How central is the African Union to the promotion of traditional African values? – A critical engagement

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Abstract

In addition to the Charter for African Cultural Renaissance, many of the normative instruments of the African Union (AU) underline the importance of traditional African values. Through its policy documents, action plans and charters, the AU expressly points to the centrality of traditional African values in the attainment of organisational objectives and goals. These include instruments on human rights, women, youth, elections and democracy, economic development and general regional integration. This acknowledgement raises two critical questions. The first relates to the level of implementation of this ideal by member states, and the second is the extent to which the AU provides an effective coordinating platform for the promotion of traditional African values. These two interrelated enquiries lie at the heart of understanding how the AU can play an essential role in the promotion of traditional African values.

This article intends to home in on the institutional perspective of promoting traditional African values through transnational mechanisms. The central argument is that AU member states should demonstrate the necessary political will to strengthen African Union institutions to be able to effectively coordinate and implement efforts aimed at channelling traditional African values into development efforts at both the national and transnational levels.

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1   Introduction

The discussion on the promotion of traditional values naturally lends itself to a national context. In other words, the assumption is that national governments

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have the primary responsibility to put in place policies and normative mechanisms for the promotion and advancement of traditional values. In the African context, the colonial suppression of African traditions fed into the expectations that post-independent elites will naturally make the development of customary laws and practises a central ideology. This was expected to guide matters of governance, development of legal rules, formulation of post-independent constitutions, and the politico-economic ideology of the new states.[1] Post-independent elites, such as Kwame Nkrumah, Julius Nyerere, Sekou Toure, Seretse Khama, Leopold Senghor, and Jomo Kenyatta, invoked traditional African principles in their speeches and policies on national planning and development.[2]

The nexus between regionalism and the protection of traditional values derives from the identification of common and shared traditional values as a central basis of unity. In essence, it derives from the understanding that similarities can be drawn from cultural values and practises across the continent, which could in turn provide the basis for entrenching continental unity. As the Charter of African Cultural Renaissance expressly affirms:

> ... the unity of Africa is founded first and foremost on its history ... [and] the affirmation of cultural identity denotes a concern common to all peoples of Africa.[3]

This realisation has thus shaped the design of instruments that speaks to ensuring deeper cooperation and integration amongst African countries. Many of

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[1] In Botswana, Seretse Khama emphasised the Setswana word *Kagisano* (harmony and well-being) as the guiding principle of national development. See Parsons, Henderson & Tlou *Seretse Khama 1921-1980* (1995) 283. In Tanzania, Julius Nyerere expressed the principle of *Ujaama* (familyhood) as the central philosophy of development, and essentially the traditional African version of socialism. See, eg, Meredith *The state of Africa: A history of fifty years of independence* (2005) 249-259. In Kenya, Jomo Kenyatta's government enthusiastically promoted the idea of *Harambee* (pull together), which encouraged local self-help groups to engage in social welfare services. *Id* 265. The principle of *Ubuntu* serves as a cultural prism through which the transition of South Africa from an oppressive past to a constitutional democracy is explained. This principle emphasises caring for each other's well-being, indicating that each individual's humanity is ideally expressed through his or her relationship with others and theirs in turn through recognition of the individual's humanity. *Ubuntu* also played a major role in South Africa's nation building process of the Truth and Reconciliation Commission. See also the expression of this value as clarified by South African courts in *S v Makwanyane* 1995 6 BCLR 665 (CC); *Dikoko v Mokhatla* (CCT62/05) 2006 ZACC 10.
[2] Many of these post-independence leaders perceived traditional institutions as archaic and ill-suited for modern governance. While they rejected the traditional system, they adopted the principles underlining it and mainstreamed them into the governance process. As some analysts observed, Africa's first generation rulers 'pursued policies to Africanise the bureaucracy without indigenising the institutions of governance'. See United Nations Economic Commission for Africa, *Relevance of Africa's traditional institution of governance* (2007) 7-8, available at:
http://www.uneca.org/sites/default/files/publications/relevance_africantradinstgov.pdf (accessed 2013-05-15). See also, Dowden *Africa: Altered states, ordinary miracles* (2008) 64-65.
[3] See the Preamble to the Charter of African Cultural Renaissance (2006).

the African Union (AU) normative instruments on human rights, women, youth, elections and democracy, economic development highlight this point. This acknowledgement raises two critical questions. The first relates to the level of implementation of this ideal by member states, and the second is the extent to which the AU provides an effective coordinating platform for the promotion of traditional African values. These two interrelated enquiries lie at the heart of understanding how the AU can play an essential role in the promotion of traditional African values.

