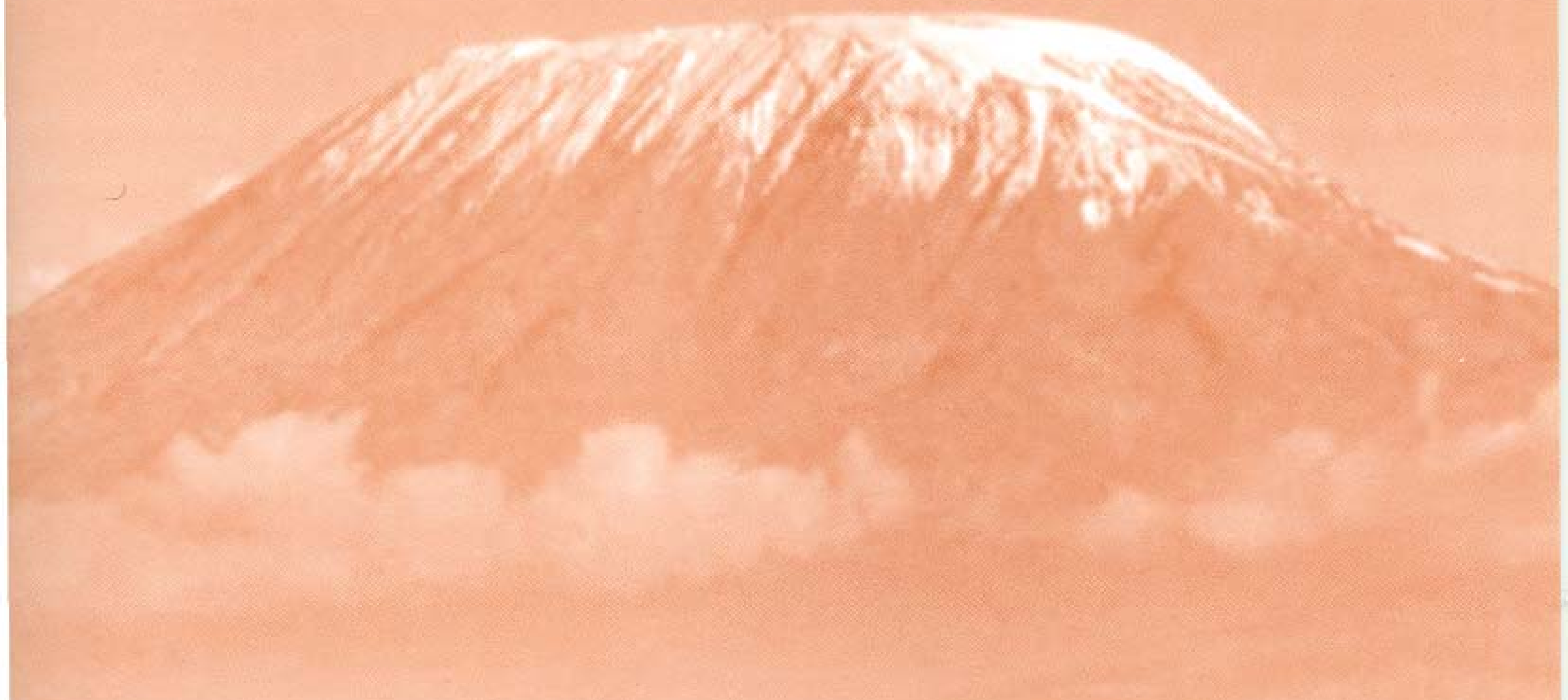
THE AFRICAN CAPACITY BUILDING FOUNDATION



THE NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT: *BUILDING ECONOMIC & CORPORATE GOVERNANCE INSTITUTIONS FOR SUSTAINABLE DEVELOPMENT*

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Executive Secretary

The African Capacity Building Foundation

ACBF OCCASIONAL PAPER No.2, 2003

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ACBF

BUILDING SUSTAINABLE
CAPACITY FOR POVERTY
REDUCTION IN AFRICA

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Produced by the Knowledge Management and Program Support Department
The African Capacity Building Foundation
First printing July 2003

This paper examines the centrality of institutions and institution building in the implementation of the Economic and Corporate Governance programme of the New Partnership For Africa's Development (NEPAD). It sees institutions in the broader context of organizational structures, norms, patterns of behaviour, practices, value systems and relationships, which play a significant role in the process of economic and social development and argues that Africa must give considerable attention to institutional capacity building if it is to ensure an effective and successful implementation of the NEPAD Initiative. The reflections and judgments are those of the author and do necessarily reflect the position of the African Capacity Building Foundation.

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ISBN 1 - 77937 - 002 - 5.

