

Crisis as Opportunity: Exploring the African Union's Response to COVID-19 and the Implications for Its Aspirational Supranational Powers

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Abstract

The COVID-19 pandemic has proved challenging to states and regional organizations, exposing gaps in political leadership as well as in the preparedness of economic and public healthcare systems. As states and organizations contend with the pandemic, the African Union's response in this regard, thus far, indicates the imperative of enhanced multilateralism. Its response also provides a template for endowing the organization with assertive, binding powers over its member states and, as such, achieving its supranational aspirations. In this respect, this article argues that the African Union's display of progressive internationalism, swiftness of action, agency and legitimacy in combatting the coronavirus pandemic are elements that can be applied in sharpening its processual quest for supranationalism.

Keywords

African Union, supranationalism, COVID-19, multilateralism, regional economic communities

INTRODUCTION

On 30 January 2020, the World Health Organization (WHO) declared the outbreak of COVID-19 to be a public health emergency of international concern, the sixth it had ever issued.¹ On 11 March 2020, it finally declared COVID-19 to

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1 "Statement on the second meeting of the International Health Regulations (2005) Emergency Committee regarding the outbreak of the novel coronavirus (2019-nCoV)" (30 January 2020, WHO), available at: <https://www.who.int/news-room/detail/30-01-2020>

be a pandemic,² with Africa being the last region of the world to record infections.³

Even with the preponderance of negative forecasts for Africa as it faces the challenge of the pandemic, due to the notoriety of its unstable political landscape, socio-economic development and public infrastructure, the situation in Africa is not clear cut, at least not yet, from a public health perspective.⁴ However, the pandemic is proving to inflict serious economic setbacks and is wiping out decades of economic gains, as a result of the restrictions imposed to contain the spread of the virus.⁵ Although the spread of the infection continues to rise in Africa, the continent has, for many unknown and seemingly confounding reasons, recorded relatively lower numbers of infections, hospitalizations and deaths compared with other regions of the world. The WHO has commended the African Union (AU) and acknowledged its leadership for the accelerated preparedness and control measures to address the pandemic on the continent.⁶ Furthermore, the Bill & Melinda Gates Foundation awarded the Global Goalkeeper Award to the director of the Africa Centres for Disease Control and Prevention (Africa CDC), John Nkengasong, for the Africa CDC leadership's commitment to global development goals through the response to the pandemic in Africa.⁷ While the official data may be

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[2020-statement-on-the-second-meeting-of-the-international-health-regulations-\(2005-emergency-committee-regarding-the-outbreak-of-novel-coronavirus-\(2019-ncov\)>](#) (last accessed 22 July 2021).

- 2 "WHO director-general's opening remarks at the media briefing on COVID-19: 11 March 2020", available at: <<https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19-11-march-2020>> (last accessed 22 July 2021).
- 3 The first case recorded in Africa was in Egypt on 14 February 2020 from a traveller from China; its second case, and first case in sub-Saharan Africa, was recorded in Nigeria, Africa's most populous nation, on 27 February 2020 from a traveller from Italy. As at 21 July 2021, the 55 AU member states reported a total of 6,335,702 cases, 160,648 deaths, and 5,546,538 recoveries: Africa Centre for Disease Control and Prevention "Africa CDC dashboard", available at: <<https://africacdc.org/covid-19/>> (last accessed 22 July 2021).
- 4 The UN Economic Commission for Africa projected between 300,000 and 3.3 million deaths from COVID-19 in Africa: "COVID-19 in Africa: Protecting lives and economies" (2020) at 4-5, available at: <<https://repository.uneca.org/handle/10855/43756>> (last accessed 22 July 2021).
- 5 A Dahir "Coronavirus is battering Africa's growing middle class" (29 June 2020) *The New York Times*, available at: <<https://www.nytimes.com/2020/06/29/world/africa/Africa-middle-class-coronavirus.html>> (last accessed 22 July 2021).
- 6 "WHO director-general's opening remarks at the media briefing on COVID-19" (25 May 2020), available at: <<https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19-25-may-2020>> (last accessed 22 July 2021).
- 7 "Africa CDC Director awarded the Bill and Melinda Gates Foundation Global Goalkeeper Award for 2020 for role in fighting COVID 19" (AU press release, 23 September 2020), available at: <<https://au.int/en/pressreleases/20200923/africa-cdc-director-awarded-bill-and-melinda-gates-foundation-award>> (last accessed 22 July 2021).

questionable in respect of its depiction of actual reality, the relatively lower numbers of infections have been attributed to several factors. These include: the limited testing capabilities of African states; the inadequacy of public healthcare systems and insufficiency of public health assets (which may be one of the reasons behind the lower numbers of hospitalizations); and the under-reporting of death figures.⁸ However, these factors do not, and cannot per se, account for the relatively lower numbers evidenced by the data from the Africa CDC. Africa's status as the youngest continent with a median age under 20 years old and its climate have also been relied upon to explain the numbers.⁹ Again, these do not suffice in offering a full explanation of the situation. This is especially so when compared with Brazil and Peru, which also have a hot climate but where the virus has proved very deadly.¹⁰ Similarly, the conventional experience of the virus fatally affecting mostly elderly people has not been borne out in Japan,¹¹ which has the oldest population in the world,¹² thus limiting the demography argument by parity of reasoning. More recently, claims have been made that poverty is the reason why Africa has not fared as badly as predicted, at least from a public health perspective.¹³

In all these permutations, scant regard is given to Africa's preparedness to battle the virus or the agency of Africa, its institutions and experts to deal with the pandemic; these are critical factors that must be incorporated into narratives about Africa and COVID-19. Without pre-empting the unknown nature of the COVID-19 virus, due consideration must be given to the experience gained and capacity built (at national, sub-regional and continental levels) from dealing with other viral epidemics, such as HIV/AIDS, Ebola,

