# AHMADU BELLO UNIVERSITY LAW JOURNAL (A.B.U.L.J)

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# AHMADU BELLO UNIVERSITY LAW JOURNAL (ABULJ)

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# THE NEW PARTNERSHIP FOR AFRICAN DEVELOPMENT AS A TOOL FOR AFRICAN DEVELOPMENT

By J.O. Olatoke\*

#### **ABSTRACT**

It is no gainsaying that one of the major challenges which African countries had upon independence was the ill-adaptation to African realities and the continent's development challenges. Most governance institutions and practices which the African countries had to make use of at independence were bequeaths from their colonial overlords. The realisation of this fact has led to an undying yearning by African countries to solve these problems collectively. Amongst many initiatives to collectively solve the mostly inherited problems, the New Partnership for African Development (to be subsequently referred to as NEPAD is one and it basically recognizes the centrality of capacity development with a view to empowering Africans to achieve their goals as individual countries and to fulfil their creative potential. This work thus seeks to evaluate the coming into being of NEPAD cum whether it has been able to achieve its set out goals. NEPAD is thus considered in the light of the recent developments which have bedevilled the African continent and how it has been able to solve these problems.

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#### 1.1 Introduction

Organizations are formed for specific purposes and intents. In this wise, the case of New Partnership for African Development (NEPAD) is no different as it was formed for the purpose of ensuring the development of Africa. Thus, it is in order to argue that the coming into existence of NEPAD is a watershed in the annals of African development as it became a major catalyst towards African development and sustainability.

It must be noted that New Partnership for African Development is basically a long-term integrated and comprehensive programme with sole focus of improving the political, economic and social conditions of people in the African continent. NEPAD is a comprehensive and integrated sustainable development initiative for the revival of Africa through a constructive partnership between Africans themselves and between Africa and the developed world. It can be regarded as a philosophy of development which appears to have a lot in common with the neo-liberal approach to development.

All these taken into stride, it is thus imperative to consider whether NEPAD has been able to achieve its set out goals, chief of which is the eradication of poverty in Africa. If this is considered, the pertinent question that begs to be answered is, whether NEPAD has

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achieved the goals which it set out to achieve, what is the essence of its continued existence?

#### 1.2 Origin of NEPAD

While this statement above was made in reference to the American continent, it quite aptly describes the pervading situation that necessitated the birth of NEPAD. NEPAD can thus be described as a development philosophy proposed by African leaders with a view to solving Africa's development problems. As noted by Chris Landsberg<sup>1</sup>: "NEPAD is typically depicted by architects and foremost proponents as an attempt to address Africa's vast development challenges".

NEPAD is an African plan, designed and envisaged to address the key social, economic and political priorities of the African continent.<sup>2</sup> The prevalent phenomenon which NEPAD seemingly sought to combat was one of utter underdevelopment enmeshed in poverty that had bedevilled the African continent as an aftermath of colonialism. Most African countries are mired in crises of one sort or another with inadequate access to resources, malnutrition, diseases, and low intensity violence being the prevailing norms.<sup>3</sup>

NEPAD is a pledge by African leaders, derived from a common vision for Africa, and a firm and shared conviction that they have an urgent duty to alleviate the incidence of poverty and place their countries, individually and collectively, on a path of sustainable growth and development, while at the same time participating actively in the global economy and the body polity.<sup>4</sup>

It must be conceded that degrading poverty, diminishing natural resources and increasing joblessness all feed ethnic and social tensions which no doubt fuel crises. NEPAD, thus in a bid to solve this surmounting problem was created. The opening paragraph of the NEPAD Document which is NEPAD's foundational document provides as follows:

This New Partnership for Africa's Development is a pledge by African leaders, based on a common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development, and at the same time to participate actively in the world economy and body politic. The Programme is anchored on the determination of Africans to

Landsberg C, NEPAAD: What is it? What is missing? Being a paper presented for NDLEDI, available at <a href="http://www.saprn.org/documents/d0000550/p503">http://www.saprn.org/documents/d0000550/p503</a> Landsberg.pdf&sa assessed on 30th October, 2016.

