

## The African Union and the Covid-19 Pandemic

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### 1. Africa and the Fight Against Pandemics

Over the decades since independence, African countries have faced several serious pandemics. These include, among others, the Ebola outbreak in West Africa from 2014 to 2016 which caused more than 11,000 deaths. In response, the African Union ('AU') deployed African Union Support to Ebola in West Africa ('ASEOWA'), whose performance has been widely applauded. This experience galvanized the process to establish the long-awaited Africa Centres for Disease Control and Prevention ('Africa CDC') on 31 January 2016. It was tasked with the mission to, *inter alia*, assist Member States in preventing and addressing public health emergencies. Four years later, Africa, like other regions, has been affected by the global Coronavirus Disease 2019 (Covid-19) pandemic.<sup>1</sup> This is the first outbreak of a continental dimension to be faced by the Africa CDC, which has been put to the test by Covid-19.

The aim of this policy brief is to examine and evaluate three aspects: (i) the relevancy of the AU's intervention in the context of Covid-19 with regard to its general goals and purposes; (ii) the role of the AU as a forum for co-operation and co-ordination of efforts by African States and peoples to combat Covid-19; and (iii) the contribution of the AU Member States to the implementation of the 2012 African Solidarity Initiative ('Africans Helping Africa') and the emerging principle of 'Responsibility to Assist' or 'R2A'. Before examining these three substantive points, it may be useful to provide a brief background to the Africa CDC and its intervention in the context of Covid-19.

<sup>1</sup> As of 26 May 2020, the Africa CDC and the WHO reported a total of 115,346 Covid-19 cases and 3,471 deaths in 54 African countries, representing about 2 per cent of the cases reported globally at that time, see AU/Africa CDC, "Outbreak Brief 19: COVID-19 Pandemic – 26 May 2020" (available on the web site [africacdc.org](http://africacdc.org)). The AU is composed of 55 Member States, all of which had been affected by Covid-19 at the time of writing.

### 2. The Africa CDC and Its Operation Against Covid-19

In January 2016, the AU established the Africa CDC as its specialized body for health governance.<sup>2</sup> Following its launch in January 2017, the Africa CDC has contributed to the establishment of its Regional Collaborating Centers ('RCCs'), in co-operation with, and with the support of, the Regional Economic Communities in the five political regions of the AU: Central Africa (Libreville, Gabon), East Africa (Nairobi, Kenya), North Africa (Cairo, Egypt), Southern Africa (Lusaka, Zambia), as well as West Africa (Abuja, Nigeria).<sup>3</sup> During the past three years of its operation, the Africa CDC has deployed missions to several African countries to assist in addressing disease outbreaks, including in the Democratic Republic of the Congo ('DRC') (Ebola and Cholera); Ethiopia (Acute Watery Diarrhoea); Madagascar (plague); Mozambique and Namibia (Malaria); and Nigeria (Lassa Fever, Meningitis and Monkey Pox).<sup>4</sup>

More recently, the Africa CDS has taken several initiatives and measures to enable the AU and its Member States to address the Covid-19 pandemic. These include the establishment in early 2020 of an African Task Force for Covid-19 ('ATFCOR'), in anticipation of the already then expected outbreak. The Africa CDC assisted in the adoption of an Africa Joint Continental Strategy at the meeting of the African Ministers of Health which it convened in Addis Ababa (Ethiopia) from 22 to 25 February 2020. The Africa CDC, jointly with the AU Commission, has also adopted the "Partnership to Accelerate COV-

<sup>2</sup> See Mutoy Mubiala, "Statute of the Africa Centres for Disease Prevention and Control", in *Oxford International Organizations*, 31 January 2016 (last updated 22 August 2018), no. 392.

<sup>3</sup> On the RCC for West Africa, see Mutoy Mubiala, "Regulations C/REG. 11/12/15 Establishing and Stating Operating Procedures of the ECOWAS Regional Centre for Surveillance and Disease Control (ECOWAS-RCSDC)", in *Oxford International Organizations*, 14 December 2015 (last updated 17 April 2019), no. 467.

<sup>4</sup> See, *inter alia*, AU, "First Progress Report of the Chairperson of the Commission on the Africa Center for Disease Control", 29 March 2018, pp. 5-8.

ID-19 Testing ('PACT'): Trace, Test and Track (CDC T-3)", with the objective to test up to 20 million Africans by the end of 2020. AFTCOR and PACT have been important tools for the implementation of the Joint Continental Strategy, through the Africa CDC's Incident Management System ('IMS') and with the support of the African Volunteers Health Corps,<sup>5</sup> a continental resource for surge staffing during public health emergencies, which was developed in the context of the AU support to West Africa amidst the Ebola outbreak 2014-16.

