



**PAN-AFRICANISM AS A PANACEA FOR AFRICA'S GOVERNANCE CHALLENGES
AKA AS: THE AFRICAN PEER REVIEW MECHANISM EFFECTIVELY PROMOTES GOOD
GOVERNANCE**

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DECLARATION

I, Upite Chiyenge, do solemnly declare that I am the author of this Directed Research paper entitled 'Pan-Africanism as a Panacea for Africa's Governance Challenges' also known as 'The African Peer Review Mechanism effectively promotes Good Governance'. I further declare that it is a work of my own ingenuity and that due acknowledgement has been made where other people's work has been used. I truly believe that this research has not been previously presented in the school for academic work. I therefore bear the absolute responsibility for the contents, errors, defects and any omissions therein.

Date 13/02/2009

Signed U Chiyenge

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DEDICATION

To the members of my family: Dad, Mum, Farai, Chinyama, Simasiku, Siloka and Glen; for having been there for me all along.

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To Dr. Kaunda the 1st Republican President of Zambia, Dr. Chiluba the 2nd Republican President of Zambia, Mrs. Kawimbe of the Governance Secretariat, Mr. Ashie Mukungu, Senior Country Economist of the African Development Bank and Dr. Chigunta of the University of Zambia, I am truly grateful for having the opportunity to have met you and learned from your knowledge and experiences on Governance and the African Peer Review Mechanism- Thank you for having taking time off your busy schedules, so that I could interview you.

Upite Chiyenge

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ABSTRACT

The point of analysis in this research is how and why the African Peer Review mechanism which is a Pan-African initiative; is the best means or mechanism for the promotion of good governance in Africa, taking into consideration that poor governance threatens most African countries. This essay will look at elements good of governance that need to be promoted in Africa such as political accountability, respect for human rights, the rule of law, eradication of corruption, economic reforms and efficient public management. This research also shows that the APRM is effective at promoting good governance because participation of African countries in this mechanism is voluntary and not mandatory which ensures that countries will not be reluctant to participate in the APRM process, resulting in them not wanting to reveal the real governance challenges in their countries, which would therefore render the APRM process ineffective if it were mandatory. The APRM also ensures by it being voluntary that countries do not lose their legalistic sovereignty. This research suggests that the APRM does not and in future should not take the form of legally binding acts backed by sanction but is instead or should be a means of soft persuasion which can become an important driving force to stimulate a country to change, achieve goals and meet standards and therefore it is recommended in this research that the APRM may in part play the role of a dispute settlement mechanism by encouraging the kind of dialogue among states that helps to clarify their interests and positions. It will also be sought to briefly compare other means of promoting good governance such as the strategies of international financial institutions, with the APRM process, to conclude that the APRM is the best means of promoting good governance in Africa because unlike strategies of international financial institutions that show traits of neocolonialism, the APRM represents a commitment to African self monitoring by African themselves taking responsibility and relying on a system of peer pressure through which governments can monitor each others political and economic performance. This research also suggests and explains how negative internal factors in a country such as corruption, abuse of human rights, lack of accountability, to mention but a few and also external factors such as neocolonialism made manifest in some negative aspects found in Foreign Direct Investment and Foreign Aid, affect governance in most African countries negatively.

CHAPTER ONE

1.0 INTRODUCTION

Pan-Africanism as a panacea for Africa's Governance challenges or Africa's need to attain Good Governance simply means that Pan-Africanism is the remedy or means through which Africa can effectively promote and achieve Good Governance. This research is conveying the message that Pan-Africanism through the African Peer Review Mechanism is an effective panacea or remedy to Africa's governance problems or poor governance.

1.1 Problem Statement

Poor governance is a major problem which is widely prevalent in Africa and evidenced mainly by poverty and economic stagnation, abuse of human rights and corruption. Poor governance is characterized also by arbitrary policy making, unaccountable bureaucracies, unenforced or unjust legal systems, the abuse of executive power, a civil society unengaged in public life and widespread corruption. Therefore this research aims at giving a genuine solution to Poor Governance that threatens Africa by suggesting that Pan-Africanism through the African Union's 'African Peer Review Mechanism is the panacea to the problem because the African Peer Review Mechanism (APRM) process is aimed at promoting Good Governance effectively.

1.2 Purpose and Objectives of the Study

i) The primary objective and purpose of this study is to answer the question how and why Pan-Africanism through the African Peer Review Mechanism is the best or effective means or way of promoting Good Governance. To achieve part of this objective, the APRM process will be compared with the other means or ways put in place to promote Good Governance like international financial institutions and initiatives by African Governments in their individual countries, so as to determine why the APRM process is more efficient.

ii) Another primary objective is to show that the APRM is effective at promoting good governance because participation is voluntary and not mandatory. This research aims to show that the APRM is a means of soft persuasion which can become an important driving force to stimulate a state to change, achieve goals and meet standards. The fact that the APRM entails voluntary participation means that, legally countries will not lose their sovereignty as a result of yielding to the APRM process of promoting Good Governance unlike the creation of a Union Government in Africa that could promote Good Governance in Africa but would result in individual countries losing their sovereignty due to the fact that a Union Government would entail that individual African countries would not have the final say in matters concerning their countries; instead it would be the Union Government that would have the final say (This is discussed in greater detail later in this chapter). This research shows in this chapter that if the APRM were mandatory, it would no longer be a peer review but a kind of scorecard approach that would make it a policing institution to reward and punish. Therefore because the final outcome of the APRM is not legally binding, the APRM plays the role of a dispute settlement mechanism by encouraging the kind of dialogue among states that helps to clarify their positions and interests.

1.3 Chapter outline

This research will look at three main concepts. The first concept of Pan-Africanism will be looked at in this chapter. The second concept of Good Governance shall be covered in chapter two. Good governance has aspects such as adherence to the rule of law, respect for human rights, creation of favorable policy environment, seeking to work in partnership with the private sector and civil society, accountability and transparency¹. The aspects of Good Governance shall be dealt with in detail in chapter 2 of this essay. The third concept deals with the mechanism that Pan-Africanism shall use to promote Good Governance in Africa which is called the African Peer Review Mechanism which shall

¹ SACCORD Report on Political Governance in Zambia (2007) pg1

be evaluated in chapter three of this research essay. Chapter 4 will show how neocolonialism in its two main forms: Foreign Direct Investment and Foreign Aid negatively affect Good Governance in Africa and therefore advocate that Pan-Africanism through the African Peer Review Mechanism can help alleviate the negative effects of FDI and Foreign Aid on Governance in Africa.

1.4 Definition and Background of Pan-Africanism

There is not a set definition of Pan-Africanism. It could be said that Pan-Africanism is an idea that grew out of 19th century efforts to end slavery and the slave trade or in other words Pan-Africanism is a movement with a common underlying theme for the struggle for social and political equality and freedom from economic exploitation and racial discrimination². As a moral philosophy, Pan-Africanism represents the aggregation of the historical, cultural, spiritual, artistic, scientific and philosophical legacies of Africans from past times to present and Pan-Africanism is an ethical system in the present times that traces its origins from ancient times and promotes values that are the product of the African civilization and struggles against slavery, racism, colonialism and neo-colonialism³. Pan-Africanism is usually seen as a product of the Atlantic Slave trade rather than as something arising in the continent of Africa itself. Enslaved Africans of diverse origins and their descendants found themselves embedded in a system of exploitation where their African origin became of sight of their servile status⁴. Pan-Africanism set aside cultural differences, asserting the principality of these shared experiences to foster solidarity and resistance to exploitation. Black people worldwide began to realize that they faced common problems (slavery, colonialism and racism) and that it would benefit to work together in an effort to solve these problems and therefore in the 20th century, the Pan-African movement became formalized. Its first formal organization was the Pan-African Congress, which developed from congresses which were convened in the UK and the US under the leadership of

² <http://www.lycos.com/info/pan-africanism--kwam> -12/05/2008

³ <http://en.wikipedia.org/wiki/Image:LocationAfrica.png> -12/05/2008

⁴ <http://www.destee.com/forums/showthread.php?threadid=14148> -12/05/2008

activists like the African-American writer W E du Bois and the Trinidadian Henry Sylvester Williams and was inspired by the ideas of persons like Jamaican American Marcus Garvey and these ideas were adopted and reformed by continental African leaders in the middle of the 20th century such as Kwame Nkrumah, who later became the first President of Ghana and others such as Sekou Toure of Guinea, who took the idea of Pan- Africanism to another level on 25th May 1963 when they founded the Organisation of African Unity (OAU)⁵. The ideals of the OAU, with its main objective of continuing the tradition of solidarity and cooperation among Africans, kept the spirit of Pan-Africanism alive. During the era of the OAU, the key challenge was colonialism. The OAU embraced the principle of Pan- Africanism and undertook the challenge of liberating all African countries from the grip of colonialism and in addition, the OAU sought to assert the right of Africans to control their own social, economic and political affairs and achieve the freedom necessary to consolidate development. However, the OAU was not as effective in monitoring and policing the affairs of its member states when it came to the issues of violent conflict, political corruption, economic mismanagement, poor governance, infringement of basic human rights, lack of gender equality, and eradication of poverty⁶. In June 1993 the OAU created a mechanism for Conflict Prevention, Management and Resolution in Cairo, but it was ineffective in resolving disputes on the continent, for example, the Rwandan genocide which started in 1994 took place while the mechanism was operational and it was also during this time that the conflict in Somalia led to the collapse of the state, while violence in Sierra Leone, Liberia, Angola, Sudan and the Democratic Republic of Congo led to the death of millions of Africans⁷. The doctrine of non intervention unfortunately resulted in the OAU being purely an observer of the atrocities committed by some member states. Eventually a culture of indifference became entrenched in the international relations of African countries, and they could act without

⁵ Muriti T, (2007) Institutionalizing Pan Africanism ISS Paper pg 2

⁶ Ibid

⁷ Op cit pg 3

impunity and without fear of retribution. In effect the OAU was a toothless watchdog. The OAU was perceived as a club of African heads of States, many of whom were not democratically elected representatives of their own citizens, but self-appointed dictators and oligarchs. This negative perception informed people's attitude towards the OAU as an organization that had little true impact on the daily lives of Africans and eventually the OAU as an organization could be said to have effectively died of a cancer of inefficiency because it had not lived up to its ideals of promoting peace, security and development in Africa.

The African Union (AU) which replaced the OAU came into existence in July 2002, in Durban, South Africa and it purposed to usher in a new era of continental integration leading to a greater unity and resolution of its problems⁸. The African Union emerged as a home-grown initiative, which placed the destiny of the continent in the hands of its people⁹.

The AU differs significantly from its predecessor. While it also stresses respect for national authority, it crucially articulates a right to intervene in grave circumstances. It has been stated, "Indeed the AU singles out four situations justifying intervention:

- 1) Genocide
- 2) Gross violations of human rights;
- 3) Instability in one country threatening broader regional instability; and
- 4) Unconstitutional changes of government (to date the most advanced doctrine of them all). In

other words there is provision to suspend governments which come to power unconstitutionally"¹⁰. Article 4 of the Constitutive Act determines that member states have a right to request intervention by the Union in order to restore peace and security. The AU unlike the OAU makes provision for a Peer Review Mechanism through its development plan, the New Partnership for Africa's Development

⁸ <http://www-sul.stanford.edu/africa/history/hispanafrican.html> -12/05/2008

⁹ Muriti T, (2007) Institutionalising Pan Africanism ISS Paper pg 2

¹⁰ Ibid

(NEPAD). It further makes provision for public monitoring of delivery and commitments through its conference for Stability, Security, Development and Co-operation in Africa. The prime objective of the AU is to help Africa meet the challenges of the 21st century by making a link between peace, security, governance, democracy and development¹¹ mainly through the African Peer Review Mechanism.

