REC shows, even the structure of any REC provides a number of sites in which civil society can participate. Most RECs have the Assembly at the top, followed by the Council of Ministers; then Technical Committees and the Secretariat. Also important are the Community Courts of Justice and the Parliaments. These are natural access points for citizens of the community. The various departments in all RECs also provide the level at which substantive interventions can be made by civil society formations. And as we have argued in the study, more often civil society organisations interface with RECs only at the Summit of heads of State and Government level. While this is critical, especially for advocacy purposes, our view is that all other stages are important especially those at the national level, such national committees and ministries. In addition to RECs reaching out to citizens and various associations, civil society groups have also gone beyond invitations to creating their own spaces and modalities for collaboration. In West Africa for example, the West Africa Civil Society Forum and the West Africa Network for Peace-Building are classic interface models that other regions ought to study

and adapt. In Southern Africa, the Southern Africa Development Community Council of NGOs has also created a network that interfaces with SADC around many priority and thematic areas. Its relation with SADC still needs to be improved though. The same is true with the East Africa Community and the Intergovernmental Authority on Development. Both have civil society forums that interface with the Community and the Authority respectively. The Economic Community of Central African States is in the process of developing ways of working with civil society. As we discuss in the study, ECCAS is drawing lessons from other regions that have already put in place these interface mechanisms. The Common Market for Eastern and Southern Africa works with civil society groupings however in more selective ways. Because of the nature of its work, COMESA is bound to be limited to groups that work with regional integration issues and frankly, there are very few in the region. These available spaces: created or invited are crucial but in all regions, were impacted upon by capacity needs and other challenges that confronted both RECs and CSOs.

Challenges

Both RECs and CSOs suffer a number of challenges especially around capacity needs. Within RECs and CSOs, there is a serious shortage of skills and staff. The issue of human resources therefore needs to be addressed in very innovative ways. At the AU, for example a number of departments are seriously understaffed. The same is true of RECs as we showed with the case of ECOWAS' Civil Society Unit. What even complicates access to these institutions especially for CSOs and citizens in general is that the AU and RECs tend to be very bureaucratic. Tensions normally arise between intergovernmental institutions and CSOs as civil society normally has no patience for bureaucracy. This is made complicated by the fact that some employees are from seconded from their member states and as such their loyalties are with their governments and not so much on the development agenda of the region. We found the problem of politics very much destabilising for RECs. Divisions among member states cripples the effectiveness of the REC concerned.

This means that most structures even though they might provide access to civil society still need to be democratised. In some RECs access is limited to a particular group of organisations or networks. At COMESA for example, only those groups with expertise on regional integration and regional issues are likely to be accredited. And some states have their own organisations that they prefer to work with, to an extent that they veto the inclusion of those that they may be critical to governments in that particular region. Some sites are also physically inaccessible, for example, Arusha. A number of organisations in the region find it difficult to make their way to Arusha.

The lack of knowledge on how RECs operate and how they are structured impact negatively on CSOs' intervention strategies. Very few organisations have extensive knowledge of how these groups operate. This we established in our previous study on civil society relations with the Midrand based Pan African Institutions. This is very much linked to some of the RECs' lengthy processes of formalising relations with civil society. The East Africa Community for example has complicated conditions for accreditation resulting in many organisations falling out. And even though WACSOF works closely with ECOWAS, there is still no formalised relationship. The lack of these formalised mechanisms has meant that CSOs relate to RECs in any way they see fit. Most of these relations have been conflictual and protest based. This is informed by the current stand off between some governments and civil society. This gets translated even to RECs. And yet a collaborative and collegial relation might even be more effective. In the SADC region, for example, a number of opportunities have been missed due to this suspicion between civil society and governments. This has led to many arguing that CSOs should be trained in diplomacy. This is one skill that we found lacking among CSOs, hence most strategic interventions were counter-

productive. As we show in the report most interventions were around the Summit level at the expense of other strategic areas: those discussed above on interface mechanisms or in the study as entry points.

Internal weaknesses within CSOs are areas that need attention before any collaborative relation is entered into. For example, in most regions there is serious duplication of efforts which at times lead to serious struggles over territorial and thematic focus. In West Africa, for example, WACSO and WANEP were embroiled in a turf war that resulted in WANEP withdrawing from WACSO. There are other internal weaknesses that are specific to each region which the study discusses. The same is true of RECs: most of them are not communicating.

Funding is a serious issue for both RECs and CSOs. In some regions, CSOs and RECs compete for funding from the same donors. This can not be healthy. In one or two regions, the same donor supported the REC and the network that interfaces with the REC. This raises questions of agenda setting and ownership. This affects the areas that both CSOs and RECs end up focusing on. Our findings are that only soft issues are focused on at the expense of hard issues such as infrastructural development. The question is then around how RECs can generate resources for self-sustainability.

The following recommendations are made with the hope that they will assist in developing more effective relations between intergovernmental institutions and CSOs.

Recommendations

The Study makes a number of specific recommendations but all these can be summed in the following:

- I. There is need to broaden consultation between states, RECs and civil society formations in ways that would bridge the gap that currently exist.
- II. The role of CSOs especially in those regions confronted by conflicts should be scaled up. Their advocacy role also needs support and strengthening.
- III. CSOs also need to increase their networking activities and increase learning and sharing of ideas, knowledge and increasingly share their resources.
- IV. There is need for more human and financial resources for both RECs and CSOs. The financial support is required for as many activities as capacity building in all institutions especially in filling up vacant posts. Funding is also needed for infrastructure and communications.
- V. The need for technical assistance especially for RECs is urgent and more resources should be allocated to that process. In the same context efforts should be developed to sustain RECs.
- VI. The private sector has been sidelined in many of these processes. It is time it is included so that it can also contribute towards the financing of regional processes.
- VII. CSOs need to learn more about RECs and how they operate. In a way this is so that they can revise their strategies for engagement to understanding power dynamics.
- VIII. Further, CSOs need to develop and strengthen their research skills and their capacity to engage in evidence-based advocacy.
- IX. As more argued CSOs need to be trained in the art of diplomacy, monitoring, evaluation and financial management to reach in effectively to RECs and other intergovernmental institutions.

INTRODUCTION

This study is about the effectiveness of Regional Economic Communities in particular and the African Union and its various structures in general. The study coincides with the audit review of the African Union which was recommended by the 9th Extraordinary Session of the Executive Council of the African Union in November 17-18, 2006 in Addis Ababa. Under the context of the Union Government discussion, the Council noted that all member states desired a United States of Africa but agreed on the need for a 'practical and progressive approach'. The Council recommended an audit review of the state of the Union so as to identify areas that would need improvement in accelerating African integration. At the time of writing, the AU had established a Panel of the Wise that was examining the workings of the Union, its programmes, activities, policies, Technical and Specialised Agencies, RECs and relations with civil society.² This study falls squarely in one of the terms of reference that stipulates that the Panel of reviewers will 'make an assessment of the degree and conditions of the involvement of the civil society and the African population in the process of continental economic and political integration'. This study and many others should be transmitted to the Panel and the Resource Persons in order to contribute to the review of the Union.

The importance of this study lies in the fact that today more than ever, there is overwhelming consensus that civil society organisations should be more than advisors-instead should assume roles of implementers and policy-makers in their engagement with pan African and intergovernmental institutions. This report is thus an attempt to interrogate whether or not civil society transcends the normally assigned advisory role to a more substantive function that is transformative. Put differently, the report explores whether or not regional groupings have gone beyond just being friendly to people to being driven by citizens. In *Establishing a Civil Society Interface Mechanism with Pan African institutions*,³ we interrogated the relations that exist between civil society organisations and the various structures of the African Union, in particular, the Pan African Parliament, the New Partnership for Africa's Development and the African Peer Review Mechanism. Our conclusion was that in general the African Union has progressive legal and institutional frameworks for the inclusion of civil society in its programmes, activities and structures. In particular, the establishment of the Economic, Social and Cultural Council as an official platform for civil society to provide advice to the AU, the creation of civil society focal points or desks in many of the AU structures and the many consultations with civil society organisations on matters affecting the Union, are among others, telling examples of the significance that the AU has attached to involving civil society. This cannot be clearer than it is in its Constitutive Act and other founding legal instruments.

In this REPORT, we explore how civil society organisations and other social formations reach in to Regional Economic Communities. Established as drivers of economic integration, RECs have since assumed expanded mandates that include promoting and maintaining peace and security in the various sub-regions. This has meant that RECs have to reach out to citizens, traders, women's groups, trade unions, workers, faith based institutions, researchers and the broader church of civil society formations. Although some of the RECs are advanced in their involvement of civil society, others are still in their formative stages. Among others, this report will seek to address the following areas:

- Theoretical and practical provisions for civil society inclusion in policy formulation, implementation and monitoring by RECs;
- Active interface CSOs mechanisms;
- Capacity needs of civil society in engaging with RECs;
- Capacity needs of RECs in reaching out to civil society in particular and in implementing programs in general;
- Factors that enable or limit effective engagement between civil society and RECs (domestic and global);
- Appropriate levels for pitching civil society engagement with RECs;
- Thematic areas for engagements;
- Role for development actors, in particular, UNDP, Regional Centre for Eastern and Southern Africa.

These areas are explored below with lessons and examples drawn from the Economic Community of West African States (ECOWAS), the Southern African Development Community (SADC), the East African Community (EAC), the Common Market for Eastern and Southern Africa (COMESA) and the AU Commission. In all these regional groupings, interviews were conducted with officials that dealt directly or indirectly with civil society organisations. In addition, we looked briefly at the Economic Community of Central African States (ECCAS), the Inter-Governmental Authority on Development (IGAD) and the Southern African Customs Union (SACU). Here we relied heavily on published material. Interviews were not conducted for the additional RECs, hence going forward it would be important that a comprehensive study be conducted on these. This is so because currently, these groupings' relations with civil society are still very much in formative stages. Because of time constraints, not all RECs were studied. A similar study is recommended for the remaining RECs. And because we studied the Pan African institutions a few months ago, this report will not discuss in detail civil society relations with those institutions, serve to pull out recommendations and strategies for development actors, in particular, UNDP. The discussion that follows is contextualised within Africa's political economy and that of the aid industry in which civil society, RECs and national governments are deeply immersed. The following is a brief discussion of the challenges and opportunities confronting the continent and how civil society and RECs are responding within the context of continental and global configurations.

The African continent has been described in many terms some derogatory others romanticised. Writings range on the one hand from wild romanticism of Pan African journalistic writings for example, *New News Out of Africa: Uncovering Africa's Renaissance* by Charlayne Hunter-Gault and wild optimisms of scholars such as Jean-Marie Cour and Brah Mahamana who have conducted studies for the Club du Sahel. Jean-Marie Cour and his associates have argued that 'the mobility of Africans and their energetic population has brought about massive structural changes in the economy and society, including settlement patterns. They write that the capacity of the people to quickly adapt to changing circumstances and in so doing improvise and innovate has been central to their efforts in improving their lives. They conclude that West Africa, for example is poised for massive structural change and the outlook from a demo-economic perspective is not one that gives cause for negative concern given the record of flexibility and adaptability of the people. And yet the problem with this approach is that it is built on one-sided confidence associated with population growth, migration and exposure to world markets. But surely an argument can be made that any failure to manage the socio-economic and political stimuli that the population growth and flows might trigger can be very disastrous.

On the other hand are an extreme pessimism of scholarly writings of people such as Robert Kaplan, who wrote for example in 1994 for the *Atlantic Monthly* about 'The Coming Anarchy'

and the journalistic accounts of horrors, diseases and skeletons as has been typified by *The Economist's* 2000 article on 'the Hopeless Continent' and the *Time Magazine's* 'The African Crisis'. Both scholarly and journalistic accounts of Africa in this category see everything in negative terms. They make a conscious decision not to report on the positive developments in Africa. In his study of West Africa, for example, Kaplan saw only an Armageddon awaiting the countries of the sub-region. Because of prolonged economic crisis, wide spread social fragmentation, including the big gap between the rich and the poor, the collapse of institutions, challenges of corruption, lack of public accountability, illegitimate governments (bad governance), rising tensions in ethnicities, religion and identities, (in particular Islamic identity), etc, Kaplan concludes that these poise a threat to political and economic stability. The absence of any mitigating factor suggests that the region is therefore headed for a major anarchy which can only be prevented through some major intervention. This mentality is also expounded by Paul Collier in his new book: *The Bottom Billion: Why the poorest countries are failing and what can be done about it*. Writing in 2007, renowned economist and former director of research at the World Bank Collier is of the view that the bottom billion is primarily found in Africa and if not rescued it will pull down the developed nations into a limbo. In this view, Africa is the problem, hence to avoid this catastrophe happening, Collier suggests some interventions, one of which is external military intervention, in particular the European rapid force. There are many other writings of this nature and the main problem with this approach is that it is as if Africa is about to explode. Even though there is some truth to their writings, it becomes easier for their critics to evade the truth and argue that these writers are racist and are thinly disguising their writings with an invitation for re-colonization. The other problem with this always negative representation is that it assumes that events follow always a downward spiral as if there are no progressive forces either in Africa or outside that are interested in reversing the trends. And yet there are many such initiatives either from Africans themselves or from the international community.

It would therefore seem that the true representation of Africa lies somewhere between the extreme pessimism of scholarly and journalistic accounts of people like Kaplan, Collier and media outlets like *The Economist*, *Time Magazine* (BBC, CNN etc) and the wild optimism of Cour and associates as well as media houses in Africa especially those controlled by the state. It lies somewhere between horror stories in Darfur, Zimbabwe, etc and democratic consolidation in Botswana and South Africa. It lies somewhere between the state media and the so called independent media in Africa. In short, the true representation of Africa is imagined somewhere between the binaries.

And yet there are some facts that Africa faces which both RECs and citizens of different sub-regions are responding to. Civil society organisations for example are today more and more responding to the challenges facing the continent. These are challenges especially around what some analysts have referred to as 'traps'. For example, in his book, *The Bottom Billion: Why the Poorest Countries are failing and what can be done about it* (2007)⁴, Paul Collier argues that 70% of the people who constitute the bottom billion in the world live in Africa. And these people are trapped in a 'black hole', a limbo, he suggests. These traps include conflicts, natural resources, being landlocked and bad governance. And according to Jeffery Sachs, especially in his book; *The End of Poverty: How can we make it happen in our lifetime* (2005)⁵; these traps are poverty, financial, demographic, health and governance.

Lifting these people is the Achilles hill of civil society and RECs among other national and continental initiatives and structures. There is no doubt that most countries in Africa have been through and are going through civil strife. The case of Darfur now is fast becoming a nightmare for Africa and the international community. The challenge for civil society and other social

formations in such contexts is to implement the tenets of the resolution and ensure that political peace also ushers in social justice.

In the field of governance, most countries are fairing badly. There is an increasing nexus between natural resources rich African countries and the diminishing of political and even socio-economic rights. As most writers have rightfully demonstrated that, where there is a concentration of oil, for example, leaders tend to be autocratic. Collier demonstrates through his statistical models how 'oil rents substantially reduce the likelihood that a society can be democratic (2007:44)'. For example, instead of following the democratic rules on election, political parties use proceeds from natural resources to bribe voters. How natural resources are used effectively for the development of the continent is an area that civil society and regional groupings have to grapple with; for it touches on the core of Africa's problems: leadership. There are a host of other governance challenges that civil society ought to deal with within the context of the democracy and peace and security agenda of the African Union. The rise of China and India and to some extent the growing influence of Russia, are developments that civil society and RECs need to be abreast with. Their growing influence in Africa has implications for the direction and practice of governance, democracy and the promotion as well as protection of human rights. The research and advocacy functions of civil society organizations in particular will be tested as more and more global issues affect the local levels.

Most of African countries are also landlocked and this has implications on their infrastructure. And yet many civil society organisations, development actors and aid agencies shy away from supporting infrastructural projects. Failure to work in this field means that development efforts are short-changed. This is also linked to the fact that more often civil society groups are interested in soft issues mainly on human rights, political matters and advocacy; and very few of them work on the so-called hard issues like economics, technology, energy and infrastructure among others. Even the area of regional integration is a field that civil society organisations have not gained expertise on and yet is used to be the central rallying point for a working relationship with RECs. There is still a lot that civil society has to learn about regional integration. Again civil society is challenged here not just to be familiar with the political aspects of integration but to be aware of the more technical and sophisticated dimensions and how those impact on citizens. These issues demand that civil society be specialized as well and increasingly become sophisticated in its methodologies to meet the demands of the current global context. And yet in most cases, civil society is found wanting in this respect. Not many organizations have invested in specialized research and high-tech instruments for information gathering.

Perhaps even more daunting is the dependency on foreign sources of funding for both RECs and civil society groups. This is very much disempowering for African institutions and ways need to be established that would facilitate a process where Africans can be in control of their development agendas. As the discussion will show there are many capacity needs that need to be addressed for an effective and sustainable relations between RECs and civil society. These challenges are not exclusive and so there were presented here to outline possible areas of collaboration between RECs and CSOs. There are other challenges, for example, around diseases (HIV-AIDS, Malaria etc), poverty, corruption and natural droughts among many others.

Amid these, however, a number of opportunities have also opened up for civil society involvement in global, continental, regional and national processes. Civil society has become important at local as well as at international levels especially on social issues. Although in the past decades, civil society organizations were mainly in the development sector, particularly focusing on delivery of services at grassroots levels, today and understandably so, civil society mandates have expanded and so have their programmes. This has been in response to world

developments that have signaled to civil society actors that national and international contexts and or developments impact on local realities, even at the grassroots where most civil society groups operated (Brown et al, 2002).⁶ This has meant that civil society also responds meaningfully to these reconfigurations. There has been therefore a growing need to understand as well as influence these forces. And as civil society organizations take on these new roles at a much more expanded scale, most of them face the challenge of knowledge gathering, access, generation as well how to manage and use it. It is a fact that influencing policy at higher levels (international, national or at corporate levels) demands understanding of the issues. For many groups, the ‘conceptual and informational challenges of effective action and transnational issues are more than a little intimidating (ibid).’ This requires that civil society changes its modus operandi to include cooperative methodologies within, among and outside themselves. It demands a new paradigm; one that would bring academics, activists and policy makers together to find solutions to pressing issues facing the continent and the world. The report discusses therefore how civil society and RECs have forged relations; be they thematic, structural or institutional.

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AFRICAN UNION AND CIVIL SOCIETY RELATIONS

In this section we seek to discuss the African Union and civil society relations. First we look at the spaces or entry points for civil society participation in AU activities. This is done through an examination of how the AU reaches out to civil society and citizens and in turn how citizens and organized groups reach in. In other words, we are interested in the architecture of the African Union and existing interface mechanisms for the inclusion of civil society. Also important is how civil society has crafted alternative spaces for its own intervention in AU matters whether through structures or thematic focus. Increasingly civil society and AU structures including RECs are realizing that part of the reason why they are not performing effectively is because they face capacity challenges. We examine also here capacity challenges and needs of both inter-governmental structures and civil society formations. This in many ways speaks to the effectiveness of their relations and mode of engagement. We also look at whether or not the environment for collaboration is facilitative or limiting. What are the factors that inhibit effective performance and what needs to be changed?

Entry Points: How the AU reaches out and How CSOs reach in

The main entry points for civil society engagement with the African Union include the main organs of the AU (the Assembly, the Executive Council, the Commission, the Pan African Parliament, the Peace and Security Council, the Court of Justice, the Economic, Social and Cultural Council, among others). Within the Commission, various departments⁷ provide space for the inclusion of civil society and have mechanisms to reach out to civil society. More specifically, the Citizens Directorate (CIDO) operates as a focal point for civil society and citizens both from the continent and the Diaspora. Beyond the AU organs and directorates, civil society organizations have also used founding documents and treaties developed by these institutions to assert their right to be involved in matters that affect the citizens. The constitutive Act of the AU, the Treaty Establishing the African Economic Community (AEC) among others are some of the legal instruments that make provisions for civil society. In addition civil society organizations have crafted alternative spaces to contribute to the work of the AU, for example, organizations doing research on peace and security issues have formed a network that will feed information to the Peace and Security Council particularly within the early warning mechanism.

