

GIMPA LAW & ETHICS POLICY PAPER

REGIONAL GOVERNANCE IN THE WAKE OF COVID-19 AND PROSPECTS FOR THE FUTURE

Executive Summary

On Wednesday 13th May 2020, Mr. Edmund A. Foley, the Director of Programs at the Institute of Human Rights and Development in Africa (IHRDA) located in Banjul, The Gambia, and a former Lecturer and Head of the Public Law Department at the GIMPA Faculty of Law, delivered via Zoom, the second edition of the GIMPA Law and Ethics Web Series on the theme: ‘Regional Governance in the wake of COVID-19 and Prospects for the Future’. This session was moderated by Ms. Selasi Dede Bedzrah, a former student of the GIMPA Faculty of Law and currently a final year student at the Ghana School of Law.

The presentation evaluated the transition from the erstwhile Organisation of African Unity (OAU) to the African Union (AU), which represented a new phase of regional governance in Africa, and whether this change had achieved the desired results. The role of the AU in contemporary times was appraised, particularly in light of its Agenda 2063 as well as other institutional reforms. The responses to the COVID-19 pandemic by the AU as well as other Regional Economic Communities (RECs) such as the Economic Community of West African States (ECOWAS), were thus examined to assess their impact on Human Rights in Africa generally in these times.

The challenges for regional governance in the wake of COVID-19 are multifaceted in nature and they include: whether the AU and other RECs can become more relevant to the ordinary African; sustainability of the use of innovative and efficient ways of working; financial sustainability measures; whether intra-African trade can be boosted through AfCFTA; ensuring credible elections with compliance to health and safety regulations; the potential for Human Rights abuses; and increase in focus on potential conflict areas.

The recommendations in this policy paper, based on the presentation of Mr Edmund A. Foley, are that the AU should direct resources towards supporting Member States as ECOWAS is doing, and this should be replicated by other RECs. Moreover, The AU needs to enhance its communication mechanism to ensure that it is close to the African citizenry as envisaged in the AU Reform Agenda.



I. Introduction

At the turn of the Twenty-First Century, it was quite obvious that there was a need to refocus and reprioritize the African agenda, which prior to this time was largely centered around the fight against apartheid and the attainment of political independence. The coming into force of the African Union (AU) Constitutive Act, thus ushered in a new era where it was hoped that the continental body would finally prioritize, *inter alia*, inclusive socio-economic development, continental and regional integration, democratic governance, peace and security, unity and collective prosperity. The aim of the AU at its onset was to reposition Africa to become a dominant player in the global arena. Since its establishment, the AU has been working to make the organization more people friendly and efficient, with respect for Human Rights at the core of its mandate. However, the AU has had to rededicate itself towards the attainment of the Pan African Vision of an integrated, prosperous and peaceful Africa, driven by its own citizens

so as to represent a dynamic force in the international arena. The Fifty-Year Developmental Plan to achieve this vision i.e. Agenda 2063, is to be implemented in Ten Year Development Plans, with the first plan underway and due to end in 2023. With the outbreak of COVID-19 surely to disrupt and/or derail the effective implementation of Agenda 2063, the AU's response has been to adopt the Africa Joint Continental Strategy for COVID-19 outbreak, with the goal of preventing severe illness and death from the virus in Member States, as well as minimize social disruption and economic consequences of the virus. This policy paper recommends, *inter alia*, that COVID-19 presents the AU with an opportunity to save on its operational expenditure, which savings should be directed towards providing direct support to Member States, and that these Member States should support the AU in fighting the pandemic within the framework of the African Joint Continental Strategy for COVID-19 outbreak.