1.5 Disadvantages of Pan-Africanism in addressing Africa's governance challenges through the APRM

Many fear that continental integration is not feasible in the African set up as evidenced by the recent xenophobic attacks against immigrants in South Africa and evident mistrust of ethnic groups within individual African countries. However, Pan-Africanism through the Africa Peer Review Mechanism should be looked at as a long term strategy to promote good governance or address Africa's governance challenges and therefore it is believed that in the long run that barriers such as culture, ethnic mistrust and language will not be an issue because of rapid cultural erosion among the younger generation in Africa today¹².

1.6 Advantages of Pan-Africanism in addressing Africa's governance challenges through the APRM

Despite some of the disadvantages of Pan-Africanism through the African Peer Review Mechanism, it is believed that the African Union's African Peer Review Mechanism (APRM) is Africa's genuine solution to attaining good governance taking into serious consideration that Africa has for more than four decades been a playground for unabated abuse, exploitation and oppression of its peoples by other more organized political regions because the APRM process is of African character. The exploitation and oppression of African people by other more organized political regions is termed neo-colonialism

¹¹ Landsberg, C and Shaun Mckay, Engaging the New Pan-Africanism, Strategies for Civil Society. Actionaid. Pg10

¹² An interview carried out by the author with Dr. Chigunta, Political Science expert, on 25th August, 2008 at UNZA

which falls under the scope of 'colonialism' which the founders of Pan-Africanism sought to relinquish. Pan-Africanism through the African Peer Review Mechanism is the only remedy or panacea to fight neo-colonialism in the form of the negative effects of Foreign Direct Investment and the negative effects of Foreign Aid. Chapter 4 of this essay will deal with the details of how neo-colonialism caused by foreign direct investment and foreign aid affects governance negatively in Africa. For many years African states relied on the outside world notably other wealthy nation states outside the continent- to solve their governance problems. Now African leaders are apparently taking it upon themselves to squarely face these challenges and deal with their own problems. African leaders have begun to realize that political order and progress on the continent will not be possible without partnerships amongst themselves. The New Partnership for Africa's Development (NEPAD) from which the APRM originates was drawn up on the basis of this new thinking to drive Africa to recovery. NEPAD's architects perceive the APRM as a positive attempt to encourage states' commitment to 'good governance'.

Secondly, the APRM is the cure to the mischief that African leaders alone cannot be trusted to deal with governance issues in their respective countries because initiatives such as the African Peer Review Mechanism act as regulators by putting the needed pressure on African Governments to improve policies and practices so as to better the promotion of good governance in African countries. Thirdly, the APRM not only encourages accountability of governments to citizens but also to regional and continental peers¹³.

Fourthly, the APRM questionnaire through country consultations can be applied to African countries to promote Good Governance by exposing defects in the various forms of governance in African

¹³ Interview carried out by the author with Mrs. Kawimbe of the Governance Secretariat on 24th November, 2008.

countries; discussing the results and how to make up for those defects and how to correct what is not working well¹⁴.

Fifthly, only Pan-Africanism through the institutions and mechanisms of the African Union such as the African Peer Review Mechanism can effectively address Africa's governance challenges because it is of African character and is composed of African people who better understand Africa's governance problems or challenges. To that regard, an interview with the Senior Country Economist of the African Development Bank and African Development Fund, Mr. Mukungu¹⁵ revealed that since the APRM is of African character or nature it solves problems internally through stakeholders by having separate strategies for stable states such as Botswana, conflict states such as Sudan, fragile states such as Ethiopia and failed states such as Somalia.

The African Peer Review Mechanism which is a mechanism of the African Union that embraces Pan-African ideals understands Africa's governance challenges than other international institutions who claim to promote good governance as a condition for donor aid. Policies by such international institutions have led to a 10 per cent decline in economic growth in Africa¹⁶. An interview with Dr Chigunta¹⁷, an expert in Political Science and Governance revealed that in his view the policies of these institutions had done well because they had reduced interest and inflation rates but he however commented that despite good economic management, poverty remained high and inequalities had arisen because these policies did not lead to good policies by individual African countries. The APRM is different from externally driven accountability mechanisms that have so far proven to be ineffective or insufficient by having a negative impact on Africa's development, leading to economic decline.

¹⁴ Ibid

¹⁵ Interview carried out by the author with the named person on 10th August, 2008 at the African Development Bank, Lusaka

¹⁶ Muriti T, (2007) Institutionalizing Pan-Africanism ISS Paper 143 pg 6

¹⁷ Interview carried out by the author with the named person on 25th August, 2008 at UNZA

Lastly, Pan-Africanism through the African Peer Review Mechanism would mean that African countries would be less likely to go to war with one another, would mean the insistence on all African countries respect for human rights of their citizens and African countries would take a more global approach to issues of pollution. The details on how Pan-Africanism through the APRM will achieve these will be stated in chapter 3 of this research essay.

1.7 Why Pan-Africanism through the APRM should remain voluntary instead of mandatory

It is important to note that there are many who are of the view that a disadvantage of Pan-Africanism through the APRM is that it does not take the form of legally binding acts backed up by sanctions or other punitive measures; it also lacks enforcement mechanisms¹⁸. However the author of this research is in support of the view that participation in the APRM should remain voluntary. The problem with making the APRM mandatory would mean forcing countries to participate reluctantly and this would result in them not wanting to reveal the real issues and thus not get much out of it. If the APRM were mandatory, it would no longer be a peer review but a kind of scorecard approach that would make it a policing institution to reward and punish¹⁹. If countries are not ready and not comfortable with peer review, that is okay. For Peer Review to work, participants have to have the will to make it work- without that it cannot succeed²⁰. The APRM is a means of soft persuasion, which can become an important driving force to stimulate a state to change, achieve goals and meet standards.

It must be mentioned that there are two ways of Pan-Africanism achieving Good Governance- one is through the APRM and the other through the creation of a Union Government in Africa which is the maximalist view and comprises a common government with an African Union Army²¹. Currently the

¹⁸ <http://www.polbrief29.pdf> -10/01/2009

¹⁹ Ibid

²⁰ Op cit

²¹ http://en.wikipedia.org/wiki/African_Union -17/10/2008

most favoured method of Pan-Africanism achieving Good Governance is through the APRM process²². It is important to note that the fact that the APRM entails voluntary participation means that, legally countries will not lose their sovereignty as a result of yielding to the APRM process of promoting Good Governance unlike the creation of a Union Government which could promote Good Governance in Africa but would result in individual countries losing their sovereignty due to the fact that a Union Government would entail that individual African countries would not have the final say in matters concerning their countries; instead it would be the Union Government that would have the final say.

1.8 Conclusion

In this chapter, it was given the definition of Pan-Africanism. Secondly it was given the background of Pan-Africanism (how the Pan-African movement evolved from the Pan-African Congress to the OAU and finally to the African Union). Lastly, it was shown the advantages and disadvantage of Pan-Africanism through the African Peer Review Mechanism. It was also stated that the fact that the APRM entails voluntary participation means that, legally countries will not lose their sovereignty as a result of yielding to the APRM process of promoting Good Governance unlike the creation of a Union Government in Africa. It was also stated that if the APRM were mandatory, it would no longer be a peer review but a kind of scorecard approach that would make it a policing institution to reward and punish. The APRM instead is a means of soft persuasion, which can become an important driving force to stimulate a state to change, achieve goals and meet standards.

²² http://en.wikipedia.org/wiki/African_Union -17/10/2008

CHAPTER 2

GOOD GOVERNANCE

2.0 Introduction

Recently the terms “governance” and “good governance” are being increasingly used in development literature. A lack of good governance or poor or bad governance is regarded as one of the root causes of all evil in societies. Bad governance is a major problem widely prevalent in most African countries. Out of the many African countries, very few exhibit good governance. Bad or Poor governance is generally characterized by arbitrary policy making, unaccountable bureaucracies, unenforced or unjust legal systems, abuse of human rights, widespread corruption, a civil society unengaged in public life and poverty¹.

Therefore the African Union which is the institutionalization of Pan-African ideals has determined in its Constitutive Act which is its constitutional legal framework, to ensure good governance and the rule of law in Africa². As it has already been mentioned in the previous chapter, chapter three will be devoted to showing the mechanisms and institutions of the African Union that are intended to promote good governance in Africa. This chapter, which is chapter two, is devoted firstly to defining the terms ‘governance’ and ‘good governance’. Secondly, it will be given the origin of good governance and the elements of good governance. Lastly, it will be stated what good governance entails in terms of the civil society, the public sector and private sector in African countries. It will also be looked at what good governance entails in terms of the executive, legislature and judiciary. This chapter will not look at good governance in relation to the AU and how it seeks to promote good governance in African countries (that will be looked at in chapter 3).

2.1 Definition of Governance and the Origin of Good Governance

¹ <http://www.demystifyinggoodgovernance.pdf> pg3 -06/09/2006

² Article 4m of the African Union Constitutive Act.

Although the term governance is widely used in discussions of economic development, it lacks widely accepted definitions. In simple words 'governance' means: the process of decision-making and the process by which decisions are implemented (or not implemented)³. Therefore an analysis of governance focuses on the formal and informal actors involved in decision-making and implementing the decisions made and the formal and informal structures that have been set in place to arrive at and implement the decision⁴. According to Tim Plumptre and John Graham, "Governance involves the interactions among structures, processes and traditions that determine how power is exercised, how decisions are taken, and how citizens or other stakeholders have their say⁵.

The term good governance is largely found and referred to, in non-academic newspapers, government reports, NGO references and references of diplomats from developed countries as a condition for donor aid. According to Btagagtotti, "the term good governance originated from or has been developed almost single-handedly by the World Bank and that the motive of the good governance agenda is explicitly designed to be the complement .to, or extension of structural adjustment programmes. It must be noted that the World Bank's main agenda is to maximize profits for its capitalist shareholders"⁶. Thus the World Bank is statutorily (by law) prohibited from engaging in politics of member countries-which is precisely why it insists on defining its concerns for good governance in mainly economic terms. It is for this reason that the World Bank's approach to the concern with democracy is carefully constricted by its narrow interpretation of good governance. The World Bank defines governance as "the traditions and institutions by which authority in a country is

³ SACCORD Report on Political Governance in Zambia (2007). Pg1

⁴Ibid

⁵ (1999) Governance and Good Governance: International and Aboriginal Perspectives pg3

⁶ (1966) Global Governance pg388

exercised for the common good”⁷. The African Development Bank recognizes good governance as an integral part of development that is key to poverty reduction and development effectiveness⁸.

Government is one of the actors in governance. Other actors involved in governance vary depending on the level of government that is under discussion. In rural areas, for example, other actors may include influential land lords, associations of peasant farmers, cooperatives, NGO’s, research institutes, religious leaders, finance institutions, political parties and the military⁹. At national level in addition to the above actors, the media, lobbyists, international donors and multi-national corporations excluding government and the military may play a role in decision –making or in influencing the decision-making process and are grouped together as part of the ‘civil society’¹⁰.

There are mainly four dimensions to governance: political governance, economic governance, socio-economic governance and corporate governance¹¹. The main focus in this research is the promotion of political and economic dimensions of governance though other dimensions may be touched on.