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- 8 There are news reports about covert burials and graves. See N Bariyo and J Parkinson "Coronavirus might become 'fixture' in Africa for years: COVID-19 hot spots are emerging in African nations that have few resources to tackle infections" (23 May 2020) *The Wall Street Journal*, available at: <<https://www.wsj.com/articles/coronavirus-might-become-fixture-in-africa-for-years-11590238801>> (last accessed 22 July 2021).
 - 9 "COVID-19 in Africa: A call for coordinated governance, improved health structures and better data" (2020, Mo Ibrahim Foundation), available at: <<https://mo.ibrahim.foundation/sites/default/files/2020-05/2020-covid-19-in-africa.pdf>> (last accessed 22 July 2021).
 - 10 "COVID-19 dashboard by the Center for Systems Science and Engineering (CSSE) at Johns Hopkins University (JHU)", available at: <<https://coronavirus.jhu.edu/map.html>> (last accessed 22 July 2021).
 - 11 W Sposato "Japan's halfhearted coronavirus measures are working anyway" (14 May 2020) *Foreign Policy Magazine*, available at: <<https://foreignpolicy.com/2020/05/14/japan-coronavirus-pandemic-lockdown-testing/>> (last accessed 22 May 2021).
 - 12 "Countries with the oldest populations in the world" (Populations Reference Bureau), available at: <<https://www.prb.org/countries-with-the-oldest-populations/>> (last accessed 22 July 2021).
 - 13 A Harding "Coronavirus in South Africa: Scientists explore surprise theory for low death rate" (2 September 2020) *BBC*, available at: <https://www.bbc.com/news/world-africa-53998374?xtor=AL-72-%5Bpartner%5D-%5Bbbc.news.twitter%5D-%5Bheadline%5D-%5Bnews%5D-%5Bbizdev%5D-%5Bisapi%5D&at_custom1=%5Bpost+type%5D&at_campaign=64&at_custom2=twitter&at_medium=custom7&at_custom4=74B0EF76-ED72-11EA-B808-20F74744363C&at_custom3=BBC+Africa> (last accessed 22 July 2021).

yellow fever and Lassa fever, with which some African countries are having to contend in tandem with COVID-19.¹⁴ The experience of dealing with viral epidemics, managing endemic diseases like malaria and meningitis, and eradicating other diseases like Guinea worm and river blindness has honed the epidemiological capacity of African states, thus making it possible for institutional and community memory to be leveraged in responding to COVID-19 on the continent. Furthermore, these experiences continue to shape the current response by African states and institutions to COVID-19, including community engagement and interaction with local institutions, authorities and civil society, thus fostering conditions for African populations to collaborate and cooperate with healthcare workers and government as well as for the dissemination of information.¹⁵ Importantly, there has been no politicization of the virus by the AU, or by the majority of its member states; this has engendered public trust and ensured the effective communication of strategies and exploration of innovative approaches, including adapting local approaches to handling pandemics. Nevertheless, while the public health effects of the virus have not been as dire as envisaged, the socio-economic impact of COVID-19 on Africa is poised to be seriously disruptive, not only in the short term through national lockdowns but also in the medium and long term through wiping out decades of economic gains, derailing continental integrative efforts (including the continental free trade agreement that is critical to Africa's post-COVID-19 pandemic recovery),¹⁶ human rights violations and destabilizing democratic governance.

Even as multilateralism has come under assault in recent times by the nationalistic and protectionist policies of many states, including in their response to the COVID-19 pandemic, especially across the global North-South divide, the AU has toed the path of multilateralism and solidarity and been a beacon of multilateralism, albeit with scant recognition for its efforts.¹⁷ The AU's response to the pandemic deserves attention not only for

14 On 25 June 2020, the Democratic Republic of the Congo announced the end of a two-year battle with the Ebola virus, the tenth such viral outbreak in the country. See: "10th Ebola outbreak in the Democratic Republic of the Congo declared over: Vigilance against flare-ups and support for survivors must continue" (WHO news release, 25 June 2020), available at: <<https://www.who.int/news-room/detail/25-06-2020-10th-ebola-outbreak-in-the-democratic-republic-of-the-congo-declared-over-vigilance-against-flare-ups-and-support-for-survivors-must-continue>> (last accessed 22 July 2021).

15 "Impact of COVID-19 in Africa" (20 May 2020, UN policy brief) at 7, available at: <<https://reliefweb.int/sites/reliefweb.int/files/resources/Policy-brief-Impact-of-COVID-19-in-Africa%20%281%29.pdf>> (last accessed 22 July 2021).

16 For example, due to the pandemic, the operationalization of the African Continental Free Trade Area that was initially scheduled for 1 July 2020 had to be postponed to January 2021.

17 A Witt "An island of internationalism: The African Union's fight against coronavirus" (7 April 2020, Peace Research Institute, Frankfurt), available at: <<https://blog.prif.org/2020/04/07/an-island-of-internationalism-the-african-unions-fight-against-corona/>> (last accessed 22 July 2021). See also A Medinilla, B Byiers and P Apiko "African

its continent-wide political leadership through policy articulation and convergence, but also as the much-needed light for internationalism, especially in an age when there is an increasing preference for unilateralism in global realpolitik.