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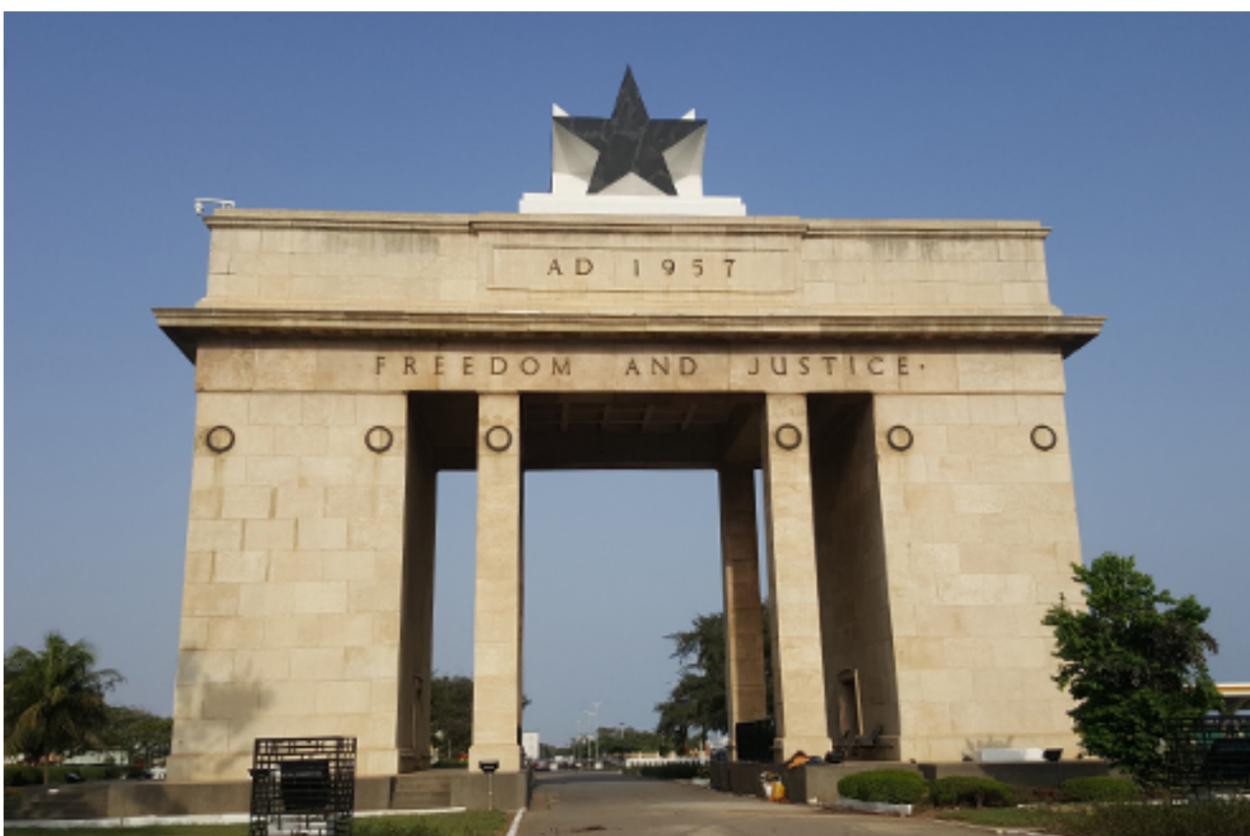
II. African Responses to COVID-19

The responses of the AU and other sub-regional bodies like ECOWAS in the wake of COVID-19 have included the following:

- The AU has adopted the Africa Joint Continental Strategy for COVID-19 Outbreak with the aims of preventing severe illness and death from the pandemic, as well as to minimize social disruption and economic consequences of the pandemic in Member States;
- The AU is coordinating efforts by Member States, AU agencies, the World Health Organization and other partners to ensure synergy and thereby minimize duplication;
- The AU is promoting evidence-based public health practice for surveillance, prevention, diagnosis, treatment and control of COVID-19;
- ECOWAS for its part is providing daily situational updates on COVID-19 in Member States;
- ECOWAS has provided direct support to Member States (including Benin, Burkina Faso, Cape Verde, The Gambia, Ghana, Guinea, Mali, Sierra Leone and Togo) in the form of
 - 30,500 diagnostic test kits
 - 10,000 Personal Protective Equipment (PPE)
 - 740,000 prescription tablets (Chloroquine and Azithromycin);
- ECOWAS has further called on its Member States to respond to the AU's call for contributions into the AU Solitary Fund on COVID-19; and
- ECOWAS has also recommended measures for stabilization and economic recovery.