2.2 ELEMENTS OF GOOD GOVERNANCE

Scholars, policy makers, aid donors, and aid recipients acknowledge the importance of good governance for development.

Under the Political dimension of good governance six elements of good governance shall be looked at in this research and under the Economic dimension four elements of good governance shall be examined.

2.2.1 Elements of Good governance in the Political dimension

⁷ <http://www.demystifyinggoodgovernance.pdf> pg4 -06/09/2006

⁸ <http://www/afdb.org> pg1 -16/07/2008

⁹ SACCORD Report on Political Governance in Zambia (2007) pg 1

¹⁰ Obid

¹¹ Chigunta, F (2007) Testing the Draft PFI users Toolkit Guidance to Zambia of the APRM process- NEPAD-OECD Africa investment initiative roundtable 27th-28th November. Lusaka, Zambia pg70

i) Political Accountability: This element of good governance is concerned with the extent to which a country's citizens are able to participate in selecting their government, as well as freedom of expression, freedom of association and assembly, media freedom and freedom of speech¹². Accountability is a key requirement of good governance. Not only governmental institutions but also the private sector and civil society organizations must be accountable to the public and to their institutional stakeholders¹³. In general organizations and institutions are accountable to those who will be affected by their decisions or actions. Who is accountable to whom varies depending on whether decisions or actions taken are internal or external to an organization or institution- In general an organization or institution is accountable to those who will be affected by its decisions or actions¹⁴. Accountability cannot be enforced without transparency and the rule of law and thus, political accountability or lack of it could be mirrored through set and agreed societal laws and rules regulating the conduct of public affairs and institutions involved in public affairs¹⁵. Political decisions and actions are supposed to be responsive to the legitimate needs, concerns and demands of the people with whom they have a special contract to govern.

ii) Respect for Human Rights: In this element of good governance, ones concern is the extent to which the rights and freedoms of individuals are respected, promoted and protected by the state and non-state actors alike¹⁶- specifically, the measures taken by governments in promoting and protecting human rights and freedoms. Human rights are inalienable entitlements that accrue to every human being regardless of other forms of distinctions such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status¹⁷ and thus, it is an inescapable

¹² SACCORD Report on Political Governance in Zambia (2007) pg2

¹³ Ibid pg4

¹⁴ Op cit pg4

¹⁵ File://E:\Good governance-wikipedia, the free encyclopedia pg 2 -31/05/2008

¹⁶ SACCORD Report on Political Governance in Zambia (2007) pg5

¹⁷ Ibid

sacred duty of any democratic government to promote and protect human rights and freedoms. Respect for human rights should entail the promotion of civil and political rights and social and economic rights. It should also mean the protection of minority rights.

iii) The Rule of Law: This element is concerned with the extent to which agents have confidence in and abide by the rules of society, and in particular the quality of contract enforcement, the police, and the courts, as well as the likelihood of crime and violence¹⁸. Good governance requires fair legal frameworks that are enforced impartially. It also requires full protection of human rights, particularly those of minorities. It also means independent judiciary and an impartial and incorruptible police force¹⁹.

iv) Decentralization of Political Power: This element is concerned with the extent to which political power with accompanying authority, human and financial resources have been devolved from the central to the local structures of government²⁰.

v) Political Pluralism: This element is concerned with the extent to which civil and political rights and freedoms are being exercised and protected as well as the extent to which such rights and freedoms contribute to deepening good governance²¹. There are several actors and as many view points in a given society. Good governance requires mediation of the different interests in society to reach a broad consensus on what is in the best interest of the whole community and how this can be achieved and it also requires a broad and long term perspective on what is needed for sustainable human development and how to achieve the goals of such development and this can only result from

¹⁸ SACCORD Report on Political Governance in Zambia (2007) pg2

¹⁹ File://E:\Good governance-wikipedia, the free encyclopedia pg 2 -31/05/2008

²⁰ SACCORD Report on Political Governance in Zambia (2007) pg2

²¹ Ibid pg3

an understanding of the historical, cultural, socio-economic and political contexts of a given society or community²².

VI) Participation: This element of good governance looks at the extent to which the citizenry, individually and/or collectively through organized groupings participate in public affairs, particularly in the decision making processes and the implementation of such decisions in the governance of the country²³. Participation by citizens regardless of their gender, religion and creed is a key cornerstone of good governance. Participation could be either direct or through legitimate intermediate institutions or representatives- it is important to point out that representative democracy does not necessarily mean that the concerns of most vulnerable in society would be taken into consideration in decision making²⁴. Participation needs to be informed and organized. Participation also means freedom of association and expression on one hand and an organized civil society on the other hand²⁵.

2.2.2 Elements of Good Governance in the Economic Dimension

i) Eradication of Corruption: This is the extent to which public power is exercised for private gain, including both petty and grand forms of corruption, as well as ‘capture’ of the states by elites and private interests²⁶. There is corruption in both the public sector and the private sector. Corruption is the single greatest obstacle to economic and social development. Corruption undermines development by distorting the rule of law and weakening the institutional foundation on which economic growth depends²⁷. The poor suffer most from corruption as a result of economic decline and poor public services and because they are least able to pay the costs associated with fraud, corruption and misappropriation of economic privileges.

²² Op cit pg11

²³ SACCORD Report on Political Governance in Zambia (2007) pg3

²⁴ Ibid

²⁵ <File://E:Goodgovernance-wikipedia> pg 1 -31/05/2008

²⁶ SACCORD Report on Political Governance in Zambia (2007)pg3

²⁷ <http://www.demystifyinggoodgovernance.pdf> pg 7 -06/09/2006

ii) Transparent and Accountable Public Administration: This element looks at the extent to which public officials generate or source and manage the public resources, including political power, for the improvement of the general populous through open and legitimate means²⁸. Transparency means that decisions taken and their enforcement are done in a manner that follows set down rules and regulations and it also means that information is freely available and directly accessible to those who will be affected by such decisions and their enforcement²⁹. It also means that enough information is provided and that it is provided in easily understandable forms and media.

iii) Efficient Public Management: This is the quality of public services, the quality of the civil service and the degree of its independence from political pressure, the quality of policy formulation and implementation, and the credibility of the government's commitment to such policies³⁰. Good governance entails that processes and institutions produce results that meet the needs of society while making the best use of resources at their disposal. The concept of efficiency in the context of good governance also covers the sustainable use of natural resources and the protection of the environment³¹. Good governance must require that institutions and processes try to serve all stakeholders within a reasonable timeframe.

iv) Economic Reforms and Poverty Eradication: This element of good governance is concerned with the extent to which the government has the capacity and political will to formulate and implement economic policies and the extent to which such policies contribute to poverty reduction³². A society's well-being depends on ensuring that all its members feel that they have a stake in it and do not feel excluded from the mainstream of society. This requires that all groups, but particularly the most vulnerable, have opportunities to improve or maintain their well-being. Therefore, it is the paramount

²⁸ SACCORD Report on Political Governance in Zambia (2007) pg 17

²⁹ File://E:\Goodgovernance-wikipedia pg2 -31/05/2008

³⁰ SACCORD Report on Political Governance in Zambia(2007) pg3

³¹ File://E:\Goodgovernance-wikipedia pg2 -31/05/2008

³² SACCORD Report on Political Governance in Zambia(2007) pg3

duty of the government in whose custody the national resources are to repose, to promote the well being of society, among other measures, through prudent and effective economic reforms.

2.3 The Civil Society and Good Governance

Good governance operating in the civil society should result in a vibrant civil society.

The civil society in any African country must be synonymous to democracy, good governance and other fundamental principles undermining a democratic state. Thus civil society organizations are political key players in the promotion and protection of democracy and good governance. At national level actors such as NGO's ,cooperatives, finance institutes, the media, lobbyists, international donors and multi-national corporations play a role in decision-making or in influencing the decision –making process and all actors other than government and the military are grouped together as part of the ‘civil society’³³. A legitimate constitution is the basis of fruitful efforts towards fostering transparency, accountability, and popular participation of citizenry, democracy and the rule of law. It is for this reason that civil society organisations that have a long standing record of promoting good governance have been putting up a spirited fight to have a people driven constitution in their countries³⁴. An interview with 2nd Republican President of Zambia revealed that Governments should seriously start listening to civil society organizations as credible partners in legal and institutional reforms aimed at deepening democracy and protecting the rights of all citizens regardless of their political affiliations and thus governments should stop engaging in schemes that undermine the freedoms and rights of civil society organizations to meaningfully contribute to the development of democracy and constitutionalism³⁵.He also alluded to the fact that Governments and civil society organizations should exploit if any, established avenues of interaction to improve understanding and appreciation of each

³³SACCORD Report on Political Governance in Zambia (2007) pg1

³⁴ Ibid pg21

³⁵ An interview carried out by the author with 2nd Republican President, Dr Chiluba on 26th September, 2006.

other's activities and intended goals- Governments should seriously start embracing civil society organizations(CSO) as partners in development and stop viewing them as political opponents in the promotion of governance³⁶. This may also call for counter responsibility among CSOs leaders to clear of partisan politics but continue being non-partisan in their noble watchdog, advocacy and sensitization activities.

2.4 The Private Sector and Good Governance

The private sector is the part of the economy not under direct state control³⁷. Good governance operating in the private sector should result in the creation of a competitive private sector. As a general rule, private investment is good and if handled properly it can lead to development. Laissez faire economies may however be damaging on the economy and therefore there should be some form of regulation by the state (chapter four will look into the detail of the negative impact of foreign direct investment on good governance).

Poor governance and weak institutions coupled with weak laws and poor legal enforcement have led to misguided resource allocation, excessive government intervention, arbitrariness and corruption, which have deterred private sector investment. A competitive and vibrant private sector can be achieved through economic policy reform (such as deregulation of prices and other means of economic liberalization), competitive restructuring of monopolies, reducing barriers to entry, adequate regulation, transparency in corporate governance, and business associations to represent collective interests³⁸, good laws that regulate investment in terms of treaties at international level and national legislation supplemented by good legal enforcement both at national and especially at international

³⁶ An interview carried out by the author with 2nd Republican President, Dr Chiluba on 26th September, 2006.

³⁷ Fowler, H.W and F.G Fowler (1995). The Concise Oxford Dictionary. New York: Oxford University Press. Pg1089

³⁸ <http://www.demystifyinggoodgovernance.pdf> pg 7 -06/09/2006

level to promote fair trade and handle disputes that arise between investors and host countries. These measures will in no doubt promote good governance in the private sector.

2.5 The Public Sector and Good Governance

The public sector is that part of an economy, industry, etc., which is controlled by the state³⁹. An interview with the first Republican President of Zambia revealed that in order to achieve an efficient and effective public service there is need to ensure that the civil service is not susceptible to corruption and down trodden by politicians and hence the need to undertake Civil Service Reforms.⁴⁰ Civil Service Reforms typically refer to interventions that affect the organization, employment conditions, and performance of employees supported by the central government budget⁴¹. The purpose of civil service reforms in the public sector is to achieve a well-functioning, well motivated and well rewarded civil service, which helps achieve good governance by promoting accountability for resource use, good policymaking and effective service delivery⁴². Dr Kaunda stressed that Good governance can be achieved by improving public sector management and adherence to public sector regulations⁴³. Improving public sector management entails establishing a merit-based civil service with monetized, adequate pay, transparency and accountability in budget management(coverage, treasury, procurement audit), transparency and accountability in tax and customs, policy reforms in sectoral service delivery (health, education, energy) and decentralization with accountability⁴⁴.