It is against this background that this article discusses the AU's response to the COVID-19 pandemic and the implications of its response for the AU's supranational aspirations. The argument that this article seeks to make is that the AU's response thus far indicates the imperative of enhanced multilateralism and further provides a template for the AU to attain its aspirations of acquiring assertive, binding powers over its member states. In addressing this, the article starts with a discussion of the normative basis of the AU's coordinating powers, which are at the heart of the response to the pandemic in Africa, both at continental and sub-regional levels. This is followed by an overview of transnational approaches to the pandemic in Africa through continental and sub-regional initiatives, which are both operational and critical in the schematic combatting of COVID-19 in Africa as they collaborate on the harmonization of continental and sub-regional health objectives. This overview brings to the fore the important actions taken in preparation for COVID-19 as well as in response to the virus, with a view to showing the agency of African institutions, a factor that is yet to be given sufficient attention in legal literature. The article then examines how the AU can utilize the crisis as an opportunity for advancing its supranational ambitions as well as highlighting the possible challenges in this respect, before ending with a general conclusion.

THE NORMATIVE BASIS OF THE AU'S COORDINATING POWERS

Established in 2002, the AU replaced the Organisation of African Unity as the primary driver of the regional integration process on the continent. Composed of all 55 countries in Africa, making it the largest regional organization in the world, the AU is tasked with functions ranging from the promotion and protection of human rights, peace and security, trade, gender equality and the harmonization of laws and policies on the continent.¹⁸ While it remains an intergovernmental entity, with member states as the primary decision-makers and little or no transfer of power to its organs, it aspires to become a supranational authority. In this regard, the AU envisages a

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regional responses to COVID-19" (European Centre for Development Policy Management, discussion paper no 272, May 2020), available at: <<https://ecdpm.org/wp-content/uploads/African-regional-responses-COVID-19-discussion-paper-272-ECDPM.pdf>> (last accessed 22 May 2021); and U Owie and B Fagbayibo "The Africa Joint Continental Strategy for COVID-19 Outbreak, 5th March 2020" (Oxford International Organizations Headnotes no 168, May 2021), available at: <<https://opil.ouplaw.com/view/10.1093/law-oxio/e608.013.1/law-oxio-e608>> (last accessed 26 August 2021).

18 Constitutive Act of the AU, arts 3 and 4, available at: <https://au.int/sites/default/files/pages/34873-file-constitutiveact_en.pdf> (last accessed 22 July 2021).

normative regime where its organs are clothed with the powers to make binding laws for member states and enforce compliance with these norms. This point is apparent in both normative stipulations and ongoing reform efforts aimed at the institutional transformation of the organization.¹⁹

The basis of the AU's authority to act as a coordinating agency for the articulation and convergence of policy is normatively grounded in both hard and soft law. In terms of hard law, the starting point is the AU Constitutive Act (the Constitutive Act). The Constitutive Act provides both the institutional and normative frameworks through which the AU is expected to fulfil its coordinative intergovernmental functions. In terms of the institutional dimension, the AU Assembly (the Assembly) is at the apex of the decision-making matrix. The Assembly, composed of heads of state and government, is charged with the responsibility of determining the common policies of the AU as well as monitoring the implementation of the AU's policies and decisions and ensuring compliance by member states.²⁰ The Constitutive Act empowers the Assembly to create other organs,²¹ including the Africa CDC as a specialized technical institution of the AU to promote disease prevention and control in Africa.²² The AU Executive Council, composed of designated national ministers, is tasked with coordinating and taking decisions on policies in areas of common interest to member states.²³ The AU Commission is the designated "engine room" of the organization, and is responsible for initiating and implementing AU policies.²⁴

The Constitutive Act contains some of the normative stipulations affirming the AU's authority to coordinate policies on the continent. A number of stipulations are relevant in the context of the AU's response to the COVID-19 pandemic. These include objectives to: achieve greater unity and solidarity between the countries and peoples of Africa;²⁵ promote and defend African common positions on issues of interest;²⁶ coordinate the harmonization of the policies of regional economic communities (RECs) in Africa;²⁷ advance the promotion of research in science and technology;²⁸ work with international partners to eradicate preventable diseases and promote good

19 See, for example, B Fagbayibo "Looking back, thinking forward: Understanding the feasibility of normative supranationalism in the African Union" (2013) 20 *South African Journal of International Affairs* 411 at 414. See also AU "Overview of institutional reforms", available at: <<https://au.int/en/aureforms/overview>> (last accessed 22 July 2021).

20 Constitutive Act, art 9.

21 Id, art 9(d).

22 Statute of the Africa CDC, art 2(1), available at: <https://au.int/sites/default/files/documents/30730-doc-africa_centre_for_disease_control_validated_and_clean.pdf> (last accessed 22 July 2021).

23 Constitutive Act, art 10.

24 Id, art 20.

25 Id, art 3(a).

26 Id, art 3(d).

27 Id, art 3(l).

28 Id, art 3(m).

health in Africa;²⁹ and promote democratic principles and the rule of law.³⁰ The Constitutive Act also includes within its objectives the promotion and protection of human and peoples' rights,³¹ in respect of which the African Charter on Human and Peoples' Rights includes the right to the best attainable state of physical and mental health.³² Read together, these norms speak to developing a common agenda that drives meaningful and sustainable regionalism on the continent. In addition, these norms form the basis of the AU's policy and agenda-setting interventions in addressing the COVID-19 pandemic.