In the field of advocacy and dissemination, the Africa CDC has made a set of recommendations to the AU Member States on how to prevent and respond to the Covid-19 pandemic. It has issued manuals with guidance for Member States, including the "Protocol for Enhanced Severe Acute Respiratory Illness and Influenza-Like Illness Surveillance for COVID-19 in Africa" (March 2020) and the "Guidance on Contact Tracing for COVID-19 Pandemic" (April 2020). It has also made additional relevant documents of special importance such as the "Statement on Medications to Treat Novel Coronavirus Disease (COVID-19)", "Wearing a Face Mask Correctly" as well as "Community Use of Face Masks".<sup>6</sup>

At the scientific level, the Africa CDC has provided leadership and support to a coalition of African researchers in the framework of the Sentinel Project, aimed at developing an early-warning system for the prevention of pandemics. According to the Africa CDC, "the project was conceived long before COVID-19, but its relevance has become more significant in the face of this fast-spreading pandemic".<sup>7</sup> In addition, the Africa CDC co-hosts the "Global MedixChange for Combatting COVID-19 (GMCC)", a platform for knowledge-sharing among medical professionals through digital access to epidemic prevention resources and tools for online discussions. In this framework, "nearly 3000 medical professionals had already joined the platform globally and thousands of medical staff from hospitals across Ethiopia, Ghana, Rwanda, South Africa and Zimbabwe have participated in live exchange sessions organized by the GMCC to better understand how to respond to this new virus disease pandemic".<sup>8</sup> The participation of medical professionals from Zimbabwe, while under international sanctions, is in accordance with the AU's goals and purposes.

<sup>5</sup> AU/Africa CDC, "AU and Africa CDC Launch Partnership to Accelerate COVID-19 Testing: Trace, Test and Track", 21 April 2020 (available on the Africa CDC web site).

<sup>6</sup> *Ibid.*

<sup>7</sup> AU/Africa CDC, "African Researchers Lead Scientific Coalition Developing Surveillance System for Detecting Emerging Pandemics in Real-Time", 11 May 2020 (available on the Africa CDC web site).

<sup>8</sup> AU/Africa CDC, "Africa CDC Receives Third Donation of Medical Supplies from Jack Ma Foundation, Co-Hosts Global MedixChange Webinar on COVID-19", 27 April 2020 (available on the Africa CDC web site).

### 3. The African Union's Fight Against Covid-19 and Its Goals and Purposes

The fight against Covid-19 is a human security and development issue. The AU's intervention in this context aims at achieving its main goals and purposes as provided in its Constitutive Act. These include the promotion of peace, security, and stability on the continent; the promotion of sustainable development of economic, social and cultural levels and of the integration of African economies; the promotion of human and peoples' rights; as well as the co-operation with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent (Article 3 of the AU Constitutive Act).<sup>9</sup> In addition to the health measures (see Section 2. above), the AU has adopted several steps to secure its development agenda in the context and the aftermath of Covid-19 (see Section 4. below) and to address human rights issues related to Covid-19.

As far as human rights are concerned, the African Commission on Human and Peoples' Rights, a subsidiary body of the AU, has raised concerns about the allegations of serious human rights violations by national authorities in several Member States in the context of the fight against Covid-19. In a press statement on 24 March 2020, the Chairperson of the African Commission drew the attention of African governments to the need to respect human rights principles when adopting measures to counter Covid-19.<sup>10</sup> Moreover, several mandate-holders of special mechanisms of the Commission have issued press releases on human rights issues relating to Covid-19 pertaining to their respective mandates, including (i) the Special Rapporteur on Prisons, Conditions of Detention and Policing in Africa, on the release of prisoners and on reports of excessive use of force by the police during the pandemic (22 April 2020); (ii) the Working Group on Indigenous Populations/Communities in Africa, on the impact of the pandemic on the rights of these populations/communities (23 April 2020); and (iii) the Special Rapporteur on the Rights of Women in Africa, on violations of women's rights during the pandemic (6 May 2020).<sup>11</sup> The mandate-holders expressed concerns about the allegations of human rights violations, and addressed recommendations to the States Parties of the African Charter to adopt corrective measures. Regarding the alleged violations of human rights of Africans in China, the AU Commission called upon the Chinese government

<sup>9</sup> For a comment on the goals and purposes of the AU, see Stéphane Doumbé-Billé, "The African Union: Principles and Purposes", in Abdulqawi A. Yusuf and Fatsah Ouguergouz (eds.), *The African Union: Legal and Institutional Framework. A Manual on the Pan-African Organization*, Martinus Nijhoff, Leiden, 2012, pp. 53-75.