This article intends to home in on the institutional perspective of promoting traditional African values through transnational mechanisms. The central argument is that AU member states should demonstrate the necessary political will to strengthen African Union institutions, especially the AU Commission, to be able to effectively coordinate and implement efforts aimed at channelling traditional African values into development efforts at both the national and transnational levels.

2 Understanding the nexus between the AU and the promotion of cultural values

A critical starting point of this kind of discourse is to situate the nature of the relationship between the AU and traditional African values. In other words, it is essential to locate the functions of the role players (member states and the AU) and the nature of their institutional interactions with regards to the promotion of African values. The normative instruments of the AU provide the basis of such analysis.

As noted in the foregoing, the primary responsibility of promoting traditional African values rests with national governments. In other words, each member is responsible for designing policies and normative measures for promoting cultural values. According to article 9 of the Charter of African Cultural Renaissance,

> States have the essential task of creating an enabling environment for cultural innovation and development. To this end, they shall guarantee freedom of expression for all citizens and cultural stakeholders.[4]

To this end, member states are required to put in place measures that recognise cultural diversity, develop African languages, officially recognise the importance

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[4]The Charter of African Cultural Renaissance was adopted in Khartoum, Sudan, on the 24th of January 2006. The Charter replaces the Cultural Charter for Africa, which was adopted in 1976. The Charter is yet to come into force as it requires the ratification of two-thirds of the AU's 54 member states. As at June 2014, only seven AU member states (Chad, Congo, Ethiopia, Mali, Niger, Nigeria and Senegal) have ratified the Charter. For the ratification status, see http://au.int/en/sites/default/files/Cultural%20Renaissance%20Charter.pdf (accessed 2014-06-19).

and role of traditional leaders, ensure the use of information and communication technologies in the promotion of African culture, promote and protect traditional knowledge systems, and strengthen the role of culture in promoting peace and good governance.[5]

The Charter defines the role of the AU in ensuring the promotion of traditional values. In article 31, member states are enjoined to build the capacity of the AU Commission 'to enable it to coordinate, monitor, evaluate and harmonise best practises and policies concerning programmes and networks'.[6] This is in line with the objectives of the AU, as stipulated in article 3 of its Constitutive Act. [7]

Since the Charter of African Cultural Renaissance is the primary AU document on the promotion of traditional values and cultures, it is important to understand the express and implied reference to African values in other AU normative instruments in the context of its objectives. In other words, the effectiveness of the normative provisions in these instruments should be seen as an integral part of what the Charter seeks to achieve. This essentially implies the mainstreaming of traditional values into the design and implementation of critical policies and programmes.[8]

For example, the African Charter on Democracy, Elections and Governance (ACDEG) highlights the vital role of traditional institutions and mandates member states to find means of integrating traditional structures into the larger democratic system.[9] The African Youth Charter (AYC) notes 'the virtues and values of Africa's historical tradition' and mandates member states to ensure the holistic development of youth in the context of traditional values and practises.[10] The African Charter on Human and Peoples' Rights (ACHPR) refers to the 'consideration … of historical tradition and values of African civilisation which should inspire and characterise … reflection on the concept of human and

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[5]See generally, Charter of African Cultural Renaissance (n 3).

[6]In addition to strengthening the capacity of the AU Commission, art 31 further mandates member states to organise cultural events, establish cultural research centres and encourage cultural research programmes, and commit to ensuring that African cultural values are deployed to maximum effect in promoting and reinforcing a sense of identity.