Contents

SUMMARY

The African Capacity Building Foundation (ACBF) is pleased to publish the second in the series of its Occasional Papers. Titled, "*The New Partnership for Africa's Development: Building Economic and Corporate Governance Institutions for Sustainable Development*", the paper examines the centrality of institutions and institution building in the implementation of the Economic and Corporate Governance programme of the New Partnership for Africa's Development (NEPAD). It sees institutions in the broader context of organizational structures, systems, processes and procedures that are vital for the development and poverty reduction process in Africa. The paper posits that building appropriate and effective institutions in Africa is fundamental to good governance and thus the attainment of the overall objective of the NEPAD Initiative, which is Africa's development.

Development is positively influenced by good governance and responsive policies. Governance has four major dimensions, namely, economic, corporate, administrative and political governance. All four interact to create an environment within which growth, development and poverty reduction can take place in a country. The relevance and effectiveness of these components provide a measure of the extent to which a country's environment may be conducive to development. Thus, sound macro-economic policies, a growth-oriented private sector development strategy, an effective and accountable public service and a participatory and responsive political governance system are valuable indicators of a conducive environment for development management. Good governance, and thus the existence of a conducive development environment, is not a fortuitous occurrence; it depends on effective and well-functioning institutions. Hence the centrality of institutions in economic, corporate, administrative and political governance - an important focus of NEPAD's core programmes. It is common knowledge that weak, complex and inefficient institutions create incentives for corruption, reduce productivity and output, and hinder development.

Institutions range from unwritten customs and traditions to complex standards and codes together with their implementing organizational structures that regulate socio-economic and political relations. They consist of formal and informal organizational structures, norms, patterns of behaviour, practices, value systems and relationships, among others, which contribute directly and indirectly to the process of socio-economic and political development. Some of the major elements of institutions are formal and informal structures, arrangements, systems, processes and procedures dealing with codes, standards and practices, regulatory frameworks, property rights, social interactions, economic management, legal matters, administration of justice, public information flow, and public administration, among others.

Institutions are context-sensitive. As a result, it is often sensible for each country to develop its own institutions. Different social contexts, conditions and leaderships yield vastly different outcomes for the same type of institutions. Each country's historical and cultural heritage constitutes an important factor in the evolution and transformation of its institutions. The relevance and effectiveness of a particular institution in a country is influenced by a number of factors. Among these are the effectiveness of other supporting institutions, available technology and skills, the cost of accessing and maintaining such institution and the free flow of information.

An open and free flow of information raises public demand for greater effectiveness of institutions, thus improving the general level of awareness, governance and economic growth.

It is often advisable that conditions be ripe enough for the development of specific institutions, and the process of institutional development be guided by clear principles. It is in this context that the NEPAD Initiative must encourage the emergence of appropriate, relevant and timely institutions to guide Africa's development.

NEPAD is an attempt by Africans to create conditions for sustainable development through programmes for strengthening peace, security, democracy, political governance, and enhanced regional and sub-regional approaches to development; promote the growth of priority sectors such as infrastructure, human resources, agriculture, environment, culture, and science and technology; and mobilize resources for development with a focus on capital flows and access by African exports to markets in industrialized countries. An important component programme of the NEPAD Initiative is the Declaration on Democracy, Political, Economic and Corporate Governance that was adopted during an African Union Summit in Durban in July 2002. Although the Declaration places considerable emphasis on the African Peer Review Mechanism (APRM), the institutional dimensions of an effective democratic, political, economic and corporate governance programme transcend the somewhat narrow focus of APRM. Sound and responsive economic policies as well as codes and standards for good practices in monetary and financial management, fiscal transparency and discipline, public debt management, corporate governance, accounting and auditing are some vital aspects of institutional requirements for successful development management and poverty reduction.

Thus, to achieve the objectives of the economic and corporate governance programme of NEPAD, Africa needs to build appropriate and effective institutions. Given the current status of institutions and institution building efforts on the continent, capacity building in this area will need to be stepped up significantly. This paper attempts to highlight the centrality of institutions and institution building efforts in the context of a market-based development strategy, which is fundamental to the NEPAD Initiative and thus to growth and development of the continent.

THE AFRICAN CAPACITY BUILDING FOUNDATION - PROFILE

The African Capacity Building Foundation (ACBF) was established on 9 February 1991 through the collaborative efforts of the African Development Bank, the United Nations Development Program, The World Bank, bilateral donors and African governments. The Foundation represents a response to the severity of Africa's capacity problems and the challenge to invest in indigenous human and institutional capacity in sub-Saharan Africa. The Foundation's mission is to build capacity for sustainable development and poverty reduction in Africa.