2.5.1 Good Governance in operation in the three arms of government

Good governance in operation in the three arms of government, namely the legislature, executive and judiciary would firstly entail a system of checks and balances amongst the three arms and secondly it

³⁹ Fowler, H.W and F.G Fowler (1995).The Concise Oxford Dictionary. New York: Oxford University Press. Pg1107

⁴⁰ Interview carried out by the author with 1st Republican President, Dr Kaunda on 17th October,2008.

⁴¹ <http://www.demystifyinggoodgovernance.pdf> pg 7 -06/09/2006

⁴² Ibid I

⁴³ Interview carried out by the author with 1st Republican President, Dr Kaunda on 17th October, 2008.

⁴⁴ <http://www.demystifyinggoodgovernance.pdf> pg7 -06/09/2006

would mean that the three arms of government have to each work independently without interference from each other⁴⁵. Specifically for the legislature who make laws, apart from being independent from other arms of government good governance would mean that appropriate stakeholders participate or are consulted in law and policy making. For the Judiciary, who are the enforcers of the law, it means that they must not only be independent but also impartial in their dealings.

2.6 Conclusion

This chapter, which is chapter two, was devoted firstly to defining the terms 'governance' and 'good governance'. Secondly, it was given the elements of good governance. Thirdly, it was shown how good governance influences or impacts positively on the civil society, the public sector and private sector. Lastly, it was shown what the operation of good governance in the three arms of government would entail.

⁴⁵ Interview carried out by the author with 2nd Republican President, Dr Chiluba on 26th September, 2008.

CHAPTER THREE

THE AFRICAN UNION AND GOOD GOVERNANCE

3.0 Introduction

This chapter is the gist of this research. This chapter is devoted to showing how the African Union which is the institutionalization of Pan-African ideals can through the African Peer Review Mechanism; address Africa's need to achieve good governance or Africa's governance challenges. African leaders alone cannot be trusted to deal with governance issues in their respective countries. Initiatives such as the African Peer Review Mechanism act as regulators by putting the needed pressure on African Governments to improve policies and practices so as to better the promotion of good governance in African countries. Without such initiatives that instill the Pan-African spirit, African leaders would not be exposed or encouraged to ways to enhance good governance in their countries. Consultations and reviews in African countries by these initiatives expose weaknesses in governance systems and therefore put them in a position to make recommendations and put pressure on African governments to implement good governance practices in their countries. Secondly, these initiatives are important because after a change of political regime in individual African countries, this would automatically entail a change in governance practices. These initiatives help or regulate new political regimes to stick to good governance practices.

3.1 Concept and international experience related to Peer Reviews as best practice for the African Peer Review Mechanism

Peer review refers to the systematic examination and assessment of the performance of a state by other states (peers), by designated institutions, or by a combination of states and designated institutions¹. The ultimate goal is to help the reviewed state improve its policy making; adopt best practices; and comply with established standards, principles, codes and other agreed commitments. Peer reviews can

¹ <http://www.iss.co.za/pubs/AfricaSecurityReview/11No4/contenthtm.html> pg 1 -16/06/2008

be conducted on subject areas or themes, for example, an individual country peer review could relate to economics, governance, the environment or other policies and practices². Peer Reviews never imply a punitive decision, sanctions, or any form of legally binding acts or enforcement mechanisms³.

3.2 THE AFRICAN PEER REVIEW MECHANISM

The African Peer Review Mechanism (APRM) is one of the positive innovations of the NEPAD programme. The APRM a process based on a self assessment questionnaire developed by the APR Secretariat. It does not only promote economic and corporate values but also political values through its influence of peer pressure – that is, the persuasion exercised by the peers through for example: a mix of formal recommendations and informal dialogue by the peer countries; public scrutiny, comparisons and ranking among countries; and the impact of the foregoing on domestic public opinion, policy makers, and other stakeholders⁴. Lessons from peer review done elsewhere suggest that the greatest impact is derived when the outcomes of peer reviews are made available to the public⁵. When the media is provided with information on peer reviews, the story can be mass distributed to the public. It is public scrutiny that is most likely to coerce change and corrective actions.

An interview with a member of the Governance Secretariat revealed that the APRM represents a commitment to African self-monitoring and accountability by relying on a system of peer pressure through which governments can monitor each others political and economic performance⁶. It is divided into four sections: democracy and political governance, economic governance and management, corporate governance, and socio-economic development and its mandate is to ensure that policies and practices of participating states conform to agreed political, economical and corporate

²<http://www.iss.co.za/pubs/AfricaSecurityReview/11no4/contenthtm.html> pg1 -16/06/2008

³ <File://E:\AfricanPeerReview-Wikipedia,theFreeEncyclopedia.htm> -16/06/2008

⁴ <http://www.iss.co.za/pubs/AfricaSecurityReview/11No4/contenthtm.html> pg1 -16/06/2008

⁵ Ibid

⁶ An interview with Mrs. Kawimbe of the Governance Secretariat on 24th November, 2008.

governance values contained in the Declaration on Democracy, Political, Economic and Corporate Governance⁷.

According to the African Security Review, “Peer reviews in general are undertaken in several substantive areas and the performance of the reviewed state can be assessed against principles, criteria and standards. They may include:

Policy recommendations and guidelines- The assessment of the performance of a country in its implementation of policy recommendations and guidelines. This is the most common form of peer review and can also include an examination of the consistency and coherence with respect to the country’s own policies. It is undertaken in such areas as economic policy, education, environment, and energy and development assistance.

Specific indicators and benchmarks- Indicators and benchmarks provide specific and numerical targets to achieve. They are used in, for example, environmental performance reviews and development assistance reviews.

Legally binding principles- Peer review can also be a mechanism for monitoring compliance with international norms”⁸.

3.3 Stages of the APRM process

There shall be five stages to the APRM process. Stage one will entail a careful analysis of the governance and development environment in the country being reviewed. The analysis will draw heavily on the UNECA Governance Project. That project aims at defining and measuring governance on the African continent through a number of country studies, each of which will provide more than 80 indicators on the nature and quality of governance. According to the African Security Review, “these indicators will provide background on the key governance and development issues in the following areas:

⁷ <File:///E:/AfricanPeerReview-Wikipedia,theFreeEncyclopedia.htm> -16/06/2008

⁸ <http://www.iss.co.za/pubs/AfricaSecurityReview/11No4/contenthtm.html> pg1-2 16/06/2008

Political representativeness and rights- To cover issues of political systems and electoral processes, representation and participation of various stakeholders in decision making.

Institutional effectiveness- Including issues related to the nature and workings of the legislature, judiciary and executive branches of government, as well as the state of the non-governmental sector.”⁹

A critical element of the APRM process is the country consultations. Those consultations entail the seeking of advice through national steering committees and the dissemination of findings through workshops and also provide for wide-ranging interaction and buy –in by a large number of stakeholders including civil society organizations¹⁰. The consultations will identify those key issues in political governance (peace and security, human rights, electoral participation, etc.) that should be examined in the peer review process¹¹.

Stage two will constitute the country visits by peer review mission teams and this stage will be informed by the analysis prepared in stage one and the work of the missions will be conditioned by the contents of the respective Initiating Memoranda, as set out in Annex I¹². There shall be two tracks to stage two- One track will be concerned with the political governance issues and the other with economic and corporate issues identified through country consultations¹³. Mission teams will consult and extensively interview relevant government officials , parliamentarians, opposition party members not in parliament, private sector representatives, representatives of civil society groups(including the media, academia, trade unions, NGO’s) and officials of resident missions of regional and international organisations¹⁴.

Stage three involves the preparation of mission findings of the peer review¹⁵.

Stage Four entails discussions and adoption of the peer review reports by the NEPAD structures¹⁶.

⁹ <http://www.iss.co.za/pubs/AfricaSecurityReview/11No4/contenthtm.html> pg 3-4 -16/06/2008

¹⁰ Ibid

¹¹ Op cit

¹² <http://www.au2002.gov.za/docs/index.html> pg 4 -16/06/2008

¹³ <http://www.iss.co.za/pubs/AfricaSecurityReview/11No4/contenthtm.html> pg 4 -16/06/2008

¹⁴ <http://www.au2002.gov.za/docs/index.html> pg 4 -16/06/2008

¹⁵ Ibid

Stage five entails the formal and public tabling of the APRM reports in key regional and sub-regional structures and, in particular, the African Union structures¹⁷.

3.3.1 Frequency of Peer reviews

As originally envisaged in the APRM Base Document adopted at the AU Durban summit in 2002,

“there are four types of review:

- The first country review being the base review to be undertaken within 18 months of a country becoming a member of the APRM.
- Then there is a periodic review that takes place every two years.
- In addition to these, a member country can, for its own reasons, ask for a review that is not part of the periodically mandated reviews.
- Early signs of impending political and economic crises in a member country would also be sufficient cause for instituting a review”¹⁸.

However in practice, it seems likely that only base reviews will be conducted for the foreseeable future: the review process for the first four countries, Ghana, Kenya, Mauritius and Rwanda, has taken at least eighteen 18 months for Ghana and perhaps up to three years or more (Mauritius), since they were first announced in Kigali in February 2004¹⁹. The structures for implementing the APRM were established in May 2004, and the panel of Eminent Persons has made progress in popularizing the integrity of the process²⁰.

The APRM lacks an enforcement mechanism, since it is voluntary. In spite of this constraint, as of July 2008, 29 African countries had formally joined the APRM by signing the Memorandum of

¹⁶ <http://www.au2002.gov.za/docs/index.html> -16/06/2008

¹⁷ *ibid*

¹⁸ <File://E:\AfricanPeerMechanism-wikipedia,thefreeencylopedia.htm> pg 3 -16/06/2008

¹⁹ *ibid*

²⁰ *Op cit* pg 2

Understanding on the APRM, supporting the views of the APRM's proponents that a peer review mechanism can only succeed if it is voluntary²¹.

3.4 Proof that the APRM is successful at promoting Good Governance

3.4.1 The Case of Kenya

Just a few years ago, Kenya was being lauded as one of the first countries in Africa to complete the process of examination by the APRM, while the resulting report provided a hard-hitting analysis of the challenges the country faced and made some important recommendations on the way forward. Had the problems the APRM report then highlighted been tackled, it is possible that the violence and distress of the 2008 crisis could have been avoided. The APRM country review report made a remarkably frank assessment of Kenya's problems. The report did not shy away from highlighting issues of corruption, especially in land allocation, nor from the ethnic tensions that have been so horribly demonstrated²². The report identified 'overarching issues' that Kenya would need to address, starting with 'managing diversity in nation building', and going on to filling the 'implementation gap' between policy and action on the ground; addressing poverty and wealth distribution; land reform; action against corruption; constitutional reform; and address gender inequality and youth unemployment²³. Finally and notably, the report called for 'transformational leadership'-leadership that 'recognizes the need for dramatic change in a society' and that 'entails not simply directing change but managing it in a way that ensures broad ownership, legitimacy and self-directed sustenance and replication of change in all associated systems.'²⁴ The APRM process is therefore a success because had the problems the APRM report for Kenya then highlighted been tackled, it is possible that the violence and distress of the 2008 crisis could have been avoided.

3.4.2 The case of South Africa

²¹ <File://E:\AfricanPeerMechanism-wikipedia,thefreeencylopedia.htm> pg 2 -16/06/2008

²² <http://www.pambazuka.org/en/category/features/47406> -10/01/2009

²³ Ibid

²⁴ Op cit

The African Peer Review Mechanism report on South Africa highlighted the country's strengths (the report also identified 18 practices worth emulating in other countries) and weaknesses while the South African cabinet urged that teamwork is necessary to ensure implementation of the recommendations²⁵. The report highlighted a number of strengths characterizing the South African society, including having one of the most progressive constitutions in the world, the largest and strongest economy in the continent, and a political environment conducive to political debate- Other strengths included first world economic and physical infrastructure, a strong public financial management system, strong technological capability, good corporate governance, a robust legal system, and a strong framework for protecting human rights²⁶.