With regard to soft law, the AU Agenda 2063 serves as the flagship framework for repositioning the continent as a meaningful player on the global stage. Adopted in 2015, the AU Agenda 2063 outlines seven aspirational goals: a prosperous Africa based on inclusive growth and sustainable development; an integrated continent, politically united, based on the ideals of pan-Africanism and the vision of Africa's renaissance; an Africa of good governance, democracy, respect for human rights, justice and the rule of law; a peaceful and secure Africa; an Africa with strong cultural identity, common heritage, values and ethics; an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, to care for children; and an Africa as a strong, united and influential global player and partner.³³ Under the first and sixth aspirations, Africans will enjoy a high quality of life and sound health underpinned by the provision of quality health services and infrastructure.³⁴

Central to addressing the COVID-19 pandemic, the African Joint Continental Strategy for COVID-19 Outbreak (Joint Continental Strategy),³⁵ authored by the Africa CDC, is the key soft law document. Drawing from the norms contained in the Constitutive Act, the Joint Continental Strategy sets out the strategy for dealing with COVID-19 in Africa with twin goals: the prevention of severe illness and death; and the mitigation of social disruption and economic consequences of the virus. Achieving the stipulated goals is envisaged through a binary approach: the coordination of multi-level and multilateral collaborative efforts between the AU and its agencies, multilateral organizations,

29 Id, art 3(n).

30 Id, art 4(m).

31 Id, art 3(h).

32 African Charter on Human and Peoples' Rights, art 16, available at: <<https://au.int/en/treaties/african-charter-human-and-peoples-rights>> (last accessed 22 July 2021).

33 "Agenda 2063: The Africa we want" (2015, AU Commission) at 2, available at: <https://au.int/sites/default/files/documents/36204-doc-agenda2063_popular_version_en.pdf> (last accessed 22 July 2021).

34 Id at 3 and 10.

35 Available at: <https://au.int/sites/default/files/documents/38264-doc-africa_joint_continental_strategy_for_covid-19_outbreak.pdf> (last accessed 22 July 2021).

RECs, member states, private sector and other stakeholders to strengthen capacity to control the virus; and the promotion of evidence-based public health practice.

The promotion of evidence-based public health practice is geared towards: surveillance; quality-assured testing for the diagnosis of and research into COVID-19; implementation of evidence-based interventions to reduce transmission; strengthening healthcare preparedness and capacity to manage infections; risk communication and social engagement with relevant stakeholders; supply chain management; assessment and management of issues related to vulnerable African populations (for example, refugees and internally displaced persons); guiding ethical and legal issues (for example, quarantine, healthcare triage, travel and trade); and development of plans for the continuity of essential public health operations (for example, maternal child health programmes and immunization).

The Joint Continental Strategy also provides for its implementation through two major operational units: the Africa Task Force for Coronavirus (AFTCOR) and the Africa CDC's Incident Management System (IMS). The Africa CDC, through AFTCOR, is at the heart of the coordinative matrix for addressing the pandemic. The Africa CDC has regional collaborating centres in each of Africa's five RECs, which are responsible for implementing continent-wide public health strategies within member states' structures. AFTCOR draws upon these structures while focusing on six technical areas: surveillance; infection prevention and control; clinical management; laboratory diagnosis and subtyping; risk communications; and supply chain and medical commodities stockpiling. The IMS functions with the support of the African Volunteer Health Corps, which assists during public health emergencies.

AN OVERVIEW OF THE TRANSNATIONAL APPROACH TO COVID-19 IN AFRICA

Continental response

Although established in response to the Ebola outbreak in West Africa between 2014–16, recognition of the importance of establishing the Africa CDC predates that outbreak.³⁶ Endorsed in January 2015,³⁷ created in January 2016³⁸ and

36 Assembly/AU/Dec.499 (XXII), adopted at the 22nd ordinary session of the Assembly in January 2014, available at: <https://au.int/sites/default/files/decisions/9659-assembly_au_dec_490-516_xxii_e.pdf> (last accessed 22 July 2021). See also Statute of the Africa CDC, above at note 22, preamble.

37 Assembly/AU/Dec.554 (XXIV), adopted at the 24th ordinary session of the Assembly in January 2015, available at: <https://au.int/sites/default/files/decisions/9665-assembly_au_dec_546_-_568_xxiv_e.pdf> (last accessed 22 July 2021).

38 Assembly/AU/Dec.589 (XXVI), adopted at the 26th ordinary session of the Assembly in January 2016, para 2(vii), available at: <https://au.int/sites/default/files/decisions/29514-assembly_au_dec_588_-_604_xxvi_e.pdf> (last accessed 22 July 2021).

launched in January 2017,³⁹ the Africa CDC was put in place to ensure the establishment of early-warning and response surveillance to address health emergencies, support preparedness and response to public health emergencies, support member states' public health initiatives and strengthen capacity building of member states' public health institutions.⁴⁰ This set the stage for continental COVID-19 preparedness, which commenced as early as 27 January 2020 when the Africa CDC activated its Emergency Operations Center and IMS for the outbreak of COVID-19 and developed an incident action plan.⁴¹ By 3 February 2020, the Africa CDC had established AFTCOR,⁴² before a single COVID-19 case had been recorded on the continent. The AU summoned an emergency meeting of ministers of health of member states on 22 February 2020 where they began preparations for the development of a continental strategy.⁴³

Following the declaration by the WHO of the COVID-19 outbreak as a pandemic on 11 March 2020,⁴⁴ the AU swiftly swung into action by endorsing the Joint Continental Strategy, to be implemented through AFTCOR and the IMS.⁴⁵ This document provides for the coordination of public health efforts in partnership with AU member states, AU agencies, RECs and other international organizations. The Africa CDC's regional collaborating centres are designed to implement continent-wide public health strategies within member states' structures. AFTCOR draws upon these structures for: consensus building on technical and policy issues; coordination of data collection, analysis and sharing; transmission of critical information to key decision makers in member states; and identifying capacity building needs.⁴⁶

The Africa CDC established a Partnership on Accelerated COVID-19 Testing, targeted at accelerated testing for the virus in member states.⁴⁷ In addition to the public health measures taken, an AU COVID-19 Diagnostic Laboratory was inaugurated at its Pan African Veterinary Vaccine Centre and is mandated to carry out testing and conduct research on the development of a vaccine to

39 "Africa CDC official launch" (31 January 2017), available at: <<https://au.int/en/news-events/20170130/africa-cdc-official-launch>> (last accessed 22 July 2021).