Further civil society organizations meet at the margins of the AU Summits of heads of State and Government to discuss issues under the spotlight, for example in 2007, civil society organisations met in Accra to discuss the Union Government debate (see box 1)

Box 1: African Civil Society and the Grand Debate

Since January 2007, when the African Heads of State and Governments called for public consultations and debate on the Union Government proposal, national and sub-regional level debates slowly gathered momentum. Civil society organizations joined together in calling for a

people-driven process in which the voices and perspectives of the people of Africa would be brought to bear on both the debate and its outcomes. Accordingly, many CSOs launched campaigns to raise awareness and educate the public about the continental union government proposal.⁸ In countries such as Nigeria, Senegal, Libya, Zimbabwe, South Africa, Kenya, Ghana and Ethiopia, public debates or consultations took place. There were public consultations, people's hearings, media campaigns and distribution of publications on the need for a Union Government. Apart from the civil society led consultations, there were also numerous national, regional and continental level consultations. In May 2007, African Foreign Ministers and Permanent Representatives of the AU held consultations on the matter in Durban, South Africa, and in the same month of May, there was an AU-Civil Society meeting in Addis Ababa on the matter.⁹ It was against this background that a continental civil society conference was held in Accra Ghana from 22 – 23 June 2007. The conference was held under the theme "Accelerating Africa's Integration and Development in the 21st Century: Prospects and challenges of Union Government". The conference was convened ahead of the 9th Ordinary Summit of the African Union which also took place in Accra. The conference included more than 100 participants from a broad range of African civil society representatives of 50 countries. Various issues relating to African integration were discussed including the strengthening of inter-African trade, free movement of people, and a common African passport. At the end of the conference, a civil society communiqué, "From a Grand Debate to grand actions for a united Africa" was issued. It read: There is a clear consensus among us in favour of rapidly accelerating continental integration in order to respond to current and future economic, political and social challenges. Accordingly, we support the proposal for the establishment of a Union Government. We believe that the Union Government must be a People's Union and must be built on values of participation and democracy in its construction and implementation at continental, regional and national level.¹⁰

Because the media plays very critical roles in society, some civil society organizations have used the media to raise awareness of the issues that affect citizens. The AU Monitor is one such instrument that keeps track of events by the African Union. A planned interface office for civil society organizations in Addis to interact with the AU is underway. TrustAfrica and the Open Society Institute are working the final modalities around the establishment of such an office. The paragraphs below discuss these avenues and identify factors that need to be addressed for an effective relationship between the AU and citizens in the various member states.

The Legal framework

The Constitutive Act and the Treaty establishing the Africa Economic Community determine somewhat the legal framework in which AU-civil society relations are conducted. The Constitutive Act, for example, stresses the need for the Union 'to build a partnership between governments and all segments of civil society...women, youth and the private sector (Constitutive Act 2002). It further articulates the AU's vision as that which 'promotes democratic principles and institutions, popular participation and good governance; promote and protect human rights...'. It would seem therefore that the AU accords a lot of credence to civil society inclusion in the Union, at least in principle and in legal terms. And from a developmental perspective, it argues that a full realization of a united Africa requires the solidarity, cooperation and partnership with all segments of civil society (Southern Africa Trust 2007). In practice, however as this report shows, the facilitation of these relations is more often found wanting.¹¹ For example, a number of respondents interviewed at the AU Commission argued that CIDO, for instance was not always efficient in facilitating interaction with civil society.

The current AU-CSOs relations are historically based on the fact that civil society has always lobbied intergovernmental institutions for inclusion. For example, the OAU was always aware of the need for popular participation in the transformation and development of the continent. For instance, in 1988, African NGOs seized the opportunity at the United Nations Programme of Action for African Economic Recovery and Development (UN-PAAERD), in progress since 1986 and began a process that led to the drafting of the African Charter for Popular Participation in Development and Transformation, which was formally adopted by the OAU and the United Nations after the landmark conference in Arusha in 1990.¹²

The Charter recognized that the current crisis in African development is not only an economic crisis, but a crisis in human security, human rights, political and social development. Further, the charter stressed that African nations and indeed the whole of the continent cannot develop fully without the popular support and full participation of the whole spectrum of African civil society. This laid the foundation and basis upon which a framework for the promotion of popular participation in African development was developed and basic strategies, modalities and actions for effective popular participation at different institutional levels were provided, for example, at the level of; governments, organisations, international community, non-governmental organisations, media and communications, among others.¹³

Based on the charter, the OAU, the Economic Commission for Africa and African civil society organisations organized the first OAU-African Civil Society Conference on “*Building Partnership for Promoting Peace and Development in Africa*” in Ababa, in 2001.¹⁴ This was in response to the OAU Secretary General’s reform package that also included close working relations with civil society.¹⁵ The conference recommended formal consultations between the OAU and African CSOs. Further, a framework for cooperation was adopted. While CSOs were tasked with organizing themselves at national, regional and continental levels, the OAU was requested to establish a focal point for CSOs within the OAU Secretariat. The Conference on Stability, Security, Development and Cooperation (CSSCA) was established as the focal point for CSOs.¹⁶

A year later, a second OAU-Civil Society was held again in Addis Ababa in June to consolidate the initiatives of the first conference, developing mechanisms to promote civil society in Africa and establish modalities and mechanisms for collaboration between the OAU and civil society in preparation for the inaugural session of the African Union in Durban in 2002.¹⁷ The first conference was evaluated and suggestions were made to strengthen AU-CSOs cooperation, develop criteria for accreditation of CSOs and a CSOs code of conduct. Further a Provisional Working Group to develop statutes of the Economic, Social and Cultural Council was put in place.¹⁸ The group was drawn from the six African regions. The group had three members from each region, one member each representing the African Diaspora in Europe and America, and three members nominated by the AU Commission.¹⁹

The other subsequent meetings between civil society and the AU have been conducted at the AU Commission but also at the margins of the Heads of State and Government summit under the auspices of the Citizens Directorate. For example, in 2004, CSOs were presented with the AU 2004-7 Strategic Plan. That plan which comes to an end in 2007 articulates 26 priority programmes of action with specific timelines. Volume 3 of the Plan for example identifies priorities that concern “Citizens of Africa”.²⁰ It argues that it would, “ensure that the talent, resources and dynamics of the African people and the Diaspora are fully utilized in the implementation of the programmes of the African Union.”²¹ The plan envisaged establishing ECOSOCC, establishing national and regional consultative frameworks and supporting pan African civil society formations and networks. Further, the AU would hold systematic civil

society and private sector meetings at the margins of AU.²² The Southern Africa Trust study on AU-CSOs relations argued that the extent to which most of these objectives and activities have been implemented is a field for further research. But it concluded that a number of the proposed activities had been implemented, for example, the establishment of the AU/NEPAD/APRM offices in Midrand, the launching of ECOSOCC, holding of civil society and private sector meetings and well as support of African organisations (Southern Africa Trust 2007).

From CSSDCA to CIDO

As stated above, CIDO plays an important role within the Commission with regard to civil society involvement with the AU. Currently, CIDO has three main functions: it has a civil society programme, a Diaspora focus and also functions as ECOSOCC's secretariat. CIDO has its genesis in the CSSDCA which we referred to earlier. In May 1991, African heads of State and Government met in Kampala and discussed security, stability and development on the African continent. The outcome document, which was later known as the Kampala Declaration proposed a Conference on Security, Stability, Development and Cooperation in Africa.²³ And in 1999 at the OAU Extraordinary Summit in Sirte, heads of State and Government decided to convene an African Ministerial Conference on Security, Stability, Development and Cooperation in May of 2000 in Abuja. The conference was followed by an adoption of the Solemn Declaration on the Declaration on the SCCDCA at the 36th Ordinary Session of the Assembly of heads of State and Government in Lome (2000)²⁴. A CSSDCA Standing Conference of heads of State that would convene every two years during the Summit was established.²⁵ The first of these meetings took place in Durban, in July 2002, during the Summit of heads of State at the inauguration of the African Union. Here the 'Protocol Establishing the Peace and Security Council' was adopted.

One of the early responsibilities therefore of the CSSDCA was to facilitate the implementation of Article 20 of the protocol which calls for civil society participation. Titled, "Relations with Civil Society Organizations", the article says;

The Peace and Security Council shall encourage non-governmental organizations, community-based and other civil society organizations, particularly women's organizations, to participate actively in the efforts aimed at promoting peace, security and stability in Africa. When required, such organizations may be invited to address the Peace and Security Council.²⁶

The importance of CSSDCA for CSOs is that from the beginning it was located within the OAU secretariat as the focal point for civil society engagement. In this sense it was the CSSDCA unit that organised the first OAU – civil society conferences described above. The unit also organised parallel civil society activities alongside AU Ministerial meetings in 2002 and in 2003. These meetings continue today under the tutelage of CIDO (see box 1).²⁷

Box 2: The AU-CSOs Forum

The AU –CSOs Forum is an event organised by CIDO before every AU summit. CIDO uses the forum to brief civil society organisations on relevant developments within the AU, particularly implementation and consolidation of past Summit declarations and decisions. The Forum also serves as an opportunity for CSOs to influence AU policy by submitting recommendations to the summit. Since July 2004, there have been four such forums, in Addis (2004), Abuja (2005), Banjul (2006) and Accra (2007). Generally CIDO provides funding for the attendance of CSOs in these forums but other well resourced CSOs normally support themselves. Although "CSO forums are evidence of the AU's openness to civil society engagement with its processes"²⁸, there have been concerns raised about their consistency and effectiveness. For example, in June 2005, due to political and logistical problems, CIDO was unable to convene the Forum ahead of the Sirte AU Heads of State Summit. The same happened with the Summit in Khartoum in January

2006.²⁹ Other meetings that CIDO has involved CSOs on include the ‘African Civil Society Organisation Consultation on AU-EU Joint Strategy for Africa’s Development, Accra (26 – 28 March 2007)³⁰

As stated above, CIDO currently functions as a liaison office with CSOs in the continent; an outreach platform to the Diaspora; and as the ECOSOCC Secretariat³¹

As the ECOSOCC Secretariat, CIDO develops AU policy on civil society and facilitates partnerships between NGOs wanting to collaborate with different AU Directorates.³² CIDO has also been involved in efforts that seek to involve the Diaspora in African matters. Hence it organised the conference of intellectuals from Africa and the Diaspora in Dakar in 2004, and the second one in Bahia, Brazil in 2006. In 2006, CIDO also planned the Africa-South America Summit in Abuja. Some level of optimism has been raised about CIDO’s role in involving CSOs. For example, one report stated that, “together with the Peace and Security Directorate, CIDO is pioneering a policy framework that will create further space for civil society input into the development of AU policies at technical level.”³³ The other claimed that, “CIDO has played an important role in reaching out to civil society organisations, and the existence of the office has meant that the AU Commission is more open to African citizens than the OAU Secretariat was”.³⁴

Despite this optimism, some quarters have raised their concerns about CIDO. Like other intergovernmental structures, CIDO suffers from capacity challenges. For a long time CIDO operated with limited staff. Due to these challenges, CIDO has not raised its profile and visibility especially on the continent like other Directorates have done. That there are more staff members now should improve CIDO’s capacity.³⁵ But as was stressed by respondents at the Commission, civil society organisations are free to interact with any department or commissioner without necessarily having to go through CIDO. This is also because directorates are the originators of policy documents that are normally presented to the Council of Ministers and to the Assembly by the Chairperson of the Commission. It means therefore that any meaningful engagement with the AU, especially at the Commission level should by all means begin with the directorates. And where civil society organisations have sought to make inputs at the level of the Executive Council without having been part of the policy formulation at the directorate level, tensions and relations are usually strained. While this level of intervention might achieve certain gains, especially at the level of advocacy, it certainly does not contribute to policy-change or formulation.

A critical criticism that should be addressed is that CIDO stage-manages the development of ECOSOCC, and that it acts as gatekeeper to civil society engagement with the rest of the AU. Hence as reported above, civil society should be able to bypass CIDO and interact with directorates. The relationship between CIDO and the interim ECOSOCC needs to be addressed. This is because as the World Vision concluded, “CIDO remains an influential gateway and a potential first port of call for CSOs seeking to engage with the various AU institutions...”³⁶

Civil Society and AU Directorates

Over the years there has been collaboration between some AU departments, in particular, trade and industry; peace operations; and women, gender and development and civil society organizations. All AU Directorates invite civil society representatives as observers to different meetings such as expert level meetings, Ministerial meetings and pre-Summit Forum meetings.³⁷ Below is a discussion of a few of those departments.

1. Directorate of Trade and Industry.

Civil society organisations have interacted with the African Union on issues of trade, particularly international trade. In 2003, for example, CSOs were represented at the first Session of the African Union Ministerial Sub-Committee on Trade that was held in Mauritius in preparation for the World Trade Organization (WTO) Ministerial Conference in Cancun³⁸. Ever since, then the African Union position on WTO negotiations is usually influenced by views from civil society. Most recently, African Civil Society Organizations lobbied African governments and the African Union to reject the proposed EU-AU Free Trade Agreement (FTA) and a proposed Economic Partnership Agreement (EPA). Instead, civil society organizations proposed a Fair Trade Agreement between Africa and the EU.³⁹ As a result of this advocacy, African Union Ministers of Trade made the decision that Africa is not ready to conclude proposed trade accords with the EU.⁴⁰

At AU Headquarters, the Directorate of Trade and Industry does not interact too often with the African Citizen's Directorate in matters concerning civil society participation. Rather, it interacts more with private sector business actors. In this regard, the department organizes annual meetings under the AU-Private Sector Forum which was institutionalized as part of the AU structures by an Executive Council Decision.⁴¹ The AU-Private Sector Forum is the key instrument of interface and partnership between the AU and the private sector.⁴² In this relationship, the directorate plays the role of facilitator while the private sector and development agencies finance the Forum.

2. Directorate of Women, Gender and Development

The Organization of African Unity had a Women's Division that was set up under the Community Affairs Department. However, due to lack of financial and human resources and a lack of legal frameworks for interaction with CSOs, there was very little interaction with CSOs. In 1998, the OAU with the help of the UN Economic Commission for Africa (UNECA) established the African Women's Committee on Peace and Development (AWCPD) to advise the OAU Secretary General and UNECA on issues of women, peace and development. The AWCPD comprised members from (and chosen by) CSOs, members chosen on their personal capacity and members chosen by African governments.⁴³ The AWCPD was driven from outside by CSOs but it became the main entry point for the interaction between the OAU and African CSOs on matters of gender.

Some of the leading CSOs that frequently interacted with the OAU during this period include Femmes Africa Solidarite (FAS), Women in Law and Development (WiLDAF), African Women's Development and Communication Network (FEMNET) and the Federation of African Women in Education (FAWE). From the year 2000, these and other CSOs lobbied for the creation of a Directorate of Gender at the OAU and for a Specialized Technical Committee on Gender equality. These demands were presented at the inaugural Session of the African Union in Durban in July 2002 leading to the creation of the current Directorate of Women, Gender and Development, complete with provisions for gender equality in AU staffing up to the level of Commissioners.

A major landmark in the interaction between the AU and these CSOs was the adoption of the Solemn Declaration on Gender Equality in Africa (SDGEO) during the third session of the AU in Addis Ababa Ethiopia, in July 2004. This development followed heavy lobbying by members of the "Gender is my Agenda" Campaign. Following this, women's civil society groups met on numerous occasions to advise the AU Directorate of Women, Gender and Development on how to implement the declaration.

Although there are still some serious challenges to be overcome, the AU and the majority of women's civil society groups have achieved the following:

- Durban Declaration on Mainstreaming Gender and Women's Effective Participation in the African Union, June 2002;
- The Dakar Strategy, April 2003;
- The Maputo Declaration, June 2003;
- The African Women's Contribution to the Declaration on Mainstreaming Gender in the African Union;
- The Abuja Recommendations for Civil Society Monitoring and Evaluation of the Solemn Declaration, January 2005;
- The Tripoli Commitment, July 2005;
- The Dakar Strategic Partnership, October 2005;
- The Banjul Declaration, June 2006;
- The Banjul Call for Action, June 2006;
- The Addis Call for Solemn Implementation, January 2007;
- The Civil Society Shadow Report on the Solemn Declaration on Gender Equality in Africa, Addis Ababa, January 2007.⁴⁴

The major challenges however facing the AU and women civil society groups are:

- AU women Commissioners have become so busy that sometimes they fail to attend to initiatives undertaken by women civil society organizations.
- The Directorate of Women, Gender and Development is severely understaffed at AU Headquarters. There is a need to encourage women from all over Africa to apply to fill the vacant positions and also for the AU Commission to speed up the process of hiring staff.
- The successes of women civil society organizations at the AU Headquarters have not been translated to corresponding success at national level in the 53 states comprising the African Union.
- There is need to assist some women civil society organisations in their capacity building projects.
- The AU Directorate does not have enough resources to fund the many activities involved with women civil society organizations on the African continent. The AU Directorate relies on the same donor organizations from which CSOs are seeking funding. These financial constraints do not auger well for effective interaction between the AU and CSOs.

3. Directorate of Peace and Security

Under the Organization of African Unity, CSSDCA and the African Women's Committee on Peace and Development were the main entry points for civil society organizations to interact with the continental body. With the African Union, the Peace and Security Directorate is divided into three divisions namely, Defence and Security, Conflict Management and Peace Support Operations. Each of the divisions interacts with civil society organisations that are familiar with the issues at stake. The Peace Support Operations Division has held numerous consultative meetings with civil society organizations in Addis Ababa and with the AU regions. The major thrust of these consultations is to accommodate civilians in African Peace Missions as part of peace-keeping officers as required by United Nations standards. These AU-civil society consultations have also extended to include participation of civil society in the ongoing training of the African Standby Force that is being undertaken by the regions.

However, there are still a number of challenges to be overcome. On the African Standby Force, there is a need to include civilian police in the force establishment. None of the regional brigades has done that yet. In most countries, there is no legislation that allows civilians to be deployed on military operations outside their countries; thus, national laws have to be put in place for that. But a few countries already have civilian police deployed on United Nations missions in various countries and they can provide examples of possible enabling legislation. There is also a need for a legal framework that includes civil society organizations to participate in African Union peace and security decision - making processes.

Another Peace and Security division that has been engaging heavily with civil society organizations is Conflict Management especially on Post Conflict Reconstruction and Development Program (PCRD). In March 2007, the AU Peace and Security department hosted a consultative meeting with civil society organizations to discuss the role of civil society in the operationalisation of the Banjul decision adopting the African Union PCRD.⁴⁵ A similar and follow up meeting was held in Lusaka, Zambia in July 2007.

4. Directorate of Social Affairs

The Directorate of Social Affairs currently deals with a variety of social issues such as:

- Health;
- Children;
- Drug Control;
- Population;
- Migration;
- Labour and employment;
- Sports and Culture.