<sup>&</sup>lt;sup>2</sup>Shimelia R, NEPAD and the African Civil Society, March, 2004, The Namibian Economic Policy Research Unit Working Paper No. 94

Abraham G, Africa, the Tragedy, Africa, the Challenge, ENPAD and the New Humanitarian Agenda

See Agbu O, NEPAD: Origin, Challenges and Prospects, the Indian Journal of Political Sciencevol 64, No. 1-2, Jan-June, 2005

For further insight, see Cormish P, Terrorism, Insecurity and Underdevelopment, Journal for Conflict, Security and Development, Vol.1, No.3, 2001 p.49

extricate themselves and the continent from the malaise of underdevelopment and exclusion in a globalizing world.6

Paragraph 60 of the Document notes that NEPAD is "envisaged as a long term vision of an African-owned and African-led development programme." It must be noted that the NEPAD initiative is not a new one<sup>7</sup> as Africa has sought to galvanise development efforts over time. Such plans or programmes include the Lagos Plan of Action of 19808 which attempted albeit unsuccessfully to alter the relationship between developed foreign powers and the aid receivers of Africa and for increased self-reliance and self-sustaining growth, the Africa's Priority Program for Economic Recovery (APPER) rooted in the Lagos Plan of Action. Other initiatives include the Final Act of Lagos (1980), the African Alternative Framework to Structural Adjustment Programme (1989), the African (Arusha) Charter for Popular Participation and Development (1990), the Abuja Treaty (1991) and the Cairo Agenda (1994) amongst others.9

All these plans failed and this necessitated a re-think and an efficient initiative. 10 Political instability, military coups, tyranny, cold war politics on African affairs, huge foreign debts, declines in social development, failure of international market institutions, etc led to the call for a new international economic order through which self-reliant and culturally relevant strategies could be drafted.11

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The origin of NEPAD can thus be traced to the concept of "African Renaissance" which became the burning issue at the Extra Ordinary Summit of the Organization of African Unity held in Sirte, Libya in September, 1999. It is founded on the existence of three (3) parallel initiatives 13 with all three planes sharing a common interest of increasing the pace and impact of Africa's development.14

NEPAD is very important in the history of Africa's development<sup>15</sup>as it is a pledge by African leaders, based on a common vision and a firm and shared conviction that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development and to participate actively in the world economy and body politic; and also a call for a new relationship of partnership between Africa and the international community, especially the highly

<sup>&</sup>lt;sup>6</sup> Available at http://www.tocuhtech.biz/nepad/files/documents/nepad\_english\_version.pdf assessed on 1st November, 2016

Abraham Ibid

Available at <a href="http://www.uneca.org/itca/ariportal/dpcs/lagos plan.pdf:OAU">http://www.uneca.org/itca/ariportal/dpcs/lagos plan.pdf:OAU</a> Lagos Plan of Action for the Economic Development of Africa, 1980-2000, Geneva, 1981

See note 9 ibid

<sup>&</sup>lt;sup>11</sup> See full text at <a href="http://www.touchtech.biz/nepad/files/documents/nepad\_version.pdf">http://www.touchtech.biz/nepad/files/documents/nepad\_version.pdf</a> assessed on 30th October, 2016

<sup>&</sup>lt;sup>13</sup> The Millennium Africa Recovery Plan, the Omega Plan and the New African Initiative

<sup>&</sup>lt;sup>14</sup>Melber H, The New African Initiative and the African Union: A Preliminary Assessment and Documentation, Current

<sup>15</sup> See generally Ezeoha A &Uche C, South Africa, NEPAD and the African Renaissance, African Studies Centre, Leider, the Netherlands, ASC Working Paper 64/2005, Department of Banking and Finance, University of Nigeria.

industrialized countries, to overcome the development chasm that has widened over centuries of unequal relations..

#### 1.3 NEPAD and the African Union (AU)

A fundamental legal regime of NEPAD is its relationship with the African Union which does not have an explicitly clear status. There seems to be unending argument whether NEPAD is an organ of the AU or is just a separate body on its own. A critique of NEPAD would thus take into consideration its "not-too-clear" relationship with the AU.

