

Compliance, Conditionalities and the role of Independent Monitoring in the Implementation of NEPAD

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Introduction

Whilst NEPAD represents a huge opportunity for the peoples of Africa this opportunity will only be realized if the NEPAD initiative is transformed from being a partnership between African leaders and industrialized states into a social contract between African governments and their own people. The commitment by NEPAD partner states to uphold global standards of democracy and good governance provides a unique opportunity to strengthen the relationship of accountability between African governments and their citizens. Improved governance within African states would lead to improvements in service delivery and increased investment in domestic infrastructure. On this basis NEPAD could successfully attract external aid and investment.

But if additional aid and investment are to be based on improvements in governance and accountability within African states then international donors and investors will require detailed and accurate information about the resources currently available to these states and how effectively these resources are being managed. International donors and investors are unlikely to be swayed by mere commitments alone. After all, if African states are currently mismanaging their own tax-payer's money what guarantee is there that they will manage international tax or investment funds any more efficiently?

In this light two mechanisms will be critical to the realization of the objectives of NEPAD. Firstly, a credible means of attaching conditionalities to investment/aid needs to be found, and a credible structure will need to be developed to manage the process of directing and allocating investments/aid to qualifying states. Secondly, credible and effective monitoring mechanisms will need to be established to determine the level of (legislative and institutional) readiness as well as actual compliance by signatory states with NEPAD principles. Both of these mechanisms would need to win the endorsement of African states and would require the active support of civil society in signatory states.

Conditionality of Aid/Investment

In respect of the first mechanism George Soros, the President and Chairman of Soros Fund Management, has proposed a novel solution involving the creation of an international body by the IMF to make recommendations on projects which should

qualify for donor funding in developing countries¹. Although this body would be established by the IMF its membership would be independent of both governments and the IMF itself. It would not be responsible for actually allocating funds but, rather, would present a 'menu' of recommended funding proposals to donors from which they could choose to support specific projects. Recommended projects would be selected on the basis of their contribution to sustainable development in the particular country.

The direct control over the administration of the funding would still rest with the individual donor agencies. In addition, civil society organizations and public-private partnerships in developing countries, as well as governments, would be able to propose projects for inclusion on this 'menu'.

From an African point of view, if the membership of this body were sufficiently independent and credible, this proposal would eliminate the problem of donors putting their own interests before those of the recipients of aid. It would also help to coordinate the programmes of donors and eliminate some of the unnecessary bureaucracy that currently characterizes the work of international donors. Specifically, from the point of view of African civil society the proposal would serve to ensure its ability to voice its own proposals for socially relevant projects designed to meet the needs of ordinary citizens in African states. In the past project proposals have been submitted by African governments and have often been designed to serve the interests of the government itself or the ruling elites within African states.

Soros has proposed that these recommended projects could also be funded by the IMF through the once-off issuance of Special Drawing Rights (SDRs) to developing states. These are essentially lines of credit issued by the IMF to all contributing states against a quota, which could be transferred to developing countries. Specifically, the SDR allocations of advanced industrialised countries could be transferred to a fund for use by developing countries². The proposal to issue SDRs has already been endorsed by the NEPAD Heads of State Implementing Committee (HSIC) in Abuja³.

The question that remains to be addressed, however, is the basis on which governments applying for aid and investment, or access to SDRs, should qualify for this assistance. In this regard NEPAD provides an ideal mechanism for attaching conditionality to new sources of funding and investment for African signatory states. The heads of participating NEPAD states have already committed themselves to the implementation of basic principles of good governance in the adoption of the NEPAD policy statement in October 2001.

This statement recognizes that 'true democracy, respect for human rights, peace and good governance' are prerequisites for development. It specifically commits African leaders to:

- Respect global standards of democracy
- Political pluralism, and
- Fair, open, free and democratic elections (Sect 79).

¹ See 'Special drawing rights for the provision of Public Goods on a global Scale', Roundtable on 'New proposals on financing for development', 20 February 2002, Institute for International Economics, Washington DC. See also George Soros, *On Globalisation*, 2002, Oxford: Public Affairs Ltd.