40 Statute of the Africa CDC, above at note 22, art 3.

41 "Novel coronavirus (2019-nCoV) global epidemic" (AU / Africa CDC outbreak update, 3 March 2020), available at: <<https://africacdc.org/disease-outbreak/novel-coronavirus-2019-ncov-global-epidemic-3-march-2020/>> (last accessed 22 July 2021).

42 "Statement by the chairperson on preparedness and response to the coronavirus disease in Africa" (22 February 2020, AU), available at: <<https://au.int/en/pressreleases/20200222/statement-chairperson-preparedness-and-response-coronavirus-disease-africa>> (last accessed 22 July 2021).

43 Ibid.

44 "WHO director-general's opening remarks", above at note 2.

45 Joint Continental Strategy, above at note 35 at 3–6.

46 Ibid.

47 "Partnership to Accelerate COVID-19 Testing (PACT) in Africa: Social media materials", available at: <<https://africacdc.org/download/partnership-to-accelerate-covid-19-testing-pact-in-africa-social-media-materials/>> (last accessed 22 July 2021).

fight the virus.⁴⁸ On 9 July 2020, the Africa CDC Consortium for COVID-19 Vaccine Clinical Trial was established with the aim of securing late stage vaccine clinical trials in Africa and ensuring the effective roll out of vaccines by removing impediments to clinical trials.⁴⁹ To ensure that AU member states have efficient, cost-effective and transparent access to essential medical supplies, the AU chairperson, in liaison with the chairs of the African RECs, launched the Africa Medical Supplies Platform, as a “single online marketplace to enable the supply of COVID-19-related critical medical equipment in Africa”.⁵⁰

In line with the objectives of the Joint Continental Strategy, the Africa CDC hosts regular virtual meetings of health ministers of member states and weekly webinars with key governmental and non-governmental stakeholders, and also organized a global webinar with medical experts from Africa, China and elsewhere to exchange knowledge on the virus, foster proper risk communication and combat disinformation.⁵¹ In addition, it conducts regular training of medical and healthcare personnel, provides testing kits to laboratories in 48 African countries, and collaborates with private entities and the WHO in combatting the virus.⁵²

The AU has adopted a multi-sectoral approach in its continental response, recognizing that its response requires a whole-of-society approach in view of the pervasiveness of the virus. One of the AU’s initial interventions was the establishment of the African Coronavirus Fund by the Bureau of the AU Heads of State and Government, chaired by President Cyril Ramaphosa of South Africa, who was the chair of the Assembly in 2020; a decision to this effect was subsequently adopted by the Executive Council.⁵³ The fund is aimed at supporting a sustained health response, including the procurement

48 “African Union inaugurates COVID-19 diagnostic laboratory at their AU Pan African Veterinary Vaccine Centre” (AU press release, 8 May 2020), available at: <<https://au.int/en/pressreleases/20200508/african-union-inaugurates-covid-19-diagnostic-laboratory-their-au-pan-african>> (last accessed 22 July 2021).

49 “African Union Commission launches Consortium for COVID-19 Vaccine Clinical Trial” (AU press release, 9 July 2020), available at: <<https://africacdc.org/news-item/african-union-commission-launches-consortium-for-covid-19-vaccine-clinical-trial/>> (last accessed 22 July 2021).

50 “President Ramaphosa launches the Africa Medical Supplies Platform to help fight COVID-19 coronavirus pandemic” (19 June 2020, South African government), available at: <<https://www.gov.za/speeches/president-ramaphosa-launches-africa-medical-supplies-platform-help-fight-covid-19>> (last accessed 22 July 2021).

51 “Meeting of African ministers for agriculture: Declaration on food security and nutrition during the COVID-19 pandemic” (AU press release, 27 April 2020), available at: <<https://au.int/en/pressreleases/20200427/meeting-african-ministers-agriculture-declaration-food-security-and-nutrition>> (last accessed 22 July 2021).

52 AU Ordu “The coming of age of the Africa Centers for Disease Control” (15 April 2020), available at: <<https://www.brookings.edu/blog/africa-in-focus/2020/04/15/the-coming-of-age-of-the-africa-centers-for-disease-control/>> (last accessed 22 July 2021).

53 See “AU COVID-19 Response Fund”, available at: <<https://au.int/en/au-covid19-response-fund>> (last accessed 22 July 2021).

and distribution of essential medical equipment and supplies, boosting capacity of the Africa CDC; and mitigating the socio-economic and humanitarian impact of the virus on vulnerable African populations.⁵⁴ The bureau agreed that member states would contribute USD 12.5 million as seed funding, with the bureau member states (Mali, Kenya, Democratic Republic of the Congo and Egypt) agreeing to contribute USD 4.5 million of that amount.⁵⁵

With rising currency depreciation and the concomitant increase in debt service payments due to the pandemic and its negative implications for African economies, the AU sought external financial assistance to alleviate economic hardships on member states. Following the tasking by the G20 of its finance ministers and central bank governors to develop an action plan in response to the pandemic and liaise with international organizations to ensure swift and appropriate international financial assistance,⁵⁶ the then Assembly chairperson, President Cyril Ramaphosa, appointed four special envoys to mobilize international support for Africa to assist in mitigating the negative economic impact of the pandemic.⁵⁷ The special envoys are “tasked with soliciting rapid and concrete support as pledged by the G20, the European Union (EU) and other international financial institutions”.⁵⁸

