

submit themselves to a peer review. The APRM seeks to “foster the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and reinforcement of successful and best practice, including identifying deficiencies and assessing the needs for capacity building”. The concept of peer review and associated peer learning assumes that a non-coercive gradual convergence of policy and practice in participating countries is preferable to attempts to impose ‘desirable’ policies on countries.

The APRM Process

The APRM process has four core focus areas:

- Democracy and Good Political Governance;
- Economic Governance and Management;
- Corporate Governance; and
- Socio-Economic Development.

It consists of a series of country reviews, directed and integrity-assured by a seven-person *Panel of Eminent Persons* drawn from Africa member nations, coordinated by a secretariat, and conducted by a *Country Review Team* consisting of at least one member from the *Panel of Eminent Persons* and one technical specialist for each of the four core areas listed above under review. It is the Country Review Team, which will review, assess and validate the assessment conducted by an individual Country’s own assessment team. In addition to the base review, which should take place within 18 months of a country’s accession to the APRM, provision is made for: a periodic review which takes place every two to four years; a review specially requested by a member country for its own reasons; a review instituted by participating heads of state in response to early signs of impending political or economic crisis, in a spirit of helpfulness to the government concerned.

Ghana and the APRM

Ghana was among the first set of countries to accede to the APRM. The Government set up an independent seven-member National APRM Governing Council (NAPRM-GC), chaired by a distinguished Ghanaian to manage the national review process. A

National APRM Secretariat headed by an Executive Secretary, supports the NAPRM-GC. The national self-assessment exercise was undertaken by four independent national technical research institutes, serving as technical experts. The four – the Ghana Center for Democratic Development (CDD-Ghana), Center for Policy Analysis (CEPA), Private Enterprise Foundation (PEF), and the University of Ghana-based Institute of Statistical, Social and Economic Research (ISSER) – undertook the review assessment in the four areas listed above.

After the review exercise, under the supervision of the NAPRM-GC, and follow-up of the series of review and validation by the panel of eminent persons and country review team, the Ghana Country Report, along side that of the Rwanda Report were tabled at the Third Summit of the African Peer Review Forum in Abuja on 19 June 2005.

Ghanaian civil society experience with the APRM process

The Ghanaian experience of the APRM or at least the national assessment stage was by and large driven by civil society. Indeed, the setting up of the independent National APRM Governing Council by the government made it possible for the government not to interfere with the assessment process. Unlike other countries where the process is spearheaded and/or implemented by either a government ministry or directly from the office of the head of state, the Ghana review process was implemented and managed by this independent NAPRM-GC. As a result of this an elaborate and technically sound methodology was developed for the APR assessment, which made it possible for an enhanced role and involvement of Ghanaian civil society.

The first aspect of civil society participation was the selection of independent, non-governmental organizations, and non-partisan research and policy think tanks by the governing council to undertake the assessment in the four thematic areas. The selection of the four teams, which have over the years acquitted themselves as professional and credible as well as non-partisan and independent think tanks, contributed to removing doubts in many Ghanaian minds that this exercise was going to be another government driven

one that would only tell a one sided story of government and the state.

The second aspect of Ghanaian civil society engagement with the APRM process was in the area of methodology and assessment tools development. The NAPRM-GC, and the Secretariat organized series of consultations, workshops, seminars and meetings with a number of stakeholders to address the methodology and seek inputs into the assessment tools (questionnaire and indicators). Workshops were organized for relevant stakeholders, including the Trades Union Congress (TUC), political parties, Religious bodies, Chieftaincy, gender groups, Academia and NGOs; specific sectors of the bureaucracy including the Serious Fraud Office, the Commission for Human Rights and Administrative Justice, the Auditor-General, and Chief Directors of Ministries, Departments and Agencies.

Furthermore, workshops and public fora were also held with stakeholders in all the Ghanaian regional capitals to assess the level of broad-based participation and to seek stakeholders' perspectives on the governance and socio-economic development agenda of the country. These consultations were necessary to make sure that all parts of Ghana and sections in the Ghanaian political and social set up were included in the formulation stage of the review exercise. It also contributed to sensitization, awareness creation and education of the Ghanaian public on the APRM process.