However, the report also highlighted a number of challenges including racism and xenophobia, under-representation of women in the private sector, and high levels of gender based violence- Others included the rise in education expenditure that was not mirrored in the outcomes of the system, insufficient contact between ordinary South Africans and political representatives, the pervasive legacy and distortions of the apartheid system, the high HIV infection rate, and high levels of violent crime²⁷.

In raising some concerns about certain aspects of the report, government was of the view that the APRM process would be strengthened if the identified weaknesses were addressed.

3.5 Why the APRM will be a better initiative than other initiatives that promote Good Governance

The APRM is an upcoming initiative and with time it will become an even more effective²⁸. The APRM will be more successful than other strategies on national assessment and promotion of governance such as the World Bank or the African Governance Forum because the APRM firstly

²⁵ E:// Peer review highlights S.A strengths, weakness- South Africa-The good news.htm -10/01/2009

²⁶ Ibid

²⁷ Op cit

²⁸ An interview with the 2nd Republican President, Dr. Chiluba on 26th September, 2008.

cultivates accountability to citizens which is fundamentally different from externally driven accountability mechanisms that have so proven to be ineffective or insufficient²⁹. The APRM represents a commitment to African self-monitoring and accountability by Africans themselves taking responsibility and relying on a system of peer pressure through which governments can monitor each others political and economic performance. Other Governance strategies sale governance for donor aid whereas in the situation of the APRM, Africans on their own are willing to genuinely asses and improve their own governance situation. Africans must be willing to asses their governance status not because of the need for donor aid but because they genuinely and freely (not out of duress) want to improve their status (since the process has not been imposed, it will be sustaining). When this stance is taking, Good governance will be promoted effectively because the APRM is an approach designed and implemented by Africans for Africa. The APRM signifies that countries, both individually and collectively are taking responsibility, commitment and ownership for their development³⁰.

Secondly, the APRM is an inward looking mechanism. The APRM promotes the development of shared values and vision that are consistent with internationally recognized norms and standards while at the same time recognizing the specificity of a country's historical, economic and cultural context. Each country is different from others in its cultural and social values, thus, the solution has to come from within. As it was mentioned in chapter two, the AU must have separate strategies for the different categories or classes of states that exist in Africa, for example separate strategies for stable states such as Botswana, conflict states such as Sudan, fragile states such as Sudan, fragile states such as Ethiopia and failed states such as Somalia³¹ and the APRM is the ideal strategy for this since it is an inward looking mechanism.

²⁹ An interview by the author with Mrs. Kawimbe, of the Governance Secretariat on 24th November, 2008.

³⁰ Ibid

³¹ Interview carried out by the author with Mr. Ashie Mukungu, Senior Country Economist of the African Development Bank on 10th August, 2008.

Thirdly the APRM encourages accountability of governments not only to citizens but also to regional and continental peers.

Fourthly, the APRM as a voluntarily acceded mechanism is designed to encourage African countries and their people to learn from each other within the country but also among countries by creating the opportunity to recognize and disseminate best practices³².

Fifthly, such a mechanism allows the space for developing countries to learn from their own mistakes, exert peer pressure and peer learning, and evolve their own local institutions of accountability that are so fundamental to sustaining democracy and progress.

Lastly, through emphasis on national ownership and leadership APRM principles encourage creativity in solving national problems and harnessing internal resources³³.

3.6 Weaknesses of the APRM

The following are weaknesses of the APRM that need to be taken note of for the APRM to become more effective as it takes on other countries. These lessons are taken from the APRM processes that took place in Kenya and South Africa.

Firstly, the biggest concern with the APRM process is the lack of political will of African governments in trying to fix what is not right as indicated in the country reports. A good example of this is Kenya- had the problems the APRM report had highlighted been tackled, it is possible that the violence and distress of the 2008 crisis could have been avoided³⁴- Issues relating to the independence of the Electoral Commission of Kenya were so critical on Election Day and in the following period. This in turn reflects a weakness in the APRM questionnaire that guides the reviews, which does not focus on electoral management and its independence, but rather the simple fact of holding elections³⁵.

³² <http://www.iss.co.za/pubs/AfricaSecurityReview/11No4/contenthtm.html> pg1 -16/06/2008

³³ An interview by the author with Mrs. Kawimbe, of the Governance Secretariat on 24th November, 2008

³⁴ <http://www.pambazuka.org/en/category/features/47406> -10/01/2009

³⁵ *ibid*

A much greater weakness lies in the gap between the country review report and the programme of action which is supposed to set out concrete, costed actions that will address the problems identified in the report- For example, the review report decries the lack of independence of the judiciary, and especially the vulnerability to executive influence of the process for nomination and appointment of judges. The eminent persons noted that during their visits to Kenya, they had received reports of incidents in which prominent government officials either disobeyed court orders or expressed an intention to disobey them. They state forthingly that, 'The Chief Justice being an appointee of the President is not trusted to be able to take an independent decision'-the very reason why Raila Odinga and his ODM party rejected the insistence by the incumbent PNU that any challenges to the election results should take place in court³⁶. Yet the programme of action talks only of enforcement of judicial reforms and existing administrative measures to ensure members of the bench improve efficiency, accountability and monitoring of judicial functions'. There is no mention of steps to end executive interference and ensure respect for the rule of law. In other areas too, the programme of action shies away from the difficult political issues, focusing rather on capacity building and resource mobilisation; matters³⁷.

Another weakness is that although each country that has undergone the APRM process is supposed to report back to the APR Forum on its progress, there is no serious monitoring exercise of how this is exactly done- Nor any sanctions for failure to act, nor apparently, is there any real system to ensure that the commitments the government makes address the most important problems highlighted in the APRM review³⁸. At national level, meanwhile, the implementation of the APRM programme of action is also left entirely to the executive, with no formalized role for parliamentarians or civil society to

³⁶ <http://www.pambazuka.org/en/category/features/47406> -10/01/2009

³⁷ Ibid

³⁸ Op cit

hold the government's feet to the fire should it fail to perform³⁹. As in other countries, the APRM process has not been well-integrated into other national development planning processes – a problem recognized by the APRM secretariat in South Africa- and it does not appear to have informed other important reform programmes under way at the same time⁴⁰. Moreover, the systems in place to monitor the implementation of other national policies (however imperfect) are also not mobilized to engage with the implementation of the APRM programme of action⁴¹.

3.7 Types of Governance covered under the APRM Questionnaire

As has already been alluded to, the APRM questionnaire is divided mainly into four sections: democracy and political governance, economic governance and management, corporate governance, and socio-economic development⁴². An interview with head of the Governance Secretariat in Zambia revealed that, “the following aspects are covered under **Democracy and Political Governance section of the APRM**: Separation of Powers among the various arms of State, Exercise of greater human and political rights, including the freedom of expression and association, respect for the constitution, land ownership and distribution, delivery of administrative justice and the creation of opportunities for all groups and the promotion of gender equality. The **Economic Governance and Management section of the APRM covers**: Formulation and Implementation of sound macro economic policy, strengthening transparency and accountability, the putting in place of fair and efficient tax administration, diversification of the economy and employment generation, developing infrastructure and improving service delivery. The **Corporate Governance section covers**: Adoption of corporate governance policies that encourage the growth and development of the private sector including Small and Medium Enterprises (SMEs), access to land and finances, improving the regulatory and financial environment for the private sector, effective commercial dispute resolution

³⁹<http://www.pambazuka.org/en/category/features/47406> -10/01/2009

⁴⁰ E://PeerreviewsHighlightsSAstrengths,weakness-SouthAfrica-TheGoodNews.htm -10/01/2009

⁴¹ <http://www.pambazuka.org/en/category/features/47406> -10/01/2009

⁴² <http://www.au2002.gov.za/doc s/index.html> 16/06/2008

and protection of workers rights. Lastly, the **Social Economic Governance section of the APRM covers:** poverty reduction, the provision of basic services such as housing, health, education and employment and the provision of greater space and opportunities for citizens is needed to determine their participation in development⁴³.

3.8 How Applying the APRM Questionnaire will promote Good Governance-the case of Zambia

On the 8th of September, 2008, the National Governing Council (NGC) was launched by government to provide oversight and leadership in implementing the APRM process in Zambia and under the APRM process, Zambia is mandated to prepare a Country Self-Assessment Report and a National Plan of Action on Governance⁴⁴. Secondly, concerning the progress of the APRM in Zambia, a Consultancy to develop a country wide sensitization strategy and programme on sensitization on the APRM was established and in that regard consultants will be expected to present various public awareness sensitizations that are available to capture the Zambian population⁴⁵.

To illustrate how the APRM Questionnaire can be applied to promote Good Governance, it will be shown how the APRM Questionnaire can promote Good Governance in Zambia.

According to the author, the following answers to some of the questions in the APRM questionnaire will help come up with a Country Self-Assessment Report that will effectively promote Good Governance in Zambia by exposing defects in governance and making a plan to correct what is not well:

3.8.1 Economic reforms and Poverty Reduction

One questionnaire question in the APRM from the many other questions that ensure compliance with economic governance and management values is:

⁴³ Interview carried out by the author with head of the Governance Secretariat of Zambia, Mrs. Kawimbe on 24th November, 2008.

⁴⁴ Times of Zambia, Monday, November, 24, 2008.

⁴⁵ Times of Zambia, Monday, 24, 2008.

APRM Obj 1, Q.3: What sectoral or microeconomic policies has your country developed and implemented to promote economic growth and sustainable development?

In order to improve the business climate, the Zambian government has, as previously noted, established the Private Sector Development Programme (PSD). The PSD programme action plan covers 72 measures⁴⁶. These can be grouped into policy environment and institutions, trade expansion, infrastructure, citizens' empowerment, business facilitation and economic diversification, and laws and regulations. Despite attempts to strengthen the implementation structure in order to quicken the pace of PSD reforms, the general consensus among senior Government Officials, PSD desk officers and programme staff is that the pace of implementation has been very slow and should be increased⁴⁷.

3.8.2 Vibrant and Competitive Private Sector

APRM/PFI Ch2, Q1: Does the government have a strategy for developing a sound, broad-based business environment and within this strategy, what role is given to investment promotion and facilitation measures?

All efforts aimed at attracting foreign investors and mobilizing local investment has become part of the government's development agenda. It is government policy to promote private sector-led economic growth and development. In this respect, the strategy for developing a sound, broad-based business environment in Zambia is the FNDP and Vision 2030 and in line with the provisions of the FNDP, domestic policies and regulations on private sector development are being amended to facilitate private sector-led growth⁴⁸. Within the context of the PSDP, investment promotion and facilitation is one of the key identified reform areas, however, business facilitation is still problematic⁴⁹.

3.8.3 Effective and Efficient Public Service

⁴⁶ Chigunta, F (2007) The APRM process- NEPAD-OECD Africa Investment initiative roundtable, 27th-28th November, Lusaka, Zambia pg 81

⁴⁷ Chigunta, F (2007) The APRM process- NEPAD-OECD Africa Investment initiative roundtable, 27th-28th November, Lusaka, Zambia pg 82

⁴⁸ Ibid pg 87

⁴⁹ Op cit

-APRM Obj 5, Q.1: What measures have been in the country to strengthen institutions for an efficient and an effective public service?