At its establishment, ACBF focused on providing financial and technical support to the building and strengthening of Economic Policy Analysis and Development Management capacity in sub-Saharan Africa. However, since January 2000 the Foundation's mandate has been expanded, following the integration of the Partnership for Capacity Building in Africa (PACT) initiative into its fold. Under the expanded mandate, the Foundation seeks to achieve three main objectives, namely:

- *To provide an integrated framework for a holistic approach to capacity building in Africa.*
- *To build a partnership between African governments and their development partners, which allows for effective coordination of interventions in capacity building and the strengthening of Africa's ownership, leadership and responsibility in the capacity-building process.*
- *To provide a forum for discussing issues and processes, sharing experiences, ideas and best practices related to capacity building, as well as mobilizing higher levels of consciousness and resources for capacity building in Africa.*

The expansion of ACBF's mandate has broadened its intervention to six core competence areas in capacity building as follows:

- *Economic Policy Analysis and Development Management.*
- *Financial Management and Accountability.*
- *Enhancement and Monitoring of National Statistics.*
- *Public Administration and Management.*
- *Strengthening of Policy Analysis Capacity of National Parliaments.*
- *Professionalization of the Voices of the Private Sector and Civil Society.*

So far, ACBF has made a major stride within the limit of its resources in the implementation of its mandate. To date, it has committed more than US$160 million to capacity building in 35 African countries and in the strengthening of Africa's regional organizations to take forward more purposefully commitment to regional integration.

Beside direct intervention in capacity building, the Foundation serves as a platform for consultation, dialogue and cooperation among development stakeholders and partners.

I. INTRODUCTION

At the Summit of the Organization of African Unity (OAU) that was held in July 2001 in Lusaka, Zambia, African Heads of State and Government adopted the New African Initiative, which resulted from a merger of the previous Millennium Africa Recovery Program, the OMEGA Plan for Africa and the Economic Commission for Africa's COMPACT for African Recovery[1]. Later on, in October 2001, the Heads of State Implementation Committee's meeting in Abuja, Nigeria changed the name of the New African Initiative into the New Partnership for Africa's Development (NEPAD).

The NEPAD Initiative represents a collective pledge and determination by Africans and their leaders to eradicate poverty and extricate the continent from "the malaise of underdevelopment and exclusion in a globalizing world". Its aim is to set an "agenda for renewal" of Africa and put forward a "new framework for interaction with the rest of the world". The Initiative clearly recognizes that the "agenda for Africa's renewal" must, among other things, pursue three very distinct objectives. These are to:

- develop and implement clear standards of accountability, transparency and participatory governance;
- introduce appropriate institutional frameworks to support the implementation of the standards of good political, economic, financial and corporate governance; and
- build the capacity of African states to establish and enforce transparent, fair and predictable legal and regulatory frameworks and to maintain law and order.

These strategic objectives and priorities clearly point to the central importance of institutions and effective institution building to the success of NEPAD and, ultimately, to the overarching goal of sustainable development, poverty reduction, and renewal in Africa.

This paper presents a summary of major theoretical and historical perspectives on the role of institutions and institution building in the process of economic growth and development, reviews an outline of the institutional requirements underpinning the political, economic and corporate governance programme of NEPAD, as the Initiative seeks to tackle some of the key institutional and policy constraints facing Africa, and suggests, through a set of policy questions and issues, some strategic directions for the development of an institution building action plan for the continent.

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[1] Originally, the COMPACT was designed to provide technical and analytical support to the Millennium African Recovery Program, and thus represented an important component of UNECA's response to the implementation of the Millennium Declaration that was adopted by the United Nations Millennium Summit of September 2000.

II. THE ROLE OF INSTITUTIONS AND INSTITUTION BUILDING IN ECONOMIC AND SOCIAL DEVELOPMENT

2.1. Definition of Institutions and Institution Building

There are several perspectives to the definition of institutions. Ranis (1989) observes that institutions define how people inhabiting a certain land space and having command over given resources decide to organize themselves for economic activity. Institutions may also be seen as "a set of structures, lasting patterns of behaviours and relationships (roles) that are guided and supported by broad societal values, regulated by certain norms of conduct (rules) and operationalized by organizations" (Dia: 1996). Masahiko Aoki (2001) proposes a game theory view, categorizes institutions either as:

- players of the game (the state, judicial courts, associations, etc.); or
- rules of the game (laws and regulations); or
- equilibrium of the game.

Another definition is that institutions are the "humanly devised constraints that structure political, economic and social interaction" (North: 1991). Institutions have also been defined to refer to "rules, enforcement mechanisms, and organizations" (World Bank: 2002).

Institutions are formal or informal. Moreover, quite often, both formal and informal institutions may co-exist in a mutually reinforcing or conflicting manner. While formal institutions are relatively easy and quick to establish or change, informal institutions are, on the contrary, relatively more difficult and slower to change. Informal institutions can sometimes seriously undermine the effectiveness of formal institutions or even divert or derail them from their officially intended objectives and functions. Some authors make further distinction between "institutional arrangements" and "institutional structures". The former refers to behaviours, norms and rules. Dysfunctional institutions may persist over a long span of time, and even in the face of an institutional disequilibrium, institutional changes may not be easy to effect. For example, Bardham (2001) identifies two main obstacles to institutional reforms, namely, the tenacity of vested interests and the very magnitude of the collective action problem (free-rider and bargaining issues).