The G20 endorsed an action plan calling for the swift implementation of a USD 200 billion emergency response package adopted by the World Bank and regional development banks, time-bound suspension of debt service payments for the poorest countries requesting forbearance, and enhanced coordination across all international organizations at multilateral, regional and country levels.⁵⁹ Similarly, the International Monetary Fund (IMF), through its Catastrophic Containment Relief Trust, has offered debt service relief for 25 eligible low-income countries, including 19 AU member states.⁶⁰ For its

54 Ibid.

55 “Communiqué of the Bureau” (26 March 2020), available at: <<https://au.int/en/pressreleases/20200326/communique-bureau-assembly-african-union-heads-state-and-government>> (last accessed 16 March 2021).

56 “Extraordinary G20 leaders’ summit statement on COVID-19” (2020) at 2, available at: <https://reliefweb.int/sites/reliefweb.int/files/resources/G20_Extraordinary%20G20%20Leaders%E2%80%99%20Summit_Statement_EN%20%283%29.pdf> (last accessed 12 August 2021).

57 “African Union chair President Cyril Ramaphosa appoints special envoys to mobilise international economic support for continental fight against COVID-19” (AU communiqué, 12 April 2020), available at: <<https://au.int/en/pressreleases/20200412/african-union-chair-president-cyril-ramaphosa-appoints-special-envoys>> (last accessed 22 July 2021).

58 Ibid.

59 “Communiqué: Virtual meeting of the G20 finance ministers and central bank governors meeting, Riyadh, Saudi Arabia” (15 April 2020) at 7, available at: <<http://www.g20.utoronto.ca/2020/2020-g20-finance-0415.html>> (last accessed 22 July 2021).

60 “IMF executive board approves immediate debt relief for 25 countries” (IMF press release no 20/151, 13 April 2020), available at: <<https://www.imf.org/en/News/Articles/2020/04/13/pr20151-imf-executive-board-approves-immediate-debt-relief-for-25-countries>> (last accessed 22 July 2021).

part, the African Development Bank (AfDB) unveiled a USD 10 billion COVID-19 rapid response facility to assist its regional member states in fighting the pandemic and protecting their private sector enterprises from the economic and social impact of the virus.⁶¹ The four special envoys to the AU, while welcoming these actions, have advocated an expansion of the eligibility requirement for the debt moratorium to African states like Algeria, Angola, Egypt, Libya, Morocco, South Africa and Tunisia (four of which are among the top five states most affected by the virus in Africa), which have a presumed ability to access market financing and were therefore excluded from the moratorium.⁶² Likewise they have called for the IMF to work with the AU to develop solutions that will guarantee debt sustainability and continued access to capital markets in the future for African states.⁶³

In implementing other sectoral strategies to combat the virus and mitigate its socio-economic impact, the AU developed an emergency, resilience and recovery action plan, which was adopted by the Bureau of African Energy Ministers in recognition of the pivotal role of the energy sector during the pandemic and in the post-pandemic recovery.⁶⁴ In view of its Continental Education Strategy,⁶⁵ the AU's education response to COVID-19 has included a partnership between its Specialized Technical Committee on Education, Science and Technology and Hewlett-Packard (HP), the technology giant.⁶⁶ This was aimed at ensuring accessible and continued learning for young people, as large number of students have not been receiving any form of schooling as a result of school closures introduced by lockdown measures to contain the virus.⁶⁷ Likewise, the AU International Center for Girls' and Women's Education in Africa has partnered with the UN Educational and Scientific Council Organization (UNESCO), Global Partnership for Education, civil society

61 "The African Development Bank Group's COVID-19 rapid response facility (CRF)" (21 April 2020), available at: <<https://www.afdb.org/en/documents/african-development-bank-groups-covid-19-rapid-response-facility-crf>> (last accessed 22 July 2021).

62 N Okonjo-Iweala et al "COVID-19 and debt standstill for Africa: The G-20's action is an important first step that must be complemented, scaled up and broadened" (18 April 2020), available at: <<https://www.brookings.edu/blog/africa-in-focus/2020/04/18/covid-19-and-debt-standstill-for-africa-the-g-20s-action-is-an-important-first-step-that-must-be-complemented-scaled-up-and-broadened/>> (last accessed 22 July 2021).

63 Ibid.

64 "African energy ministers agree on common strategy for COVID-19 response and recovery" (AU press release, 12 May 2020), available at: <<https://au.int/en/pressreleases/20200512/african-energy-ministers-agree-common-strategy-covid-19-response-and-recovery>> (last accessed 22 July 2021).

65 Assembly/AU/Dec.589 (XXVI), above at note 39, para 5.

66 "The African Union (AU) joins forces with HP Inc to expand digital learning opportunities for African youth" (AU press release, 4 May 2020), available at: <<https://au.int/en/pressreleases/20200504/african-union-au-joins-forces-hp-inc-expand-digital-learning-opportunities>> (last accessed 22 July 2021).