III. Challenges

- The impact of COVID-19 on Human Rights has been immense as fundamental rights are being restricted across the continent, potentially leading to abuse;
- Human Rights bodies on the continent have also been severely affected in terms of their operations. For example, sessions of various regional courts have been suspended, even though the African Court on Human and Peoples Rights has decided to hold its 57th Session from 1st to 26th June 2020 virtually;
- Civic spaces keep shrinking, with the withdrawal of article 34(6) Declarations under the African Court Protocol by Rwanda, Tanzania, Benin and Cote d'Ivoire which would prevent individuals and NGOs from accessing the Court;
- Lack of disaggregated data on some vulnerable groups (migrants, women and children) means there is no information on the impact of COVID-19 on them and the measures taken to support them;
- Whether the AU and other RECs can become more relevant to the ordinary African;
- Sustainability of the use of innovative and efficient ways of working in the post-COVID-19 era;
- Self-financing and financial sustainability measures being crucial for the future of the AU;
- Whether intra-African trade under the aegis of the African Continental Free Trade Area (AfCFTA) can be boosted to ensure Africa's economic recovery and growth in the post-COVID-19 era;
- Whether the AU can work within the framework of the African Charter on Democracy, Elections and Good Governance with Member States holding elections in 2020, in order to ensure credible elections with utmost compliance with health and safety regulations, for the smooth transition from one Government to another, as the case may be; and
- Whether the AU Peace and Security Council can increase its focus on potential conflict areas in the wake of the pandemic and afterwards.



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IV. Policy Recommendations

In light of Africa's responses to the COVID-19 pandemic, and having regard to the many challenges outlined above, the following policy recommendations are being proposed for consideration:

- COVID-19 presents the AU with an opportunity to make savings on its operational expenditure. These savings should be directed towards direct support for Member States;
- The efforts to provide direct support to Member States as ECOWAS is doing should be replicated by other RECs;
- The AU should enhance its communication mechanism and strategies to ensure that it is close to the African citizenry as envisaged in the AU Reform Agenda;
- The AU Commission should work with Foreign Ministries in Member States to establish AU Focal Persons/Desks to provide regular, relevant and timely information on the AU's programmes to African citizens;
- Member States should respond to the AU and support it to fight the pandemic within the framework of the Africa Joint Continental Strategy for COVID-19 Outbreak;
- Human Rights are interdependent and indivisible. Thus, in their bid to protect the right to health by imposing restrictions on movement, African leaders must also provide the necessary social and economic safety nets as noted by the AU and ECOWAS;
- Agenda 2063 should be implemented in a structured way so that the continent does not develop unevenly, especially having regard to the potential disruptive nature of COVID-19;
- A more concerted effort from the AU Peace and Security Council and the Department of Political Affairs, together with the Member States is required to minimize the possible onset of conflicts in line with the AU's vision of 'Silencing the Guns' by the year 2020;
- RECs need to assist Member States with border control, in order to effectively regulate the movements of people in the wake of the pandemic;
- Member States scheduled to hold elections this year must promptly begin a discourse on transparency and ensure smooth transitions into or out of power i.e. African Governments must outline a concrete road map regarding elections as early as possible

V. Conclusion

In the wake of the COVID-19 outbreak, Africa has generally responded well with regional and sub-regional bodies taking the lead in coordinating efforts aimed at slowing down and/or eradicating the virus.

However, more needs to be done in terms of sustaining these efforts, especially because of the Human Rights issues associated therewith. In these uncertain times, African leaders and governments must demonstrate their adherence to constitutionalism generally, as well as values that engender trust from the citizens of the continent, especially because elections are scheduled in some Member States this year.

Even though COVID-19 presents significant challenges for the achievement of Agenda 2063, it also presents opportunities for the AU and RECs to rise to the occasion and become relevant in their interactions with the citizens of the continent.

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