Ruttan and Hayami (1984) rightly warn that, "the supply of major institutional innovations necessarily involves the mobilization of substantial political resources by political entrepreneurs and innovators. The supply of institutional innovations depends critically on the power structure or balance among vested interests in a society".

2.2. The Role of Institutions in Economic and Social Development

Few will question nowadays, the critical role institutions, institution building and institutional reforms play in the process of economic and social development. Over and beyond the controversies surrounding the exact role of the state in the East Asian miracle, there is a large consensus that market-friendly institutions explain not only the growth and development performance of East Asia, as a region, but also the between-country growth differentials among the East Asian Tigers. In contrast, the sub-optimal economic growth of African countries, and more importantly still, the economic and financial crises that rocked East Asia particularly in the latter half of 1997 as well as the recent accounting scandals in corporate America have been blamed on institutional inadequacies (shortcomings) or even sheer institutional deficit (vacuum).

As aptly summed up by Nsouli (2002), "there are three important and interrelated components that are essential to economic development: capacity building, governance and economic reform. Capacity building – the development of skills and institutions – is critical to sustained economic growth. But then, acquired skills cannot be exploited fully and institutions cannot be entrenched without well-functioning institutions". In the same vein, even a market economy needs to be supported by non-market institutions in order to perform adequately (Rodrik:1999). Yet, it is important to observe that not all institutions or institutional changes are conducive to economic growth and development. A key question that arises relates to how to identify and bring about those institutions that promote or at least are conducive to economic growth and development, and how to change and reform those institutions that hinder economic development. In this context, a distinction is often made between the efficiency effects and the distributional consequences of institutions and institutional reforms.

By general consensus, the relevant question and development policy issue to raise is no longer "Do institutions matter?" but "which institutions are more effective and efficient for economic and social development and how do we build, reform and nurture such institutions in the context of a developing country?" According to Winiecki (1992), in the process of economic reforms, "getting the institutions right is as critical as getting the prices right". To Lin and Nugent (1995), institutions and economic development interact in a two-way relationship such that institutions can help accelerate the level and the rate of economic development, while the latter may also trigger institutional reforms. As Reynolds (1983) has it after a comparative study of development experiences of forty least developed countries over a 130-year span, "The single most important explanatory variable is political organization and the administrative competence of government". Ann Krueger (1993) goes even further in observing that "the adoption of the same economic policies in response to the same (economic) circumstances will have different consequences under a politically strong leadership of a government with a well-functioning bureaucracy capable of carrying out the wishes of the leadership than it will when a weak leadership of a coalition attempts to do the same things in circumstances when bureaucracies believe that they can generate support for opposition to those policies".

Since the NEPAD initiative clearly assumes that Africa's development will increasingly be based on a market economy, it is important to establish and put in place those institutions, which are most likely to support a market-based development strategy. In this context, it is possible to categorize institutions into five broad types (Rodrik: 1999), namely: a) property rights; b) regulatory institutions; c) institutions for macroeconomic stabilization; d) institutions for social insurance; and e) institutions for conflict resolution and management.

a) Property rights

The establishment and enforcement of secure and stable rights was a key factor behind the economic growth and development of countries in the Western world. Property rights, including intellectual property, determine not only ownership, but perhaps more importantly, control over economic assets. They also determine under what circumstances private property rights can be curbed in the public interest.

Indeed, one of the key concerns is how to ensure that, on the one hand, the state uses its power to enforce contracts and property rights, and, on the other, does not behave in a predatory or confiscatory manner towards the private owners of those rights (Bardham: 2001). Herein lies the philosophical underpinning of the minimalist state, that government is best that governs least.

b) Regulatory institutions

The need for strong regulatory institutions arises from the recognition of the existence of market imperfections and market failures. Thus, institutions are needed to lower transactions costs and to mitigate the consequences of imperfect information. According to Rodrik (1999), "the freer the markets, the greater the burden on the regulatory institutions", and "market freedom requires regulatory vigilance". A strong, effective and efficient regulatory institutional framework is called for to regulate the conduct of business in goods, services, labour, assets and financial markets. Effective rules and procedures must be enacted and enforced to promote competition and social responsibility in such critical areas as communications, consumer's goods and services, health, food and environmental protection. The effectiveness of regulatory institutions, including central banks, is largely a function of their degree of independence and professionalism. However, it is important to bear in mind that regulatory institutions can easily become sources of red tape and economic inefficiency. Moreover, they are vulnerable to the principal-agent problems and thus prone to corruption and collusion with the regulated businesses. Indeed, as Rodrik (1996) has it, "bureaucracies are prone to two problems that are fatal to economic performance: they can be captured by the interests they are supposed to regulate, and they can create extreme red tape, which discourages economic activity".

c) Institutions for macro-economic policy and public management

Governments can seldom rely on the market to be self-stabilizing. Strong and effective public institutions must develop the capacity to design and implement fiscal and monetary policies that are predictable as well as market and growth-friendly.