The Government of Zambia is presently implementing a public sector reform programme based on the following three pillars: Public Expenditure Management and Financial accountability, Public Sector Management and the decentralization process⁵⁰. However, it appears that progress in reforming the public sector has been slow. As a result, nothing much seems to have changed in terms of efficiency and effectiveness-a clear manifestation of reduced state capacity, despite a reduction in the number of public workers⁵¹.

3.8.4 Human Rights and the Rule of Law

The questionnaire has questions that ensure compliance with democracy and good political governance and management values. Examples of such questions are:

-APRM Obj 3, Q.2: What steps have been taken to facilitate equal access to justice for all?"

The constitution in Zambia ensures equality before the law for all citizens and this is supported by a relatively independent judiciary. In addition, the Government established the HRC whose mandate is to investigate the violation and abuse of human rights. The legal aid Department was established to assist those who cannot afford the services of a private lawyer. There is also the Police Complaints authority (PCA). Besides these initiatives, there are several civil society organizations (CSOs) that are engaged in human rights advocacy. Others such as the Legal Resources Foundation also provide legal services to poor members of society. However, the extent to which ordinary citizens access the services of these organizations is not clear.

“-APRM Obj 2, Q2: What weight do provisions and institutions establishing or promoting the rule of law and the supremacy of the constitution carry in practice?

⁵⁰ Chigunta, F (2007) The APRM process- NEPAD-OECD Africa Investment initiative roundtable, 27th-28th November, Lusaka, Zambia pg 78

⁵¹ Ibid pg 79

The constitution of Zambia (under review) provides the bedrock for the rule of law. It is the supreme law of Zambia. Laws, regulations, policies, practices or conduct contrary with the constitution are invalid. The constitution also entrenches a comprehensive set of inalienable rights.

The Government of Zambia has also established watchdog institutions like the Human Rights Commission. However, some of these institutions face capacity problems. In some cases, corrupt practices, low performance, lack of accountability, and over-centralisation constrain the effective enforcement of law and order.

3.8.5 Corporate governance

i) APRM Obj 2, Q1: Are there measures in place to ensure that corporation recognize and observe human and labour laws?

Labour or employment conditions in Zambia are covered by the Employment Act which is Zambia's fundamental employment law, which provides for basic employment terms such as the minimum contractual age, establishment of employment contracts, settlement of disputes, and appointment of labour officers. It also provides for certain conditions of employment, such as ordinary leave, sick leave, maternity leave, redundancy and welfare of employees. The rights and obligations of employers and employees are covered mainly by the 1993 Industrial and Labour Relations Act⁵². The Act encourages consultation with employees by management through work councils and also defines the role of trade unions and outlines frameworks for strikes and minimum wages⁵³. According to the Act, the Industrial Relations Court is the final arbiter of disputes.

Despite these measures, there is growing consensus among members of the public, as reflected in press reports, that there is need to review a number of labour laws to address current inadequacies⁵⁴.

Although there is an industrial court, as noted above, the general view is that employers do not respect

⁵² Chigunta, F (2007) The APRM process- NEPAD-OECD Africa Investment initiative roundtable, 27th-28th November, Lusaka, Zambia pg 93

⁵³ Ibid

⁵⁴ Op cit

the rights of employees. Examples are Chinese and Indian copper mining firms. It is, therefore, not surprising that even safety standards tend to be poor in these companies. The nature of occupation health and safety in the Chinese and Indian owned companies was recently exposed following a spate of industrial accidents on the Copperbelt, leading to the death of about 52 employees at a Chinese owned explosive manufacturing company (BGRIMM) in April 2005⁵⁵.

The lax labour standards and human rights violations can also be attributed to institutional constraints such as the weakness and lack of capacity in reasonable institutions. The learned writer Chigunta states as regards lax labour laws contribution to institutional constraints that, "A case in point is lack of capacity by the Ministry of Labour to undertake labour inspections. The complexity of the judicial process is another constraint. In view of this, there is need for the government to consider promoting compliance to 'OECD Guidelines for Multinational Companies', and UN Global Compact Ten Principles as one way of promoting responsible business conduct by investors"⁵⁶.

ii) APRM Obj 1, Q.2: What is the regulatory framework for economic activities and to what extent does it facilitate commercial enterprise in the country?

The Government of Zambia has come up with laws and regulations aimed at creating a supportive regulatory framework for companies. These include the Companies Act, the Zambia Development Agency Act, the Employment Act and the Industrial and Labour Relations Act. However, many of the current commercial or business-related laws are outdated and some modern business practices are not covered by current laws. As noted by UNCTAD (2006)'s Investment Policy Review in Zambia, Zambia's legacy from a one-party state command economy means that many of country's commercial

⁵⁵ Chigunta, F (2007) The APRM process- NEPAD-OECD Africa Investment initiative roundtable, 27th-28th November, Lusaka, Zambia pg 94

⁵⁶ Ibid

or business-related laws, including labour legislation, the land tenure system, licensing, are lagging behind current business practices⁵⁷.

3.9 The APRM on the need to promote a good investment climate in Africa

The central role of private investment for growth, poverty eradication and sustainable development is now firmly established both theoretically and empirically⁵⁸. The unfavorable investment climate in many African states results from poor governance such as institutional failures, macroeconomic policy imperfections and inadequate infrastructure, as well as rampant corruption, bureaucratic red tape, weak legal systems and a lack of transparency in government departments⁵⁹. The potential for highly profitable foreign and domestic investment in Africa is enormous, but many investors remain unaware of the opportunities. In addition, the overall poor image of Africa as reported in Western and other media as the locale of physical insecurity and lack of peace and stability have made it difficult for the continent to attract foreign capital and mobilize adequate and sustained levels of domestic private investment to attain levels of growth. An increase in investment and private sector growth requires an institutional framework that supports a well functioning market economy. It is in part a response to the above investment climate challenges that African Heads of States established the APRM as a major component of NEPAD⁶⁰. As a regional mechanism under NEPAD, it is designed to promote good governance and institutional change, increase growth and generate sustainable socioeconomic development and greater regional integration on the continent. It targets institutional strengthening by improving the quality of political, economic and corporate governance in African countries thereby promoting socioeconomic development. The **APRM** questionnaire which is also used to promote a

⁵⁷ Op cit pg 89

⁵⁸ Busia, K (2007) Overview of Challenges of the Investment Climate-related content of the APRM. OECD: Lusaka pg 35

⁵⁹ Chigunta, F (2007) The APRM process-NEPAD-OECD Africa Investment initiative roundtable, 27th-28th November, Lusaka, Zambia pg 70

⁶⁰ Busia, K (2007) Overview of Challenges of the Investment Climate-related content of the APRM. OECD: Lusaka pg 35

competitive private sector in Africa has been widely used by several countries although some concerns have been raised by some about its bulkiness, repetition on some cross-cutting issues such as corruption, and the neglect or inadequate attention paid to some critical governance and development issues, such as a countries investment climate which is critical to the performance of a vibrant and competitive private sector. Therefore NEPAD is working closely with the OECD to promote investment reforms in Africa in the context of the NEPAD/ OECD Initiative⁶¹. This initiative should assist in supporting African governments' efforts to develop an integrated policy roadmap based on concrete measures for improving their investment climate and to further strengthen African countries own capacity to design, implement and advance a result-oriented national reforms agenda to improve the investment climate⁶². The NEPAD-OECD Initiative Roundtable's first objective is to exchange ideas on how the investment climate content of the APRM can be strengthened while the second objective is to identify factors that are holding back private sector participation in African country's water and sanitation sector⁶³.

3.10 The APRM on the need to combat corruption

Corruption is a common feature in all political systems, despite whatever differences may exist in their governing philosophies or their geography. Nation-states are clearly aware that corruption presents a serious threat to their core principles and values, and most importantly hinders economic and social development. As a result, there is a common acceptance of the need to address the problem in a coordinated and sustainable way. Transparency International have noted that at national level existing anti-corruption agencies, such as Kenya's Anti-Corruption Commission and Uganda's Inspector

⁶¹Prof. Firmino Mucavale-executive head, NEPAD Secretariat (2007) Summary report on Strengthening Investment Climate Assessment and Reform in NEPAD counties. pg 19

⁶² Ibid

⁶³ Op cit pg 26

General of Government have been widely criticized for lacking independence because they are funded by their respective governments, where power largely rests in the hands of a few elite politicians⁶⁴.

It was earlier stated that the performance of the reviewed state by the APRM can be assessed against principles such as legally binding principles. The APRM can also be a mechanism for monitoring compliance with international norms such as the African Union Convention on the Prevention and Combating of Corruption. To date, out of 53 African Union countries, 35 countries have signed the convention and only 9 countries have ratified this continental community's attempt to articulate a broad strategy for the prevention and combat of corruption⁶⁵. Once ratified by States Parties, this convention will enhance co-operation among governments and help standardize the way in which individual countries deal with corruption in their national legislation.

The Main benefits of the AU Convention are:

- 1) "It is a regional agreement on the importance of addressing corruption with a comprehensive framework, setting common standards and providing improved mutual law enforcement assistance which includes extradition, investigations, as well as confiscation, seizure and repatriation of proceeds of corruption. (Articles 15-18).
- 2) Covers the supply and demand sides of corruption, private sector and public sector corruption.
- 3) Requirements of whistleblower and witness protection. (Article 5)
- 4) Requirement of transparency in political party funding (Article 10)- the only convention to have mandatory provisions on this subject.
- 5) It has broad jurisdictional provisions (Article 13).
- 6) Requirements relating to public sector internal accounting and auditing systems (Article 5).

⁶⁴ [File://VOA News-Watchdog Group Urges Africa to create Anti-Corruption Organizations -10/10/2008](#)

⁶⁵ Ibid

7) It has important preventative measures required in the public service such as declaration of assets by designated public officials, creation of code conduct and monitoring body, ensuring proper management of tendering and hiring procedures. Additionally restrictions on immunity for public officials (Article 7).

8) Other preventive measures calling for education and awareness-raising (Article 5), as well as access to information for the media and involvement of private sector and civil society in the prevention of corruption (Article 12)”⁶⁶

3.11 THE APRM AND A VIBRANT CIVIL SOCIETY

Through national consultations in the APRM process, the APRM encourages the development of a culture of dialogue and strengthening of domestic accountability systems between the State and the civil society. It is not a finger-pointing, blame sharing exercise, rather a genuine exercise to factually and objectively identify problems and find solutions thereto. At continental level ECOSOC and the Pan-African Parliament promote a vibrant civil society in Africa as a whole.