[7]Article 3(l) of the AU Constitutive stipulates that the Union shall 'coordinate and harmonise the policies between the existing and future regional Economic Communities for the gradual attainment of the objectives of the Union'.

[8]Article 3(g) of the Charter of African Cultural Renaissance mandates member states 'to integrate cultural objectives in development strategies'.

[9]See art 35 of the African Charter on Democracy, Elections and Governance (2007).

[10]Article 20(1) of the African Youth Charter (2006) requires member states to eliminate traditional practises that undermine the dignity of women; recognise traditional beliefs that contribute to development; harness the creativity of youth to promote cultural values and tradition; and introduce and intensify the teaching of African languages in all forms of education.

peoples' rights'.[11] The Protocol on the Rights of Women provides for the right of women 'to live in a positive cultural context and to participate … in the determination of cultural policies'.[12] The African Charter on the Rights and Welfare of the Child provides that the education of the child among other things 'shall be directed to the preservation and strengthening of positive African morals, traditional values and cultures'.[13] It also states that the Committee of Experts on the Rights and Welfare of the Child shall draw inspiration from various human rights instruments of the United Nations, AU and other countries including from African values and traditions.[14]

The normative expression of cultural values in AU normative instruments implies that beyond the national level, the AU has a key role to play in ensuring that these values underline the integration process. The effective implementation of these values at the national level is seen as a prerequisite for sustainable continental socio-economic and cultural integration.[15] The question that arises from this observation is the extent to which the AU provides an effective coordinating platform for ensuring that member states implement standards on the promotion of traditional values. This is addressed below.

3   Transnational promotion of traditional values: An overview of critical challenges

The normative instruments of the AU are expressive about the importance of traditional African values, especially relating to the specific obligations of member states. In areas of governance, economic development, human rights, youth development and gender equality, member states are mandated to channel adequate resources into ensuring the centrality of African values. The participation of traditional leaders in the structure of governance, inclusivity in policy formulation and implementation, promotion and development of African languages, protection of traditional knowledge systems, and gender empowerment are some of the actions expected from member states. While the implementation of these principles at the national level remains fundamental, it is acutely imperative that the AU is sufficiently capacitated to ensure such

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[11]See the Preamble of the African Charter on Human and Peoples' Rights (1981). Art 17(2) of the Charter provides that 'every individual may freely take part in the cultural life of his (or her) community. Art 17(3) further provides that the 'promotion and protection of the morals and traditional values recognised by the community shall be the duty of the state'.

[12]Article 17(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Right of Women in Africa (2003).

[13]Article 11(2)(c) of the African Charter on the Rights and Welfare of the Child (1990); see also Art 31(d).

[14]*Id* 46.

[15]See 'AU Echo – Special edition for the 20th AU summit', Issue 05, January 27 (2013) 3, available at: http://summits.au.int/fr/sites/default/files/AUEcho4_26012013_v2.pdf (accessed 2014-06-04).

implementation. This point is at the core of the challenges of the poor implementation of the ethos of cultural values in member states. This statement in no way assumes that cultural values are uniform across the continent. A number of differences exist but, as mentioned in the foregoing, similarities can be drawn from Africa's numerous cultures, especially similarities that further development efforts. It is the implementation of the policy/ normative stipulations expressing these commonalities that remains a problem.

As pointed out above, article 31 of the Charter on African Cultural Renaissance mandates the AU to 'coordinate, monitor, evaluate and harmonise best practises and policies concerning programmes and networks'. This function implies some key variables. The first, which is expressly mentioned in the Charter, is the political will by member states to empower the Commission to effectively discharge this function. The second is the existence of a Commission that has the requisite technocratic capacity to carry out this duty. The third relates to an environment that allows for the operationalisation of the Commission's mandate. Lastly, the specificity of the legal mandate of the Commission in promoting traditional values is required.