In addition to the above workshops and public fora, a mass opinion survey was conducted to widen civil society participation in the assessment. It was agreed that all the technical teams adopt nationwide opinion survey as one of the methods in seeking responses and information on the indicators for the assessment. The CDD, for instance, conducted a mass household survey on the 'Democracy and Good Political Governance' component of the review. This made it possible for the broader Ghanaian civil society to express opinions on what was being assessed by the APRM.

It is interesting to note that prior to the implementation stage of the APRM, the NEPAD Secretariat in South Africa, in

collaboration with the NEPAD Secretariat of Ghana's Ministry of Foreign Affairs and the Ghana Center for Democratic Development, held a three-day forum for civil society organizations with the theme "Building Stronger Partnerships with Civil Society". The seminar sought to, among other objectives; strengthen the capacity of civil society institutions in Africa to enhance their appreciation of NEPAD; improve participation and empowerment of civil society institutions in the NEPAD process and empower civil society organizations to contribute to and monitor the implementation process of NEPAD. The forum was a groundbreaking one as civil society engaged government representatives in civil and frank exchanges and this set the tone for regular interface between civil society and government.

The last but not the least aspect of civil society participation in the Ghanaian APRM exercise was in the development of the program of action stage. Following the completion of the assessment by the technical teams, the NAPRM-GC took the findings of the assessment and subjected them to stakeholder validation as well as consultation for the development of a program of action to be presented to be presented to heads of state. This stage also involved a series of workshops and meetings, bringing together some of the stakeholders that were involved in the initial stage of formulation and new ones to review the reports as presented by the technical teams, validate them and also endorse and develop the recommendations, where necessary as well as mapping out the program of action. The development of the program of action at this stage was led by civil society.

It must be pointed out that all of these stages discussed above were driven and led by the NAPRM-GC. Neither the government, be it the Office of the President nor the government ministry responsible for NEPAD, controlled the way the assessment was being conducted nor dictated the pace of it. At best its officials participated in the process and stages as observers and facilitated the work of the NAPRM-GC in terms of administration. It is on this note that I reckon that the NAPRM-GC had a completely free hand in selecting competent and appropriate technical teams

to undertake the technical assessment and in directing the process. The Council took diligent steps to involve a very wide range of stakeholders in the assessment and in the formulation of the Program of Action.

As an insider of the CDD, one of the technical teams that conducted the Democracy and Good Political Governance component of the country self-assessment, I can vouch that the CDD experienced no interference whatsoever in conducting its assessment. In fact, the Council actively encouraged the Center and other technical teams to be professional and objective but to 'tell it like it is' and to consult a wide range of stakeholders, including a broad range of 'ordinary' Ghanaians.

Lessons Learned

I must state here that it would be naïve to think that the peer review process will induce massive governance improvements in no time at all, but this does not mean that the process cannot lead to real changes within a meaningful time span. Given this potential, civil society needs to take up the challenge and ensure that the needs and interests of its constituents are adequately represented in the space for discussion opened up by the APRM.

One major set-back of the NEPAD initiative is that it is not the product of broad national consultation and regional deliberations, but was conceived and articulated by a few African leaders, unveiled initially in the West, and subsequently brought back and 'marketed' to the African people. The exclusionary manner of its conception has led NEPAD to be accused of being an elite initiative, in some quarters, which is more likely to benefit governments and big business than ordinary citizens. It has even been accused of being little more than a 'home-grown' variation of the stabilization and conditionality policies advanced by the International Monetary Fund (IMF) and the World Bank in their relations with African governments.

It is against this backdrop of intense scepticism that the increased participation of civil society in the work of the APRM and NEPAD becomes crucial. Drawing from the Ghanaian case study and the lessons arising thereafter, civil society elsewhere in

Africa could and should engage with the APRM in the following ways.