3.12 PEACE, SECURITY AND THE AFRICAN PEER REVIEW MECHANISM

Perceived unfairness in allocating power and privilege underlies many African countries. Latent or violent armed conflicts-often within rather than between countries- have devastating humanitarian consequences and retard development. War destroys infrastructure, or diverts its use for military purposes. Education and health services suffer. Conflict disrupts normal economic activities and plunders natural resources. African leaders and citizens alike have long blamed their problems on external factors- slavery, colonialism and apartheid, the cold war, and the unfair structure of international political and economic relations- which are not without merit, but there has been a growing recognition that how African countries are governed also matters, and that peace and security

⁶⁶ <http://www.u4.no/themes/conventions/intro.cfm> -10/10/2008

are critical components of governance that enhance socioeconomic development⁶⁷. Peace promotes prosperity, while bad governance engenders conflict, which in turn seriously stifles development. So it will now be looked at how the APRM proposes to boost governance and monitor and manage conflict. To assess how the APRM can contribute to conflict prevention and management, the starting point is the 88 page self assessment questionnaire that guides the national process, and the relevance of the questions asked. The first of the questionnaire's 25 objectives examine measures taken to prevent and manage internal and inter-state conflicts, reinforcing the view that peace underpins development⁶⁸. Under this broad objective, the questionnaire asks specific questions: "1) What are the recent or ongoing conflicts in a country and the sources of these conflicts? 2) What mechanisms exist for preventing, reducing and managing conflicts in that country or region and how effective are they? 3) To what extent have regional and subregional organizations been involved in conflict resolution affecting that country? Detailed indicators are suggested for each question."⁶⁹ Several other APRM objectives relate to human and state security, such as constitutional democracy and the rule of law, women's roles in preventing and resolving conflict, and children's involvement in conflict and the questionnaire also seeks evidence that countries have signed, ratified, domesticated and implemented many global and African standards aimed at promoting peace⁷⁰. However, a key weakness of the questionnaire is that it asks countries to describe laws, institutions or practices, without explicitly requiring them to evaluate or assess performance and delivery⁷¹. Most countries possess good laws and policies on paper, and they can easily note these in responses, but rigorous assessment is necessary to evaluate whether they really work. Despite these limitations, the questionnaire still provides enough space for countries to reasonably assess themselves in terms of promoting peace within and across their borders.

⁶⁷ <http://www.issafrica.org> -10/01/2009

⁶⁸ Ibid

⁶⁹ <http://www.aprm.org.za>-10/01/2009

⁷⁰ <http://www.issafrica.org> p-10/01/2009

⁷¹ Ibid

3.13 Conclusion

This chapter was the gist of this research. This chapter was devoted to showing how the African Union which is the institutionalization of Pan-African ideals can through the African Peer Review Mechanism; address Africa's need to achieve good governance or Africa's governance challenges. The APRM is the cure to the mischief that African leaders alone cannot be trusted to deal with governance issues in their respective countries. Initiatives such as the African Peer Review Mechanism act as regulators by putting the needed pressure on African Governments to improve policies and practices so as to better the promotion of good governance in African countries. Without such initiatives that instill the Pan-African spirit, African leaders would not be exposed or encouraged to ways to enhance good governance in their countries. Most importantly, it was shown that the APRM is different from externally driven accountability mechanisms that have so far proven to be ineffective or insufficient by having a negative impact on Africa's development, leading to economic decline. The APRM also solves problems internally through stakeholders by having separate strategies for stable states such as Botswana, conflict states such as Sudan, fragile states such as Ethiopia and failed states such as Somalia. The APRM also encourages accountability of governments to citizens and regional and continental peers. It was also illustrated how the APRM questionnaire can be applied to Zambia to promote Good Governance by exposing defects in the various forms of governance in the country; discussing the results and how to make up for those defects and how to correct what is not working well.

CHAPTER FOUR

THE NEGATIVE EFFECTS OF NEOCOLONIALISM ON GOOD GOVERNANCE

4.0 Introduction

This final chapter shall endeavour to show that Pan-African institutions are more effective in promoting good governance than institutions such as the World Bank and the IMF by showing how these institutions are a form of neo-colonialism or negatively affect Good Governance through Foreign Aid. In this chapter it will also be shown how Foreign Direct Investment impacts negatively on good governance. Firstly, it will be given the definition of neo-colonialism. Secondly it will be shown the forms of neo-colonialism in terms of Foreign Direct Investment and Foreign Aid through the Brentwood Institutions (IMF/World Bank) and the extent of the influence of neo-colonialism on good governance. It shall be established by the end of this chapter that with such influences of neo-colonialism, Pan-Africanism is the only remedy to fight the negative effects of Foreign Direct Investment and the negative effects of Foreign Aid through the Brentwood institutions. Forms of neocolonialism that shall be looked at are firstly, Foreign Direct Investment coming in from mere foreign businesses and multinational corporations and secondly foreign aid such as aid from Brentwood institutions such as the IMF and the World Bank and foreign aid in general.

4.1 Definition of Neo-colonialism

Neocolonialism is the economic and political policies by which a great power indirectly maintains or extends its influence over other areas or people¹. Neo-colonialism is a term used by post-colonial critics of developed countries' involvement in the developing world. Neo-colonialism originated with Kwame Nkrumah, Ghana's first post-independence president². The term neocolonialism was popularized in the wake of decolonialisation, largely through the activities of scholars and leaders from the newly independent states of Africa and the Pan-Africanist movement. Many of these leaders came together with those of other post colonial states at the Bandung Conference of 1955, leading to

¹ <http://www.merriam-webster.com/dictionary/neocolonialism> -22/10/2008

² <http://www.marxists.org/subject/africa/nkrumah/neo-colonialism/index.htm> -22/10/2008

the formation of the Non-Aligned Movement and the All-African Peoples' Conference (AAPC) meetings of the late 1950s and early 1960s spread this critique of neocolonialism³. The term Neocolonialism can combine a critique of current actual colonialism (where some states continue administrating foreign territories and their populations in violation of United Nations resolutions and a critique of modern capitalist business involvement in nations that were former colonies⁴. Neocolonialism may simply refer to involvement of powerful countries in the affairs of less powerful countries.

In broader usage the charge of Neocolonialism has been leveled at powerful countries and transitional economic institutions who involve themselves in the affairs of less powerful countries- in this sense, Neocolonialism implies a form of contemporary, economic imperialism: that powerful nations behave like colonial powers, and that this behaviour is likened to colonialism in a post-colonial world⁵. Leong Yew has states: *"Neo-colonialism is...the worst form of imperialism. For those who practice it, it means power without responsibility and for those who suffer from it, it means exploitation without redress. In the days of old fashioned colonialism, the imperial power had at least to explain and justify at home the actions it was taking abroad. In the colony those who served the ruling imperial power could at least look to its protection against any violent move by their opponents. With neo-colonialism neither is the case"*⁶. Stronger nations should thus be charged with interfering in the governance and economics of weaker nations to maintain the flow of such material, at prices and under conditions which unduly benefit developed nations and trans-national corporations.

4.2 FORMS OF NEO-COLONIALISM

4.2.1 Negative effects of Foreign Direct Investment and International Trade on Good

Governance

³ <File://E:\Neocolonialism-Wikipedia the free encylopdeia.htm> -22/10/2008

⁴ Ibid

⁵ Op cit

⁶ <http://www.postcolonialweb.org/poldiscourse/discourseov.html> -22/10/2008

Stronger nations should be charged with interfering in the governance and economics of weaker nations because they have been maintaining the flow of materials, at prices and under conditions which unduly benefit developed nations and trans-national corporations.

Foreign business companies continue to exploit the resources of post-colonial peoples, and that this economic control inherent to neocolonialism is akin to the classical, European colonialism practiced from the 16th to the 20th centuries⁷. Critics of neocolonialism also argue that investment by multinational corporations enriches few in underdeveloped countries, and causes humanitarian, environmental and ecological devastation to the populations which inhabit the neocolonies. This, it is argued, results in unsustainable development and perpetual underdevelopment; a dependency which cultivates those countries as reservoirs of cheap labor and raw materials, while restricting their access to advanced production techniques to develop their own economies⁸.

Some other arguments against the neocolonialism of Direct Foreign Investment on economic governance in African countries:

i) Although FDI provides capital, they may lower domestic savings and investment rates by stifling competition through exclusive production agreements with host governments, failing to reinvest much of their profits and inhibiting the expansion of indigenous firms that might supply them with intermediate products by instead importing these goods from overseas affiliates⁹. ii) Although the initial impact of FDI is to improve the foreign exchange position of the recipient nation, its long-run impact may be to reduce foreign-exchange earnings on both current and capital accounts¹⁰. iii) Although FDI's do contribute to public revenue in the form of corporate taxes, their contribution is considerably less than it should be because of liberal tax concessions and tariff protection provided by

⁷ <File://E:\Neocolonialism-Wikipedia the free encylopdeia.htm> -22/10/2008

⁸ Ibid

⁹ An interview with 1st Republican President, Dr. Kenneth Kaunda on 17th October, 2008.

¹⁰ Todaro, M.P(1994) Economic Development. New York: Longman House. Pg 533

the host government¹¹. iv) The impact of FDI on development is very uneven, and may exacerbate income inequalities. v) FDI produces inappropriate products and technologies (those demanded by a small, rich minority of the local population).

Some arguments against the neocolonialism of Direct Foreign Investment on political governance in African countries:

At political level, the fear is often expressed that FDI through powerful multinational corporations can gain control over local assets and jobs and can then exert considerable influence on political decisions at all levels and in extreme cases, they may even; either directly by payoffs to corrupt public officials at the highest levels or indirectly by contributions to ‘friendly’ political parties, subvert the very political process of host nations¹².

4.2.3 Negative effects of Foreign Aid through International Financial Institutions on Good governance

Organizations accused of participating in neo-imperialism include the World Bank, World Trade Organization and Group of Eight, and the World Economic Forum¹³. Kwame Nkrumah makes the following points about neocolonialism in 1965:

“-Neocolonialism continues to actively control the affairs of the newly independent state.

-In most cases neocolonialism is manifested through economic and monetary measures. For example the neocolonial territories become the target markets for imports from the imperial centre(s).

-While neo-colonialism may be a form of continuing control by a states previous formal colonial master, these states may also become subjected to imperial power by new actors. These new actors include the United States or may be international financial and monetary organizations.

¹¹ Todaro, M.P(1994) Economic Development. New York: Longman House. Pg 533

¹² Ibid pg 534

¹³ <File:///E:/Neocolonialism-Wikipedia the free encylopdeia.htm> -22/10/2008

-Because of the nuclear parity between the superpowers, the conflict between the two take place in the form of “limited wars”. Neocolonial territories are often the places where these “limited wars” are waged.

-As the ruling elites pay constant deference to the neocolonial masters, the needs of the population are often ignored, leaving issues of living conditions like education, development, and poverty unresolved.”¹⁴

The negative effects of neocolonialism through foreign aid portray the choice to grant or to refuse granting loans (particularly those financing otherwise unpayable Third World debt), especially by international financial institutions such as the International Monetary fund (IMF), and the World Bank (WB), as a decisive form of control¹⁵. In order to qualify for these loans, and other forms of economic aid, weaker nations are forced to take certain steps favorable to the financial interests of the IMF and World Bank but detrimental to their own economies¹⁶. These structural adjustments have the effect of increasing rather than alleviating poverty within the nation. Neocolonialism allows certain cartels of states, such as the World Bank, to control and exploit usually lesser developed countries (LDCs) by encouraging debt.

Neocolonialism historically supplemented (and later supplanted) colonialism, point to the fact that Africa today pays money every year in debt service payments to the IMF and World Bank than it receives in loans from them, thereby often depriving the inhabitants of those countries from actual necessities. This dependency allows the IMF and World Bank to impose Structural Adjustment Plans upon these nations- adjustments largely consisting of privatization programs which result in

¹⁴ <http://www.postcolonialweb.org/poldiscourse/discourseov.html> -22/10/2008

¹⁵ <File://E:\Neocolonialism-Wikipedia the free encylopedeia.htm> -22/10/2008

¹⁶ Ibid

deteriorating health, education, an inability to develop infrastructure, and in general, lower living standards¹⁷.