² Ibid.

³ See paragraph 21 of the Communiqué issued at the end of the second meeting of the NEPAD Heads of State and Government Implementation Committee, Abuja, 26 March 2002.

The NEPAD policy document goes further to establish an initiative on Democracy and Governance to implement these principles. It sets out a number of formal commitments and undertakings. These overlapping (and sometimes circular) commitments include the following:

- To create and/or consolidate governance processes and practices
- To take the lead in supporting good governance initiatives
- To institutionalize the commitments made by the NEPAD leadership (Sect 81)
- To meet basic standards of good governance and democratic behavior (Sect 82)
- To effect institutional reforms which will:
 - strengthen administrative and civil services;
 - strengthen parliamentary oversight;
 - promote participatory decision making;
 - adopt effective measures to combat corruption;
 - effect judicial reforms (Sect 83).

It is these principles and practical commitments, proposed and adopted by African governments themselves, which would form the logical basis for establishing conditionalities to the awarding of aid to African states. It stands to reason that non-NEPAD signatory states would not qualify at the outset for aid/investment on account of their failure to commit to the above principles of good governance. On the other hand, it follows that signatory states applying for aid or SDRs, which have neither the constitutional nor legislative and institutional mechanisms in place to implement NEPAD principles, should be met with a precondition to effect the necessary political reforms before qualifying for initial support. That democracy and good governance form the bedrock cannot be emphasized enough if the pledge of the African leadership is a “determination of Africans to extricate themselves and the continent from the malaise of underdevelopment and exclusion in a globalising world.”⁴

Consistent with this schema, continued financial support for countries that already have the foundations for democratic governance in place (including constitutional and institutional arrangements), and have already received initial support from donors, should be conditional on their substantive realization of, as opposed to formal commitment to, the above undertakings in practice. The pledge by African leadership must translate from overarching purpose and find expression in concrete steps that can be monitored and assessed.

This, however, raises the thorny issue of who would be best placed to make the necessary judgment about whether African governments and leaders are performing in accordance with NEPAD undertakings. This brings us to the second critical point mentioned at the outset: the need for credible and effective monitoring mechanisms.

Independent Monitoring Mechanisms in African states

The ability to convince international donors and investors to support NEPAD will depend on the ability of African states to demonstrate that the NEPAD programme goes beyond the ‘politics of the begging bowl’. Skeptics within the industrialized world⁵ will require clear evidence of the improved capacity of African states to manage their own public resources as a precondition for increased levels of overseas

⁴ See Nepad policy statement, October 2001, Introduction section 1

⁵ And, specifically, within the US Congress which controls access to some of the biggest sources of development finance in the industrialized world.

development assistance (ODA). Progress will need to be seen to be made in translating the commitment to global standards of governance outlined in the NEPAD policy statement, into constitutional and legislative amendments, and concrete institutional reforms within signatory states. If such progress is not demonstrated increased levels of ODA are unlikely to materialise.

Policy makers within industrialized countries are understandably skeptical about the merits of increasing current levels of aid to African states, many of which have a track record of corruption and mismanagement of their existing resources. It would be unrealistic to expect these views to change in the absence of hard evidence of improved levels of accountable governance and efficient management of resources. This will require ongoing and rigorous monitoring at a country level.

If the key feature of NEPAD is the commitment by signatory states to good governance then the primary relationship of accountability to be monitored are the internal relationship between African governments and their own citizens (as opposed to the external relationship of accountability between these governments and international donors). Then it stands to reason that national monitoring mechanisms would be best suited to conduct this monitoring. Local monitoring institutions, staffed by credible and competent African researchers, would have a number of advantages over foreign professional research consultants:

- National monitoring mechanisms would have a sustainable presence in African countries and the capacity to conduct ongoing monitoring
- National monitoring mechanisms would focus on the broadest possible range of indicators for accountable governance including budgetary management and financial performance as opposed to merely monitoring the implementation of specific projects
- National monitoring mechanisms would serve as a permanent resource for enhanced parliamentary and civil society oversight in African states (the documents, data and knowledge resources generated would be retained for the benefit of the country as a whole as opposed to being filed by individual donors)
- National monitoring mechanisms would be geared to assess compliance with undertakings entered into voluntarily by Africa leaders (rather than imposed by donors or international financial institutions (IFIs)) and consequently would not be susceptible to charges of western interference and Eurocentric bias.