<sup>10</sup> African Commission on Human and Peoples' Rights, press release, 24 March 2020 (available on its web site).

<sup>11</sup> *Ibid.*

to address the issue.<sup>12</sup>

To better achieve its goals and purposes, the AU has engaged in a reform process since 2016, with some relevant decisions expected in June 2020. The AU agenda for reform includes the recurrent issue of funding of its programmes and activities, and the division of work among the AU, the Regional Economic Communities, and Member States. The current intervention of the AU in the context of Covid-19 will certainly influence the outcome. There is a desire to curb the AU's high dependency on external partners. For example, in the context of the fight against Covid-19, the operations of the Africa CDC have relied largely on donations from the Jack Ma and Alibaba Foundations. The proposed reform envisages that AU Member States will contribute 100 per cent of its regular budget, 75 per cent of its special programmes, and 25 per cent of its peace-keeping activities. The reform envisages identification of exclusive and shared competencies between the AU, the Regional Economic Communities, and Member States.<sup>13</sup> The response to Covid-19 provides a good example of shared competencies, in the context of which the AU has served as the continental platform for co-operation and co-ordination of efforts.

#### 4. The African Union as Continental Forum for Co-operation and Co-ordination in the Response to the Covid-19

Since Covid-19 constitutes a major challenge to the economic and social development of Member States and to trade and regional integration of Africa, a group of African eminent and recognized finance experts made a call for the cancellation or suspension of international debt of African States.<sup>14</sup> Building on this initiative, the Bureau of the AU Assembly of the Heads of State and Government held a meeting in mid-April 2020 during which they established a 'dream team' (including some of the above-mentioned eminent finance experts<sup>15</sup> and other African finance high-level figures) to analyse ways to address the negative financial impact of the pandemic on Africa, and to develop regional strategies for the recovery. On 10 May 2020, the ministers of finance or development of sixteen African countries<sup>16</sup> made a new call to

go beyond this initial step by extending the moratorium on bilateral debt to 2021 and to cancel the State debt of some countries.

The unified engagement of African States and experts on Covid-19 with other regional and global actors – including the G20, the European Union, the United Nations, the World Health Organization – has given them a voice on the international stage, influencing some positive decisions such as the G20's moratorium on African bilateral debt for nine months and additional loans by the International Monetary Fund to several African countries to combat Covid-19. The co-ordinated approach to Covid-19 has also reinforced mutual aid among and in African countries, and consolidated the practice of self-reliance or 'self-help', as provided by the 2012 African Solidarity Initiative ('Africa Helping Africa').

#### 5. Applying the 2012 African Solidarity Initiative: Towards a 'Responsibility to Assist'

Africa has developed deep traditions of hospitality and mutual aid, not only within a group (be it the family, ethnic group, community or village), but also towards peoples from other communities, including refugees. This has been seen as a binding customary norm<sup>17</sup> – those who violated it were punished, sometimes excluded from the community. As a legacy of this traditional norm, a 'duty to assist' has been included in several post-colonial regional legal instruments. For example, the 1969 Convention of the Organization of the African Unity ('OAU') Governing Specific Aspects of Refugee Problems in Africa provides the principle of burden-sharing among Member States, "in a spirit of African solidarity and international cooperation" (Article 2(4)). To implement this principle, the OAU has developed its programme for the resettlement of African Refugees.

More recently, the policy organs of the AU, namely the Assembly of the Heads of State and Government and the Executive Council, adopted in July 2012 the Declaration entitled "African Solidarity Initiative" ('ASI'), also identified under the 'Africa Helping Africa' watchword, aimed at mobilizing continental support to countries emerging from conflicts. The ASI Declaration provides a foundation for an emerging principle of 'Responsibility to Assist' or 'R2A', grounded in African traditions.<sup>18</sup> The

10 May 2020.

<sup>12</sup> According to a tweet dated 13 April 2020 by the AU Commission Chairperson Moussa Faki Mahamat: "In a phone call with Chinese Foreign Affairs #Wang YI today, he reassured me of measures underway in #Guangzhou to improve the situation of Africans, in line with the strong and brotherly partnership between #Africa and #China".

<sup>13</sup> Africa 24 TV, Interview with Mr. Moukoko Mbondjo, Head of the Unit for the AU Reform, 15 April 2020.

<sup>14</sup> Jeune Afrique, "Il faut alléger la dette africaine pour combattre le coronavirus", 11 April 2020.

<sup>15</sup> Ms. Okonjo-Iweala (Nigeria), Mr. Donald Kaberuka (Rwanda), and Mr. Tidjane Thiam (Côte d'Ivoire).