Thabo Mbeki<sup>16</sup>noted that the relationship of the AU and NEPAD is that of mother and child. In his words, "African Union is the mother [and] NEPAD is her baby." This has been argued to suggest two implicit and interrelated assumptions that "(1) the AU is the womb that bore NEPAD, and therefore (2) the AU has ownership and control over NEPAD." 18

It has also been noted that the linkage between NEPAD and the AU, and indeed, many other multilateral bodies constitute one of the many challenges facing NEPAD in its bid to find acceptability both continentally and globally. However, a marriage of the organs seems necessary as it seems to be settled that "AU is a very important umbrella as well as partner with whom NEPAD has to cooperate." <sup>19</sup>

NEPAD has often been described as a "programme in support of the African Union" and as "mandated initiative of the African Union" It has also been argued to a large degree of justification that the linkage between the AU and NEPAD has remained largely at the level of rhetoric, and a close scrutiny of the structures of NEPAD via a vis those of the AU, would depict little convergence between the two.

To Agbu,<sup>22</sup> there is visibly little AU control, or oversight over the NEPA process, even though NEPAD is often formally described as a "mutual initiative" of the AU. The NEPAD Implementation Committee has total discretion and merely reports to the AU Summit, while the AU Secretariat is represented at the lower rung of the NEPAD Steering Committee.

The AU-NEPAD relationship is also lacking in institutional linkage for as it has been nightly noted:

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Weeki T, (2003), African Union is the Mother, NEPAD is the baby, New African (London) February, pages 44-45

<sup>\*\*</sup>Exception J.K, AU, NEPAD and the Promotion of Good Governance in Africa, University of Cape Town, South Africa, Fordic Journal of African Studies 13(3): 243-263 (2004)

note 5 ibid

Ababa, ECA, 8<sup>th</sup> March, 2002 available at <a href="http://www.uneca.org/adfiii/consensus.html">http://www.uneca.org/adfiii/consensus.html</a> paragraph 20 assessed on October, 2016.

Communiqué issued at the end of the second meeting of the Heads of State and Government Implementation muittee of NEPD, Abuja, March 26, 2002 available at <a href="http://www.gov.za/issue/nepad/come2meet.htm">http://www.gov.za/issue/nepad/come2meet.htm</a> paragraph 20 assed on 30<sup>th</sup> October, 2016.

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A better explanation therefore, of the evolution of NEPAD, lies in understanding the globalization imperatives against the failure of other development frameworks, and the historical conjecture of the demise of Apartheid in South Africa and Nigeria's return to civil rule. These three factors combined in releasing energies of a new leadership; a new leadership whose vision found expression in NEPAD. Therefore, the position taken by some, that NEPAD is an AU project, can only begin to be true when NEPAD is increasingly integrated into the AU framework as engagement or partnership is intensified.23

## Objectives of NEPAD

It is critical to examine the objectives of NEPAD as same would be a good yardstick to determine the success or otherwise of the structure. By Articles 174-188 of the NEPAD Document, 2001, NEPAD objectives are of two categories, namely the long term and short term objectives.

The long term objectives are the following:

- To eradicate poverty in Africa and to place African countries both individually and collectively, on the path of sustainable growth and development with a bid to halting the marginalization of Africa in the globalization process.
- To promote the role of women in all activities. ii.

The short term objectives are the following:

- Promoting the role of women in social and economic development by reinforcing their capacity in the domains of education and training; by developing revenuegenerating activities through facilitating access to credit; and by assuring their participation in the political and economic life of African countries.
- Strengthening mechanisms for conflict prevention management and resolution at the sub regional and continental levels, and to ensure that those mechanisms are used to restore and maintain peace.
- Promoting and protecting democracy and human rights in their respective countries and regions, by developing clear standards of accountability, iii. transparency and participatory governance at the national and sub-national levels.
- Giving impetus to Africa development by bridging existing gaps in priority sectors in order to enable the continental catch up with the developed parts of the iv.
- Restoring and maintaining macro-economic stability, especially by developing appropriate standards and targets for fiscal and monetary policies and introducing appropriate institutional frameworks to achieve these standards.