First, civil society could act as a watchdog by monitoring and evaluating the APRM assessment processes. They should seek input into the development of indicators, methodology and the overall process. In situations where the dynamics are different from the Ghanaian settings and where the assessment is spearheaded by the government from the Office of the President or its agency, civil society may undertake a parallel assessment of the government one so as to get an independent view. Civil society is uniquely placed to play this watchdog role to prevent political manipulation of the process. Civil society needs to use the informational advantages it may have in local circumstances and/or specific issues to add to the depth and range of the peer review.

Second, public education is necessary and needed. Civil society could educate and sensitize its constituents and the public at large on the APRM. To ensure greater citizen participation in the APRM process, public education has to be intensified so as to whip up the interest and support of the citizenry in the entire exercise as well as enable them to understand the critical role they have to play in the general success of the entire process. Civil society could take this mantle on its shoulders. Such role could contribute to the informational quality of the peer review process. But more than this: peer review, understood as setting in motion a process of public discussion at country level, represents a window of opportunity for civil society to influence policy and translate policy into credible commitment.

Further, the media, both as an institution for public education and information, as well as a civil society group, has to be sufficiently educated to be able to, in turn, sensitize the public on their important role in the APRM process and on how best to hold government accountable and thereby ensure greater transparency and openness in national governance.

Third, civil society must take the implementation of the program of action seriously. African governments have always reneged on promises and policies

that they are required to implement. The APRM may turn out to be another cycle of disappointments if civil society does not ensure the strict implementation of the recommendations of the APRM review report. This will not only serve as a useful tool to bring about improvements, but also to provide useful lessons for other countries to emulate

Finally, the need for building trust and confidence between civil society and governments is crucial and must be institutionalized on a continuous basis. It is worthy of noting that although civil society involvement in the Ghana Peer Review processes is highly commendable, challenges still remain, particularly on building trust and confidence between civil society and governments. It is important therefore that there is a regular interface amongst civil society and between civil society, government, the private sector and other partners to address the challenges identified in the findings and to monitor progress made.

Conclusion

In conclusion, it is critical to note that even though partnership between civil society and the NEPAD APRM process is essential, the nature of that partnership ought to be one that preserves the independence of civil society. Increased participation of civil society in the work of the APRM crucial to the *credibility* of the review process, as it will help ensure that the review report represents a consensus of views on a country's quality of governance, rather than being limited to what the government in question would like to make public. It will also help minimize the criticism and skepticism that the APRM has come to be associated with.



ARTICLE #2: Critical Analysis of the Economic and Social Rights of Congolese Citizens Recognized in the Transition Constitution

By Mr. Jean-Marie Eley Lofele, President of the International Association of Advocates of the Defense in the Democratic Republic of Congo (DRC). The following is an extract from his seminar report on the Democratic Republic of Congo.

In the DRC, the originating constituent resulted from an Inter-Congolese Dialogue whose objective was to end the war and set up a new political order. The Inter-Congolese was confirmed first on December 17, 2002, with the Overall and Inclusive Agreement for the consensual management of the transitional period. Theoretically, this accord was devoted to the end of the war and a new political order in the country. As an integral part of the Overall and Inclusive Agreement, the Transition Constitution was endorsed and adopted by the delegates of the National Dialogue on April 1-2, 2003, in Sun City and promulgated April 4, 2003.

What criticism can be made about the choices of economic and social-economic rights established in the Transition Constitution?

In order to respond to this question, it is necessary to expose the economic aspects of the Constitution and confront these aspects with scrutiny in order to see if the recognized suggestions are effective for the population.

A. The Protection of National Wealth

Title 2 of the Constitution establishes a sovereign state with provisions for economic and financial questions. It establishes the national principle of natural resources and complementary economics of decentralized entities in articles 7 and 9 stating, "The State is responsible for harmonious development of all the decentralized entities on the basis of national solidarity and by the effective application of mechanisms of administrative autonomy and financials envisaged by law (article 7)." Furthermore, it states, "The conditions of their concessions are fixed by law and must protect and uphold the interests of the local population." This protection of national wealth aims to maintain the well being and the economic and social rights of the population.

B. The Economic and Social Rights Recognized of the Congolese

The Transition Constitution confers the Congolese economic and social rights which state: "All Congolese have the right to enjoy common inheritance of humanity.