The Directorate interacts with civil society organizations in each of the issues. However, because of the divergence of the issues involved, there is no particular pattern and there is no framework to guide the Directorate and civil society organisations on how to interact with each other. However, the Directorate has worked closely with civil society organizations and the relationship has produced some important results. Some of the most visible results of the interaction between CSOs and the directorate include:

- The African Union has been interacting with civil society organizations on health matters. In 2001, CSOs were involved in the preparation of policy documents for the Abuja Summit on HIV and Aids, Tuberculosis and other Related Diseases. The consultations produced the African Common Position on HIV and Aids that was presented to the UN General Assembly Special Session on AIDS in 2006.
- The Directorate of Social Affairs and some CSOs co-organized the first African Social Partners Forum in Ouagadougou, Burkina Faso, 03-04 September 2004. The meeting produced recommendations and draft documents which were presented at the Assembly of the African Union Third Extraordinary Session on employment and poverty alleviation also held in Ouagadougou on 08-09 September 2004. The resulting Declaration, Plan of Action and Follow-up Mechanism remain the guiding principles and policy of the African Union on labour and employment issues on the African continent.⁴⁶

Challenges

The discussions above show that in general most AU directorates and pan African institutions are understaffed and are not able to engage civil society organisations effectively to the extent that they would wish. More importantly, some AU Directorates are not able to make policy interventions in their areas of responsibility because of lack of human capacity. In some directorates, for example, the vacancy rate is higher than 60%. The major constraint in human capacity is the funding of established posts. However, even where funding is available, the recruitment process takes too long to finalize. One interviewee said that AU processes are bogged down by too much bureaucracy, a reflection of the fact that a good number of Directorate personnel are civil servants from African states seconded to the AU. Another major challenge facing these structures is the fact that there are not enough experts in the multiplicity of issues that they deal with. Therefore, in many cases they resort to the commissioning of consultants to carry out specific studies and to draft policy documents. The process for the identification and commissioning of these experts is cumbersome and policy documents take a long time to draft. Some Directorates have made links with organizations that maintain databases of African experts in various fields. The Directorate of Peace and Security is working with one such database centre, the African Civilian Roster for Humanitarian Relief and Peace Support Operations based in Bulawayo, Zimbabwe.

Recommendations

The African Union Commission and its structures deal with so many issues of continental and global importance that it is not possible to capture all relevant issues in a short study such as this one. And, on all those issues, the AU engages with various civil society organizations in policy formulation and in drafting implementation strategies. Therefore, the description above is only a selection of some of the most visible engagements between the AU and civil society organizations. It is also important to note that because the African Union is such a vast organization dealing with so many issues, it is difficult for civil society organizations to keep pace with all the developments at AU Headquarters. At times, AU Directorates are under immense pressure to formulate policy resulting in them acting with minimum consultation with civil society. The important thing is that all AU Directorates have instructions to consult with civil society on all issues. These instructions are spelled out in various Summit Decisions, Executive Council Decisions, AU Protocols and in the Constitutive Act of the African Union. Sometimes the effectiveness of AU-civil society consultations is a function of the efficiency or lack thereof, of a particular officer in a particular position in the various directorates. In this regard, it is important to note that a number of personnel are civil servants from various African states who put interests of their countries first. Some of these officers are used to bureaucratic practices that are not conducive to efficiency.

A number of development partners are already engaged with both the AU Directorates and with some civil society organizations that are consulting with the AU. However, there is room for more participation of development partners in the following and other areas:

- Provide funding for capacity building in all AU Directorates especially in filling up vacant posts. The vacancy rate in some directorates is alarming and this impacts negatively on the delivery of their mandates and also on interactions with civil society.
- Providing funding for infrastructure and communications. The AU has a website, but some of the pages of a number of directorates are empty and are not linked to each other. It is therefore very difficult to locate important documents with information on the activities of particular AU Directorates.

- Provide funding for consultative forums for policy formulation processes. Many of the policy requirements for the Directorates and the AU Commission as a whole are laid out in the Strategic Plan of the Commission of the AU. What is required is the funding to put into action the plans that are already on paper.
- Provide funding for the hiring of experts to draft the various policy documents for the various Directorates.

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CIVIL SOCIETY AND PAN AFRICAN INSTITUTIONS (ECOSOCC, NEPAD, APRM and PAP)

We dealt extensively with the relations between civil society and the pan African institutions in the Southern Africa Trust study⁴⁷. However it is worthy reporting here that all these institutions have made provisions for engaging with civil society organisations and other social formations in their activities, programmes and projects. The Economic, Social and Cultural Council of the African Union occupies a different position from the other three, in the sense that it is in-fact a civil society organ. It was established under the provisions of Article 5 and 22 of the Constitutive Act of the African Union. Indeed Article 5 of the Constitutive Act establishes ECOSOCC as one of the organs of the African Union, while Article 22 clarifies the nature of the organ as; “an advisory organ composed of different social and professional groups of the Member States of the Union”⁴⁸.

Once established, ECOSOCC will have to make itself relevant. It will be a “distinctive...opportunity for African civil society to play an active role in charting the future of the Continent, organizing itself in partnership with African governments to contribute to the principles, policies and programmes of the Union”⁴⁹. According to ECOSOCC Statutes, particularly Article 2, the body will, among things seeks to:

- Promote continuous dialogue between all segments of African people on issues concerning Africa and its future;
- Forge strong partnerships between governments and all segments of civil society, in particular women, the youth, children the Diaspora, organized labour, the private sector, and professional groups;
- Promote the participation of African Civil Society in the implementation of the policies and programmes of the Union;
- Support policies and programmes that will promote peace, security and stability in Africa, and foster development and integration of the continent;
- Promote and defend a culture of good governance, democratic principles and institutions, popular participation, human rights and freedoms as well as social justice;
- Promote, advocate and defend a culture of gender equality;
- Promote and strengthen the institutional, human and operational capacities of the African civil society.⁵⁰

The Sectoral committees of ECOSOCC include: Peace and Security; Political Affairs; Infrastructure and Energy; Social Affairs and Health; Human Resources, Science and Technology; Trade and Industry; Rural Economy and Agriculture; Economic Affairs; Women and Gender; Cross-cutting Programmes.⁵¹ In its first meeting, the Interim Standing Committee of ECOSOCC in Nairobi 2005⁵² developed and adopted a strategic plan of action to facilitate the smooth and effective functioning of the Interim ECOSOCC. This included securing funds from donors both at home and abroad for regional consultations in a bid to speed up the work. With the support of the UNDP, a meeting was held for East Africa in August 2006 and another was held in December 2006 in Addis Abba, both organized by the Africa Leadership Forum. A third meeting organized by the African Forum and Network on Debt and Development (AFRODAD) was held on the 28th and 29th of November in Johannesburg, South Africa, with the support of the Southern Africa Trust and Action Aid International. The Johannesburg meeting was of key importance in that it was able to facilitate the engagement and inclusion of regional civil society networks and organizations within the Southern Africa region. These regional meetings, have

helped to popularise the African Union concept of a people centred and driven union.⁵³ The Johannesburg meeting followed on the recommendations of the Harare consultation hosted by AFRODAD in April 2006.

At country levels, ECOSOCC has also held a number of national consultations with the support of member states of the Africa Union. Some key focal national chapters have been launched in a number of capital cities as a means and mechanism by which ECOSOCC will reach and coordinate national peripheral and grassroots community based organizations (CBOs), Non-Governmental Organizations and Faith based communities. This includes among others, chapters established in Zimbabwe, Kenya, Lesotho, Central Africa Republic, Mauritania and Uganda.⁵⁴ The establishment of an ECOSOCC website will create an opportunity for the organ to be popularized among CSOs. But ECOSOCC is limited by the fact that it is an advisory organ of the Union. This raises questions around its effectiveness. Will it be able to influence policy formulation, implementation and monitoring? There are still many issues that remain unresolved for example concerning criteria for membership, election processes and lack of resources. If not addressed, these have the potential of crippling the organ. However, as stated above, the strength of ECOSOCC lies in its Sectoral committees where experts can make substantive input to matters affecting the Union.

NEPAD was established on principles of a common vision and participatory democracy; although when it was announced it was criticized heavily by civil society as an elitist project that did not consult widely in its formulation (see Cilliers and Sturman 2004). A number of criticisms that were leveled against NEPAD have to some degree been addressed. For example, in 2005, NEPAD reported that, 'it continued to interact with civil society'. On a generic level, a civil society desk was established at the Secretariat with a view to having a one stop focal point for civil society. And at a sector level, all programmes were being implemented in consultation with relevant civil society groups. In addition to these, NEPAD has put in place a think tank comprised CSOs; there is a NEPAD policy dialogue platform and virtual communication through email, newsletter and conferences. The democratisation of these spaces remains elusive. And civil society must strengthen their efforts in contributing to economic and social development, governance and promotion of human rights.

Recommendations for NEPAD/CSOs relations

- NEPAD should popularise the CSOs desk, the CSOs-NEPAD Think Tank and the Gender Task Force.
- NEPAD must open up its consultations with CSOs through regular contacts with others beyond think-tank members.
- NEPAD CSO Desk must publish its strategic plan and calendar of events through many media outlets.
- CSOs and NEPAD should develop joint collaborative programmes on implementation.
- CSOs must sharpen their watchdog functions around NEPAD's inclusion of civil society.

The APRM process is by design consultative especially given the fact that it is implemented at member states levels. One can thus trace and measure the participation of civil society in the implementation of APRM in the 27 countries that have acceded to the review given that the structure and principles guiding the review process provide reasonable space for many actors to engage with government on matters as diverse as governance, economy, human rights and service delivery. Structures at the national level provide for a national coordinating mechanism that covers a wide spectrum and broad-based representation from civil society, to women's groups

and the media among other significant actors. However as research has shown, there is still no clarity about the roles of civil society in the review process, inclusion of civil society in the review has more often confined to those organisations less critical of governments and civil society organisations themselves have not been inclusive of all sectors. For example, in Ghana, there was concern that rural based CSOs were sidelined in the review process.⁵⁵ And yet the exclusion of these groups limits the contribution of civil society to the review process, which includes among others, offering technical expertise, information gathering, research, advocacy, analysis and monitoring.

Recommendations for APRM-CSOs relations

- CSOs must lobby governing councils in their member states to be chaired civil society organisations.
- APRM must clarify and provide adequate information regarding the participation of CSOs in the review process through multiple media outlets.
- APRM must publish a calendar of events which indicates deadlines for activities.
- APRM and CSOs should develop joint programmes.
- CSOs must be involved in the development of the national programmes of action.⁵⁶
- CSOs should seek to contribute by offering technical expertise, gathering information and providing factual reports.

The Pan African Parliament was established in particular to represent citizens of the continent. By nature parliaments ought to ensure the participation of citizens on governance, oversight and development of their lives. Established in 2004 through articles 5 and 17 of the Constitutive Act, and the Protocol to the Treaty Establishing the AEC relating to the Pan African Parliament, PAP provides for the participation of civil society in many ways. For example, the Protocol establishing the parliament, ‘the creation of the parliament was informed by a vision to provide a common space to involve African peoples and their grassroots formations in discussions and decisions affecting the continent. Thus the parliament is mean to facilitate an effective participation of citizens in the economic development and regional integration agenda. One of its objectives is to familiarize Africans with the objectives and policies that are aimed at integrating the continent within the AU framework. Hence in the build up to the Grand Debate on the Union Government in Accra, the parliament canvassed the views of the public by setting up a committee that comprised academics, civil society actors and parliamentarians. Further the proceedings of the parliament are open to the public (Protocol, Article 14:4). Although this is an important space for civil society, more needs to be done to broaden the notion of access to involve participation beyond mere observation.

The parliamentary committees (ten of them) which include among others, the committee on cooperation, international relations and conflict resolutions; the committee on justice and human rights and the committee on gender, family, youth and people with disability also provide an important platform for civil society to make submissions on pertinent topics and be invited as experts. Civil society has not taken advantage of the existence of these committees, except for a few well resourced research institutions, for example, the Institute for Security Studies. Much of civil society engagement with the parliament is determined by the parliament’s rules of procedure. There are many provisions for the inclusion and participation of civil society in the activities of the parliament. We discussed this in another report we prepared for the first CSOs-PAP Dialogue meeting. In that report we interpreted the rules of procedure from a civil society perspective and identified spaces for engaging the parliament through its rules of procedure.⁵⁷ The political will to involve civil society in the activities of the parliament is also explicit in the

2006-10 PAP Strategic Plan. The plan lists activities and programs that it will be involved in; that would be done in close collaboration with civil society. For example, the Plan says that the Parliament must seek to build a people's parliament that is responsive to the needs of the people. It further states that the parliament must ensure the participation of citizens in parliamentary activities. The parliament has already held meetings with civil society and is in the process of establishing a civil society dialogue unit at the Secretariat and desks at national parliaments across the continent in order to raise awareness and link its activities with grassroots activities.⁵⁸

Recommendations for PAP-CSOs relations

- PAP should invite more CSOs to Parliamentary Plenary sessions.
- PAP must advertise more rigorously CSOs meetings with the PAP President.
- CSOs must seek information on existing committees and make submissions on pertinent issues.⁵⁹
- PAP must distribute documents such as the Rules of Procedure, Strategic Plan and Protocol to CSOs for their consideration.
- PAP must make visible some of its CSOs activities such as PAP visits, workshops and seminars by establishing and publishing a calendar of events.
- PAP must reach out more rigorously to CSOs as well as the wider public.
- CSOs and PAP should develop a closer collaborative and complimentary relationship based on mutual respect and equal partnership on a number of areas.
- PAP and CSOs must develop joint programmes on a variety of issues.
- CSOs and PAP must work towards synchronizing Parliamentary activities with those of CSOs.
- CSOs should formalize their access to the Parliament and members of parliament.

But as stated above, not many civil society organisations have knowledge of these institutional spaces. It is for this reason that it is recommended that the parliament and CSOs should work together for the development of the continent. The current contemplated interface facility between CSOs and the parliament is critical to serve as a resource centre for CSOs to easily access the parliament, and probably inform other similar initiatives particularly with regional economic communities.

3

THE EAST AFRICA COMMUNITY AND CIVIL SOCIETY RELATIONS

This section focuses mainly on how the East African Community relates to civil society and citizens as a whole. We further here explore how civil society itself has reached in to engage with the programmes of the Community. The current East African Community is a successor to the original 1967 East African Community. In so doing we identify modalities of engagement, challenges and capacity needs that each face and need as well as suggest some recommendations. Like all other RECs, the Community has put in place mechanisms to involve civil society but these mechanisms are not fully implemented or effective. These and other issues are examined below.

The current Community has its genesis from the first one which comprised Uganda, Kenya and Tanzania, but collapsed in 1977. Political differences between the community's leadership and perceived and real inequalities in terms of members' benefits from the community contributed to the demise of the organization. The current community was revived in 1999 and its constitutive treaty came into force on July 7th 2000. And the community was officially launched in 2001. Then the members comprised Uganda, Tanzania and Kenya, however as of 30 November 2006, the membership was extended to include Rwanda and Burundi, whose membership became effective from the 1st of July 2007. Like all regional economic communities, the EAC was initially established for economic development and integration. But increasingly, RECs have been drawn into the sphere of peace and security. And so the East Africa Community is also increasingly playing decisive roles in conflict management in the horn of Africa for example, particularly in the Sudan and Somalia. In this context the participation of civil society in its activities has increasingly become prioritized. The structure of the community as well as the legislative environment provide entry points for civil society and organisations to collaborate with the community in areas such as promotion of human rights, resolution of conflicts, economic development, democratisation and good governance. The Community for example, holds stakeholder meetings throughout the year and these involve civil society.⁶⁰

Forms and Avenues of Engagement

The Constitutive Treaty that established community provides an enabling environment for the private sector, civil society and the strengthening of cooperation among business organizations and professional bodies. Article 127, in particular, states that:

The Partner States agree to promote an enabling environment for the private sector and civil society to take full advantage of the Community. To this end, the Partner States undertake to formulate a strategy for the development of the private sector and to... promote a continuous dialogue with the private sector and civil society (EAC, 1999).

The same Act further stipulates that:

The Secretary General shall provide the forum for consultations between the private sector, civil society organizations, other interest groups and appropriate institutions of the community (EAC, 1999).

According to this Treaty, civil society may get involved in Community programmes and activities through seeking observer status and participating in a forum for consultations between the private sector, civil society organizations, other interest groups and appropriate institutions of the Community. The Treaty provisions governing the operational principles of the Community (Article 7) also enshrines the principle of *people-centred cooperation*.

The Community has put in place a Ministry of East African Community whose core functions include 'liaising with private and public sector institutions and other stakeholders on EAC matters and facilitating the reviews of treaties, protocols and agreements under the EAC in liaison with other stakeholders'.

The East Africa Legislative Assembly

A crucial entry point for CSOs in the activities of EAC is the representative body, the East African Legislative Assembly (EALA), which is governed by Articles 48 through to 65 of the Treaty. There are 27 elected members of EALA, nine from each partner state and five ex-officio Members (three Ministers, one from each Partner State who is responsible for Regional Cooperation, the Secretary General and the Counsel to the Community). Members are indirectly elected in the sense that they are elected by their respective National Assemblies although not from within the ranks of the National Assemblies. EALA is empowered to make its own Rules of Procedure and to constitute Committees. In addition to providing a democratic forum for debate, EALA also has a watchdog function. The EALA is supposed to liaise with the National Assemblies of the Partner States on matters relating to the Community. Members of the Assembly are also supposed to work closely with the public of their member states on issues to do with the community. In this regard, the East African Legislative Assembly has since its establishment made visits to various parts of East Africa to "publicize the Community and its work as well as familiarise the Parliament with the conditions, resources and challenges facing the region"⁶¹

Rule 85 of the EALA Rules of Procedure, which governs the rights of petitions, gives both individuals and organizations considerable space to express their views to the REC. It states:

Any Citizen of the Partner States, and any natural or legal person residing or having its registered office in a Partner State, shall have the right to address, individually or in association with other citizens or persons, a petition to the Assembly on a matter which comes within the Community's fields of activity and which affects him, her or it directly.

More importantly, individuals or organizations wishing to influence policy direction in the affairs of the community can do so through sponsoring of private members bills, provided for in rule 64 of the EALA and article 59 of the East Africa Treaty. The same rules also explicitly state that 'the member moving a private members' Bill shall be afforded reasonable assistance by the office of the Counsel to the Community' and 'the Office of the Counsel to the Community shall afford the Member moving the Private Members' Bill professional assistance in the drafting of the Bill'.⁶²

The EALA affords the people of the EAC a certain level of representation. Further, electoral procedures for members give East Africans limited franchise. The Assembly's members are elected indirectly by individual National Parliaments. Among regional parliaments, only ECOWAS Parliament has envisioned in its treaty to elect its members directly through universal suffrage, although it has not managed to do so. Because parliaments think that among other

factors, direct suffrage is expensive, they have been reluctant to go that route. It would be useful to explore the implications of this on civil society participation at national levels.

There are challenges, contradictions and tensions regarding notions of consultation and representation through the Assembly. The fact that members are nominated by parliamentary parties tends to lock citizens out in making decisions on their representatives. There have been concerns that at the party level, the system is a tool for rewarding loyalists, not the people who necessarily articulate the views and feelings of their country (The Nation (Nairobi), 7 July 2007). Critics have thus argued that in each instance the ruling parties/movements, particularly, in three parliaments have manipulated the elections in order to secure their interests in the regional body, which has essentially produced mainly the ruling NRM(Uganda), CCM (Tanzania) or NARC (Kenya) representatives to the regional assembly (Oloka-Onyango, 2005, 6). In the recent case of Kenya, the ruling National Rainbow Coalition tried to force through some names as the party's representatives at EALA, and when the regional court struck them down there was a standoff for several months (The Nation (Nairobi), 7 July 2007). The question therefore of limited power on substantive matters on which the EALA deliberates, and the limited binding nature of its decisions, together with the issue of limited resources, has rendered the EALA a less effective body. It has earned itself the description that it is 'simply a paper-tiger—a fact demonstrated by its failure even to achieve meaningful concessions regarding the passing of the budget for the institution.' (J. Oloka-Onyango, 2005).