While it is important to have in place effective public agencies in charge of tax administration and expenditure management, it is worth bearing in mind that, under most democratic constitutions, parliaments have the power and authority to levy taxes and approve public expenditures. Also, the role of independent audit agencies in ensuring transparency and accountability in the management of revenue and expenditure can hardly be overstated.

The public bureaucracy needs to develop an adequate institutional and human resource capacity to effectively and efficiently design, deliver and evaluate public programs and key social services.

d) Institutions for social risk insurance

According to Rodrik (1996), social insurance schemes perform a legitimizing function in support of a market economy. Relying solely on market forces can expose a country to large economic inequalities and unstable economic outcomes. Social insurance schemes thus contribute to social cohesion and stability. However, it is important to keep a proper balance between the redistributive and risk mitigating functions of the social insurance schemes.

e) Institutions for conflict resolution and management

Life in society/community requires social cooperation and should foster the undertaking of mutually beneficial projects and activities. Societies must equip themselves with laws, rules and regulations, which are transparent and enforceable by effective, rule-bound law enforcement agencies and an independent, clean and fair judiciary. Also, it is important for countries to have in place well-functioning, transparent and representative systems for acceding and transmitting political power as well as institutionalized avenues that will allow the voices of civil society and the private sector not only to be heard but responded to.

2.3. Current Status of Institutions and Institution Building Efforts in Africa

In the immediate post-independence era, most efforts at institution building consisted in transplanting western-style institutions into newly-independent, developing African countries. To fill the vacuum of skills and trained professionals, African governments relied on foreign technical assistance provided by bilateral and multilateral aid agencies. The technical assistance provided consisted, to a large extent, of long-term resident experts, overseas training and study tours. Yet, as Lin and Nugent (1995) warn, "mere transplantation of successful institutions from developed countries to less developed countries is not an automatic guarantee of success". As a matter of fact, it has been pointed out that such efforts often result in an institutional disconnect (Dia: 1996) between: a) the state and civil society, b) the formal and informal institutions and c) corporate and societal cultures. Among the salient negative aspects of this institutional disconnect, feature the privatization of state institutions, resources and functions in favor of clientelistic networks and the substitution of personal loyalty, patrimonial incentives and management for achievement and merit-based incentive systems.

In many African countries, a number of public institutions during the period under consideration quickly turned into oversized patrimonial and predatory organs riddled with corruption, mismanagement, ineffectiveness and inefficiency, all the more so since, regardless of ideological bents, the state had a tendency to be all encompassing. To compound this situation, donor-driven and donor-funded projects resulted in a further fragmentation and overall weakening of State bureaucracy (Sako: 1996). Also, by emphasizing personnel retrenchment and payroll budget-cuts at the expense of a comprehensive review of the missions and conditions for enhanced effectiveness and efficiency of public bureaucracies, the first generation of public sector and civil service reforms failed to contribute to improved effectiveness and legitimacy of the State.

The end result was - and still remains, to a large extent - a typical African State struggling to live up to the basic functions of a capable state under the conditions of a weak capacity to design, implement and coordinate macro-economic and other development policies, and stifled by huge external (and, at times, internal) debt and debt service burden. As a result of the processes relating to economic liberalization and political democratization, the private sector, civil society and decentralized entities have emerged as key institutional players who, more often than not, pose a direct challenge to the legitimacy of the State and its capacity to conduct development policy and regulate the market. Indeed, in many critical sectors (telecommunications, energy, transport, etc…) the rhythm of privatization and economic liberalization has dangerously outpaced the capacity of the State to establish effective, efficient, and credible regulatory agencies. Moreover, in new issues area like the environment and consumer protection, the regulatory vacuum puts a sizeable proportion of Africa's population at serious risk, due to health hazards (in the workplace and residential areas), arising from environmental pollution and degradation. Accelerated globalization and the intrusion of information technology revolution have caught many African States unprepared and are consequently finding it very difficult and painful to adjust to new systems, processes and behaviours required for effective political, economic and social governance.