These points form the basis of analysing the critical challenges undercutting the effectiveness of the AU in promoting cultural values. The following are examples of such limitations:

3.1   Lack of political will to capacitate the AU Commission

Member states have not demonstrated the necessary political will to ensure that the Commission plays a central role in the promotion of traditional values. The primary transnational document on the promotion of traditional African values, the Charter on African Cultural Renaissance, is yet to come into force. Since its adoption in 2006, only seven African countries have ratified this important instrument.[16] It requires the ratification of at least two-thirds of the 54 AU member states before it can have legal force. This position diminishes not only the effectiveness of the Commission but also the objective of ensuring that member states strictly adhere to the principle of promoting traditional values.

Member states have also not shown the desired will to capacitate the Commission in monitoring and evaluating adherence to standards through other normative instruments of the AU. As noted above, AU instruments such as ACDEG, AYC, ACHPR, the African Children's Charter, and the Protocol on the Rights of Women, all highlight adherence to the promotion of traditional values. These are normative instruments that have come into force, and could be utilised as a platform for effective monitoring and evaluation of adherence to the promotion of cultural values. However, member states have not shown any indication of seriously considering this option.

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[16]See n 4 above.

Another option that has not been given adequate consideration is how the African Peer Review Mechanism (APRM) can be used to monitor and evaluate member states policies and practises on the promotion of traditional values.[17] Although the APRM process remains a voluntary one, innovative ways can be designed to ensure that the evaluation of adherence to the promotion of traditional values is a key component of the review process.

3.2   *Vaguely articulated (subsidiarity) mandate*

The Charter on African Cultural Renaissance is the only document that expressly outlines the mandate of the AU Commission with regard to the promotion of traditional values. It, therefore, serves as the guiding context for understanding the implementation of other AU normative instruments that make reference to the centrality of cultural values. However, the problem is that the Charter, or any other document, does not provide specific measures on how the AU Commission is expected to carry out this mandate. Put differently, there exists no specific guideline on how the Commission is expected to 'coordinate', 'monitor', 'evaluate' and 'harmonise best practises and policies'. The Commission cannot effectively discharge its function without sufficient clarity and a clearly articulated *modus operandi.* The interactions among AU organs and between the AU Commission and member states on developing and implementing modalities for advancing the promotion of traditional values is not defined.

Beyond reporting on best or bad practises, the Commission lacks any real power or guidelines on how to ensure that such policies are either stopped or implemented by other member states. Similarly, the Commission lacks the authority to ensure that identified best practises by a group of member states is harmonised and streamlined into the monitoring structures of the AU. In essence, the subsidiarity[18] role of the Commission has to be sufficiently clarified.

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[17]The APRM is a voluntary process of periodically reviewing the following standards in member states: democracy and political governance; economic governance; socio-economic development; and corporate governance. Participating countries undertake four different kinds of review, with each reviewing process having five stages. While membership is opened to all member states of the AU, interested member states are required to accede to a 'Memorandum of Understanding on the APRM' and the 'Declaration on Democracy, Political, Economic and Corporate Governance (AHG/235/XXXV111 Annex 11.). These and other related APRM, documents are available at: http://new.uneca.org/aprm (accessed 2014-06-05).

[18]The principle of subsidiarity highlights the complementary role of international organisations by prescribing that only matters which cannot be effectively dealt with at the national level should be allocated to international organisations. For a detailed analysis on the principle of subsidiarity, see eg Dashwood *et al European Union law* (2000) 156-162.

3.3   *Lack of guidelines on implementation*

Similar to a vaguely articulated mandate is the lack of guidelines on the thresholds of implementation of policies on the promotion of traditional African values. Without usurping the principal role of member states in designing and implementing policies, it is imperative to draft a set of guidelines that define the acceptable levels of implementation, the nature of the intervention of the Commission in monitoring such thresholds, reporting mechanisms, and the method of sharing of knowledge of implementation. The existence of such guideline allows for uniformity of approach that is not only sensitive to the peculiarity of each member state but also enhances innovativeness.

3.4   *The a-contextual expression of traditional values*

Another notable deficiency is the absence of normative and policy documents which express transnational objectives within the terminological context of cultural values. Beyond the general expression of the importance of respect and promotion of traditional values, it is essential to link objectives such as democracy, good governance, development, and peace and security to cultural terms and expressions. Without detracting from the diversity of culture and language on the continent, efforts should be made to identify cultural terms and expressions that have gained wide currency at national and sub-regional levels and adopt them as standard, contextual words and phrases for expressing these objectives.