The State has the duty to facilitate that joy." In order for this to occur, the constituents impose obligations onto the State: "the State has the obligation to ensure medical well being of clients." Thus, to benefit from the well-being of the population, the State established in the Constitution the right to work, asserted in article 39: "Work is a right and a duty crowned to each Congolese. The State guarantees the right to work, protection against unemployment and remuneration for conformity with human dignity, accompanied with all other means of social protection. No one can be denied work due to their origins, sex, opinions or beliefs. All Congolese have the duty to contribute to the national prosperity according to the Constitution."

What criticisms can be made on the economic and social rights recognized for the Congolese in the Constitution that are meant to mollify rather than be effective?

1. The Congolese economy is extraverted and controlled by foreign investors. Therefore it is very important to affirm sovereignty and national wealth using article 7 of the Constitution. Unfortunately, Congo was placed on the list of extremely poor and in debt countries. The economic liberties and rights recognized for the Congolese are illusory because it doesn't include the legal possibilities necessary for an economy to be locally governed in order for these rights to be effective.

2. Congolese people live in conditions of poverty that exceed tolerable living conditions. The right to work under article 39 is an illusion. The Democratic Republic of Congo became a center of consumption of all the food products coming from the West, Southeast Asia, and South Africa. There is no production of food in the DRC. However, the declaration on the rights of development adopted by the General Assembly in Resolution 41/128 (December 4, 1986), Article 1 announces: "The right to develop is an inalienable right of man in virtue, where all persons and people have the right to participate and contribute to a developing economy..."

Article 8 in the same declaration states:

- The State must create a plan for the realization of the right to develop and

ensure equal opportunity for basic resources of education, health services, food, housing, employment, and fair income distribution. These effective measures must be taken to ensure the active participation of women in the development process. It is necessary to proceed with these economic and social reforms in order to eliminate social injustices.

- "The State must encourage participation in all fields because it is an important factor for development and enables the full realization of human rights." There is a remaining concern on the plundering of the nation's wealth by Congolese government officials with collaboration of multinationals. An economic and social democracy is the only alternative because the Transitional Constitution was more interested in a political democracy.

An economic and social democracy ensures the recognition of economic and social rights.

The Congolese economic system was built on social injustices and exclusions, creating a division with the national wealth allowing foreign investors to profit. So far, it is hard to measure the experience without complementing traditional democracy, which generally gives advantages for the most fortunate or most educated. Thus, the problem always remains the same. How to create conditions, though participation in public affairs, for the amelioration of social conditions?

The economic and social democracy is the only alternative to save the Congolese economy and to permit people to profit from its wealth. An extraverted economy will not facilitate the task, even with economic programs imposed by the World Bank. It is important the Congo does not fall into the old methods of governance by importing a legal structure from former colonial powers. This lack of interest would consolidate the protection of foreign interests that dominates, and would continue to distort developing countries economies.

On July 23, 2003, the DRC joined the initiative, "Poor Countries Heavily in Debt", issued by a mixed board of directors from

the IMF and the World Bank. The DRC now has to go through a transition period of two to three years, before they are considered ready for the "decision."

By 2008, experts at the World Bank and IMF predict that the DRC will receive an average of USD \$6,605,500 dollars for debt relief. 2004 and 2005 will be difficult years for the DRC, as the debt service will exceed 15% of exports.

In conclusion, active participation of citizens as the foundation to combat poverty will only be possible and effective if the economic and social rights of the Congolese are recognized in the Constitution.



ARTICLE #3: A Critique of Southern African Development Community (SADC) Principles and Guidelines Governing Democratic Elections

By Mr. Rindai Chipfunde Vava, National Director for Zimbabwe Election Support Network, Fellow at Stanford University.

In August 2005 heads of SADC member states signed Guidelines and Principles in Mauritius.

