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Editors of this issue

Sibonile Khoza and Annette Christmas

External editor

Danwood Mzikenge Chirwa

Contact the Socio-Economic Rights Project

Address

Community Law Centre
University of the Western Cape
New Social Sciences Building
Private Bag X17, Bellville, 7335
Tel (021) 959 2950; Fax (021) 959 2411

Internet

www.communitylawcentre.org.za

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Project staff

Sibonile Khoza: skhoza@uwc.ac.za
Annette Christmas: achristmas@uwc.ac.za
Kevin Iles: kiles@uwc.ac.za
Christopher Mbazira: cmbazira@uwc.ac.za
Gaynor Arie: garie@uwc.ac.za

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The New Partnership for Africa's Development

Implications for the realisation of socio-economic rights in Africa

Christopher Mbazira

The realisation of socio-economic rights in Africa remains a distant goal. The majority of Africans live in poverty. Chronic hunger, malnutrition, HIV/Aids, ignorance and illiteracy continue to plague the continent.

Military dictatorships, poor leadership, corruption, political conflicts, globalisation and structural adjustment programmes (SAPs) have all contributed to this situation. The debt burden exceeds manageable levels. States have increasingly withdrawn from providing such essential services as education, electricity and health. Welfare programmes have been reduced while retrenchment has increased unemployment and household poverty.

Against this background, African leaders declared this century as 'the African century' and committed themselves to the continent's transformation. This will be achieved through a programme and plan of action called the New Partnership for Africa's Development (Nepad), which was adopted in 2001.

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These realisations contributed to the adoption of Nepad. It was preceded by the Millennium Africa Recovery Plan, conceived of in 2000 by Presidents Mbeki of South Africa, Obasanjo of Nigeria and Bouteflika of Algeria. At the same time President Wade of Senegal developed a similar programme, the OMEGA plan. The two were merged in 2001 to produce the New African Initiative (NAI), which was renamed Nepad later in the same year.

In July 2002 the 37th Summit of the Organisation of African Unity (now the African Union) formally adopted the Nepad document as a strategic framework for the socio-economic development of Africa.

The adoption of Nepad

After two decades it was clear that Africa had not benefited from SAPs. It was also realised that Africa's marginalisation in the glo-

Nepad's objectives

Nepad is a pledge by African leaders, based on a common vision and a firm and shared con-

viction, to eradicate poverty and place their countries, both individually and collectively, on a path to sustainable development.

Through Nepad, African leaders have set an agenda for the continent's renewal. The agenda is based on national and regional priorities and development plans that must be prepared through participatory processes.

It is a framework that intends to define the nature of the interaction among African states and between Africa and the rest of the world, including industrialised countries and multilateral organisations.

To achieve Nepad's objectives, African leaders have taken on the responsibility for:

- strengthening mechanisms for conflict prevention, management and resolution;
- promoting and protecting democracy and human rights;
- restoring and maintaining micro stability through fiscal and monetary policies;
- regulating financial markets and private companies;
- promoting the role of women in social and economic development by reinforcing their capacity through education and training;
- revitalising health training and education with a high priority being given to HIV/Aids;
- maintaining law and order; and
- promoting the development of infrastructure.

Nepad's institutional set-up

The implementation of the Nepad programme is to be overseen by

the Heads of State Implementation Committee (HSIC). Its functions include:

- identifying strategic issues that need to be researched, planned and managed at the continental level;
- setting up mechanisms for reviewing progress in achieving mutually agreed targets and compliance with mutually agreed standards; and
- reviewing progress in implementing past decisions and taking appropriate steps to address problems and delays.

The HSIC established the African Peer Review Mechanism (APRM) as the main body for monitoring the effective implementation of Nepad's objectives.

The operation of APRM

The APRM is a self-monitoring mechanism. Participating states accede to it on a voluntary basis and 16 have done so to date. Its mandate is to ensure that the policies and practices of participating states are in conformity with the agreed political, economic and corporate governance values, codes and standards contained in the Declaration on Democracy, Political, Economic and Corporate Governance.

By requiring states to account for their progress in achieving Nepad's objectives, the APRM might indirectly enhance the realisation of socio-economic rights. However, a major weakness is its optional status.

Nepad and socio-economic rights

One of Nepad's long-term objectives is to eradicate poverty in Africa, placing African countries, both individually and collectively, on a path to sustainable development. There is a commitment to reduce the proportion of people living in extreme poverty by half and to ensure the enrollment in primary school of all children of appropriate age by 2015. Nepad also seeks to bridge the education gap by ensuring the realisation of universal primary education,

curriculum development and expanded access to education, as well as by promoting networks of specialised research and institutions of higher education. Achieving these goals has a direct impact on the enjoyment of socio-economic rights.

Another goal is to reduce infant mortality ratios, maternal mortality rates and to provide access to reproductive health care. This objective will be achieved through, among other strategies, increasing employment opportunities and enhancing African integration.

Peace, security, democracy and human rights are preconditions for sustainable development. Nepad contains provisions obligating states to ensure that these conditions are attained in their respective countries. According to the UN Secretary-General, more than 30 wars have been fought in Africa since 1970, the vast majority of which are intra-state in origin.

One of Nepad's long-term objectives is to place African countries, both individually and collectively, on a path to sustainable development.

Armed conflicts not only disrupt the provision of socio-economic services but also consume a large portion of states' national budgets.

To promote peace and security, Nepad is committed to the following:

- prevention, management and resolution of conflict;
- peacemaking and peace enforcement;
- post-conflict reconciliation, rehabilitation and reconstruction; and
- combating the proliferation of small arms, light weapons and landmines.

