The African Union: Defending peace, democracy and human rights

The creation of the African Union (AU) in 2002 sparked hopes for the start of a new era in African integration. New institutional mechanisms and norms have been put in place to accomplish the AU's ambitious objectives in the area of peace, human rights and democratic governance. Despite the promise of these objectives, they have yet to become fully effective and legitimate, as many member states still need to fulfil their commitments and sign the necessary legal instruments.

The African Union – structure and functioning

Created in 2002 and guided by the vision of a 'united and strong Africa', the African Union replaced the Organisation of African Unity (OAU), aiming to overcome its ineffectiveness in protecting peace, human rights and democracy. The AU is a pancontinental intergovernmental organisation, in which ultimate decision-making power belongs to its member states, represented by the heads of state and government in the AU Assembly, the supreme body of the Union. The Assembly strives to be consensual, but in the absence of consensus decisions can be taken by a two-thirds majority of its members. The AU Commission, which performs executive and secretarial tasks, includes portfolios for political affairs, and for peace and security. The Pan-African Parliament, established in 2004 and endowed with advisory and consultative functions, is composed of 240 representatives (five per state), elected by the legislatures of the 48 member states that have ratified its protocol. The promotion of peace, democracy and human rights are among its objectives.

The African Peace and Security Architecture

Following the bloody conflicts in some African states in the 1990s, the Constitutive Act of the African Union explicitly authorises intervention by the Union in a member state, in cases of war crimes, genocide and crimes against humanity, or at the request of a member state, in order to restore peace and security. This contrasts with the OAU's old principle of unconditional non-interference in member states. To protect peace on the continent, the AU has been endowed with an African Peace and Security Architecture (APSA). Its main body is the African Peace and Security Council (APSC) (composed of 15 members distributed among five African regions). The APSC is the standing decision-making body on peace-related issues, but the Assembly has the ultimate decision-making power. The APSA also includes a Panel of the Wise (respected personalities), a Continental Early Warning Mechanism, a Peace Fund (consistently under-resourced) and an African Standby Force. This force is composed of military, police and civilian components, on standby in their countries and ready for rapid deployment within 14 days in emergencies. It is divided in five regional brigades, three of which are established under the framework of regional economic communities and two independently. The whole architecture was designed to function in tight cooperation with the regional economic communities, which are expected to be active in conflict prevention, resolution and management, while recognising the AU's primary responsibility in the area. In practice however, the responses of the continental and the regional level have sometimes diverged, for example in Côte d'Ivoire in 2011 and in the Mali crisis in 2012.

The AU has already proved it can act, deploying several peace operations, with troops committed voluntarily by its member states, in the past in Burundi, the Comoros and the Central African Republic. Current missions take place in Somalia (AMISOM) and in Darfur (UNAMID – deployed in cooperation with the UN); the AU has also authorised two regional multinational forces: in West Africa to fight Boko Haram, and in Central Africa to eliminate the Lord's Resistance Army. The AU's capacity to act militarily ultimately depends on its member states' willingness to overcome disagreement and put aside individual interests. For example, in the Burundi crisis, it was not possible to reach consensus on sending troops into the country.

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The APSA also suffers from its lack of its own resources. The bulk of its funding has been provided by external donors, including the EU (via the African Peace Facility), which has represented a vital source of reliable funding, supporting peace operations, capacity-building and conflict-prevention measures.

The African Human Rights System

The AU is committed to human-rights protection through its Constitutive Act. The organisation steers a continental human rights system, whose normative core is constituted by the African Charter on Human and Peoples' Rights, in force since 1986. The Charter seeks to define a specific African understanding of human rights, taking into account the collective rights and duties of individuals towards the community. It has been ratified by all AU members, with the exception of Morocco which re-joined the AU in January 2017.

The main development under the AU framework was the establishment in 2006 of a judicial body – the African Court on Human and Peoples' Rights – in order to complement and reinforce the work of the existing African Commission on Human and Peoples' Rights (1987), charged with interpreting the Charter and issuing reports on compliance and recommendations to member states. The Court's task is to interpret and apply the Charter (including its socio-economic rights), as well as other international human rights instruments to which states have subscribed. Complaints can only be brought against those states that have ratified the Protocol establishing it, i.e. 30 to date, and the Court's decisions are binding on them. Complaints cannot be lodged by individuals or non-governmental organisations, unless states sign a special declaration allowing them to do so; only seven have signed such a declaration. The Court has dealt with a limited number of cases (41 finalised) and, among these, only its judgment defending the freedom of expression stands out as a landmark decision. The Court has interim status and, according to a 2008 Protocol, ratified to date by only six countries, it should be transformed into the African Court of Justice and Human Rights, also dealing with AU-related legal issues in general. According to amendments adopted in June 2014 and not yet ratified by any state, its competences will also include the trial of individuals who have committed transnational crimes (genocide, crimes against humanity, corruption, money laundering, human and drug trafficking, piracy). Heads of state and governments and other senior officials will be excluded from its jurisdiction during their mandates – a move criticised by voices from civil society.

> The EU Joint Communication published ahead of the 2017 Africa-EU high-level summit states that the EU will remain a security provider and a key partner in operationalising the APSA. It also reaffirms EU readiness to boost its efforts to support democracy and promote human rights and the rule of law in Africa, and to promote accountable, transparent and responsive governance.

The African Governance Architecture

The African Charter on Democracy, Elections and Governance (adopted in 2007 and entered into force in 2012) sets out a normative vision of the democratic governance principle, enshrined in the AU's Constitutive Act. It has been signed by 45 countries, and ratified by 30. The Charter defines common norms on democracy, rule of law, elections, and political, economic and social governance; with compliance to be assessed through biennial reports. The Charter prohibits unconstitutional change of government (UCG), and provides for sanctions against the perpetrators and for the suspension of the state concerned.

Another tool for democracy promotion is the African Peer Review Mechanism (APRM), a voluntary self-monitoring mechanism for political, economic and corporate governance, launched in 2003. The APRM evaluation consists of a self-assessment by the participating country with the involvement of relevant stakeholders, and of an external independent evaluation, culminating in a peer review by fellow Heads of State and Government. So far, 36 states have subscribed to the APRM, and 17 have been peer reviewed (but none since 2013 as the process has stagnated due to lack of attention from governments and public opinion).

In 2011, the African Governance Architecture was put in place as an overarching framework for good governance and democracy, with the task of coordinating relevant AU bodies and other stakeholders.

> The European Parliament also stresses the need for cooperation between the EU, AU, regional organisations and other relevant political players in Africa in the field of security, in order to increase African capacities. It further underlines the need to continue to uphold and promote human rights and governance on the basis of the African regional governance bodies and mechanisms.

This is an updated version of a note from April 2016, PE 580.877. See also our notes on the AU's economic aspects and on its mechanisms against UCG.