The SADC Principles and Guidelines Governing Democratic Elections provide a useful set of standards to judge whether a particular country has conducted elections that are free and fair. This is one of the first regional they will only be useful, however, if they are fully implemented. The principles should be made legally binding on all SADC states and should not be able to be overridden or watered down by domestic law provisions. The SADC Organ on Politics, Defence and Security Co-operation must assume the responsibility for ensuring that SADC countries actually measure up to these standards. It should be made compulsory for all SADC countries to invite a SADC Observation Team whenever they are conducting national elections. If the observation process is to be credible, however, the election observation needs to be done thoroughly and professionally by persons who will be viewed as being impartial and the observation mission must be given adequate resources to do its job

properly. If election observation is conducted in a superficial manner without any proper probing of the conditions on the ground, the whole process will be discredited and this will mean that SADC Governments will be able to get away with flouting these Guidelines. The end result will be that properly conducted free and fair elections may remain merely a pipe dream in at least some of the countries in the SADC region.

The SADC Principles and Guidelines need to be fleshed out by producing a consolidated and comprehensive document that draws not only from other relevant SADC and AU documentation but also from other documents such as the SADC Parliamentary Forum Norms and Standards for elections in the SADC region and the *Principles for Election Management, Monitoring and Observation in the SADC Region* produced by the Electoral Institute of Southern Africa and the Electoral Commission Forum. When compiling this more detailed document there should be extensive consultation with civil society in SADC countries.

SADC observation of elections in a member state depends on the country extending an invitation to SADC to observe its elections. Political parties must accept the election results when these have been "proclaimed to have been free and fair by the competent national electoral authorities in accordance with the law of the land". The principles did not mention other observers outside SADC.

The SADC Observer mission should not be the only body allowed to observe elections in SADC countries. SADC countries should be encouraged to invite a variety of other observer missions, including from the United Nations, from acknowledged non-governmental organisations with expertise in professional expertise in election observation such as the Electoral Institute of Southern Africa and from a variety of other countries inside and outside Africa like the National Democratic Institute, IFES etc. What SADC countries must not be permitted to do is to cherry pick other observer missions choosing only bodies that will be likely to endorse the election even when gross irregularities have occurred. However, SADC countries should not be permitted to extend invitations only

to countries and organisations that they believe will rubber stamp their elections as being free and fair. For the March 2005 Parliamentary elections in Zimbabwe the Government refused to invite observers from countries and organisations which had given negative reports on previous elections. Thus no observer teams have been allowed from the SADC Parliamentary Forum, United States, the Commonwealth, Australia, Japan, the European Union, Britain and other European countries who were critical of Zimbabwe's last parliamentary election in 2000 and the subsequent 2002 presidential election. Despite the major shortcomings witnessed in the March 2005 General Elections most SADC observer missions declared the elections as an expression of the will of the people and meet the principles.

The other problem with the principles is that there are subordinated to national laws which in some cases might not be conducive for free and fair elections. In the absence of an audit of the national laws with regards to whether they meet these principles the assessment would be subjected to national laws of each country.

The SADC principles are just principles for moral persuasion and lobbying and not binding treaty law. The domestication of these principles therefore remains a big challenge.

Currently Zimbabweans are going to the Senate polls end of November 2005 which was reintroduced through a constitutional Amendment (No 17) Act. Most Zimbabweans feel under the current economic hardships the huge costs required for the election management will strain already an ailing economy. The Senate November poll is likely to face low voter apathy as many people begin to lose interest in the ballot as a way of putting and removing leaders as there are sentiments after every election of lack of transparency in the whole electoral process. This led to a leadership crisis borne out of deeply flawed elections. In my view Zimbabwe needs an overhaul of the country's electoral system and need for a new people driven constitution.

The big challenge is for SADC to turn its principles into action. "Genuine democratic elections are an expression of sovereignty,

which belongs to the people of a country, the free expression of whose will provides the basis for the authority and legitimacy of government. The rights of citizens to vote and to be elected at periodic, genuine democratic elections are internationally recognised human rights. Genuine democratic elections serve to resolve peacefully the competition for political power within a country and thus are central to the maintenance of peace and stability. Where governments are legitimised through genuine elections, the scope for non-democratic challenges to power is reduced." (*Declaration of principles for international Election Observation and Code of Conduct for international election Observation commemorated at the United Nations on 27 October 2005*)



REPORTS ON ADF ACTIVITIES

ADF GENERAL MEETING held in Lagos in July

The African Democracy Forum (ADF) Annual Meeting in Lagos, Nigeria, on 17-18 July, 2005, brought together nearly 50 ADF members to discuss some major challenges in promoting democracy in Africa, such as violations of the Constitution, African human rights movements, and linkages between democracy and human development. This Annual Meeting also provided a space for the ADF members to have a dialogue with government officials and policy makers. Based on the two-day discussion and information sharing, the participants developed a list of suggestions for the ADF activities and priorities.