4   Conclusion: Towards a continental approach to promoting traditional values

In both pre- and post-colonial African societies, attachment to cultural values has played a central role in societal relations and administration. The transition from colonial to independent entities presented African states with the opportunity to fashion a society that balanced modern governance with traditional values and practises. Such balancing was, and still is, aimed at ensuring that governance and development issues reflect African values. From Kenya to Lesotho, Guinea to Botswana, Kenya to Swaziland, governments not only extolled the virtues of traditional values but also began the process of mainstreaming such values into the structure of governance. Although the result of this exercise has varied, the general sentiment of the importance of cultural values remains positive. The relevance of infusing developmental efforts with appropriate cultural values is as critical now as it was in the 1960s.

The realisation that such values are necessary for stimulating deeper unity and cooperation among African states has in the past five decades led to the

design of transnational instruments that expressly and/ or impliedly speak to this objective. The question that this article has attempted to address is the effectiveness, or lack thereof, of a continental approach to the promotion of traditional values. The central role that the AU, especially through its Commission, is expected to play in the legal architecture of the promotion of traditional values is largely diminished by a number of factors. Chief of which is the lack of political will to empower the AU Commission to effectively coordinate and implement efforts aimed at channelling traditional African values into development efforts at both the national and transnational levels. In order to address such deficiency, the following points are worth considering.

- The role of the AU Commission in the promotion of traditional values has to be properly defined and implemented. The AU Assembly, as the primary decision-making organ of the AU, will have to begin a process of gradually placing the Commission at the heart of activities around the promotion of traditional values. This should include the following:
- A systematic campaign that ensures that at least two-thirds of AU member states ratify the African Charter of Cultural Renaissance.
- In the meantime, serious efforts should be aimed at ensuring that the seven countries that have thus far ratified the Charter begin a standard setting process of reporting and harmonising their policies on promoting traditional values.
- Capacitate the monitoring structures of the Commission by providing it with more financial resources and mandating each member state to establish an institutional contact point that regularly interacts with the Commission.
- Utilise the existent APRM process in developing an evaluation and reporting framework.
- Enhance inter-institutional relations within the AU, in order to ensure the effective coordination of policies and strategies on the promotion of traditional values.
- Encourage institutional cooperation between the Commission and sub-regional institutions, especially the harmonisation of policies on monitoring and evaluation of adherence to traditional values.

It is important to explore the possibility of the Commission working with member states that are serious about implementing the transnational objective of promoting traditional values. As indicated in the foregoing, only seven, out of the required minimum of 36, AU member states have ratified the Charter. In addition, there exists a poor record of implementation of AU institutional objectives. In this respect, it is pragmatic to be measured about the expectation of getting all member states on board. To address this, the Commission should identify willing member states and put in place official structures of engagement with such states.

It is also imperative to empower the Commission with the technocratic competence to set policy directives and regulations on the modalities of promoting traditional values in the national sphere. Such instrument should provide a clear outline of the subsidiarity role of the Commission. This should include guidelines on the consultative process within the AU and between the Commission and member states, the methods of incorporating AU decisions into national structures, the different methods of implementing AU directives in member states, and a reporting mechanism that takes into account the diversity of cultural values on the continent.

Finally, the Commission should be more innovative in its engagement with the wider civil society on the promotion of traditional values. This will require more consultation with traditional authorities and civil society either through the structures of national governments or direct interactions. In terms of the former, the Commission should utilise the available national government structures of interacting with traditional authorities. It should also work closely with government institutions in developing and implementing policies aimed at promoting traditional and cultural values. The Commission should also be engaged in sensitisation and awareness campaigns across selected communities, meetings and workshops with traditional authorities and local civil society organisations, involvement in the organisation of cultural festivals and capacity building programmes aimed at the effective implementation of the objectives of the African Charter on Cultural Renaissance.