If these commitments are fulfilled, income previously spent on wars and conflicts may be diverted to realising socio-economic rights.

Nepad also enjoins states to protect democracy and ensure good governance as preconditions for sustainable development. It places an obligation on states to promote political pluralism, including workers' unions, and to adopt an administrative framework that accords with the principles of democracy, transparency, accountability, integrity, respect for human rights and promotion of the rule of law. The promotion of the latter enhances avenues for realising socio-economic rights.

Corruption, lack of accountability and bad leadership are some of the factors that have negatively affected the realisation of socio-economic rights in Africa. In addition to enhancing accountability and reducing corruption, the pro-

motion of pluralism that Nepad seeks to achieve will have a positive impact on the realisation of the rights of workers enshrined in the African Charter on Human and People's Rights (the African Charter). Respect for labour rights is particularly important in the African context, as workers' unions in many African countries have been suppressed because of their persistent demands for socio-economic reforms.

Nepad acknowledges that energy for commercial and domestic use is necessary for sustainable development. Thus, provision is made for the reversal of the environmental degradation that is associated with the use of traditional fuels in rural areas.

Nepad also seeks to enhance sustainable access to water and sanitation, particularly by the poor.

Although the right to water is not guaranteed in the African Charter, it can be argued that it is implicitly recognised, just as the African Commission held in respect of the right to food and shelter in *Social and Economic Rights Action Centre and the Centre for Economic and Social Rights v Nigeria*.

It has been noted that one of the major impediments to Africa's development efforts is the widespread incidence of such communicable diseases as HIV/Aids and tuberculosis. One of Nepad's objectives is to ensure improved health. This will be achieved by, among other things, mobilising resources and committing them to this cause. Particular attention is

given to the struggle against HIV/Aids.

As mentioned earlier, Nepad seeks to redress Africa's marginalisation in globalisation processes. Globalisation includes the domination of world trade by transnational corporations and the domination of economies by international financial institutions.

For instance, numerous African countries had to adopt SAPs in the early 1980s under the direction of the International Monetary Fund (IMF) and the World Bank. African governments traded their power to direct their own economies for foreign aid and investment.

SAPs, among other policies, compelled governments to reduce expenditure on socio-economic services like education and health and to retrench members of their civil services. These policies had a negative impact on the realisation of socio-economic rights.

Nepad's integration is aimed at creating a single African block to enable the continent to speak with a single voice and to place it in the global economy on the same footing as the West. This would allow Africa to direct resources to socio-economic development without being affected by diversionary conditionalities.

The integration would also facilitate the maximum exploitation of Africa's resources and the mobilisation of resources for socio-economic development. Cross-border trade in an integrated economy has the potential to improve the economies of individual countries. This would result from expanded markets, free movement of labour and raw materials and friendly fiscal policies.

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Critique of Nepad from a human rights perspective

Nepad has been rightfully criticised for its failure to take a rights-based approach. Economic, social and cultural rights are referred to by implication only,

from commitments made to enhancing access to basic services.

Nepad does not integrate human rights in its development process. A human rights approach to development demands that development initiatives are guided by human rights and have their attainment and respect as an overriding objective.

Nepad, like the African Charter for Popular Participation of 1990, has encountered some problems of legitimacy because it was adopted without the participation of its beneficiaries. It is for this reason that some commentators have criticised Nepad as 'dubious economic globalisation'.

Furthermore, Nepad does not establish a direct nexus with the African human rights system. The role of the African Commission in Nepad has not been specified or acknowledged. This would have avoided the problem of creating parallel human rights institutions, which has always posed dangers.

Conclusion

Nepad has the potential to contribute to the achievement of sustainable development in Africa. The implementation of its plans and the achievement of its objectives have positive implications for

Nepad must adopt a human rights-based approach to socio-economic development to guarantee the protection of human rights.

the realisation of socio-economic rights on the continent.

However, more attention should be given to making its primary objective the achievement of human rights, especially socio-economic rights.

To guarantee the protection of human

rights, Nepad must adopt a human rights-based approach to socio-economic development. The participation of communities in the implementation process must be allowed and human rights streamlined in all Nepad's projects and programmes.

A direct nexus, and not a derived one, should be established between Nepad and the African human rights system. For instance, the African Commission on Human and Peoples' Rights has the potential to contribute to the APRM through the human rights and democracy review.

Most importantly, unlike the earlier initiatives such as the Lagos Plan of Action and the African Charter for Popular Participation, Nepad should move beyond being a 'paper tiger'. Realising Nepad's objectives is heavily dependent on high levels of commitment towards its implementation. It is only through such commitment that Nepad's socio-economic objectives will be realised.

Christopher Mbazira is a Doctoral Research Fellow in the Socio-Economic Rights Project, Community Law Centre, UWC.

The Promotion of Equality and Prevention of Unfair Discrimination Act and socio- economic rights

Pierre de Vos

The Promotion of Equality and Prevention of Unfair Discrimination Act 4 of 2000 (the Act) became fully operational in the second half of 2003. The Act prohibits unfair discrimination on any ground, including the 16 grounds explicitly listed in the 1996 Constitution (the Constitution). It also provides for the establishment of Equality Courts. These courts are unique in that they do not entail many of the legal formalities that ordinary people often find alienating and difficult to follow. The Act ensures easy access to these courts by providing for expansive rules on standing. Any person or institution acting on their own behalf or on behalf of someone else can lodge a case with an Equality Court.