The more serious issues also emerge in particular regarding the question of *substantive* as opposed to *formal* representation. First, the extent of consultation that these members engage in with their constituents is suspect. Secondly, there are doubts regarding the members' effectiveness, whether in articulating people's interests, or in influencing the heads of state. The power that EALA members have, in terms of Art.49, is limited. In addition, each individual head of state effectively exercises a veto power over the implementation of a law that has been passed by the EALA (Articles 62 and 63), effectively representing a negation of the idea of people-centred development (J. Oloka-Onyango, 2005, 7).

The East Africa Court of Justice

Though generally courts of a regional nature seem far-removed from the people, they are supposed to be a rallying point for citizens whose rights have been violated. The community court is an organ of the EAC established under Article 9 of the Treaty for the EAC. It was inaugurated in 2001. The Court's major function is to ensure the adherence to law in the interpretation and application of and compliance with the Treaty. The court has jurisdiction to hear and determine, among other issues:

- Disputes on the interpretation and application of the Treaty.
- Disputes between the Partner States regarding the Treaty.

According to the court's rules of procedure, 'a legal or natural person resident in any of the Partner States may challenge the legality of any Act, regulation, directive, decision or action of a Partner State or an institution of the Community on the grounds that it infringes the provisions of the Treaty' (<http://www.eac.int/court.htm>). This provision gives CSOs and other non-state actors, including citizens of the community room to challenge unfavorable decisions made by their national governments or any member of the partner states. Some organizations have used this platform effectively through litigation. The Court handled its first case in 2005 when three members of the Legislative Assembly accused the Council of Ministers of the Community of interfering with the functions of the Assembly when the Council withdrew from the Assembly various Private Members Bills which had been tabled in the House for debate (*Calist Mwatela*,

Lydia Wanyoto Mutende, Isaac Abraham Sepetu vs East African Community, Application no.1, 2005). In its judgment in 2006, the Court ruled against the Ministers. A month later, Professor Peter Anyang Nyongo and ten others also successfully challenged the Kenyan government's attempts to impose its candidates on the EALA. The Court granted an interim injunction stopping the swearing in of the nine Kenyan nominees to the 2nd EALA. More recently, the East Africa Law Society filed a case against the EAC Secretariat against its attempts to amend sections of the Treaty relating to the composition and functions of the EACJ.⁶³ The Law Society is one interface mechanism that provides a particular model.

The East Africa Law Society is a regional umbrella body for law societies of the East African Community member states. It is composed of individual lawyers in the region as well as law societies particularly from Kenya, Uganda, Tanzania, Zanzibar and Rwanda. In 2007, it was estimated to have about 7000 individual members.⁶⁴ The society focuses currently on professional development work; information dissemination, partly through the society's electronic monthly newsletter and seminars; and public interest mandate that is focussed on regional integration and rule of law.

In terms of the society's relations and engagement with the Community, there is a lot of potential. For example, in addition to the legislative and structural architecture of the Community which provides spaces for civil society, albeit on an invited basis; the majority of EAC officers, including the Secretary General, are very receptive to organizations that reach out to them.⁶⁵ Also the society has done a lot of public interest advocacy with the EAC and support work for EAC in terms of dissemination and getting views from membership and grassroots about a number of EAC. In the view of the Secretary General of the Society, 'many times when people think of the EAC, they usually think of the Secretary General and his secretariat or the summits of the Heads of State. Yet, most of the work is done by desk officers'. Because of this realisation, the society has tried to interact and target these desk officers to get their views on many issues concerning the region. To reach in and work with the Community, the society has in the past been involved in the following:

- Frequent informal contact with the secretariat;
- Dissemination seminars sometimes done jointly with the EAC;
- Having resource persons or keynote speakers for EALS programmes drawn from EAC secretariat or EAC government officials of member states;
- Holding regional seminars, for example in 2006 the EALS held four regional seminars on the EACJ. Among those invited to present papers were court officials including the Judge President.

The idea behind these seminars is to expose officers to the public and vice versa. These forums afford EAC officers the opportunity to explain to members of the public about the community's work. The EALS has found this kind of engagement more effective as compared to the idea of waiting for the annual summit of Heads of State or submitting a memorandum to the Secretary General. In terms of advocacy and engagement the cooperative model is more effective because most of the time it results in quiet adoption of input by governments. But as rightfully observed by the Executive Secretary of the Society, sometimes confrontation cannot be avoided, especially leading to or where litigation has been used. The environment for engagement therefore presents many challenges for human rights organisations like the society. In this specific case, the law society has to contend with the following challenges, which in many ways than one determine the environment under which relations are conducted;

- The problem with litigation for example is that once the court case has started it is difficult to cooperate because government takes one direction and civil society the

opposite direction. The whole issue becomes one of flexing muscles and government is usually keen to demonstrate its power. With confrontational methods it also becomes difficult to work with traditional allies in government because it breeds tension;

- The structures on ground are not adequate and effective enough to implement and achieve EAC aims as they are outlined in the treaty or protocols;
- Resource also constraint the performance of both the society and the Community. These challenge are not just financial but human as well. Because of these constraints, the society is encouraging partnerships between CSO and the community in the implementation of regional integration plan;
- The requirement to have formal observer status is also restrictive and only aggressive and well organised bodies like the EALS can meet the strict registration requirements. An organisation needs to be registered in the three member states of the EAC before it can be granted observer status. This is a big challenge for many organisations and the inclusion of Rwanda and Burundi in the EAC this year might even compound the problem;
- The solution to this problem might be found in regional umbrella bodies which can seek to establish their presence in member countries. Regional players can easily get registered in different countries. A more lasting solution might be to remove the legal requirement for regional bodies to be registered in every member state. The problem however with this requirement is that an organisation that is registered in all these countries is also required to file tax returns in all three countries. In addition any amendment to the original constitution or programmes has to be approved in all the member states and this is quite cumbersome and expensive for small organisations. One of the things that the society has been arguing for in this regard is the need to establish consultative status;
- The biggest challenge that civil society faces is internal governance. The death of NGOCEA for example, was mainly due to governance problems which included lack of accountability over use of financial resources. The coordination of its activities was also made difficult by communication difficulties of the period. It also had unachievable objectives- pushing for an idea of a Federal government at time when the whole idea of regional integration had not yet been effectively bought into and communicating this was much more difficult to achieve;
- Lack of technical skills to effectively run programmes or lobby governments on certain critical issues; CSOs need to develop certain levels of specialisation in order to influence and monitor policy at the regional level. The two organisations which have done this so far have been the EALS and the East Africa Business Council. EALS continually receives overwhelming requests to assist on a wide range of issues and to develop a critical mass and specialization among other CSOs;
- Most CSOs haven't built regional linkages to be able to compare notes or share best practices. Yet, there is a lot of movement towards harmonisation of national policies by EAC member states. The idea of a CSO forum which is convened annually is partly meant to provide a forum for organisations and individuals from different disciplines to meet and share knowledge. Once that has been achieved organisations can meet during the course of the year and share knowledge or jointly work on projects;
- Sustainability: there are very few development partners working with organisations doing work at regional level. Donors need to help civil society establish their self sustenance, especially in the initial years of operation. Very few CSOs have come up with effective strategies to develop self-sustenance. Opportunities for income

generation exist but these have not been explored fully. The EALS is however exploring the possibility of doing consultancy work to sustain itself. For example, the society has been requested to do intensive training for EALA legislators.

The Consultative Forum and other Engagements

The forum is probably the most progressive entry point for most civil society organizations. Although according to the EAC procedures for granting observer status, not every applicant can qualify, the constitutive treaty emphasizes that the integration process shall be carried out in a participatory manner, involving broad participation of key stakeholders including women, youth, private sector and civil society. Thus there is an acknowledgement that civil society is important in its role as a pressure group in society. The participation of civil society organizations and the private sector is therefore provided for by the Partner States' intentions on popular participation. Having designated Lake Victoria and its basin as an "area of common economic interest" and a "regional economic growth zone" to be developed jointly by the Partner States, the East African Community established the Lake Victoria Development Programme in 2001, as a mechanism for coordinating the various interventions on the Lake Victoria and its Basin; and serving as a centre for promotion of investments and information sharing among the various stakeholders. The Programme envisages a broad partnership of the local communities around the Lake, the East African Community and its Partner States as well as the development partners. It further places emphasis on poverty eradication and the participation of the local communities.⁶⁶

At a more practical level, the EAC has encouraged civil society to participate in the community's deliberations, particularly the co-ordination committee and the Council of Ministers. Even in its formative stages, the draft treaty for the organization was publicly debated from May 1998 to April 1999 and organizations were able to input their views. And in 1996, the NGO Coalition for East Africa (NGOCEA) was formed to facilitate the involvement of CSOs in regional integration (Jonyo, 2005). However, the organization did not last long as it soon unfolded around issues of internal governance. It also had serious capacity limitations which inhibited its operations (Interview with Donald Deya, Chief Executive Officer, East Africa Law Society, Arusha, 30 August 2007)

Broadly, CSOs, both private and public, have contributed the affairs of the EAC. The few groups that have focused on the Community (such as the East African Law Society, Kituo cha Katiba, and the East African Business Council), have devoted some effort to assert their rights of ownership over EAC over the years. All these groups have observer status at the Community which enables them to engage with the Secretariat and to make their input (J. Oloka-Onyango, 2005, 15) The East African Business Council has a permanent observer status at the council and summit meetings (Tusarirwe, 2005; Jonyo, 2005). As we mentioned above, the Business Council has worked closely with the Community and it may be worthwhile examining its experiences here.

The Council was established in 1997 with the active support of the EAC. It began its programs in 2003. It is an apex body for private sector institutions operating in five countries. According to Bobi Odiko, Public Relations Officer, its key role is to enhance competitiveness of business in the community. Currently there are about 66 registered membership bodies, which also in principle must include small and medium enterprises.⁶⁷ The Council focuses primarily on customs union and negotiating favourable trading regimes for its members. It also focuses on sensitising people about EAC and this is done through workshops convened jointly with the REC. In April 2007, for instance, the EAC and the EABC had a joint media summit to publicise the work of the EAC. Further it conducts dialogue with public sector and holds lobbying meetings with ministers for

EAC and Foreign Affairs ministers. During 2007, for example, the EABC had several meetings with these ministers and other government representatives over EPAS. And in October 2006, the EABC organised a workshop over EPAS. Its chief recommendation was that East African countries should negotiate EPAS as a regional community rather than as individual countries. The recommendation was taken on board by the governments. Also together with the EALS and the East African Trade Union Congress, the EABC has an observer status within EAC structures and it has used this opportunity for leveraging. The EABC has now applied for Associate Status – a position that will place it at the forefront of policy formulation, if granted. This application will be discussed during the council meeting of September 2007.

The EABC has been able to work very closely with the EAC over the years and it is even do so more closely now. This might also be due to the fact that the EAC Secretary General is a former Executive CEO of the EABC. There are challenges however in the relationship. These include:

- Lack of executive powers on the part of the EAC secretariat. This limits effective engagement between non-state actors and EAC. The EAC has little powers to enforce decisions. Everything still goes to partner states.
- Another problem limiting effective engagement is that there is little consultation among non-state actors before the convention of major meetings. As a result, non-state actors normally come into major meetings with government bodies without any consensus on major issues thus making it very difficult to negotiate a common positions;
- Sloppiness in implementation of regional integration process and harmonisation of policies;
- There has been little reach out by both governments and non-state actors to public;
- Resource constraints. As a result of lack of resources, the council has not been able to employ enough people to run its activities and its Secretariat is quite lean;
- Issues of sustainability: current funding is mainly through international donors like GTZ, although the Council is also mainly dependent on membership contributions.

These challenges call for the need to build more synergy among the various non-state actors especially around lobbying. There should also be intensification of outreach programmes through multiple media outlets and strategies. Development actors also need to help with resources to scale up publicity campaigns; enhance capacity building to ensure that non-state actors play their watchdog roles; as well as facilitate the presence of non-state actors in all the major negotiation forums, especially with important policy implications on the private sector and the greater public.

Further, in 1998, the process of establishing a Regional Gender Programme was started with the aim of creating a mechanism for ensuring the incorporation of gender in the EAC framework. As a result, a Gender and Community Development Committee was established (EAC Annual Report 1998/99- 1999/2000; Nassali, 2000).

At their Special Summit held in Nairobi on 27-29 August 2004, the EAC Heads of State appointed a committee for the Fast Tracking East African Federation. The Committee of three persons, one from each Partner State, was mandated to recommend ways to expedite the process of integration. In terms of its mandate, the Committee was to hold consultations with the East African Community Secretariat, East African Legislative Assembly, other institutions of the Community, in Arusha, and hold national consultations, including consultations with a broad range of stakeholders – both State and non-State actors, in each of the member states. The Committee submitted its final report at the end of 2004, following its widespread appeal to East African groups and individuals to participate actively in the process. During the consultation process, the committee also set up a website to constantly update the public on its activities and facilitate their participation.⁶⁸

Further, the Community is setting up a media centre to facilitate coverage of its day to day activities and also as part of a wider public sensitization programme. The centre will be equipped with communication facilities such as Internet and digital data which will be used by journalists accredited to cover Community affairs. The secretariat would also organize regular media briefings on EAC developments on weekly basis (Arusha Times, 21 July 2007)

In its attempt to provide a forum for consultations between the private sector, civil society organizations and other interest groups, the EAC Secretariat convened the 1st Regional Workshop for NGOs/Civil Society from 28th-29th July 2005 in Arusha Tanzania. The workshop sought to discuss the EAC concept paper on civil society participation in the EAC, review civil society in East Africa; and make appropriate consultation and involvement mechanism for civil society within EAC and its organs. The workshop resolved to establish a forum, the EAC NGO/CSO Forum, as an autonomous body to serve as an umbrella body of all NGOs and CSOs in the region. The forum was mandated to facilitate active engagement between civil society and the organs of the EAC. The meeting also resolved to set up a secretariat in Arusha to coordinate the activities of the EAC NGO/CSO Forum. It further recommended the establishment of an Economics and Social Committee (ECOSOC) within the structures of the EAC to provide for a consultative and involvement mechanism for the participation of civil society. The meeting also resolved to convene a Peoples' Forums at national level, comprising all civil society groups and non-state actors, to consult ordinary people on the process towards the formation of the East African Political Federation stipulated in the Joint Communiqué issued at the Dar-es-Salaam Summit; May 2005. The meeting further called for the broadening of civil society participation beyond 'observer status' to including a 'consultative status'. In this regard the meeting called for the institutionalization of the annual meeting of the EAC CSOs into the EAC Calendar of Activities.

There have been follow-up meetings to the workshop. The latest meeting was the regional meeting of the steering committee of the *East Africa Civil Society Forum*, held in July 2007. At this meeting, the committee presented a proposal on how civil society can effectively participate in the East African Civil Society processes. The meeting was preceded by a series of preparatory meetings, aimed at drawing the objectives of the CSOs engagement in the EAC process, structure and framework of participation. The first such meeting was held in Dar es Salaam in May and the second in Kenya in June. The July meeting was planned to take place simultaneously with the EAC Heads of State meeting.

Limitations and Challenges

While the EAC has provisions for the participation of civil society in its regional integration activities and has in fact opened up a number of spaces, civil society still remains peripheral to the processes. First, regional integration processes are typically intergovernmental, and most of the formal discussions and negotiations supporting such process have remained the preserve of politicians and government officials (Kuria, 1997; Jonyo, 2005). Secondly, the EAC pays more attention to the market and the private sector than to civil society. This is demonstrated by the fact that the East African Business Council is the only CSO that has been granted permanent observer status to the EAC (Tusarirwe, 2005; Jonyo, 2005; Nassali, 2000).

Also the rules governing the granting of observer status are cumbersome. First, an organization must be registered in all three member states in order to be accredited. This effectively excludes nationally-based groups who may nevertheless have a significant contribution to make to the Community. Secondly the headquarters of the Community are located in Arusha that suffers from limited access even to national actors. This raises the need for CSOs to link up with groups that

have representation at Arusha or for satellite groups to be established in the individual states to focus on Community activities (J. Oloka-Onyango, 2005).

Further, civil society involvement in the activities of the Community has been hampered by:

- The lack of publicity and information surrounding the EAC's programmes and processes;
- The top down approach of the EAC, driven by the political and bureaucratic leadership of the three countries. This approach rarely includes civil society and other non-state actors in the conception, formulation and final packaging of programmes;
- The EAC's emphasis mainly on macro-economic and other abstract issues, which the general masses and their representatives can hardly relate to (Nassali, 2000; Oloka-Onyango, 2005; Tusasirwe, 2005).
- The procedures for formalizing relationships can be lengthy and bureaucratic. They are often affected by budget cycles which cause a lot of delays in initiation of projects.
- Apex organizations are not well organized in terms of administration and management. Many have very poor internal governance problems.
- There are very few organizations with regional presence. Most are not well represented – no strong membership /constituency even with established organisations like the EABC.
- Many organisations face recruitment and retention problems when it comes to membership.
- Without enough representation many of these organisations have experienced sustainability problems. Both the EAFA and the EABC are dependent on GTZ funding.
- Goals and agendas of some of these organisations not very clear and this presents them with difficulties when it comes to attracting members and engaging government structures.⁶⁹

CSOs themselves suffer from internal challenges that affect their participation in the activities of the community. For example, there is lack of networking or forging of strategic alliances and linkages to achieve common objectives among CSOs themselves. This is attributed primarily to rivalry between CSOs struggling for limited funding resources, lack of vision and foresight and personal antipathy between leaders (Jonjo, 2005). Issa Shivji has in fact argued that the;

'Erstwhile world of FFUNGOS (foreign-funded NGOs)' operating in the region 'does not have a political vision, a coherent ideology backed by a robust theory or the stamina to envisage a regional project. NGOs agendas revolve around 'awareness raising' and 'human rights advocacy', all of which may be well-intentioned and good, but hardly a vision and a programme conducive to social emancipation' or regional integration (Shivji, 2002).

Many CSOs in East Africa also lack initiative. They normally wait for governments to invite them to events, processes or already established spaces rather than create their own spaces. For example, when the draft Treaty which led to the revival of the EAC was publicly debated in May 1998 to April 1999, the response was lackluster and the involvement of the broader masses of the populace was marginal mainly because civil society did not appreciate its urgent role in engaging the regional process and did not take the initiative to mobilize them (Nassali, 2000; Oloka-Onyango, 2005).

Oloka-Onyango has argued that civil society has not effectively asserted its claim over regional citizenship. While CSOs have been able to express their voices on affairs affecting their individual countries, they have struggled to speak authoritatively on regional issues or issues affecting countries outside their boundaries. They have also not been able to show an active interest in issues outside their boundaries, such as elections in other countries. East African

CSOs, as Oloka-Onyango has argued, have not adequately focused on the state of governance within the individual countries that make up the Community or paid special attention to those groups that have been marginalized by historic, economic or cultural reasons around the region (2005).

What this implies is that there is need for civil society to forge deeper alliances across boundaries and search for common problems and issues that can be addressed from a regional perspective, what Maria Nassali describes as 'the construction of an East African Civil Society' (Nassali, 2005). However, it is doubtful if this 'East African Civil Society' will easily rise to the challenge, given that EAC has been increased to include Rwanda and Burundi, two countries that have different linguistic, cultural and historical traditions with the other three. This might be exacerbated by the fact that many CSOs in the region lack capacity to participate in the integration process. Most are deficient in advocacy, research, policy analysis and networking (Oloka-Onyango, 2000; Mamdani and Otim).

Recommendations

The following recommendations are made with the view of strengthening the relations between CSOs and the Community as well as make regional integration real and effective for citizens of the region.