One of the enduring paradoxes of post-independence Africa is that, while the absolute supply as well as sectoral and disciplinary diversity of trained professionals (the brain drain not-withstanding) have increased significantly, these are yet to translate into a commensurate increase in the capacity of the

State to discharge its basic functions. Moreover, in many countries, the advent of multiparty democracy has translated into the marginalization and *de facto* sterilization of a large number of professionals and managers on the ground that they do not hold the membership card of the ruling majority. Worse still, in the drive to cut costs or faced with increased difficulty of attracting their own nationals for overseas duty postings, many donor organizations have resorted to luring African civil servants to local resident missions or donor-funded projects, thus causing the supply of competent cadres available for public service assignments to further dwindle. In recent years, both the donor community and African countries themselves have come to the realization that Africa needs to build its own set of endogenous institutions and human resources and that key functions of macroeconomic management and development policy design and implementation need not be entrusted to expatriate long-term resident experts. Also, the efforts to build endogenous capacity should benefit not only the public sector, but also civil society and private sector organizations.

III. INSTITUTION BUILDING IN THE CONTEXT OF NEPAD'S ECONOMIC AND CORPORATE GOVERNANCE PROGRAMME: AN OVERVIEW

The NEPAD document, as approved in October 2001 in Abuja, Nigeria by the Heads of State Implementation Committee, puts forward two sets of programmes perceived to be (pre) "conditions for sustainable development." These are:

- the Peace, Security, Democracy and Political Governance programme; and
- the Economic and Corporate Governance programme.

In its original formulation, the Economic and Corporate Governance programme seems to put more emphasis on state capacity building than on corporate governance. The emphasis is on the building of key state institutions for policymaking; public, economic and financial management; and regulatory functions to support private sector-led growth. Fortunately, the Initiative goes on to list, among the priority actions, a review of economic and corporate governance practices with a view to recommending appropriate standards and codes of good practices.

At its inaugural Summit that was held in July 2002 in Durban, South Africa, the African Union adopted a Declaration on Democracy, Political, Economic and Corporate Governance, which describes, in terms less general than in the Economic and Corporate Governance programme, the African agenda in this area.

The Declaration on Democracy, Political, Economic and Corporate Governance gives more prominence to values, behaviours and practices associated with good economic and corporate governance, as compared to the organizations and structures which may be required at the national, regional and continental levels to enforce these values and behaviours and, if need be, identify and enforce sanctions when these values are seen to have been violated. In fact, the Declaration only refers to an African Peer Review Mechanism (APRM) as a set of "institutions and processes, which will guide future peer reviews based on agreed codes and standards of democracy, political, economic and corporate governance".

The APRM is the single most important element of the Durban Declaration that attracted the most attention amongst donors and civil society groups and controversy within African political circles especially as regards the political dimensions of good governance. Even though the economic and corporate governance elements of the APRM have arguably attracted much less media attention, they nonetheless remain crucial to the process of sustainable economic growth and development in Africa.

3.1. Economic and Corporate Governance

The Durban Declaration recognizes the important contribution that good economic and corporate governance values and practices can make to economic growth and development, notably, through promoting market efficiency and, controlling wasteful spending, both of which have positive impact on the consolidation of democracy and the encouragement of private financial inflows. It also identifies the following priority set of norms, codes and standards:

a) A code of good practices on Transparency in Monetary and Financial Policies.
b) A code of good practices on Fiscal Transparency.
c) Best Practices for Budget Transparency.
d) Guidelines for Public Debt Management.
e) Principles of Corporate Governance (business ethics).
f) International Accounting Standards.
g) International Standards on Auditing.
h) Core principles for Effective Banking Supervision.

Amongst the key desirable economic and corporate values that are proposed to underpin the APRM, one may mention the following:

- *Sound Macro-economic and Public Financial Management and Accountability:* Here, the emphasis is put on macro-economic stability, budgetary discipline, fiscal transparency, equity and efficiency in public revenue mobilization and public resource use. However, there are no clear indications as to the institutional frameworks needed to achieve these values and goals, or to enforce them.

- *Integrity of the Monetary and Financial Sector:* The Declaration recognizes that monetary and financial transparency, independence of the central/reserve bank, and effective regulatory and supervisory institutions make for the integrity and transparency of the monetary and financial system.

- *Sound, Effective and Reliable Accounting and Auditing Systems:* The Declaration envisions the establishment of comprehensive, integrated and reliable accounting systems, which would provide for, *inter alia*, the independence of the supreme audit institution and the communication of reliable and objective reports to the public authorities and the general public in general.

- *Effective Corporate Governance Framework:* Amongst the institutional arrangements to strengthen transparency, accountability, effectiveness, efficiency, integrity and fairness, the Declaration emphasizes the following:

    - a legal framework protecting property rights as well as the rights and obligations of companies, their boards, management, shareholders and other stakeholders; and
    - a regulatory framework for effective supervision and transparent financial disclosure.