67 Ibid.

groups, and traditional and religious leaders with a view to addressing the impact of the virus on the education of girls and women in Africa.⁶⁸

The AU has also established the Taskforce on COVID-19 Impact on Food Security and Nutrition in Africa.⁶⁹ Composed of the AU Commission, AU Development Agency – New Partnership for Africa's Development, Food and Agriculture Organization, European Union Commission, World Bank and the AfDB, the taskforce was established to implement the recommendations adopted by the African ministers of agriculture on addressing problems of food security and nutrition as a result of the pandemic and the measures taken to control it.⁷⁰

Furthermore, the AU has entered into partnerships with private entities and corporations. One such is the partnering with the China-based Jack Ma Foundation and the Ali Baba Foundation, which has donated three consignments of personal protective equipment to the AU.⁷¹ The AU's response has also extended to the racist attacks and brutality meted to Africans in Guangdong province in China following the outbreak of COVID-19. The then deputy chairperson of the AU Commission, Kwesi Quartey, invited the Chinese ambassador to the AU, Liu Yuxi, to discuss the incidences of racism against Africans with a view to resolving them.⁷²

In addition, there is a dedicated up-to-date page on the AU website, which provides information on COVID-19, an emergency hotline, and continental documents and guidelines aimed at combatting the pandemic.⁷³ Similarly, the AU has fully explored social and popular media as channels for enhancing awareness and information on the virus, including the provision of daily updates on the number of infections, hospitalizations and deaths.⁷⁴

Critical to the achievement of the goals of the Joint Continental Strategy is the development and roll-out of a safe and efficacious COVID-19 vaccine in

68 See: "International Centre for Girls' and Women's Education in Africa" (AU press release, 26 January 2017), available at: <<https://au.int/en/pressreleases/20170126/international-centre-girls%E2%80%99-and-women%E2%80%99s-education-africa>> (last accessed 22 July 2021).

69 "1st meeting of the Taskforce on COVID-19 Impact on Food Security and Nutrition in Africa convened" (AU press release, 12 May 2020), available at: <<https://au.int/sw/node/38501>> (last accessed 22 July 2021).

70 Ibid.

71 "Receiving of 3rd consignment of medical supplies from Jack Ma Foundation" (29 April 2020), available at: <<https://au.int/pt/node/38422>> (last accessed 22 July 2021).

72 "Chinese ambassador meets the deputy chairperson over the attack of Africans in China" (AU press release, 13 April 2020), available at: <<https://au.int/en/pressreleases/20200413/chinese-ambassador-meets-deputy-chairperson-over-attack-africans-china>> (last accessed 22 April 2021).

73 See: "COVID-19", available at: <<https://au.int/en/covid19>> (last accessed 22 July 2021).

74 The Africa CDC is active on: Twitter at: <https://twitter.com/AfricaCDC?ref_src=twsrc%5Egoogle%7Ctwcamp%5Eserp%7Ctwgr%5Eauthor> (last accessed 22 July 2021); Facebook at: <<https://www.facebook.com/africacdc/>> (last accessed 22 July 2021); and Instagram at: <<https://www.instagram.com/cdcgov/?hl=en>> (last accessed 22 July 2021).

Africa. To this end, the Africa CDC developed a COVID-19 Vaccine Development and Access Strategy, which the AU Bureau of Heads of States and Governments endorsed on 20 August 2020. This strategy was geared towards accelerating African involvement in the clinical development of a vaccine, ensuring that African states can access a sufficient share of the global vaccine supply, and removing the barriers to widespread delivery and uptake of effective vaccines across the continent to achieve the goal of successfully immunizing a critical mass of the African population.⁷⁵ It sets out an implementation roadmap, at the heart of which are the AU and the Africa CDC as convenors and coordinators.⁷⁶ The African Vaccine Acquisition Task Team was subsequently established as a component to support the strategy.⁷⁷ Although the WHO and its partners established a global partnership (the Access to COVID-19 Tools Accelerator) with a vaccine arm (COVAX) to ensure fair and equitable access to vaccines for every country in the world, the COVAX facility can only provide vaccines to cover 20 per cent of the populations of lower-income countries.⁷⁸

With an African population of 1.3 billion and a projected cost of between USD 16 billion and USD 21 billion for the procurement and delivery of vaccines to 60 per cent of the population,⁷⁹ the AU has had to be innovative with its vaccine strategy. This is against the backdrop of the shortage in the global vaccine supply chain and the issue of “vaccine nationalism”, which has seen some high-income countries in the West with just 16 per cent of the world’s population buying 60 per cent of global vaccine supply, even as COVAX is struggling to buy enough doses to cover 20 per cent of the population of lower-income countries by the end of 2021.⁸⁰ The purchase of vaccines in excess of actual need is estimated at about 800 million doses, with another 1.4 billion in options,⁸¹ effectively locking up availability of vaccines as well as production capacity to meet demand, and placing Africa in a precarious position regarding the Joint Continental Strategy and the Vaccine Development and Access Strategy. Various other factors have also ensured disproportionate

75 See: “COVID-19 vaccine development and access strategy”, available at: <<https://africacdc.org/download/covid-19-vaccine-development-and-access-strategy/>> (last accessed 22 July 2021).

76 Ibid.

77 “Statement on AU vaccines financing strategy” (8 November 2020), available at: <<https://au.int/en/pressreleases/20201108/statement-au-vaccines-financing-strategy>> (last accessed 22 July 2021).

78 See: “COVAX”, available at: <<https://www.who.int/initiatives/act-accelerator/covax>> (last accessed 22 July 2021).

79 “COVID-19 vaccine development”, above at note 75 at 5.

80 TA Ghebreyesus “Vaccine nationalism harms everyone and protects no one” (2 February 2021), available at: <<https://foreignpolicy.com/2021/02/02/vaccine-nationalism-harms-everyone-and-protects-no-one/>> (last accessed 22 July 2021).