- The general picture painted by the literature suggests that even though the EAC has made significant strides in bringing civil society within its consultative processes, there are still many challenges regarding the nature and scope of consultation between EAC and civil society. The imperative to broaden consultation and improve on the quality of consultation on a wide range of policy issues that takes place across all sectors of society is urgent. This is so, that the concerns of an array of stakeholders, including marginalised groups and producers, can be incorporated into the policy response. Such participation would assist in providing the necessary impetus in the development of the community and help avoid the problems which partly contributed to the collapse of the first community in 1977.
- Jonyo (2005) has pointed out that while civil society might not have the skills or capacity to lead some of the public management process of an intergovernmental nature, it could play a valuable role in areas such as conflict resolution and management. In his view, NGOs which are closer to the people than central governments are the best early warning system for impending conflict, long before it reaches the more visible violent stage. Thus civil society's role in this field should be scaled up and strengthened.
- Most NGOs and CSOs have information management systems that process daily field reports. These reports comprise of rich source of information that can be used by governments if there is more collaboration between governments and civil society. The research and dissemination functions of these organisations should be strengthened, including their communication strategies.
- Although CSOs in East Africa are not only well placed to monitor and promote democratic governance in the community's member states; they have however a history and track record for doing so. Kenyan CSOs, for instance, played a valuable role in pointing out government excess during the Moi regime. They are also well placed to monitor the implementation of the Treaty and other regional protocols when national governments develop cold feet (Jonyo, 2005). Their advocacy roles should thus be promoted and consolidated.
- More importantly, CSOs are best suited to community-based initiatives as they can easily mobilise communities. Over the years, civil society has accumulated specific knowledge and tools for involving local communities in processes of development, and governments

- need to harness this experience of civil society to enhance processes of integration. Equally important is the human capacity and expertise residing on the CSO sector that RECs like the EAC and its subsidiary institutions can make effective use of. Efforts to link and bridge the gaps between RECs and CSOs should be fast-tracked.
- If civil society and their grassroots constituencies were to make effective use of EALA and other organs of the EAC as vehicles for inputting their ideas on decision-making processes within the EAC, institutions like EALA, which are central to regional unity, must be strengthened and given teeth to operate independently.
 - The role of the MPs should also be clearly defined and enhanced. As things stand, the role of the EALA MPs is not clearly defined and well known to the people. The East African Assembly legislators have accused East African Community Secretariat of hijacking their oversight role and suffocating the relationship between the former and their constituents. As Uganda's MP Mike Sebalu has suggested, EALA legislators must be empowered to interact with the people at the grassroots to expedite the promotion of the EAC exercise. (New Times (Kigali), 22 June 2007)
 - Further, EALA MPS also need to be made more accountable to the people. The current practice of electing country representatives into the EALA has several flaws and has been a serious setback on the path towards real integration. It has been proposed that East Africans should be allowed to directly elect their representatives to the East African Legislative Assembly. In fact, people only hear about them when they are being nominated (The Nation (Nairobi), 7 July 2007).

4

THE COMMON MARKET FOR EASTERN AND SOUTHERN AFRICA AND CIVIL SOCIETY RELATIONS

The Common Market for Eastern and Southern Africa is a regional grouping of nineteen states namely: Angola, Burundi, Comoros, the Democratic Republic of Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe. It was founded in 1994 as a successor to the Preferential Trade Area for Eastern and Southern Africa (PTA). This was in fulfillment of the requirements of the PTA Treaty, which provided for its transformation into a common market. COMESA is supported by its specialized financial institutions including the Trade and Development Bank for Eastern and Southern Africa (PTA Bank), the COMESA Clearing House and the PTA Reinsurance company. Its structure comprises:

- *The Authority of Heads of State and Government*, which functions as the supreme policy organ of COMESA and comprises of the heads of State and Government of the Member States. It is responsible for general policy and direction and control of the performance of the executive functions of the common market and the achievement of its aims and objectives.
- *The Council of Ministers*, which comprises ministers appointed by respective member governments. The Council monitors COMESA activities and recommends policy direction and development and reports to the Authority. The Council is supported by Sectoral Ministerial Meetings that advise Council on certain sectoral areas.
- *The Court of Justice* comprises twelve judges and ensures the proper interpretation and application of the provisions of the COMESA Treaty and adjudicates any disputes that may arise among the Member States regarding the interpretation and application of provisions.
- *The Committee of Governors of Central Banks* manages the COMESA Clearing House and ensures implementation of monetary and financial cooperation programs.
- *Technical Committees* report to the Intergovernmental Committee and are responsible for designing programs and action-plans in their respective areas of specialty. The Committee on Peace and Security is one of the technical committees, for example.⁷⁰
- *The Secretariat* provides technical support and advisory services to the member states in the implementation of the Treaty.

Forms and Avenues of Engagement

The COMESA structure just described above offers multiple sites for civil society inclusion and participation just as it was discussed in the case of the East Africa Community. To note however is that different COMESA members' states are at different stages of accepting civil society actors in the mainstream of their activities. But in most countries relations have improved greatly and generally states are more open to working with civil society groupings today than they were a couple of decades ago. And at the regional level, substantial progress has been made to engage non-state actors in COMESA programmes. The COMESA Fourth Summit decision (Nairobi, Kenya, 1999) to involve the private sector and civil society in some of COMESA's programmes, a number of activities have been conducted to implement that decision. For example, the COMESA Secretariat now engages civil society and private sector organizations in peace and security matters in the region. And several stakeholders' forums have been held whose recommendations have been taken on board.

Like other RECs, COMESA therefore recognizes the role of civil society in facilitating its objective of regional development. COMESA now has in-place a Private Sector/ Civil Society Desk (PS-CSD) that was established in April 2004 at the Secretariat. Rules and Criteria for accrediting non-state actors were adopted during the 9th Summit in Kampala and they are about to be disseminated. The drafting of these rules and procedures was conducted through a consultative process that involved government, civil society and private sector actors. To ensure ownership and support, the rules were developed by a wide range of stakeholders including government representatives, civil society representatives and private sector representatives. The rules were adopted by the COMESA Authority of Heads of State in June 2004.⁷¹ Furthermore, before their adoption, the draft Rules for the modalities for CSO engagement on matters of peace were considered by stakeholders' validation workshop in May 2004 in Swaziland which was attended by civil society organizations, private sector organizations and government representatives. These Rules were then forwarded to the Committee of Peace and Security in June 2004 which considered and recommended them to the Fifth Meeting of Ministers of Foreign Affairs in June 6, 2004 for adoption. The first civil society and private sector organisations were granted accreditation during the 11th Summit of the COMESA Authority in Djibouti, 2006.⁷² At this meeting only two organizations were accredited, the rest were denied. However during the course of this research, the situation was being addressed and more had been accredited. These organizations are from seven member states following a process that included national consultations in these member states.⁷³

Workshops to disseminate these rules have been conducted; one such was held in Cairo in December 2004. Since then, COMESA has continued to consult civil society on various issues and hold workshops and meetings with CSOs. For instance, COMESA recently held an annual review workshop with both accredited and non-accredited CSOs and private sector organizations in Kampala in June 2007. The workshop was aimed at creating opportunities for civil CSOs and private sector organizations from different member states to learn from each other and enhance their role in COMESA's peace programme.⁷⁴ Hardly a month after the Kampala meeting, COMESA hosted an African Union Stakeholders meeting on the 17th-19th July, 2007 for African civil society organizations at its Secretariat in Zambia to discuss post conflict reconstruction.⁷⁵

Through the Secretary General, COMESA is receiving applications for accreditation from non-state actors. According to the secretariat, COMESA is also developing a strategy that would link COMESA policies with those of civil society and incorporate recommendations from civil society in the overall decision making process.⁷⁶

Peace and Security

The Peace and Security programme is perhaps the most effective entry point for civil society in COMESA's regional programme. Rule 5 of the Programme on Peace, defining areas of collaboration between COMESA and accredited organisations gives CSOs a lot of space in COMESA activities. It stipulates that accredited organisations shall to the greatest extent possible collaborate with the Programme in:

- i. Information sharing;
- ii. Promotion of a culture of dialogue, peace and tolerance;
- iii. Capacity building;
- iv. Mobilisation of financial and other resources;
- v. Promotion of trade based practices in peace building to prevent conflicts;
- vi. Provision of peace workers; and
- vii. Provision of research and training in conflict management and peace building.

The programme further emphasizes:

- The establishment of an institutional structure with specific mandate in conflict prevention through preventive diplomacy;
- The involvement of COMESA Parliamentarians and non-State actors in conflict prevention and peace building;
- Addressing issues of peace and security as a way of enhancing its primary objective of enhancing economic integration in recognition of the fact that peace and security are fundamental pre-requisites for economic development and growth;
- Utilising existing national institutions by Member States, for capacity building in the areas of conflict prevention, management and resolution;
- Putting emphasis on early warning systems, conflict management, conflict resolution; and post-conflict transformation.

To implement these activities, in particular, the conflict prevention strategy, the Secretariat seeks to work closely with civil society and the private sector. The early warning system, in particular, will benefit immensely from civil society and the private sector. The civil society desk plays an important role in the coordination of the various non-state actors.⁷⁷ In addition civil society can engage in peace processes by contributing to early warning through the provision of information from grass-roots; provision of response options; through research and advocacy.⁷⁸

COMESA also works closely with development partners, for example, the United Nations-notably UNESCO, UNDP and UNIFEM. Article 181, defining Relations with Co-operating Partners, for example, stipulates:

The Common Market shall establish such continuous and close working relations with relevant African organisations such as the United Nations Economic Commission for Africa, the African Development Bank and other intergovernmental and non-governmental organisations in Eastern and Southern Africa with a view to strengthening the institutional capacity of the Common Market and assisting it in the implementation of the provisions of this Treaty.

The Cross Border Traders Association, for example, was established in November 1997. It is a voluntary association drawing its membership from vulnerable groups engaging in business across COMESA and SADC member states. The COMESA secretariat is its patron.⁷⁹ Although based in Lusaka, the organisation is represented at the national level by National Executive Committees which also have district executive committees. The organisation focuses exclusively on trade-related issues, especially affecting cross-border traders. Other issues of concern to the organisation include: integration, customs issues, police harassment in foreign countries; and xenophobia. For a time now the organization has been fighting for the enforcement of COMESA treaty in the region- especially the simplified trade regime which has been its focal point of implementation.

Its approach has basically been dialogue which entails:

- Talking to various governments and their representatives, reminding them about their obligations;
- Ensuring agreements are enforced.

In the process it has faced challenges and opportunities. Its success story so far includes the COMESA market which was established after lobbying; the Simplified Trade Regime to do away with Certificate of Origin requirement for goods traded by small scale traders; removal of some

customs hurdles in Zambia which saw traders being subjected to inland roadblock searches after going through the Zambia border. However due to lack of enthusiasm on the part of national governments to implement agreed regional integration protocols, the following have resulted:

- Continued harassment of small-scale traders at borders.
- No serious consideration of cross borders as engines of growth. Cross-border traders are not considered as investors and not issued with business permits on entry into neighbouring countries. Despite the growing importance of the informal sector in African economies, small-scale traders are usually regarded as traffickers of illegal goods and issued visitors' permits which barely go beyond seven days.
- Arbitrary custom tariffs by customs officials which reduce the competitiveness of the goods of cross border traders through high duty costs.

And in terms of capacity needs there is need for:

- Capacity building for members, especially those without formal training about business. Most of these members need training in basic business skills like bookkeeping and accounting. They also need training on ways to expand their business activities.
- Finance to upgrade the existing market or expand the model to other Comesa member states. Lack of funding has also hampered the association's operations outside Lusaka.

Other CSOs that do not have a direct relationship with COMESA can work closely with strategic partners to input their contributions. Other strategic stakeholders include parliamentarians. The Third Meeting of COMESA Foreign Ministers held in Addis Ababa on 22 May 2002 agreed to task parliaments with the responsibility of promoting a culture of peace and security. Thus national parliaments have a responsibility to pass legislation that contributes to peace and security. Apart from acting as an intermediary between the people and the executive, parliaments should use their powers to discuss motions that assist the Executive to promote peace and security. Parliaments also have a responsibility of informing society of the issues on peace and security⁸⁰.

The Secretariat is also an important site for CSOs to engage with the programs of COMESA. Landsberg and McKay argue that in spite of their criticisms of civil society actors many officials within COMESA, especially members of the Secretariat are accessible to civil society and are eager to engage with civil society (Landsberg & McKay, 2005). There is a general appreciation among officials that CSOs and the private sector can help enhance its capacity on trade, development and poverty alleviation programmatic areas. The weak COMESA structures and weak policy-making capacity makes inclusion of CSOs key especially to fill the vacuum. This gives CSOs lots of space to influence policy and decision-making in the structures of COMESA, in particular in the Technical Committees (ibid). For example, following civil society's criticism of Economic Partnership Agreements in Southern and Eastern Africa, the EU and eastern and southern African states held a seminar for civil society in an attempt to solicit the latter's views on new trade relations between the EU and developing countries in the context of EPAs. The seminar brought together a wide range of representatives from business, government and development agencies. They specifically discussed how the trade agreements impact development and the poor. This was the first time that the two officially aired their concerns to each other. The Lusaka meeting was expected to reconcile these differences, chart a way forward and help steer the trade talks to conclusion before the December deadline.⁸¹

Limitations and Capacity needs

In spite of the progress in engaging civil society in COMESA, eastern and southern African governments continue fail to carry out broad consultations with CSOs on crucial regional and national issues. As in other parts of the continent, COMESA leaders continue to regard CSOs as critics rather than partners of government, and this has often led to tensions and standoffs between governments and CSOs (Landsberg and Mckay, 2005) Non-state actors – civil society, private sector and the media are still restricted to the periphery of engagement when it comes to crucial bilateral negotiations, especially those involving external partners. For instance, during the negotiations over the new Marine Fisheries Framework Agreement, COMESA's secretariat was accused of failing to consult and involve widely all key stakeholders, particularly civil society, media and members of parliament.⁸² An establishment of a forum for COMESA, civil society and private sector actors is thus pertinent to facilitate information sharing between the actors and also to enhance peace and security in the region. Such a forum may be useful for experience sharing and confidence building between the state and non-state actors and amongst the non-state actors and the various civil society and private sector actors in neighboring countries.

In cases where consultation takes place; there are still a number of inherent weaknesses when it comes to the process of consultation and involvement of key stakeholders. For example, the failure by some governments to respect the agreed guidelines, such as submission of written progress reports to meetings with civil society, not only makes it very difficult for interested parties to assess the level of consultations and involvement in each member-state but also betrays government's lack of respect and commitment to productive engagement with CSOs.⁸³

Equally, the results of impact studies are rarely disseminated widely, contributing to a low level of grass-roots awareness, especially in relation to important issues as EPAs. This situation is a symptom of the difficulties CSOs in COMESA countries face in holding their governments to account and to maintaining effective channels of communication with policy-makers⁸⁴.

Civil society organisations have expressed concern about the limitations imposed by their 'observer-status' at REC meetings. Rule 10 of the Programme for Peace and Security grants civil society and private sector actors no more than a consultative role. Concern has also been raised about the process of accreditation in which applications are channeled directly to COMESA. This gives member states enough room to deny CSOs that are critical of them accreditation. However, it may also be argued that channeling the applications regionally through COMESA facilitates the process as other member states might act as a check and balance that will deter undue victimization of civil society and private sector actors. But, the fact that only thirteen organizations from six member states have been accredited so far tends to give credence to civil society concerns about the bottlenecks in the accreditation process⁸⁵.

As the meeting in Cairo noted, civil society has undoubtedly played important roles in mitigating conflicts in COMESA member states. This has included the provision of civic education; research on the causes of conflict; mediation and policy dialogues; capacity building and training on issues around conflict prevention and negotiation; post-conflict reconciliation and reconstruction. Civil society is also working on awareness-raising on EPAs. Among other roles, civil society should seek to:

- Ensure that COMESA member states abide by the objectives as set out in the Treaty.
- Assist propagate the mandate and the principles of the community by enshrining them in civil society constituting instruments and activities.

- Undertake initiatives to promote the objectives of the community.
- Sensitize actors on relevant community projects and programmes.

Capacity challenges however hamper the effectiveness of CSOs engagement with COMESA. While COMESA has formally committed itself to support, enable and work in partnership with civil society in the region, including NGOs, CSOs and CBOs, some governments still loath NGOs that assume duties those governments consider sacrosanct, regardless of whether or not they are able to effectively discharge those duties (Bratton 1994). Governments are especially suspicious and hostile to NGOs that engage in activities such as political education and mobilization. As the Cairo report concluded, there is a ‘need for accredited non-state actors to exercise maturity when dealing with state actors in order to improve the frequently strained relationship between national governments and civil society organizations that is manifested by mistrust and suspicion’. And as other observers have argued, while CSOs should not compromise on their principles towards good governance and accountability nor renege on their watchdog status on abuse of power, they need to move from their current confrontational approach to a more supportive one. Landsberg and McKay have argued that CSOs need to deepen their capacity to lobby, consult and engage with government institutions rather than being confrontational all the time (Landsberg and McKay, 2005). Emerging collaborative trends are explicit in the recent relations between CSOs and Eastern and Southern African states over EPA negotiations.

The challenge for civil society would be to engage and still retain its independence. As argued by Landsberg and McKay, engagement can only come through consultation and dialogue. CSOs need to become better at lobbying, consultations and engagements, both with ordinary grass-roots organisations as well governmental institutions. This should happen across a vast array of policy consultation and dialogue forums, and should go beyond the business and labour sectors (2005). At the same time, accredited civil society organizations also need to take advantage of their partnerships with RECs and individual national government by conducting joint activities and engaging in low- scale or ‘quite diplomatic lobbying’. Private sector organizations also need to utilize their distinct competence in resource mobilization to enable these activities to be conducted (ibid).

Consumer Unity and Trust Society Africa Resource Centre (CUTS-ARC) consultations with CSOs have revealed that CSOs in COMESA have insufficient resources and knowledge to carry out activities to the extent required to effectively engage the grassroots. To this end, CUTS has started working on a project that aims to tackle the challenges that CSOs face in engaging with their governments and grassroots on EPAs. It will do this by building the capacity of key CSOs in six countries (Ethiopia, Kenya, Malawi, Tanzania, Uganda and Zambia) to carry out awareness-raising and consultative activities on EPAs and provide them with the skills and channels of communication through which they can advocate their concerns to policy-makers⁸⁶. USAID is also providing small grants to CSOs and CBOs in COMESA member states to implement initiatives addressing cross-border conflict mitigation and peace building. It provides budget support to COMESA’s Peace and Security Desk activities linking the private sector, civil society and COMESA and training member state parliamentarians.

In summary form, the challenges include:

- In Africa the regional integration agenda has not been owned by the people. The state is still very powerful and drives the agenda. As a result there is still hostility between the state and civil society. CSOs might want to take some lessons from experiences in Europe where the organic link between civil society and regional integration has been strong.