3.2. The Overarching Importance of Political Governance

Obviously, while economic and corporate governance are legitimate areas of concern for sustainable development and poverty reduction in Africa, they must be cast within the broader context of the need to build strong and effective institutions of political governance. The Declaration on Democracy, Political, Economic and Corporate Governance reflects this close intertwinedness that was adopted by the July 2002 African Union Summit. Moreover, the APRM is clearly grounded in a systematic approach to an integrated set of "fundamental political, economic and corporate governance values" to which African countries are called upon to adhere, albeit on a voluntary basis, and which governments are encouraged to "strive to observe within their capabilities". NEPAD posits the following key political governance values, which are put forward as a minimum requirement:

a) Democratic constitutionalism

While recognizing the inevitability of cross-country variances stemming from diverse cultural and historical contexts, the NEPAD Initiative considers that a democratic constitution will contain the following defining rights: fundamental civil and political rights such as liberty and security; political participation; democratic election to, and transition from, political power; freedom of assembly and association; equality before the law; and equal opportunities.

Beyond this statement of conventional, if not universally acknowledged political and civil rights and liberties, the NEPAD Initiative suggests that Constitutions in Africa should, where available resources permit, contain provisions pertaining to "economic democracy" or a "welfare state" providing for enhanced healthcare, education and employment opportunities.

b) Fair and open democratic processes

Two institutions are seen as key building blocks of a fair and open democratic process, namely, an independent electoral commission and a legal opposition. It is important, however, not to equate democracy with the existence of these two institutions alone. Democratic formalism, without concrete avenues for popular participation given that a large majority of urban and rural dwellers are illiterate, can breed political corruption and the disenfranchisement of the majority of the electorate.

c) Independent judiciary

The rule of law as well as the rights, liberties and freedoms of the individual can only be upheld where there exists a judiciary that is independent, strong and courageous, and protected from Executive branch interferences by the constitutional separation of powers.

d) Free and independent media

A free, independent and responsible media can make an invaluable contribution to: i) fostering transparency in the management of public affairs and public resources, ii) keeping in check governmental excesses, corruption and mismanagement, iii) empowering people, and iv) providing independent information.

Yet, in many African countries there is no equal access to the official media. Access by political groups and opinions to the official media still remains skewed in favour of the "politically correct" sections of society. Given the public ownership of the official media, the staff of the official media are under strong political pressure to apply more or less subtle forms of censorship and self-censorship to protect the "official line". The private media are quite often dependent on powerful business and/or political interests. Their independence, professionalism as well as their potential to contribute to policy debate and to give voice to the citizens are, therefore, severely constrained.

e) Civil Society

The NEPAD Initiative acknowledges the role and contribution of civil society in the democratic process as well as a force for socio-economic development, transparency, responsiveness and accountability in the management of public affairs. However, it challenges the African civil society to observe and live up to the same high moral and political standards expected from governments.

What is desirable is for African countries to develop institutional mechanisms to foster and nurture the spirit and practice of partnership and constructive, mutual engagement between the state and civil society, recognizing that to the State belongs the ultimate and legitimate privilege to decide in the national interest, while civil society expresses organized, yet segmented interests of specific groups.

f) Institutional Capacity

The NEPAD Initiative identifies capacity deficit and implementation capacity in particular, as a common factor explaining unsatisfactory governance across Africa. It calls, therefore, for capacity building to be one of the key priorities for sustainable development. What is at stake here is, first and foremost, the capacity deficit of the public sector in the effort to design sound and responsive public policies and programs and to implement them in an effective, efficient and transparent manner.

Development experience from South East Asia demonstrates that, it is important to keep public bureaucracy insulated from political interference, especially in the context of a nascent multipartyism. In particular, every effort should be made to shield economic management from the deleterious impact of political patronage and clientelism. Yet, as Dia (1996) observes, "Bureaucratic insulation can be a double-edged sword. Hence there is a crucial need for control mechanisms to nurture accountability, competence and honesty and to prevent bureaucrats from becoming a law unto themselves". Dia (1996) goes on to emphasize competitive merit-based recruitment and promotion, competitive compensation package, and security of tenure for high-level bureaucratic officials as a means for keeping off political intrusion in the management of State bureaucracy.

A lingering key question is whether, through the APRM, NEPAD has adequate – if any at all – enforcement mandate and capacity to ensure that African countries live up to the norms and codes of behaviour underpinning the Declaration on Political, Economic and Corporate Governance.

IV. CONCLUSION

To stimulate debate and guide reflections on the way forward, this paper will, rather than draw formal conclusions, raise a few critical questions for policy makers and other key stakeholders to ponder as Africa seeks to equip itself with the institutional capacity to implement NEPAD and tackle poverty. It is in this context that the following questions are posed:

- How do we reconcile the need for a professional public bureaucracy that is devoid of political interferences with the accountability and responsiveness requirements of a democratic system? What type of incentive systems, performance measurements, and recruitment policy should we put in place?

- As African countries embrace decentralization, while being mindful of the need for formal institutions of the state to take into account traditional values and codes of behaviour, how do we ensure that this decentralization does not lead to the resurgence of traditional, feudalistic power relationships, especially in the rural areas where the majority of the people live?