A full report is available at www.africandemocracyforum.org.

Launching ADF Online Discussion !!!

Join ADF's Online Discussion Forum! This new feature, separate from our Yahoo E-mail List, will enable us to have discussions focusing on specific issues. Current discussions are follow-ups to six workshops at the ADF General Meeting in Lagos, Nigeria, on July 17-18, 2005. Workshop reports, which serve as discussion papers, are currently posted in six discussion groups. A moderator has been assigned to each group to facilitate discussions and to develop a short list of practical

recommendations for the AU, other regional institutions, and NGOs in Africa.

Join the ADF Online Discussion Forum at www.africandemocracyforum.org/forum !

Upcoming Conference on Post-Conflict Democracy Building (December 5-8, 2005)

The ADF is organizing a 4-day conference on "Democracy, Conflict Transformation and Post-War Social Reconstruction: Lessons Learned in Africa" that will take place in Conakry, Guinea, on 5-8 December, 2005. This conference is a collaborative initiative with Rights & Democracy (Montreal, Canada-based) and Guinean Organization for Human and Citizens' Rights (OGDH).

The primary objective of the conference is to deepen understanding of post-war social reconstruction processes and the concept of conflict transformation and to develop practical strategies of building democracy in conflict/war-torn societies in Africa by providing democracy activists with an opportunity to learn from each other about their own experience in post-conflict democracy building. The following themes will be covered through presentations and workshops during the conference:

- Post-Conflict Democratic Transitions: Practical Use of Constitutional Reforms and Elections Processes as Conflict Transformation Tools
- Democracy, Justice and Reconciliation: Dealing with Past Atrocities to Prevent the Future
- Democracy and Human Development: Dealing with Poverty, Resource Distribution and Marginalization - Some Roots Causes of Conflict in Africa
- Waging War or Waging Peace: Comparative Analysis of Costs and Benefits, Dealing with Armed Groups, Arms Sale, Warlord, and War-based Economy
- Women as Active Agents in Democracy and Conflict Transformation
- Normative and Institutional Framework for Democracy and Peace building in Africa: Lessons Learned from the UN, African Union, ECOWAS, and SADC Peace Missions.



ADF MEMBER PROFILE: Zimbabwe Election Support Network (ZESN)

MISSION STATEMENT

To enhance a democratic, transparent, free and fair electoral process and environment through coordinating election related activities of member organizations.

ABOUT ZESN

The Zimbabwe Election Support Network (ZESN) is a coalition of 35 non-governmental organizations formed to coordinate activities pertaining to elections. The major focus of the network is to promote democratic processes in general and free and fair elections in particular.

It was also established to standardize the NGOs' election related activities and methodology as well as to ensure wider geographical coverage and coordination of activities. The broad aim of the coalition is that of enhancing the election process in Zimbabwe in order to promote democracy and good governance in general as well as free and fair elections in particular whilst adhering to internationally acceptable norms and standards of electoral conduct.

ZESN envisions a Zimbabwe where principles of free and fair elections are upheld in a transparent, credible and non-partisan electoral process.

In pursuit of its substantive mission and vision, ZESN is guided by the following values:

- Democratic, Free and Fair Elections
- Secrecy of the ballot
- Non-partisanship
- Democracy
- Mutual Respect and Tolerance
- Respect for Human Rights
- Transparency and Accountability
- Peace
- Informed citizen participation in governance issues
- Non-Discrimination

GOALS

To facilitate the participation of civil society in local authority, parliamentary and residential elections and by-elections in order to promote democratic values, transparent, free and fair electoral