<sup>16</sup> These countries include Angola, Cameroon, Djibouti, Egypt, Ethiopia, The Gambia, Ghana, Kenya, Mali, Namibia, Niger, Rwanda, Senegal, Seychelles, Sierra Leone and Tunisia. See Jeune Afrique, "Aucun pays ne doit avoir à choisir entre sauver des vies et rembourser des dettes",

<sup>17</sup> See, for example, the Charter of Kurukan Fuga promulgated by the Emperor Sundiata Keita of Mali in 1236 (<https://www.legal-tools.org/doc/2q5vm7/>); and, for a comment of the Charter, Mutoy Mubiala, "The Contribution of African Human Traditions and Norms to United Nations Human Rights Law", in *Human Rights and International Legal Discourse*, 2010, vol. 4, pp. 215-216.

<sup>18</sup> On the novel concept of 'Responsibility to Assist', see Mutoy Mubiala, "L'Union africaine", in Sandra Szurek, Marina Eudes and Philippe Ryfman (eds.), *Droit et pratique de l'action humanitaire*, Librairie générale de droit et de jurisprudence, Paris, 2019, pp. 386-387; and "Le rôle des organisations régionales africaines dans la lutte contre les pandémies", in Société française pour le droit international, *Santé et*

'R2A' could be defined as "the duty of African countries and other relevant entities to assist countries and peoples in need of support, in situations of post-conflict recovery, natural disasters and spreading pandemics/outbreaks". Such a principle of 'R2A' would supplement the primary responsibility of the State to address these situations.

The principle of 'R2A' was firstly implemented during the Ebola outbreak in West Africa (2014-16), in the context of which the AU established the ASEOWA,<sup>19</sup> and several African associations deployed nearly 1,000 volunteers in the three most affected countries (Guinea, Liberia and Sierra Leone). In the response to Covid-19, contrary to other continents, the dynamics of transnational solidarity among African countries has been widely identified as good practice.<sup>20</sup> The trend of solidarity among African States and peoples was recently illustrated by the holding of bilateral video-conference meetings between President Rajoelina of Madagascar and several African Heads of State, including the Presidents of the DRC and Senegal, about a medicine developed by the Malagasy Institute of Applied Research. In early May 2020, the government of Madagascar donated consignments of the medicine to several African countries, including Central African Republic, Niger, the Gambia, Equatorial Guinea, Guinea Bissau, the DRC as well as the Republic of the Congo.<sup>21</sup> Pending the testing of this medicine by the WHO's relevant expert bodies and without anticipating the outcome, this brief suggests that its no-cost sharing by Madagascar with other African countries contributes to the implementation of the new 'Africa Helping Africa' paradigm and to the tentative crystallization of an emerging principle of 'R2A' at the regional level.

For its part, at the request of the Africa CDC, the DRC has deployed 37 public health experts to provide support to four other African countries, including Burkina Faso, Cameroon, Mali and Niger.<sup>22</sup>

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*droit international. Colloque de Rennes*, Pedone, Paris, 2019, pp. 412-413.

<sup>19</sup> Regional Network for Equity in Health in East and Southern Africa (EQUINET), "African Responses to the 2014/5 Ebola Virus Disease Epidemic", Discussion Brief, October 2015, p. 6.

<sup>20</sup> Jeune Afrique, "Coronavirus: décryptage des hypothèses qui expliqueraient la faible contamination en Afrique", 3 May 2020.

<sup>21</sup> See, among others, Al Jazeera, "Coronavirus: The Gambia Receives Covid-Organics from Madagascar", 12 May 2020.

<sup>22</sup> Radio Okapi, "COVID-19 : la RDC envoie 37 experts en santé publique pour appuyer d'autres pays africains", 19 May 2020.

There has been a progressive domestication of the new paradigm and emerging principle at the national level, after many African countries have established 'national solidarity funds' for Covid-19, financed by various donations from the private sector and individuals.

## 6. Three Conclusions

The above analysis provides a basis for three conclusions. First, thanks to its newly established Africa CDC and its Regional Collaborating Centres, the African Union has served as a forum for co-operation and co-ordination of efforts in the fight against Covid-19 in Africa, thus providing Member States with the opportunity to consolidate the new 'Africa Helping Africa' paradigm in inter-African co-operation, and the fledgling principle of 'Responsibility to Assist'.

Second, the African co-ordinated fight against Covid-19 has at the time of writing enabled the African Union to speak with one voice, and to deliver one message in the African interaction with other regional and global actors, thus illustrating the potential role of regional organizations as pillars of a new global health governance regime.

Finally, the African Union's on-going experience demonstrates good practice that should be shared with other regional organizations and the United Nations, in the search for a global strategy to address the Covid-19 pandemic. This also provides an opportunity to advocate for the universalization of the emerging principle of 'Responsibility to Assist'.

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