- Another fundamental problem when it comes to dealing with civil society is that it is too crowded a terrain. Civil society is like an octopus- too many organizations either dealing with the same issues while some organizations dabble in too many issues that it becomes difficult to identify their areas of focus and or expertise⁸⁷.
- There is a serious capacity problem among civil society institutions when it comes to regional integration issues because 'not all CSOs work on issues of regional integration' in their day to day programming while others have no capability to deal with those issues at all.
- Because of these capacity problems in civil society, COMESA's approach to the involvement of CSOs in regional integration has been selective one.
- Resources are also a challenge facing CSOs. Donors have focused on 'new CSOS', mainly focusing on issues of human rights and governance, to the detriment of traditional non-state actors such as churches. And yet the churches have actually been marginalized as a part of civil society when they have in the past been the vanguard of civil society.
- Civil society in the region still has to develop structured advocacy and outreach programmes especially on regional integration.
- Lack of training in diplomacy: Many civil society officials have little experience when it comes to discussing with governments or handling government issues.
- Lack of knowledge about government protocols. For example, some 'good' reports by civil society are torn apart because of little awareness of government protocols.
- CSOs differential levels of capacity in different countries sometimes makes it difficult to coordinate regional issues. In some countries, civil society is still weak while in others it is strong. Regrettably, civil society has not yet developed mechanisms for the movement to learn from each other.
- Also compounding COMESA's problems of engaging civil society in regional issues is the different levels of acceptance of civil society in the various national governments making up the region.
- Differences in business cultures in the various member countries sometimes makes it difficult to develop productive linkages between the bodies or to develop consensus on regional economic/ industrial strategies.
- Weakened structures due to weak economies. In the case of Zimbabwe, for instance, the Confederation of Zimbabwe Industries used to be a very strong body-able to articulate policy as well develop appropriate intervention strategies on issues of regional development but since the economic crisis it has become a very weakened body which is barely able to develop any policies. In the less developed countries, business has always been weak and unable to develop progress ideas on regional integration issues. The Kenya Association of Manufacturers is however still strong able to come out critical inputs. So is the Egyptian Business Council which is government-funded; the Rwanda Private Sector Federation; and Zambia Business Forum.

Recommendations

In light of these challenges and opportunities presented by the current relational configuration between civil society and COMESA, the following recommendations might be worthy considering;

- Development of facilitative linkages between CSOs: during the Kampala workshop in July 2007, for instance, it was clear that organizations are becoming more and more willing to learn from each other and ready to create opportunities to learn from each other.

- More resource mobilization: many organizations are struggling to access resources and this has had wider implications on their capacity development programmes.
- More private sector involvement in programme activities: so far, private sector involvement in peace and security has been limited with only one organization from the private sector that has been accredited- Kenya Private Sector Alliance. Part of the problem could be the COMESA approach which has not developed different strategies to target these two distinct sectors- the private sector and civil society sector.
- The engagement process needs to be spread wider. Much of the initiative so far has been coming from COMESA, without fully exploring what organizations can do for the programme.
- More funding is required; currently, the civil society initiative is not directly funded by member states and the funding limitations have affected programme effectiveness.

5

THE SOUTHRN AFRICA DEVELOPMENT COMMUNITY AND CIVIL SOCIETY RELATIONS

The Southern Africa Development Community like other regional economic communities has undergone some transformations. Established as a Conference, SADC was transformed from being an association of frontline states to a driver of economic integration. It is in this context that we must note that like others, SADC is a state-driven institution. It was established with very little consultation or input from civil society. And yet it has always made provision for civil society. In the early 1980s, for example, the institution created what was then called an NGO desk or the NGO Liaison desk.⁸⁸ That desk is non-functional now and civil society need to work towards reviving it. SADC also had a Sector Coordination unit on employment and labour which was used as a platform for trade unions, business and civil society's policy dialogues with member states. That is also non-existent today. But these historical moments in SADC show the political willingness to include civil society at least in principle. However like all state driven and controlled processes, SADC has tended to sideline its citizens in the crafting and implementation of its policies and developmental projects. There is also increasingly a growing disdain and suspicion for civil society among SADC member states. Part of the problem is the states themselves but growingly, civil society organisations have also not been able to negotiate their relations with governments in diplomatic terms. They have tended to be confrontational as we discuss in this section the approach that civil society formations have taken regarding the case of Zimbabwe and how member states have in turn responded.

However, given the historical toleration of civil society in SADC, it is important for civil society organizations not only to seek to engage with SADC but to reclaim their space which has existed for a long time. Anything less would effectively leave the existing mechanisms for economic integration, and now increasingly for peace and security, to elitist control; thus rendering them as mere extensions of inter-governmental interests. The reason for involving civil society should be to ensure that regional initiatives are not only people-centered but also become more democratic and accountable. As we stated earlier on, the agenda for civil society should be to ensure that regional groupings are not just friendly to their people but are in fact driven by the people. But for this to happen, CSOs themselves have to do a great deal of introspection while at the same time making a strong case for formal engagement with state organs. They can do this by using whatever invited space there is or by innovatively inventing such space where it doesn't exist. The development of effective engagement mechanisms has become more pressing in view of the growing importance of regional inter-governmental bodies and regional integration processes as tools for managing the negative effects of globalization such as poverty, underdevelopment, human and food insecurity, among others. The challenge therefore is for civil society actors to innovatively develop new strategies to engage governments, work and collaborate with interstate bodies to promote people-centered and driven-regional integration.

Forms of Engagement

Unlike other regional bodies, it is seldom appreciated that SADC has always made provision for working with CSOs actors. As stated above, as early as the 1980s, when the role of civil society was still largely regarded as anathema in continental politics in general, SADC already had an *NGO liaison desk*. Although the NGO liaison desk has been inundated with problems since its establishment, this is one clear indication that prospects for civil society engagement in SADC

are much brighter than many think. The SADC structure provides a number of opportunities for civil society to participate in its activities and programmes.

The very structure of SADC offers multiple avenues for civil society involvement in the work of the Community. At the very top is the *SADC Summit of heads of State and Government*. Although civil society has organized meetings at the margins of these summits, their impact has been limited. For example in 2006 at the Maseru summit, the SADC-Council of NGOs organized a parallel meeting jointly with the Electoral Institute of Southern Africa (EISA) to look at structural entry points for civil society-SADC relations, regional integration, governance and strategic planning. The meeting was attended by the SADC Executive Secretary and the Chair of Council of Ministers. This was a reflection that the persons and offices of these two individuals could be used as entry points for civil society engagement with organs and departments of SADC.

However what continues to characterize these parallel meetings is that there is usually many of them organized separately, at the same time, all coinciding with the Summit. In the Maseru meeting, social movements also organized their own parallel meeting and also sought to feed into the deliberations of the summit, just as much as the SADC-CNGOs also sought to do. This might be interpreted as schizophrenic tendencies of civil society. Some coordination of these efforts needs to be put in place. The same happened in 2007 in Lusaka. In addition to the SADC-CNGOs meeting, there were other civil society meetings on the sidelines such as those by the Human Rights Watch, Zimbabwean CSOs among others. The point should be made that summits can be approached more effectively through better coordination and greater impact.

Below the SADC Summit are the *Troika* (comprising, the current chair, the out-going and the incoming) and the *Council of Ministers* (comprising mainly of foreign affairs ministers). These are sites that are normally utilised by CSOs and yet these play significant roles in policy formulation, implementation and monitoring. For example, the Council is the organ that prepares discussions for the Summit. Also important is the *Organ on Politics, Defense and Security Cooperation*. Again here CSOs have pitched very little engagement efforts. And yet issues of peace and security, including development are at the heart of why civil society must engage with SADC in general and the Organ in particular. What has tended to happen is civil society picks on Summits and dwells on soft issues, for example, in the just ended heads of State Summit in Lusaka, instead of engaging the troika and other organs, CSOs focused their attention on the summit. Most of the groups engaged SADC on the Zimbabwe matter by focusing on the political report. Zimbabwean groups met with the mediation team in South Africa but lost sight of the role of the SADC Secretariat in the Zimbabwean matter, which was equally tasked like President Mbeki, to produce an economic report. Clearly both the political and the economic reports are crucial and the fact that CSOs chose to focus only on the political might be indicative of the weaknesses in their choice of strategies and capacity levels especially on fields such as economics. This might be indicative of their lack of knowledge of SADC structures. As Abie Dithlake, Secretary General of the SADC-CNGOs noted; 'previous efforts by civil society to engage the Secretariat on the issue of Zimbabwe have shown that the matter is usually referred to the Organ, which is also divided on what measures should be taken on Zimbabwe'.⁸⁹ Failing to understand these dynamics means that any efforts crafted by civil society will be ineffective or at worst fruitless. The other focus area for civil society in these summits has been the democratic deficit in Swaziland. Even here too, civil society organisations have been divided and have not engaged SADC on the matter.

The *Integrated Committees of Ministers* as well as the *SADC National Committees* are also strategic entry points for civil society, especially to influence policies at an early stage. The SADC-CNGOs for example, has an observer status in the Integrated Committee of Ministers and attends also other SADC senior officials meetings. CSOs can also use the SNCs to make their

voices heard. The SNCs were formally established by the amended SADC treaty of 2001. These ensure that member countries 'effectively participate in SADC affairs so as to derive maximum benefits from the process of regional integration.' In terms of composition, the SNCs consist of various stakeholders, including government, the private sector, civil society, NGOs and worker's and employer's organisations (Oosthuizen, 2006: 205-208). At the national level although SNCs are supposed to serve as the entry points for CSOs in SADC's programmes, several challenges exist. The effectiveness of SNCs depends on each member state creating and funding a national secretariat to facilitate its operation. While SNCs are supposed to be 'located in' National Contact Points (NCPs), according to Oosthuizen, 'it is less clear whether SNC national secretariats are meant to report directly to the SADC Secretariat, or via NCPs. Moreover, the functions of NCPs in the overhauled SADC, and the exact relationship between them and the SNC structures, are also unclear.'

These uncertainties also raise questions about how member states and SADC will interpret the overall manner in which CSO participation is mainstreamed in SADC processes. Such uncertainties point to the importance of political will on the part of member states to implement the SADC Treaty. Progress depends on political will of the member states and this is lacking at the national level. According to Oosthuizen, by early 2005, 'very few member states had set up fulltime SNC bodies' (Oosthuizen, 2006: 206-207).

The Secretariat and its various departments are very important places for civil society. These can actually act as gate-keepers, hence the need to formalize relations at this level. As a membership based coalition of NGOs, the SADC-CNGOs is best placed, particularly through its Secretariat in Gaborone to interact with the various SADC departments and structures. The one department that has acted as a focal point for CSOs entry into SADC is the Gender Unit. The unit coordinates and facilitates gender activities in mainstreaming gender in SADC protocols and activities at the Secretariat level. Its intervention strategies have included:

- Development and harmonization of gender policies within SADC;
- Training directorates on mainstreaming gender in their activities;
- Developing trainers at national level;
- Developing gender mainstreaming tool-kits; and
- Developing a draft protocol on gender.⁹⁰

In conducting these activities, the unit invites individuals from CSOs directly or through their national governments. Sometimes the unit approaches individual consultants drawn from CSOs working on gender issues. Some of the groups which have worked with the unit in the past include Gender Links; WILDAF; WILSA; and Gender and Trade Network among others. The unit's stakeholders' meetings are attended by civil society, government and experts on gender. One of the most recent meetings involving all these groups was the Regional Consultative Conference of April 2007. There are Secretariat also forums in which the unit works with both government and CSOs.⁹¹ In these relations, the unit has faced some challenges. Some of these are:

- There is often friction between national governments and CSOs (some of these based on internal national politics) which sometimes puts the Secretariat in an awkward position. In certain cases, individual member states have apprehended the unit for engaging certain groups or for unpopular policy inputs that would have originated from certain CSOs;
- Some governments have their own CSOs that they prefer to work with. They also have a list of those that they think are problematic. As a result, governments are sometimes select CSOs which the Unit /Secretariat should work with;
- Some government sometimes feel that CSOs are taking over their spaces;

- The operational procedures for the drafting of regional protocols and regional policies are also limiting in the sense that they stipulate that a country has to make national submissions rather than individual or group contributions. In essence this means that CSOs contributions have to come through their respective governments. The need for good rapport between governments and CSOs is even greater in this context. At a national level, CSOs also need to be strategic in their thinking and perhaps make submissions through those CSOs which work closely with the government and are likely to be taken seriously by such governments;
- Currently CSOs rarely develop common agendas. This needs to happen sooner.

The Council of NGOs has worked closely with the SADC Secretariat and its other structures. Established to facilitate SADC-CSOs relations, the Council also raises awareness among CSOs about SADC and its objectives. There is an memorandum of understanding in place already that governs the relations between SADC and the Council of NGOs. So far the Council has focused on governance issues, especially elections and democracy and very little on regional integration. Since its establishment the Council has undertaken engagement through various avenues which include:

- Utilizing engagement frameworks derived from the SADC treaty;
- Organizing meetings parallel to summits of heads of State or two weeks before the summits. The first meeting of the forum was held during the Gaborone summit in 2005. It had about 100 representatives from various NGOs and was jointly organised with the Media Institute of Southern Africa (MISA). The second one was in Lesotho (2006) and had 150 representatives. During all these summits the forum was addressed by SADC representatives. The most recent one was at the Lusaka summit of 2007. The meeting attracted 300 participants, but there was so much tension that no meeting was convened with SADC. However ministers from Mauritius and Botswana addressed the forum;
- Informal meetings with SADC country ministers and other government officials where issues of concern are raised. During the Maseru summit, for instance, the forum was able to interact and engage with SADC ministers of Foreign Affairs in a joint cocktail;
- Meetings with SADC secretariat officials, especially Heads of different departments, based in Gaborone. These include the Human and Social Development unit and the Labour Desk;
- The forum has also been engaged in ongoing meetings with Executive Secretary of SADC and the Organ on Defence and politics;
- To facilitate regular interaction with members of the SADC secretariat, the forum recently moved to Kgale Mews- the same complex which houses SADC;
- SADC National committees which the forum has been pushing for in all SADC countries;
- SADC Parliamentary Forum; the SADC NGO forum has been pushing for the formal constitution of the SADC Parliamentary Forum into a regional parliament.⁹²

These views are echoed by some SADC officials who argue that some departments at the Community depend on CSOs for expert analysis and in developing and implementing policies and programmes.⁹³ But as in most RECs, these officials also note that civil society usually lacks knowledge of these spaces, and in fact civil society organisations do not always know much about RECs and how they operate. For example, very few organisations know that SADC has for many years created an environment for including civil society through a variety of ways. For example, the SADC Poverty and Development Conference is one mechanism and platform which focuses on Free Trade Area for instance and its implications on populations. It seeks to improve on people-centered development approaches. The one planned for November 2007 will seek to craft

regional strategic framework for development. This is an opportunity for CSOs to contribute to policies that will affect the region.⁹⁴

The SADC Parliamentary Forum

The Forum, established in 1996 also provides space for civil society participation. It was created to serve the region's communities and as such if explored deeper, this can 'provide the bridge for the involvement of ordinary people in decision-making processes in the region'⁹⁵. It has in this context created different modalities for engaging with civil society and citizens. In its 2006-2010 Strategic Plan for example, it envisages strategic partnerships with other institutions. The Plan says:

The Forum will need to develop structured relations with other institutions at sub-regional, regional and international levels in order to influence processes at these levels that have a bearing on the SADC region and the Forum's work.⁹⁶

The SADCPF is meant to involve the people of SADC in the integration process, through elected representatives. The objectives of the SADCPF complement those of SADC and range from the political to the socio-economic. They include familiarising the people of the region with SADC's aims and objectives; and promoting the participation of NGOs, businesses, and intellectual communities in SADC activities. By implication CSOs are deeply involved in the SADCPF through democratic electoral processes in respective member countries through which representatives are chosen. If the SADCPF is to work and fulfil its objectives, CSOs in the region have themselves to strengthen their participation in elections and parliaments at the national level.

The SADC Treaty and other decisions

As was discussed above, SADC has a long history of involving civil society. The 1992 Windhoek Treaty establishing SADC, for example, gave special priority and status to civil society. Article 23 of the Treaty said:

In pursuance of the objectives of this Treaty, SADC shall seek to involve fully the peoples of the region and non-governmental organizations in the process of regional integration. SADC shall co-operate with, and support the initiatives of the peoples of the Region and non-governmental organizations, contributing to the objectives of this Treaty in the areas of co-operation in order to foster closer relations among the communities, associations and peoples of the region'. (Declaration and Treaty of SADC, Article 23.)⁹⁷

And the 2001 Amendment to the Treaty referred to the role of key stakeholders including the private sector, civil society, NGOs, workers and employers' organisations. Although SADC was born out of state driven processes, the letter and spirit of its own Treaty clearly makes bold commitments in terms of engaging civil society. Article 5.1 and Article 5.2 (subsection b) of the Treaty clearly says that SADC will 'encourage the people of the Region and their institutions to take initiatives to develop economic, social and cultural ties across the region, and to participate fully in the implementation of the programmes and projects of SADC.' Indeed, even the preamble of the foundational Treaty establishing SADC states that Heads of State and Government should be 'mindful of the need to involve the people of the region centrally in the process of development and integration, particularly through the guarantee of democratic rights, observance of human rights and the rule of law.' Thus, in the fulfilment of SADC's core objectives, CSO engagement at all levels constitutes an entrenched legal imperative.

In addition to these entry points, SADC priorities are also sites for civil society interface. These priorities are peace, political stability, democracy and security; infrastructure development; food

security; HIV/AIDS; and science and technology. Although CSOs can not by their nature participate in all these priorities, there are many organisations that have over the years developed expertise in the areas of governance, security, peace and HIV/AIDS. SADC can benefit from these groups. Particularly due to the democracy deficit in the region, the participation of civil society has become crucial especially in playing oversight as well as complimentary roles.⁹⁸ In addition to the Treaty are SIPO and RISP. SIPO for example calls for 'civil society engagement in conflict resolution, public awareness-raising on security issues and the establishment of a forum of academics and research institutions to deliberate on peace and security matters'. The 1997 SADC Declaration on Gender is also an important site for CSOs and declaration although it still lacks proper implementation. A five year SADC programme (2005-2009) which has been established to strengthen vulnerability assessments in the region also provides alternative space for engagement. According to the plan, each country is supposed to set a Vulnerability Assessment Committee whose members are drawn from government, NGOs and United Nations (UN) officials. Since these committees have direct access to the SADC Directorate of Food, Agriculture and Natural Resources, they provide access to NGOs dealing with issues of food security (Khan, 2006: 13).

CSOs in the SADC region might want to take a page out of their counterparts in West Africa for example, especially from networks such as the West Africa Civil Society Forum, a membership based organisation that provides oversight as well as advice to ECOWAS and the West Africa Network of Peace-building. WANEP works closely with ECOWAS to implement the early warning protocol. WANEP has a liaison officer within the ECOWAS Secretariat to facilitate interface between the Commission and WANEP. Hence, Khan might be right in suggesting that CSOs 'should push for SADC to make provision for professional groupings to interact with SADC following the ECOSOCC model, which differentiates between civil society and professional groups... [This] civil society mechanism for engagement with SADC may in fact constitute itself as the Southern Regional body of ECOSOCC' (Khan, 2006: 18).