<sup>&</sup>lt;sup>23</sup>Agbu ibid at page 103

- Instituting transparent legal and regulatory frameworks for financial markets and the auditing of private companies and public sector.
- Revitalizing and extending the provision of education, technical training and VII. health services, with high priority given to addressing the problems of HIV/AIDS, malaria and other communicable diseases.
- Building the capacity of the States in Africa o set and enforce the legal VIII. framework, and to maintain law and order.
- Promoting the development of infrastructure, agriculture and its diversification ix. into agro domestic and export markets.24

## Criticisms of NEPAD

It is not enough to highlight the objectives of NEPAD without evaluating how and whether these objectives have been met. This would justify its continued existence and would be an assessment for what it has been able to achieve. Ex facie the long and short term objectives, one could be quick to argue that NEPAD like its predecessors has been more of a talking shop and a working one. In most cases even where it is needed for the voice of the organization to be heard, NEPAD has been way too mute. This segment thus seeks to evaluate cursorily criticisms of NEPAD especially when its objectives (long and short terms) are considered as follows:

- NEPAD as a development agenda seems to be a replica of the growth and development paradigm initiated over the years by the Bretton Woods Institutions and the World Trade Organization which have collectively proven to be disadvantageous to African countries. It is seen to be a copy of ideas of these
- It is doubtful whether Africa can own and control a framework that will be substantially funded from outside which no doubt will bring external influence. This is a question that in fact begs to be answered as it is often said that he who pays the piper dictates the tune. 111.
- There is neglect of the civil society and organized private sector at the preparatory and formulating stages thus making the accountability of NEPAD a burning question. It has been rightly noted that: "Rather, it appeared that more efforts were made by the NEPAD leadership to get the consent of the G.8, European Union (EU) and the Bretton Woods Institutions. So to whom is NEPAD accountable, African people or the G.8?"25
- iv. According to Akokpani, 26 it is a truism that the formulation and implementation

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<sup>\*\*</sup> Unagha A.O, Okon H.I, Sources of Information on the New Partnership for African Development (NEPAD), Library Philosophy and Practice Vol.8, No.2, University of Nebraska-Lincoln, Digital Commons @University of Nebraska-Lincoln; See also Ohiorhenuan J.F, (2002) NEPAD and Dialetics of African Underdevelopment, New Agenda 7:9-10 ≥ Ibid

Africans thus making the idea foreign to Africans themselves. De Waal has correctly noted that:

NEPAD has been designed by experts and adopted by governments with little public consultation. There is some popular discontent over this, and the weakness of consultation means that opportunities are being missed for strengthening popular ownership and ensuring that NEPAD promoted democracy.<sup>27</sup>

In no African country, including Algeria, Egypt, Nigeria, Senegal and South Africa, the founding members and leading advocates (and which can be rightly referred to as the "big five") of NEPAD, was anything close to a referendum contemplated, let alone held to determine its public acceptance, depriving it of the necessary legitimacy. The lack of consultation did not only expose a major contradiction in NEPAD's stance on good governance, but also rendered the project's commitment to democracy highly suspicious. Importantly, the absence of public discussion on NEPAD also limited knowledge about its not only among the general public but also among some political elites.

- i. In a similar vein, it has also been argued that poverty was only addressed at without recourse to basic elements which could lead to poverty as basic house food, health and education which were not properly addressed in the NEPAD Document. The same thing applies to the issue of gender which acknowledged in the NEPAD Document, was not properly addressed.<sup>28</sup>
- ii. Other fears exercised by Africans on NEPAD include:
  - a. Is there not a possibility that some countries may develop a sense of being marginalized in the process of implementing NEPAD?
  - b. Who actually owns NEPAD? The answer might see straight forward that NEPAD is African owned but the issue of ownership raises serious issues especially when the bulk of the funding comes from outside the continent.
  - c. Can there indeed be any real partnership between a donor and a recipient? i.e between two unequal entities?
  - d. Is it not true that global affairs are based on asymmetric affairs and guided by international politics?