- What adjustments, if any, need to be made to the electoral codes and political practices in a context of mass illiteracy?

- How do we strengthen the regulatory and enforcement capacity of the State, especially as regards corporate governance values and codes of conduct, in a situation where privatization has brought in large and powerful multinational corporations?

- How do we generate or improve dialogue between the State and civil society, when the latter is perceived to be engaged in unfair and unspoken competition for political power?

- In many African countries, plundering the state or illegal economic transactions are among the primary sources of personal wealth. How do we prevent the use of the latter, which enables predatory segments of the elite to take control of the state through formal democratic processes?

- How do we reinforce the capacity of the State to coordinate the formulation and implementation of macro-economic and development policy in the face of a lopsided budgetary dependence on external donor funding?

- How do we handle the principal-agent problem, control bureaucratic excesses and fight political corruption in a context of low salaries in the public service?

- What has gone wrong with our priorities? How do we strengthen the capacity of tax collection and expenditure management agencies or upgrade the capacity of the public finance audit and control agencies?

- How do we manage the timing and sequencing of financial liberalization, given the adverse effects of premature capital account liberalization such as capital flight and exchange rate volatility?

- How do we reconcile the democratic need to enlarge participation in the public policy process (setting of policy agenda, participation in policy debate, design, formulation, implementation, monitoring and evaluation of policy) with the technical requirements for enhancing the research and analytical content of public policy?

- Who are the political entrepreneurs and innovators in Africa? In other words, what are their defining characteristics and how do we nurture and support them?

- Is moving public audit agencies from the Executive Branch to a location where they report to Parliament a solution to the problem of insufficient independence?

- How do we reconcile the need to build and utilize national capacity, for the sake of country ownership of the development process, with the need to open up public institutions to external inputs in an increasingly globalized world?

- How do we build capacity for countries to develop e-governance strategy, which enables the public sector to operate more like a single integrated organization, rather than a collection of seemingly independent service providers? Will this not entail developing common infrastructure, policies, standards, services, information technology and information itself that will enable governments to deliver services to the public cheaply, timeously and efficiently?

- What challenges does APRM pose for supranational enforcement authority and resources vis-à-vis national sovereignty?

- How do we build strong regulatory institutions that do not at the same time stifle private initiative and economic growth?

- How do we promote competition in contexts where the size of the markets is very small?

- How do we control the incidence of brain drain (in a globalizing world), adequately motivate professional economic and public managers and foster their retention and effective utilization?

- What is the degree of autonomy of the tax authority?

- How do we delineate and enforce property rights in contexts where oral traditions outweigh and conflict with written norms, laws and contracts?

- How do we institute an effective and transparent regulatory and supervisory framework for the financial sector, promote the independence of the central/reserve bank, given its role and responsibilities as the lender of last resort?

- How do we strengthen the growth of the financial sector and enhance the mobilization of savings for economic development? Should priority be to the development of banks or to the stock markets?

- How can we best improve financial intermediation in Africa, given the shallow and highly informal financial systems in some African countries?

- What institutional values and capacity should we foster in order to bridge the gap between policy analysis and policy formulation/ implementation?

- How do we ensure the independence of the judiciary in a cultural context where the Head of State/Government is perceived and expected to bear ultimate responsibility for social justice and peace?

- What is the proper balance between the role of the State and the role of the market, given the adverse effects of both market failure and government failure?

- Freedom of the press and individual rights: tension or convergence?

- What type of formal educational system is needed to supply not only the professional skills that are necessary for economic management, but also the ethics, desired behaviours and values that are required for the effective running of a market-friendly public bureaucracy?

- How can African governments best equip themselves to conduct and manage the sequencing and timing of economic and political reforms concomitantly?

- How best do we tackle issues related to “institutional disconnect”, institutional reconciliation, informalization of formal institutions and effective utilization and management of informal institutions in Africa?

The above list is by no means exhaustive. It is, however, hoped that a fruitful debate around these and other questions will help the African continent and its development partners to identify key institutional policy and design issues and pave the way for appropriate reform choices that Africa, and only Africa, can and should make at the dawn of this 21st century, in a spirit of true and mutually rewarding partnership with the development community.

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The ACBF Occasional Paper Series (AOPS) was launched in August 2002 as one of the instruments for the exchange of information and knowledge on issues relating to capacity building and development management in Africa. It offers a means by which the African Capacity Building Foundation seeks to highlight lessons of experience, best practices, pitfalls and new thinking in strategies, policies and programs in the field of capacity building based on its operations and those of other institutions with capacity building mandates. AOPS also addresses substantive development issues that fall within the remit of the Foundation's six core competence areas as well as the role and contribution of knowledge management in the development process.

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ISBN 1 – 77937 – 022 - 5