Challenges

The challenges facing collaboration between CSOs and SADC were summarized by the recent communiqué from the SADC-CNGOs' last meeting in Lusaka in 2007. The meeting declared that 'civil society still remains excluded from the SADC structures and processes in spite of commitments to involve civil society as articulated by various SADC instruments; for example, the SADC Treaty, SADC Regional Indicative Strategic Plan, the Strategic Indicative Plan of the Organ on Politics, Defense and Security and the memorandum of understanding between SADC and SADC-CNGOs (which was signed in December 2003)'. In this regard the meeting urged heads of State and Government to immediately institute measures that would transform and create concrete interface among all SADC structures in order to allow effective participation of civil society. Further heads of State and Government were urged to undertake progressive dialogue between civil society and governments in advancing the development agenda of the region as well as take measures to institutionalize civil society involvement at national and regional development.⁹⁹

The Gender Unit discussed above also noted that gender- based NGOs tend to bring great contributions and have well-developed capacity for evidence –based research. However a number of these organisations face challenges along the following lines:

- Diplomacy; more often CSOs tend to be too aggressive. They lack patience and a proper understanding of how bureaucracies work. Normally CSOs want results on the spot and this is in direct confrontation with government behaviour which is bureaucratic;

- Strategy interventions: sometimes CSOs have lost important battles which they could have otherwise won simply because of their inability to select their agendas and adopt the right strategy for achieving their goals. There are times when they are working well with government on some issues, but suddenly delve to unrelated issue which interrupt the whole negotiation/engagement;
- At times CSOs have differences with government(s) over one single item and instead of dropping that item off the agenda and getting concessions on other important issues; CSOs rarely agree to compromise. It is critical therefore that develop strategic negotiating skills to avoid losing opportunities.
- Human Resources; most CSOs are thin on the ground. There is need for more financial resources especially for gender mainstreaming-especially at planning levels;
- There is also the challenge that at the national ministerial levels, very few ministries, other than ministries of Foreign Affairs, engage with SADC items. This means that protocols signed are also rarely considered when developing national policies;
- Internal SADC processes are bureaucratic and hierarchical;
- Internal SADC politics, especially the divisions between states make it difficult to get consensus on some issues;
- SADC's reluctance to concede space to civil society-wanting to lead;
- Lack of tolerance which sometimes reflect itself as government paranoia about engaging NGOs. The feeling among most SADC government is that NGOs implement international western agendas. As a result, SADC is mainly comfortable with organizations or CSOS which just deal with delivery issues, such as the SADC-NGO forum, rather than advocacy-based organisations;
- Disagreements over mandate; the main focus of many advocacy-based NGOs has been political issues, such as democracy, human rights and electoral rights- all issues regarded by SADC as belonging to politicians. This conflict of interests has poisoned relations between SADC and civil society and made it difficult to engage;
- Antagonisms caused by civil society strategies; advocacy- based groups resort to shouting at governments as their main engagement strategy. This has exacerbated government antagonism towards them. And yet using a different strategy, which focuses on extensive lobbying behind closed doors, the women's movement has been the most successfully in engaging SADC;
- Limited knowledge among CSOs about government protocols and other modalities for engagement. Reflecting back on her time in the NGO world, one SADC official said that she had come to realise that there is a lot of ignorance in civil society about how governments and RECs work. And this has huge implications on their capacity to engage.¹⁰⁰
- There is very little capacity to speak about regional issues in the NGO world;
- Regional coalitions around issues within SADC are not yet developed. Much of the focus is on national issues;
- SADC itself is very weak, and much of the time is spent working on empowering it to make it more effective while monitoring and enforcing protocols;
- Divisions within CSOs, mainly between those who refuse to engage governments and seek to be confrontational all the time and those who chose to engage and negotiate with government. In the case of countries like South Africa still suffering from the legacy of racial apartheid, the divide sometimes takes on a racial dimension;
- Leadership problems in most CSOs have tended to be politically partisan. For instance, the crisis in Zimbabwe is also a crisis of CSOs. The same applies to Zambia where civil society has also become politically partisan and exposed itself to state anger;

- Inability by CSOs to utilise existing evidence-based research. This has limited civil society capacity to coordinate strategy and leverage.
- Lack of training in diplomacy; CSOs leaders need to change tract and learn to be a bit diplomatic when dealing state actors, especially regional leaders at summits. The Zambia 2007 example highlighted this serious shortcoming among CSOs;
- The other problem facing CSOs in the region is largely internal. The fragmented nature and lack of effective organisation of CSOs in SADC is itself a major source of weakness. There is a common perception among member states that civil society in general is often too divided, making it difficult for governments to engage. Furthermore, governments add that CSOs themselves are both 'unelected and unaccountable' (Seabrook, 2006). Thus, one of the greatest challenges CSOs face in their claim for space for greater engagement in SADC is how to claim legitimacy or moral authority over elected governments. The second challenge is how to get around the problem of competing elitisms while developing a shared system of values or visions between SADC member states and CSOs.
- Despite the existence of the progressive provisions for CSO engagement in SADC, civil society still finds it very difficult to engage especially with their governments. Just like some commentators have rather erroneously characterised the African Union (AU) as a 'trade union of Presidents' (Cilliers and Sturman, 2004), perceptions abound or persist in civil society circles that SADC is also a 'highly elite-driven club.' Some observers particularly from the NGO sector even argue that governments in the region tend to prioritize interaction or engagement with donors and private sector players at the expense of civil society (Khan, 2006: 8). This has fed into the argument that leaders seem to be more concerned about narrow market access and profits rather than people-friendly broad-based, accountable and transparent regionalism. Other scholars such as Landsberg and Mackay believe that the characterisation of SADC as an elite club has been true since the old SADCC's original inception in 1978 (Landsberg and Mackay, 2004:18). Tied to this characterisation is also the view that SADC suffers from an insoluble tyranny of 'uncritical solidarity' between Heads of State built from the days of the anti-apartheid struggle. Hence some civil society activists such as Abie Dithlake argue that this problem coupled with an 'inherent distrust of civil society' continues to militate against constructive state-CSO engagement in SADC (Dithlake, 2005: 2).

These observations no doubt point to the existence of an atmosphere of mutual distrust between governments and civil society. Part of the problem lies in the different and conflicting agendas on both sides which have led to the development of an adversarial rather than collaborative relationship across the political divide (Khan, 2006: 7). According to Mutasa, state-civil society relations in SADC have been characterised by either conflict, acrimony or counter-accusations (Mutasa, 2006). This atmosphere of confrontation is partly explained also by the methods which CSOs have used to engage governments over the years. For example, there has been a tendency for CSOs to focus on criticising governments, particularly during high profile regional or continental summits much to the detriment of national engagement. Politically, most governments are not comfortable with this approach and therefore, tend to close rank when confronted at major summits, thereby feeding the impression that Heads of State are hostile to CSOs in general. As a result, a norm has developed where CSOs are often left to engage among themselves fruitlessly at parallel regional SADC summits (*The Star*, 14 August 2007). Like in other parts of the African continent, CSOs in SADC are therefore weakened by their tendency to criticize and engage in public protests at the expense of demonstrating their ability to add value to the existing policies. Policy makers often argue that despite the noise they make, many CSOs actually cannot suggest appropriate solutions or alternatives to Africa's many daunting challenges of diseases, HIV

AIDS, food security, conflict resolution or poverty eradication (Mutasa, 2006). Thus, it is easy for policy makers to argue that they would rather engage the private sector which can deliver tangible results. This is despite the fact that the private sector is effectively part of civil society.

Recommendations

In view of the above challenges and capacity needs, the following recommendations are made with the hope that they will contribute to effective and much more sustained relation between RECs and civil society organisations, in particular between SADC and CSOs in the sub-region. Development actors and other like-minded actors should:

- Build the capacity of gender mainstreaming activities and processes, particularly at implementation levels;
- Provide more and adequate resources for the training of gender trainers who will enforce the implementation of the gender tool kit;
- Help to integrate gender budgeting at national levels;
- Provide human resources and technical assistance especially to the SADC Secretariat, for example, most departments are understaffed;
- Support efforts that will bridge the gap between governments and CSOS;

As stated above, some of these challenges are internal to civil society itself. In this context, there is need for civil society groups to:

- Learn and appreciate how RECs work;
- Learn how to leverage outside formalized structures;
- Rethink most of their strategies: most CSOs need to understand where power lies and then try to leverage. They also need to understand the dynamics of politics in RECs and act accordingly;
- Learn about subtle ways of influence: civil society actors also need to learn about protocol, bureaucracy and appropriate language for different officials. While not advocating for compromise on principles, there is need to avoid unnecessary use of inflammatory language;
- Further develop linkages between themselves which allows for the building of synergies and cross-pollination of ideas. Closely related to this is the need for the establishment of organic linkages between academics, NGOs and policy-oriented people. This will improve CSOs' capacity for evidence-based advocacy;
- Use historical links between themselves and RECs (especially given the fact that most people working in RECs were at some point working in the NGO world) to develop common agendas;
- Develop their research capacity so as to engage in evidence-based advocacy;
- Improve their engagement strategies, especially the art of diplomacy;
- Improve coordination of their activities through development of linkages.

6

THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES AND CIVIL SOCIETY RELATIONS

The Economic Community of West African States was established in 1975 and has since then worked mostly in peace and security. As we write this report, ECOWAS is undergoing transformation into a Commission. Unlike other regional groupings, ECOWAS has a developed relationship with civil society especially in the area of conflict prevention, security, democracy and governance. ECOWAS has worked with civil society organisations such as the West Africa Civil Society Forum and the West Africa Network of Peacebuilding.

The Community was established among other things to promote cooperation and integration that would lead to an economic union of West Africa. The Community's guiding principles are also people centered, for example, the Community seeks solidarity and collective reliance; maintenance of regional peace, stability and good neighborliness. In addition the Community seeks to promote and protect human rights as well as consolidate democratic principles and institutions.

Forms of Engagement with Civil Society

In terms of legal and institutional spaces or frameworks for civil society inclusion, ECOWAS, long realized that 'economic development and regional integration can not be achieved without addressing the threat poised by violent conflicts.'¹⁰¹ Hence according to WANEP's Liaison Officer at ECOWAS, the community has for many years grappled with a plethora of conflicts which sapped enormous energy and resources which would otherwise be used economic development. The realization therefore by ECOWAS of the need to prevent and mitigate violent conflicts led to processes that culminated in the enactment of various protocols and instruments to address security issues in the sub-region. These include the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security. The Mechanism was signed in December, 1999, at Lome. The mechanism was built on previous protocols such as the 1978 Protocol on Non-Aggression and the 1981 Protocol on Mutual Assistance on Defense. Because of the various conflicts in the region, these instruments or rather this security infrastructure was developed. The conflicts in Liberia, Sierra Leone, Guinea-Bissau, and Ivory Coast are examples that necessitated these instruments. Further, ECOWAS developed an Observation Monitoring System within the Secretariat which gets information from its four zonal offices located across the sub-region.

Also in December of 2001, a specific Protocol on Democracy and Good Governance was adopted as a supplement to the protocol of 1999. Under the ECOWAS 1999 and 2001 protocols on security and governance, ECOWAS has made a commitment to collaborate with civil society in implementing its activities. For example, in the peace and security area, especially in implementing the early warning system, ECOWAS works closely with WANEP. WANEP helps in filtering, monitoring and analyzing information on conflicts especially as it relates to community and national levels.¹⁰² ECOWAS and WANEP signed a memorandum of understanding and this has enabled WANEP to establish a liaison office at the ECOWAS Secretariat. The liaison officer facilitates civil society and ECOWAS relations, also publishes periodic briefs that highlight various options for intervening in conflict ridden environments. The

officer has also prepared a database for early warning for the sub-region. This acts as a repository for all events and processes related to conflict prevention and human security.

These instruments specify the roles that civil society ought to play within the context of the peace and security architecture of the sub-region. Civil society organisations are expected to buttress and compliment the work of member states in the sub-region. To this end a number of declarations have been made to strengthen the role of civil society in popularizing and promoting the work and objectives of ECOWAS. The creation of a civil society coordinating department within the Commission has in a way formalized the relationship between civil society and the Commission.

Furthermore, civil society organisations themselves have gone beyond complimenting government and intergovernmental initiatives to actively engaging them in various thematic areas within their expertise. For example, WANEP has a partnership agreement with ECOWAS in the area of conflict prevention and management. WANEP's memorandum of understanding defines the goals and objectives; outputs and other deliverables. A number of successes have been achieved especially in the operationalisation of the ECOWAS early warning system. Other thematic areas of engagement with ECOWAS are also on such areas as regional integration; peace and security; youth and children; trade and commerce; education and health among many others. This is especially so with regards the West Africa Civil Society Forum that serves as an umbrella structure for engaging ECOWAS. There are other specialized networks for example, the West Africa Network on Small Arms (WANSAs); West Africa Students' Union (WASU); West Africa Bar Association; the West African Network of Research Organisations and Think Tanks and the West Africa Cotton Farmers' Union, among others. These networks can craft relationships with various departments of the Commission.

ECOWAS also has mechanisms to reach out to citizens and civil society organisations. This is through ECOWAS National Units located in ministries of Regional Integration in the fifteen member states; ECOWAS' Four Zonal Bureaus and National Focal Points for Peace, Conflict and Human Security monitoring as well as through Special Representatives of the ECOWAS President in countries going through a crisis.¹⁰³ The media outreach programmes of the Commission also promote the Commission's work with civil society and citizens of the member states of the sub-region. Furthermore ECOWAS supports financially the work of civil society groups in particular WACSOF.¹⁰⁴ On democracy and good governance, ECOWAS works with many civil society organisations under the auspices of WACSOF. WACSOF has members in all the fifteen member states. In addition, WACSOF is modeled against ECOSOCC and partners and advises ECOWAS.¹⁰⁵ Among some of its functions, WACSOF promotes dialogue between ECOWAS and civil society, promotes partnerships between governments and civil society, establishes working relations between its members and ECOWAS Secretariat, popularizes ECOWAS policies, programmes and principles and undertakes studies for ECOWAS. Its working committees (ECOWAS and CSO Relations; Food, Agriculture and Environment; Gender Issues; Governance Democracy and Human Rights; Health, HIV/AIDS and Education; Peace and Security, Youth and Regional Integration, Economic Development, Trade and Investment) mirror those of the AU ECOSOCC and are spaces for specialized and issue based CSOs to contribute to the work of ECOWAS.¹⁰⁶

ECOWAS also organizes civil society conferences and workshops. And civil society organisations also invite ECOWAS to their meetings in various countries on a number of areas of focus.¹⁰⁷ It can therefore be concluded that the ECOWAS protocol relating to Conflict, Prevention, Management, Peacekeeping and Security and other protocols provide and outline an agenda for civil society and ECOWAS to collaborate. They constitute a framework for civil

society input into policy-formulation and implementation.¹⁰⁸ The Secretariat, in particular, the Executive Secretary, Dr. Mohamed Ibn Chambas, is regarded as being ‘favorably disposed towards greater ECOWAS-CSOs collaboration’.¹⁰⁹

The Treaty establishing ECOWAS is also receptive to civil society. It is very conscious of the existence and possible contribution of civil society and other formations in the programs of the Community. The Treaty is one of the most progressive in Africa. In its preamble, it refers to the consciousness of the heads of State and Government on the need to ‘encourage, foster and accelerate the economic and social development of states in order to improve the living conditions of peoples *in the sub region* (own emphasis). The heads of State and Government also ‘accept the need to face together the political, economic and socio-cultural challenges...and to pull together resources and peoples ...for the most rapid and optimum expansion of the region’s productive capacity’.

Thus the Treaty provides for the establishment of various institutions, all which serve as sites for civil society inclusion. Like in other regional groupings, there is at the very top, the *Authority of the heads of State and Government*. Below the Authority is the *Council of Ministers*. *The Community Parliament* acts as the representative of the people’s aspirations and a forum for dialogue, consultation and consensus for representatives of the peoples of West Africa”¹¹⁰ Further the Treaty provides for the Economic and Social Council; an official platform for civil society to advise the Community. Article 81, for example, states that;

The Community with a view to mobilising the human and material resources for the economic integration of the region shall cooperate with regional non-governmental organisations and voluntary development organisations in order to encourage the involvement of the peoples of the region in the process of economic integration and mobilise their technical, material and financial support.¹¹¹

And Article 82 further reiterates that ‘the Community shall cooperate with socio-economic organisations and associations in particular, producers, transport operators, workers, employers, university teachers and administrators, journalists, youth, women, artisans and other professional organisations and associations with a view to ensuring their involvement in the integration process’.

The *Community Court of Justice* is also another important site for civil society engagement. Citizens and other social formations can take their cases or grievances to the Court. Also more importantly is the *Secretariat* which in the new transformed Commission provides for an opportunity for civil society to engage ‘literally’ with every department, such as: Relations with other Institutions; Political Affairs, Peace and Security; Trade, Customs, Industry and Free Movement of Persons; Human Development and Gender among others. Perhaps more strategic is the civil society focal point: the Gender, Development, Youth, Sport, Civil Society, Employment and Drug Control. However our interview with the then acting Director of the Unit; Mr Mamadou Gueye, the unit was challenged especially in the area of human capacity. He said that the whole unit had only one person and in administrative terms, this was a disaster. The challenge of human resources cut across all regional institutions and needs some attention. It is simple things like getting documents from the Commission to civil society as well as answering emails that Mamadou Gueye insisted should be given support.

The *Specialized Technical Committees* are also important areas for policy influence and input of expert analysis. The transformation of the Community into a Commission also provides opportunities for civil society to engage at least in the following areas:

- Popularization of the new strategic vision document;

- Medium term work plan;
- Capacity building strategic work plan;
- Strategic recruitment plan;
- Two-tier Community Court of Justice;
- Direct suffrage of the Community Parliament.

These relations between ECOWAS and civil society have resulted in the shift in paradigms. What used to be antagonistic relations between CSOs and ECOWAS, are now collegial and constructive relations. Furthermore, civil society organisations are more and more seeing themselves as partners with governments and those negative perceptions that abounded have dwindled. Great strides in the case of ECOWAS have been recorded in the operationalisation of the early warning system; that has become a reference point in Africa, particularly through the efforts of WANEP. A new approach to development that recognizes the active as opposed to passive role of civil society has emerged and is likely to increasingly become common practice. This is so given the recognition that civil society is a major stakeholder in development projects.

Capacity needs and Challenges

One of the questions that most regional institutions seeking to work with civil society face is how effective are their engagements. In the context of ECOWAS, through policy briefs and workshops, civil society organisations are able to make recommendations that have to some extent shaped the overall functioning of ECOWAS. WASCOF for instance meets annually before the summit of Heads of State and Government. Issues raised and recommendations made are presented and transmitted to the Council of Ministers, which are then taken to the heads of State and Government. And through their regular and authoritative policy briefs, WANEP feeds into the Political Affairs' Peace and Security department through analysis of conflicts and peace dynamics in the sub-region. This has over the years assisted in decision-making of the Commission. The WANEP Liaison Officer plays this important role within ECOWAS. Therefore ECOWAS' partnership with WANEP and WACSOF has over the years strengthened civil society's credibility and showcased its role as a critical and influential actor in conflict prevention and peace-building efforts. The conference on AU-Civil Society relations held in Ghana in 2005 concluded that; 'in this regard, the role of civil society has gone beyond the traditional activities of monitoring and policing governments to that of providing a credible bridge between policymakers and their constituencies'.¹¹² ECOWAS has also established working relationships with women and gender groups through its gender unit at the Secretariat and through its satellite office in Dakar.

However both ECOWAS and civil society are faced with challenges around poverty, weak domestication of regional integration processes and low levels of implementation of Community acts and declarations (protocols and decisions). A collaborative arrangement could accelerate implementation of these. Hence civil society can play crucial roles in the Commission's priorities: poverty reduction; infrastructure development; consolidation of peace and democracy; and community development.¹¹³ For example, the Multilateral Cooperation Agreement to Combat Trafficking in Persons, in West and Central Africa, places civil society in the heart and centre of human conflict.