The original NEPAD proposal that the African Heads of State Forum 'periodically monitor' the progress of good governance and social reforms within African countries⁶, is unlikely to be acceptable to either international donors or African civil society. Besides its lack of clarity, this proposal requires African heads of state to act as both player and referee in the implementation of the NEPAD framework. The more recent Abuja proposal, which calls for the establishment of an African Peer Review Mechanism and a 'Council of the Wise' to monitor abuses of human rights and democracy, is likely to meet similar criticisms (of a lack of independence) if these mechanisms are to be implemented by African heads of state themselves⁷.

⁶ See NEPAD policy statement, October 2001, sect 84.

⁷ This is particularly likely if the members of the 'Council of the Wise', which according to press reports is to consist of 'respected Africans', are to be appointed by African heads of state themselves (See 'African leaders discuss Western demands of reform-before-aid', Associated Press, 26 March 2002). Ideally, the membership of the proposed 'Council of the Wise' should be nominated by civil society organisations, and elected through some formal voting process, within African States.

Even if the proposed 'Council of the Wise' were to be established independently of the government executives within NEPAD signatory states⁸, this would still not overcome the requirement that its evaluations of government be based on detailed, rigorous and accurate performance data.

For this reason we want to propose that national Independent Monitoring Institutions (IMIs) within signatory states be established to generate the necessary data to evaluate compliance of signatory governments with the principles of NEPAD⁹. Each national IMI would conduct systematic and detailed monitoring of accountable governance, institutional performance and effective financial management within the signatory state. It would then publish this information for the benefit of parliamentary oversight committees and civil society in the country. Donors, IFIs and the proposed 'Council of the Wise' could similarly utilize this information for the purposes of conducting their own evaluations of NEPAD undertakings.¹⁰

The data produced by national IMIs and the resulting evaluations could provide the basis for attaching conditionalities to donor aid and act as an incentive to NEPAD signatory states to bring about democratic reforms¹¹. But the imposition of penalties and the awarding of incentives on the basis of this data would only be possible if the monitoring methodology utilized was sufficiently rigorous and reliable¹².

The kind of rigor required to monitor good governance within NEPAD signatory states would necessarily have to cover two crucial areas: Firstly, it would have to include a focus on the basic constitutional, legislative and policy frameworks of signatory states in order to establish whether these are adequate to support the implementation of democratic governance structures. Specifically, this monitoring would seek to measure the degree of parliamentary and civil society oversight of signatory states.

Secondly, it would require a detailed review of public sector performance within these states. What human and financial resources do they have available through their national budgets? How is the budget structured and how is money transferred to sub-national levels? How effectively do the executive members responsible for managing available resources plan to utilize them? How efficiently do they end up implementing these plans in practice? Finally, what level of service delivery output or investment in infrastructure is produced?

Finding answers to these questions will require detailed access to government budgets, tax revenues and expenditure. This will necessarily reflect back to the constitutional and legal provisions guaranteeing transparency in the country and providing for access to information. If these legislative guarantees do not exist then monitoring will be a non-starter and any judgment as to the performance of African

⁸ It could, for instance, be composed of civil society representatives from NEPAD signatory states.

⁹ Indeed, if NEPAD signatory states refused to allow the establishment of IMIs, or actively interfered in their work, this could constitute grounds for either refusing aid or attaching conditionalities to the awarding of future aid.

¹⁰ The potential for regional integration and inter-country collaboration may be enhanced if the IMIs in signatory states committed to a common set of criteria to evaluate priorities as well as compliance.