Critics of the IMF have conducted studies as to the effects of its policy which demands currency devaluations. From these studies it has been established that the IMF requires these devaluations as a condition for refinancing loans, while simultaneously insisting that the loan be repaid in dollars or other First World currencies against which the underdeveloped country's currency being devalued, therefore amounting to a scheme for keeping Third World nations in perpetual indebtedness, impoverishment and neocolonial dependence¹⁸.

The arguments on behalf of foreign aid as a crucial ingredient for Least Developed Countries development should not mask the fact that even at strictly economic level; definite benefits accrue to donor countries as a result of their aid programs. As one former U.S. aid official candidly put it: *"The biggest single misconception about the foreign aid program is that we send money abroad. We don't. Foreign aid consists of American equipment, raw materials, expert services, and food- all provided for specific projects which we ourselves review and approve...Ninety-three percent of AID(Agency for International Development) funds are spent directly in the U.S to pay for these things. Just last year some four thousand American firms in fifty states received \$1.3 billion in AID funds for products supplied as part of the foreign aid program"*¹⁹.

Aid is further criticized for focusing on and stimulating the growth of the modern sector, thereby increasing the gap in living standards between the rich and the poor in Third World countries²⁰. Quite apart from these criticism, the 1970's and 1980's witnesses, on the donor side, a growing

¹⁷ <File://E:\Neocolonialism-Wikipedia the free encylopdeia.htm> -22/10/2008

¹⁸ Ibid

¹⁹ Todaro, M.P.(1994) Economic Development. New York: Longman House. Pg 546

²⁰ Ibid pg 547

disenchantment with foreign aid as domestic issues like inflation, unemployment, government deficits, and balance of payments problems gained increasing priority over international politics²¹.

4.3 Analysis of negative effects of FDI and Foreign Aid

Looking at the negative effects of foreign direct investment and foreign aid it has been shown the extent to which neocolonialism affects governance in Africa. Pan-Africanism through the African Peer Review Mechanism is the only remedy to fight the negative effects of Foreign Direct Investment and the negative effects of Foreign Aid through the Brentwood institutions and foreign financial institutions in general because the APRM is of African character and therefore has the best motives and interests for Africa unlike other initiatives whose interests and motives are questionable as regards African development. The arguments on behalf of foreign aid as a crucial ingredient for most African developing countries should not mask the fact that even at the strictly economic level, definite benefits accrue to donor countries as a result of their aid programs.

Private foreign investment can be an important stimulus to economic and social development as long as the interests of Multinational Corporations and host country governments coincide. As long as Multinational Corporations see their role in terms of global output or profit maximization with little interest in the long-run domestic impact of their activities, the accusations of the anti-private-investment school of thought will gain increasing acceptance amongst most African developing countries.

4.4 Conclusion

Firstly, it was given the definition of neo-colonialism. Secondly it was shown the forms of neo-colonialism in terms of Foreign Direct Investment and Foreign Aid through the Brentwood Institution (IMF/World Bank) and the extent of the influence of neo-colonialism on good governance was shown by stating the negative effects of Foreign Direct Investment and Foreign Aid.

²¹ Todaro, M.P.(1994) Economic Development. New York: Longman House. pg 548

CHAPTER FIVE

5.0 CONCLUSIONS AND RECOMMENDATIONS

5.1 CONCLUSIONS

The point of analysis in this research was how and why Africa can best attain good governance through the Peer Review Mechanism which is a Pan-African initiative by the African Union. This research therefore looked at two main concepts which are namely Pan-Africanism implemented through the African Union's Peer Review Mechanism and the concept of Good governance.

In this chapter, it was given the definition of Pan-Africanism. Secondly it was given the background of Pan-Africanism (how the Pan-African movement evolved from the Pan-African Congress to the OAU and finally to the African Union). Lastly, it was shown the advantages and disadvantages of promoting Good Governance through mechanisms of Pan-Africanism such as the African Union's Peer Review Mechanism.

In chapter one it was deduced from the advantages and disadvantages of promoting Good Governance through the African Union generally and particularly through the African Peer Review Mechanism that Pan-Africanism should be looked at as a long term strategy and that barriers such as culture, ethnic mistrust and language will not be an issue because of rapid cultural erosion among the younger generation in Africa today and therefore there is hope for Africa especially in the long run through the Pan-African initiative of the African Peer Review Mechanism. It was also stated that if the APRM were mandatory, it would no longer be a peer review but a kind of scorecard approach that would make it a policing institution to reward and punish and therefore because the final outcome of the APRM is not legally binding, the APRM plays the role of a dispute settlement mechanism by encouraging the kind of dialogue among states that helps to clarify their positions and interests. It was also stated that the fact that the APRM entails voluntary participation means that, legally countries will

not lose their sovereignty as a result of yielding to the APRM process of promoting Good Governance unlike the creation of a Union Government in Africa that could promote Good Governance in Africa but would result in individual countries losing their sovereignty due to the fact that a Union Government would entail that individual African countries would not have the final say in matters concerning their countries; instead it would be the Union Government who would have the final say. Chapter two was devoted firstly to defining the terms 'governance' and 'good governance'. Secondly, it was given the origin of good governance and the elements of good governance. Lastly, it was stated what good governance entails in terms of the civil society, the public sector and private sector in African countries. It was also looked at what good governance entails in terms of the executive, legislature and judiciary. This chapter did not look at good governance in relation to the African Union and how it seeks to promote good governance in African countries (that was looked at in chapter three).

Chapter three was the gist of this research. This chapter was devoted to showing how the African Union which is the institutionalization of Pan-African ideals can through the African Peer Review Mechanism; address Africa's need to achieve good governance or Africa's governance challenges. It was deduced that the APRM is the cure to the mischief that African leaders alone cannot be trusted to deal with governance issues in their respective countries because initiatives such as the African Peer Review Mechanism act as regulators by putting the needed pressure on African Governments to improve policies and practices so as to better the promotion of good governance in African countries. Without such initiatives that instill the Pan-African spirit, African leaders would not be exposed or encouraged to ways to enhance good governance in their countries. Most importantly, it was shown that the APRM is different from externally driven accountability mechanisms that have so far proven to be ineffective or insufficient by having a negative impact on Africa's development, leading to

economic decline. It was also shown that the APRM also solves problems internally through stakeholders by having separate strategies for stable states such as Botswana, conflict states such as Sudan, fragile states such as Ethiopia and failed states such as Somalia. The APRM was also seen in this chapter to encourage not only accountability of governments to citizens but also to regional and continental peers. It was also shown country reports that are proof that the APRM process is a success. It was also illustrated in chapter three, how the APRM questionnaire can be applied to Zambia to promote Good Governance by exposing defects in the various forms of governance in the country; discussing the results and how to make up for those defects and how to correct what is not working well.

In chapter four it was firstly given the definition of neo-colonialism. Secondly it was shown the forms of neo-colonialism in terms of Foreign Direct Investment and Foreign Aid through the Bretton Woods Institutions (IMF/World Bank) and the extent of the influence of neo-colonialism on good governance was shown by stating the negative effects of Foreign Direct Investment and Foreign Investment. It was therefore established by the end of chapter four that with the influences of neo-colonialism, Pan-Africanism through the African Peer Review Mechanism is the only remedy or panacea to fight neo-colonialism in the form of the negative effects of Foreign Direct Investment and the negative effects of Foreign Aid.

An analysis of the research from the chapters of this essay will show therefore that Pan-Africanism through the African Union's Peer Review Mechanism is the only true panacea to Africa's Governance challenges or need to attain Good Governance because: i) The APRM is the cure to the mischief that African leaders alone cannot be trusted to deal with governance issues in their respective countries because initiatives such as the African Peer Review Mechanism act as regulators by putting the needed pressure on African Governments to improve policies and practices so as to better the promotion of

good governance in African countries. ii) The APRM is different from externally driven accountability mechanisms that have so far proven to be ineffective or insufficient by having a negative impact on Africa's development, leading to economic decline. iii) The APRM also solves problems internally through stakeholders by having separate strategies for stable states such as Botswana, conflict states such as Sudan, fragile states such as Ethiopia and failed states such as Somalia. iv) The APRM not only encourages accountability of governments to citizens but also to regional and continental peers. v) the APRM questionnaire through country consultations can be applied to African countries to promote Good Governance by exposing defects in the various forms of governance in African countries; discussing the results and how to make up for those defects and how to correct what is not working well. vi) Pan-Africanism through the African Peer Review Mechanism is the only remedy or panacea to fight neo-colonialism in the form of the negative effects of Foreign Direct Investment and the negative effects of Foreign Aid.

5.2 RECOMMENDATIONS

Having drawn the above conclusions, the following recommendations are submitted:

1. It is highly recommended that participation in the APRM remain voluntary. If the APRM were mandatory, it would no longer be a peer review but a kind of scorecard approach that would make it a policing institution to reward and punish. If countries are not ready and not comfortable with peer review that is okay. For Peer Review to work, participants have to have the will to make it work without that it cannot succeed. The problem with making the APRM mandatory would mean forcing countries to participate reluctantly and this would result in them not wanting to reveal the real issues and thus not get much out of it. It would also mean that countries would lose their legalistic sovereignty if it were mandatory (this has been shown and explained in this research). The APRM must continue to aim to help those countries that are regularly blamed in the media, get past the blame

game and show them that's its okay to lay problems out publicly and discuss solutions. Peer pressure does not and should not take the form of legally binding acts backed by sanctions or other punitive measures (it lacks enforcement) - The ARRM instead is a means of soft persuasion, which can become an important driving force to stimulate a state to change, achieve goals and meet standards.

2. It is recommended that the APRM needs a lot of sensitization so that people understand the process.
3. The APRM has been widely criticized by civil society groups and leaders who perceive it as elitist and exclusionary. They argue that it is being driven by the continent's leadership and has completely bypassed the African Civil Society. It is therefore recommended that there must be equitable representation of the civil society on the governing council and in the processes used to gather input for the report and in creation of the plan of action, which are steps the country pledges to take to rectify the problems identified. The secretariat cannot force anyone to do anything, but if we look at the governing council and there is not equitable representation of the civil society, evaluation will be made impossible.
4. Due to the fact that the final outcome of a Peer Review is not legally binding unlike judicial proceedings, the result is the impact of the Peer Review process being limited. It is therefore recommended in that regard that in practice, the Peer Review process may, in part, play the role of a dispute settlement mechanism by encouraging the kind of dialogue among states that helps to clarify their positions and interests.
5. The APRM as currently conceived comprises of a series of best practices culled from international institutions, many of which would require substantive state resources to implement. Therefore in light of this it is recommended that the rationale for a peer review mechanism in Africa should be that Africa should move away from donor-imposed conditionalities- a practice that has been

effective and burdensome. There should, instead, be a move towards mutual accountability among development partners-specifically in the areas of poverty reduction.

6. Peer Pressure is particularly effective when it is possible to provide both quantitative and qualitative assessments of performance. Quantitative assessments might take the form of a ranking of countries according to their performance, and drawing of real scoreboards reflecting such rankings (e.g. listing countries that abuse human and people's rights and listing those worst corrupt governments). Despite this positive aspect it is recommended that caution should be exercised in the ranking of countries lest standards are set so high from the outset that others are reluctant to join the APRM for fear of being exposed because of an anticipated low ranking. So it might be advisable to begin with countries that are likely to achieve a middle or lower ranking rather than with countries that are likely to set the bar very high from the outset and possibly discourage doubters from participating in the review process.

7. The final recommendation is that since the APRM is credible and effective, it will need to be transparent and accessible to all components of the state, including the civil society. If it is run in a professional (unpartisan) and transparent manner, the APRM can be a major regional instrument for promoting democracy.

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