Recommendations

Although the current environment for engagement is facilitative, it needs to be further developed and enhanced. For example, the often poor proactive nature of civil society in engaging ECOWAS is a limiting factor to the engagement. There is also lack of well fashioned

institutionalized policy of engagement with CSOs by ECOWAS¹¹⁴. The paucity of knowledge of regional issues by CSOs is also a factor characteristic of civil society in all regions. This restricts the extent to which civil society can be actively involved in these matters. Other limiting factors include the very caliber and capacity of CSOs involved with regional issues and ECOWAS. More often their track record and credibility works against them. For example, WACSOF has only excelled in election monitoring and not ventured into other thematic areas that it set for itself. And recently it was mired in controversy regarding its Secretary General. Sometimes governments view civil society with disdain and suspicion. And funding is a factor that limits what organisations can do in any given context. Issues of territoriality and thematic ownership need to be addressed, for example, WACSOF and WANEP were at one time involved in bitter wrangling over issues of territorial dominance to a point that WANEP withdrew its membership from WACSOF. In the light of these factors, the following are recommended:

- The capacity for engagement with ECOWAS is an area that needs attention because a number of organisations need strengthening. For example as stated above, most civil society organisations are weak intellectually and lack adequate knowledge on the dynamics of engagement with regional intergovernmental institutions.
- Most organisations and formations need help in defining priority areas and lobbying policy changes. Lack of funding and issues of track record affect whether or not these groups can command respect, visibility and credibility vis-a-vis the intergovernmental institution.
- Traveling within the sub-region is also very expensive and beyond the means of many organisations and formations. This means that many are excluded from many meetings and lack of exposure is a recipe for disaster. Civil society therefore needs to be capacitated to have appropriate knowledge and skills especially in such pertinent areas as budget and program tracking.
- More organisations need training on monitoring and evaluation; financial management; among other capacity needs.
- In the same vein, ECOWAS also needs capacitating in human resources and development of institutionalized platforms for regular engagement with CSOs.
- ECOWAS also needs assistance in gaining knowledge on what CSOs are doing across the sub-region. Further lack of funding for ECOWAS inhibits its desire to engage with civil society. For example, both ECOWAS and WACSOF get financial support from DANIDA.

In other words both local and global factors affect the implementation of programmes for both civil society and regional intergovernmental institutions. The reality of a neo-liberal international political economy constrains the options before RECs and CSOs in terms of choices and limits to what they can do and propose; basically how they can engage. Some of these dynamics include one size fits all approaches by international organisations; lack of ownership by local organisations, westernized paradigms; corruption; and donors shifting goal posts while the match is still on.¹¹⁵

7

ADDITIONAL REGIONAL ECONOMIC COMMUNITIES AND CIVIL SOCIETY RELATIONS

The Economic States of Central African States

ECCAS was established by members of the Customs and Monetary Union of Central African States and members of the Economic Community of the Great Lakes States (CPGL) in 1983, following the 1981 solemn commitment in the Libreville Declaration to establish an economic community of central African states (Angola, Burundi, Cameroon, Central African Republic, Congo, Gabon, Equatorial Guinea, Rwanda, Sao Tome and Principe, Chad, and Zaire). The founding members of ECCAS had concurrent membership with other regional organizations. There have been four main regional groupings in the central Africa sub-region. These are: UDEAC, CPGL, ECCAS and the Economic and Monetary Union of Central African States (CEMAC). As a result of the multiplicity of groupings and at times dual membership, this has led to technical and financial difficulties. Member states have had to spread their already limited resources to meet their responsibilities in the respective groupings.

ECCAS began functioning in 1985 but because of the above cited challenges as well as the conflict in the sub-region which at times pitted member states against each other, for example, Rwanda and Angola, it remained inactive till its resuscitation in 1998. Today, as a result of the European Union, there is a financial agreement with ECCAS and CEMAC, merging them into one institution, with ECCAS taking a leading role in peace and security. Like most RECs, ECCAS also works towards achieving 'collective autonomy, raising the standard of living of its populations and maintaining economic stability through harmonious cooperation'. Hence in 1999, at the Malabo heads of State and Government conference, four priority areas that were identified are:

- Developing capacities to maintain peace, security and stability;
- Developing physical, economic and monetary integration;
- Developing a culture of human integration; and
- Establishing an autonomous financing mechanism for ECCAS

Unlike the other RECs discussed so far, ECCAS as an institution does not have a long history of collaborating with civil society. The relation is still at its formative stage. Civil society roles are still evolving. According to some reports, civil society formations usually operate at the national level with very little interaction across borders.¹¹⁶ Even in the national level, civil society relations with governments have been characterized by tension, suspicion and stone throwing. The need for constructive dialogue between these critical institutions is urgent, especially given the history of protracted conflicts in the sub-region. The need for sustainable peace is an ideal that most long for in the sub-region. In such contexts, a strong and effective regional body and a vibrant and strong civil society are necessary.¹¹⁷

There are many areas in which civil society and ECCAS can work together, especially in the peace and security framework. A number of countries in the region have recently gotten out of

volatile situations, for example, Burundi, Rwanda, Angola, DRC, Chad and Central Africa Republic. In addressing most of the challenges facing the region, there is a serious need for strategic collaboration between the regional institution and non-states actors, especially around early warning mechanisms. There is no doubt that civil society has over the years become increasingly important within the peace and security architecture, mainly because the causes of conflicts have been located in the human security arena.¹¹⁸ And because increasingly regional groupings have also been mandated with peace and security, they have made 'specific provisions to address human security challenges and to ensure closer working relations with civil society especially in conflict prevention and peace building'. And civil society organisations have over the years contributed to various elements of peace building including direct practical intervention, mediation, negotiation and reconciliation between warring groups.¹¹⁹ CSOs have also been involved in humanitarian work, research, advocacy, training, capacity building, and documentation. In countries such as Rwanda and Angola, for example, CSOs including faith-based associations played pivotal roles in facilitating negotiation. In most countries also in the sub-region, governments are working closely with civil society organisations to implement the United Nations Programme on Small Arms and Light Weapons. In Angola, for example, civilians, civil society and state institutions are working together in the disarmament programme. And in Burundi, civil society and government are working together to implement the Demilitarization, Demobilisation and Reinsertion Programs (DDR).¹²⁰

Important instruments developed by the Community provide progressive entry points for civil society. In particular, the Treaty establishing ECCAS, the Protocol establishing the Network of Parliamentarians of ECCAS, the Mutual Assistance Pact between States, the Protocol relating to the establishment of a Mutual Security Pact in Central Africa are important documents that legally bind ECCAS to work with CSOs. These legal instruments establish the creation of the Central African Early Warning Mechanism (MARAC), the Defense and Security Commission and the Central African Multinational Force (FOMAC). These bodies also provide for the inclusion of CSOs as we discuss below.

The Treaty Establishing ECCAS is not that friendly to civil society cooperation like that establishing SADC, ECOWAS or EAC. The Treaty does not refer to any envisioned cooperation between the community and its citizens. Article 89, for example, on cooperation, places emphasis on other member states than on non-state actors. However, there are provisions that can be used to claim space for civil society involvement. Citizens of the sub region are considered nationals of the Community as provided for by Article 40 on freedom of movement and residence. This means as citizens of the Community, they should take part in activities that concern them. And Article 7 provides for the establishment of ECCAS institutions in which citizens can take part in, that include the Conference of Heads of State and Government, the Council of Ministers, the Court of Justice, the Secretariat, the Consultative Commission and Specialized Technical Committees. All these institutions are sites for civil society engagement. The Secretariat for example, is responsible for promoting the development programmes of the community as well the preparation of the annual work plan. Certainly civil society can play a meaningful role in these areas.

The Protocol Establishing the Network of Parliamentarians of ECCAS also provides spaces for involving CSOs. This protocol was adopted at the 10th Ordinary Session of Heads of State and Government in Malabo, 2002. The protocol in its preamble states:

[the heads of State] are conscious that human rights must be guaranteed in order to enable democratic participation of citizens in decision-making...that [heads of State] are also convinced that a space for dialogue, consultation and consensus of representation of populations of the community *will help* (own emphasis) contribute effectively to the integration of ECCAS.

Further Article 2 (1) of the Protocol establishes the network of parliamentarians as the representative assembly of the community, exercising oversight on issues such as human rights and basic freedoms; social integration, citizenship and women's emancipation among other functions. Like other parliamentary forums, the network's deliberations shall be public unless stated otherwise. Its reports will also be published in the Community's official gazette and in gazettes of each member state. The network is still to be functional though.

The Standing Orders of the Central Africa Early Warning Mechanism (MARAC) provides a number of entry points for civil society to work closely with ECCAS especially on peace and security issues. The early warning mechanism is a system for observation, monitoring and prevention of crises and conflicts. It serves as a data collection, analysis and dissemination tool for conflict prevention. The standing orders also provide for the establishment of the bureau which is composed of national and international organisations and institutions. And the decentralized structures of the early warning mechanism are made of networks in each member state called national bureaux and each includes governmental, legislative organs, international organisations, NGOs, civil society, academics and research institutions.

The *Standing Orders of the Central African Multinational Force (FOMAC)* also offers opportunities for the participation of civil society. For example, it is envisioned that the force will also include civilian modules. Further FOMAC may seek reinforcement from civilian units comprising NGOs and associations authorized by the ECCAS Secretariat. In general FOMAC is expected to play leading roles in observation and monitoring; peace keeping; humanitarian aid; preventive deployment; peace building, disarmament, demobilisation and policing. These are areas that civil society has developed expertise in. Further there is a provision of a special representative whose role among others is acting as a chief of mission responsible for the political orientation of the mission, coordinating activities of sub regional institutions and that of international organisations including NGOs.

The Standing Orders of the Defense and Security Commission provides for the Defense Commission to operate as an advisory organ and as Article 6 states, the Commission can seek expertise from partners outside the sub-region, to include civil society.

During the writing period of this report, ECCAS was preparing a meeting between the 26th-28th September 2007 to reflect on possible collaboration between CSOs and ECCAS, mainly in the areas of conflict prevention and the consolidation of peace. The meeting was being organized by the Peace and Security Support Programme and funded by the European Commission. Participants were expected to reflect on how an enabling environment for social and economic development in the ECCAS region could be promoted. Also important were issues around reduction of conflicts and insecurity and disasters; promotion of good governance, human rights and reduction of poverty. The core focus of ECCAS's security programme is around:

- Strengthening the peace and security department;
- Implementation of MARAC;
- Supporting political and diplomatic functions of ECCAS;
- Capacity development of CSOs in conflict prevention.

ECCAS has undertaken a study to identify CSOs involved or those that have the capacity to be involved in peace and security issues. This meeting therefore was meant to:

- Provide information and analysis on MARAC;

- Support the implementation of ECCAS decisions as well as its sensitization, advocacy and training activities;
- Inform ECCAS policies on peace and security;
- Mobilize CSOs for crisis prevention interventions, mediation or consolidation of peace by supporting decisions taken by ECCAS;
- Map out CSOs that work in the area of peace and security in the ECCAS region and reflect on their roles, identify their strengths and weaknesses and offer possible solutions;
- Help ECCAS define and develop a collaborative structure for CSOs engagement, modalities for collaboration between CSOs and ECCAS; as well as find ways in which ECCAS can support CSOs and also how CSOs can support ECCAS.

The meeting expected to come out with an action plan on strengthening and developing CSOs capacity and role in conflict prevention and peace building. It also hoped to develop a structure for CSOs and ECCAS collaboration. Finally ECCAS sought to validate its support structure on the Peace and Security Support Programme through a partnership between CSOs and ECCAS.

The Intergovernmental Authority on Development

The Intergovernmental Authority on Development was established as a successor to the Intergovernmental Authority on Drought and Development (IGADD) of 1986. IGADD was created by Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda. Eritrea was only admitted in 1993 at the fourth Summit of the heads of State and Government in Addis Ababa. As the name suggests, the initial mandate for IGADD was to address issues related to drought and desertification in the sub-region. However when it was clear that the forum was a platform for other regional matters such as political and socio-economic matters, member states expanded the mandate of the organization and renamed it IGAD. This was in 1995 at an extra Ordinary summit. The Authority works particularly to promote peace and stability in the sub-region. Like Central and West Africa, the horn of Africa has been plagued with inter-and intra state conflicts. The need to create a mechanism within the sub-region for the prevention, management and resolution of these conflicts¹²¹ has been urgent. The Authority has prioritised food security and environmental protection; conflict prevention, management and resolution; and economic cooperation and integration. These are important priority areas which civil society can contribute to.

Generally the Authority is in principle open to cooperation with civil society. There are a number of provisions in the Agreement establishing the Authority that cater for civil society inclusion. For example, the Agreement establishes the Assembly of heads of State and Government; the Council of Ministers; the Committee of Ambassadors as well as the Secretariat. The IGAD Gender desk established in 1999 also helps to foster mainstreaming of gender and women's participation in IGAD. This is a realization that women play significant roles in peace processes.

Like in all regional groupings these are sites that civil society can engage for program design, implementation and monitoring. The Council for example, can at times establish ministerial committees to deal with any matters affecting the sub-region. And CSOs can be invited to make submissions. Article 18 of the Agreement states that in this context:

The Authority may enter into agreement with other regional organisations and with intergovernmental and non-governmental agencies and non-member states.

According to the Agreement, IGAD places a lot of emphasis on communities, governments and other organisations in the different member states in conflict prevention, management and resolution. In the resolution of conflicts in Somalia, Eritrea and now Darfur, civil society, especially women's groups and religious organisations and communities play significant roles. In particular, civil society can contribute to IGAD's conflict prevention, management and resolution as well as to the humanitarian programmes. Here CSOs can help develop an early warning mechanism, learning from models such as those in West Africa (WANEP and ECOWAS, for example). CSOs can further develop an early response mechanism and help consolidate gains in the field, for example, the Sudan and Somalia peace processes. CSOs can also help with documentation and information gathering. As in many parts of the continent, HIV/AIDS pandemic has become a security threat and increasingly CSOs and regional groupings are devising ways in which the security architecture takes the pandemic into consideration. CSOs especially those that have been working with people infected and affected by the pandemic can serve as resources for the regional grouping.

In order to facilitate the IGAD-CSOs partnership, the IGAD-CSO Forum was inaugurated in 2001. The forum was created to 'bridge the gap that was created by previous efforts that tended to ignore or marginalize grassroots institutions...'¹²² In addition the forum was established to serve as a mechanism to involve civil society and citizens in the policy formulation, implementation and monitoring of IGAD processes. This would include working closely with the IGAD Secretariat; collaboration between CSOs and IGAD; popularizing IGAD; and sharing experiences across the region.¹²³

The Southern Africa Customs Union

SACU is largely an intergovernmental tariff negotiating organ consisting of a Council of Ministers, the Customs Commission, a Tariff Board, Technical Liaison Committees, a Tribunal and permanent Secretariat from South Africa, Lesotho, Botswana and Swaziland (Erasmus, 2004). Recent changes to the original agreement of 1969 saw several institutions set up and through them common policies and new legal instruments developed in order to further regional integration amongst the members, as well as promoting their integration into the global economy. Despite its integrationist thrust, SACU does not provide space for CSO engagement. Instead, South Africa has traditionally taken the lead in both intra-SACU trading relations and economic policy, and also with SACU negotiations with third countries. SACU functions more or less in line with the policies of its dominant partner: South Africa.

There is very little, if any, social dialogue that takes place with other stakeholders in this organ, at least outside NEDLAC (Manduna, 2005).¹²⁴ Despite the bleak picture painted above, CSOs in SADC should push member countries which are part of SACU to extend mechanisms for CSO engagement adopted at the SADC level. This argument's legitimacy will lie in the fact that SACU incorporates members of SADC while the latter is an organ of the AU and should subscribe to the continental organ's protocols.

Challenges

These regional groupings face the challenge of willing to cede part of member states' sovereignty for the general good of the Community. Besides, in view of the powers of the leaders, it is clear that the success of the integration process depends highly on the political will and the individual and collective commitment and involvement of the heads of State and Government. The concurrent membership, for example, of some of the ECCAS members to other regional organizations has led to technical and financial difficulties. The absence of a regional leader

within the community has also hindered the integration process. This is partly due to the lack of harmonious relations between Cameroon and Gabon who could have become pivotal states in the sub-region. Almost every single country member of the ECCAS has been home to an armed conflict, and this diverted its attention from the integration agenda. Further ECCAS has so far failed to instill to citizens of its members a sense of a common identity. The absence of a community citizenship and identity makes it difficult for civil society in Central Africa to constitute a regional body that could claim a space for interaction / participation in ECCAS programs.

Many leaders in the sub-region are still autocratic and as a result states tend to control civil society, co-opt some elements of civil society and at times corrupt or frustrate efforts of those organisations that are critical of the weaknesses of the state. At times civil society organisations also suffer from the tendency to want to be a referee and a player at the same time. Lack of resources and capacity gaps affect both civil society and ECCAS. The fragmented nature of civil society also hampers their participation in sub-regional groupings' programmes. Give these challenges, it is critical to strengthen ECCAS and CSO relations especially in conflict early warning and prevention. It would be important to build the capacity of both civil society and ECCAS if sustainable and lasting peace is to be achieved. It would be useful to engender efforts aimed at peace building.

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¹⁷ Second OAU/Civil Society Conference, General Report, Addis Ababa, 11 – 14 June 2002

¹⁸ Maindi Grace Wakio, Opcit. p 16.

¹⁹ Ibid, pp 16 – 17.

²⁰ *Strategic Plan of the Commission of the African Union*, Volume 3: 2004 – 2007, AU May 2004, p 8.

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²² Ibid.

²³ Background on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), Department of Foreign Affairs, Republic of South Africa, June 2002. Available online at <http://www.au2002.gov.za/docs/background/cssdca.htm> accessed 17 February, 2006.

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- ⁹³ Interview with Janah Ncube: Senior Policy Advisor on Poverty and Development at the SADC Secretariat, Gaborone: 12th September 2007.
- ⁹⁴ Ibid.
- ⁹⁵ Ibid.
- ⁹⁶ SADC-PF, Strategic Plan 2006-10; Windhoek.
- ⁹⁷ See also Landsberg, C (2006) 'People to People solidarity: Civil society and deep integration in Southern Africa'. *Transformation*. 61: 40-62; see also CPP (2006) *Civil Society Guide: Deliberative Policy: Civil society and Africa's Continental Mechanisms and Programmes*; compiled by Chris Landsberg and Shaun Mckay.
- ⁹⁸ See, CCR Report; 'The Peacebuilding Role of Civil Society in Southern Africa: A Policy Report'; Lesotho, Maseru-14-15 October 2005.
- ⁹⁹ See Communiqué of SADC Civil Society Forum on ensuring effective civic participation in development and democratic governance, Lusaka, Zambia; 14th-16th August 2007.
- ¹⁰⁰ Interview with Janah Ncube; Opcit.
- ¹⁰¹ Interview with Takwa Zebulon, WANEP Liaison Officer within ECOWAS Commission, August 2007 (face to face and through questionnaire), See also questionnaire completed by Professor Said Adejumobi, former Political Governance Specialist at the ECOWAS Commission, August 2007.
- ¹⁰² See Report of the AU-Civil Society Consultative Workshop on Enhancing AU-Civil Society Relationships: organized by ASDR and the AU Commission, Ghana, Teshie, 29-31 August 2005.
- ¹⁰³ Ibid.
- ¹⁰⁴ Interview with Mamadou Gueye, then Acting Director: Gender, Youth, Employment and Civil Society, Drug Control, Cotonou; 29th August 2007.
- ¹⁰⁵ See, Charter of the West African Civil Society Forum (WACSOF).
- ¹⁰⁶ Most of this information was gathered at a WACSOF Strategic Planning Retreat in Cotonou on 28th-31st August 2007. The list of participants in that retreat is included in individuals, organisations and groups interviewed.
- ¹⁰⁷ Interview with Takwa Zebulon, opcit.
- ¹⁰⁸ Ibid.
- ¹⁰⁹ Ibid.
- ¹¹⁰ See ECOWAS Parliament at a glance.
- ¹¹¹ ECOWAS. *Economic Community of West African States (ECOWAS) Revised Treaty of 1993*. Rule 37 of Procedures also refers to the Parliament's relations with international organisations in Africa and worldwide.
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- ¹¹⁴ Interview with Said, Opcit.
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¹¹⁷ Ibid.

¹¹⁸ Ibid.

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¹²⁰ See Workshop Report on 'Review of Progress made by the ECCAS member states in the implementation of the UN Program on SALW', 20-21 September 2005, organized by ISS, ECCAS and SaferRwanda.

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¹²³ See objectives of the IGAD-CSO Forum; see also the Khartoum Declaration that opened the way for an interface with CSOs.

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