Those questions would be answers in the negative and thus would lay the foundation for the defects that can be seen in NEPAD.

i. There is also a lack of capacity to implement key projects of the NEPAD and the brain drain of the African continent towards the United States and Europe.

28 Abuh ibid

<sup>&</sup>lt;sup>27</sup> De Waal A, (2002), What's New in the 'New Partnership for African Development? International Affairs, 78(3) at pages 463-475 particularly at page 474

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- NEPAD is often criticized as a neo-colonial project and is not in any way different from Institutions that have prompted inequity and discrimination as the relationship among the African countries are still not equal.
- iii. A major pitfall of NEPAD is a lack of a legal framework which no doubt inhibits its efficacy. The NEPAD Document which is the founding document of NEPAD only states the ideals upon which NEPAD was founded and not how NEPAD should work. This lack of legal framework has also impacted sadly negatively on the efficacy and effectiveness of the African Peer Review Mechanism (APRM)<sup>29</sup>as the APRM lacks the coercive power to make African member states to abide by its policies and be subjected to its reviews.<sup>30</sup>

#### 1.6 Conclusion

In order to understand present economic conditions in Africa, one needs to know why it is that Africa has realised so little of its natural potential, and one also needs to know why so much of its present wealth goes to non-Africans who reside for the most part outside of the continent.<sup>31</sup>

These famous words of Rodney in the now notorious book depict quite aptly the prevalent economic situation of Africa. Whether or not NEPAD has been able to put to bed these problems since its inception in 2001 remains to be seen and is a question that burns quite painfully in the mind of the average African who is minimally concerned about the economic life of Africa. In my opinion however, not much has been achieved.

The following are perceived recommendations which if implemented might assist NEPAD in the achievement and actualization of its objectives:

- 1. There is need to mainstream the APRM into the existing frameworks, legislations and institutions at country level in order to improve effectiveness and accelerate development in their respective areas.
- 2. NEPAD should strive to have a legal framework either by having a treaty or a convention that parties would be bound by.
- There is an urgent need to unbundle the objectives of NEPAD and focus more specifically on certain objectives of NEPAD. NEPAD seems to have bitten more than it can chew at once.
- 4. There is a need to tackle the sources of the problems which NEPA seeks to solve. For instance, trying to solve the endemic problem of poverty goes beyond the face value. There is a need to identify and tackle the root causes of poverty which

The APRM seeks to highlight on a country by country basis, the government structures, laws and capacities that need to be changed, reformed and developed. For more on the APRM, see Melber H, Cornnell R, Gathaka J and Wanjala S, *The New Partnership for Africa's Development (NEPAD)-African Perspectives*, NordiskaAfrikainshtulet, Uppsala, 2002.

<sup>&</sup>lt;sup>30</sup> Adams J.C, (2006) Rethinking African Development through NEPAD: The Challenges and Way Forward.

<sup>&</sup>lt;sup>31</sup> Rodney W, How Europe Underdeveloped Africa (Bogle-L'Ouverture Publications, London and Tanzanian Publishing House, Dar-Es-Salaam) 1973, Transcript from the 6<sup>th</sup> Reprint, 1983

- cut across many indices. Poverty in a country could be caused by many factors depending on peculiar characteristics.
- 5. NEPAD should try to streamline its activities.
- 6. There is need for NEPAD to be less political but more economic in outlook.
- 7. There is need for concession of the fact that NEPAD is a vehicle for the achievement of economic integration, security and good governance in Africa. Thus, there should be increased proactivity on the part of stakeholders to ensure the aims and objectives of NEPAD are achieved.
- 8. There is need for increased consultation with the African people on the activities of NEPAD. Africans should be oriented on the need to embrace NEPAD.
- 9. Foreign dependence should be reduced to the barest minimum so as to not make NEPAD an avenue for neo-colonialism.