¹¹ It could also serve as an incentive to those states denied aid, or excluded from becoming NEPAD partners, because of their lack of appropriate constitutional institutions and legislative provisions. They would be actively encouraged to undertake the necessary constitutional and legislative reforms to bring them in line with NEPAD principles.

¹² The more rigorous and objective the monitoring methodology the less possibility there would be for political interference and manipulation even by IMI staff.

leaders or the accountability of African governments will amount to little more than speculation.

The effective and efficient management of public resources, however, will also require the establishment of conditions under which instances of corruption and public sector maladministration can be reported openly in the public media. Only on this basis could reports of corruption be systematically databased and monitored by IMIs. This again presupposes the existence of legislation guaranteeing the freedom of expression and publication. The ability to hold senior public representatives and public officials accountable for their management of public resources will also require legislation governing their declaration of assets and financial interests. This will help to limit the potential for conflicts of interest and ensure that existing resources are utilized for public rather than private interests.

Practical proposals for the G8 meeting in June

Recommendations to G8, including pre-conditions for further aid and investment:

- G8 countries should increase annual aid levels to developing countries and in particular to Africa to the minimum agreed level of 0.7% of their GDP.
- G8 leaders should take concrete steps to remove protectionist barriers to their markets and take steps to improve access for African products to world markets.
- All G8 membership countries should enact legislation obliging multinational corporations based in their countries to publish all taxation payments to the governments of African states and developing countries.
- G7 countries should agree to the once off transfer of their SDRs to a Global Reconstruction and Development Fund.
- G8 leaders should grant authorization for the contents of this Global Reconstruction and Development Fund be used to finance the establishment of IMIs in NEPAD signatory states and to fund the establishment of recommended developmental projects (from list of projects drawn up by a credible and independent international body, as mooted by George Soros, in conjunction with the 'Council of the Wise' proposed by NEPAD heads of state. Both bodies could be informed by research data generated by national IMIs in NEPAD signatory states).
- In defining the rules for participation, the independent international body or Board, must mediate tensions that might arise between states around national interest and the criteria for membership of a regional structure as is envisaged through the African Union. Consequences for deviant governments must be clearly spelt out.¹³
- Aid and investment must be contingent on addressing weak states, including addressing the cardinal features of a democratic state and, through monitoring, ensuring that these are efficient, effective and responsive to the needs of its citizenry.
- Structural causes of conflict, including elite capture of resources, must be addressed in unambiguous terms. Countries in acute conflict on the continent are also those who have immense natural resources yet its citizens are either involved in armed conflicts, are refugees or generally displaced.

¹³ The role of the international Board will be advisory and will initially define the rules of the game. It will also mediate the different interest of applicants to the Global Fund. For practical and political reasons, its constituent parts being regional boards will support the international board.

In return NEPAD signatory states should undertake to:

- Make the necessary constitutional, legislative and institutional reforms required to facilitate the implementation of NEPAD commitments to good governance and open societies.
- Take legislative measures to protect the separation between the legislature, the executive and the judiciary within their countries and which guarantee judicial independence and legislature oversight of the executive arm of government.
- Enact legislation to guarantee freedom of expression, freedom of publication, and freedom of access to all information held by the state, in states where these provisions are not currently available.
- Publish national and sub-national budgets and budget implementation plans, all tax-revenues, independent audits of all public revenue and expenditure, and made these documents freely available to civil society.
- Pass legislation requiring a public declaration of assets and financial interests by all public office bearers and senior public officials.
- Ensure that all heads of state, and executive members within signatory states, sign a public undertaking to the effect that they hold no offshore bank accounts. In addition, heads of state and executive members should sign a legally binding authorization (addressed to international banking authorities) stating that should such bank accounts be uncovered, their contents will be transferred to the Global African Reconstruction and Development Fund for use by their respective countries.
- Design a participatory role for civil society, including that of a monitoring function. Joint ownership of the implementation plan would serve to consolidate the social contract between states and its citizenry.