81 M Gaffas “COVAX offers hope of vaccine equality with roll out across Africa” (5 March 2021) *Cable News Network*, available at: <<https://www.cnn.com/2021/03/04/homepage2/covax-africa-rollout/index.html>> (last accessed 22 July 2021).

access to vaccine supply: the refusal to waive, even temporarily, some intellectual property rights on vaccines by vaccine makers, as advocated by India and South Africa before the World Trade Organization (WTO);⁸² the conclusion of bilateral agreements between high-income countries and vaccine makers, which are prioritized over low(er)-income countries due to high profit margins;⁸³ and recent indications that some high-income countries like Canada, Singapore and New Zealand may access COVAX vaccines.⁸⁴

On 14 January 2021, the AU announced that, through the African Vaccine Acquisition Task Team, it had secured a provisional 270 million doses of COVID-19 vaccine for Africa, and member states began to pre-order vaccines through the Africa Medical Supplies Platform. The African Export-Import (Afrexim) Bank provided procurement commitment guarantees of up to USD 2 billion to vaccine manufacturers on behalf of member states, to facilitate payment for the vaccines.⁸⁵ Despite condemnation of the hoarding of vaccines, calls for international solidarity in vaccine acquisition remain unheeded, a failure that the WHO has described as a “catastrophic moral failure” by high-income countries at the expense of low(er)-income countries.⁸⁶ The Africa CDC, on behalf of the AU, launched the Framework for Fair, Equitable and Timely Allocation of COVID-19 Vaccines in Africa, setting out African indigenous values of interrelatedness, interconnectedness and humaneness as well as the *ubuntu* philosophy of common humanity as its guiding principles for the distribution of vaccines.⁸⁷ The AU has recently backed the earlier call by India and South Africa to waive intellectual property

82 Both countries had asked that WTO members ensure that intellectual property rights (patents, industrial designs, copyright and protection of undisclosed information) do not inhibit timely access to medical products, including vaccines and medicines essential to combat COVID-19. See “Waiver from certain provisions of the TRIPS Agreement for the prevention, containment and treatment of COVID-19: Communication from India and South Africa” IP/C/W/669 (2 October 2020, WTO), para 3, available at: <<https://docs.wto.org/dol2fe/Pages/SS/directdoc.aspx?filename=q:/IP/C/W669.pdf&Open=True>> (last accessed 22 July 2021).

83 “WHO director-general’s opening remarks at the 148th session of the Executive Board” (18 January 2021), available at: <<https://www.who.int/director-general/speeches/detail/who-director-general-s-opening-remarks-at-148th-session-of-the-executive-board>> (last accessed 22 July 2021).

84 S Thambisetty “Vaccines and patents: How self-interest and artificial scarcity weaken human solidarity” (9 February 2021) *LSE British Politics and Policy*, available at: <<https://blogs.lse.ac.uk/politicsandpolicy/vaccines-and-patents/>> (last accessed 22 July 2021).

85 “AMSP opens COVID-19 vaccines pre-orders for 55 African Union member states” (AU / Africa CDC press release, 19 January 2021), available at: <<https://africacdc.org/news-item/amsp-opens-covid-19-vaccines-pre-orders-for-55-african-union-member-states/>> (last accessed 22 July 2021).

86 See “WHO director-general’s opening remarks”, above at note 83.

87 Africa CDC Framework for Fair, Equitable and Timely Allocation of COVID-19 Vaccines in Africa (31 January 2021) at 5–7, available at: <<https://africacdc.org/download/framework-for-fair-equitable-and-timely-allocation-of-covid-19-vaccines-in-africa/>> (last accessed 22 July 2021).

rights over COVID-19 vaccines and medicines, in an effort to bolster support for the proposal as well as ensure that countries stay “on the right side of history”.⁸⁸ The EU has been called upon to replicate this move, instead of its “barely credible” transparency and authorization mechanism for the export of COVID-19 vaccines.⁸⁹ Even as some AU member states have only recently received the first doses of vaccines through COVAX, while vaccinations are well underway in the rest of the world, the AU’s commitment to multilateralism and solidarity remains critical not only in its crafting of a continental response to the pandemic but also its implementation of policies in this regard.

Sub-regional responses

Critical to the regional integration project in Africa are the RECs, for which the Joint Continental Strategy envisaged, and indeed designed, an important role in combatting COVID-19. The constitutive instruments of the RECs authorize their: promotion of regional integration for the facilitation of, inter alia, the socio-economic development of their sub-regions based on the principles of solidarity and cooperation;⁹⁰ promotion and protection of human and peoples’ rights;⁹¹ development of policies and programmes for regional cooperation in the interests of the welfare of their citizens;⁹² coordination and harmonization of regional policies and programmes with continental ones;⁹³ as well as taking joint action for the prevention and control of communicable and non-communicable diseases, pandemics and epidemics.⁹⁴ These provisions provide the normative basis for initiatives and strategies for RECs to address COVID-19 at the sub-regional level, and for enhanced cooperation with AU organs, such as the Africa CDC, not only in crafting responses at

88 “African Union backs call to waive IP rights on COVID-19 drugs” (25 February 2021) *Reuters*, available at: <<https://www.reuters.com/article/uk-health-coronavirus-africa-idUSKBN2AP1D1>> (last accessed 22 July 2021).

89 Thambisetty “Vaccines and patents”, above at note 84. See also “Questions and answers: Transparency and authorisation mechanism for exports of COVID-19 vaccines”, available at: <https://ec.europa.eu/commission/presscorner/detail/en/qanda_21_308> (last accessed 22 July 2021); and O Okafor and J Gathii “The EU’s vaccine export controls negate its self-interest, international solidarity and international law” (18 February 2021) *AfronomicsLaw*, available at: <<https://www.afronomicslaw.org/category/analysis/eus-vaccine-export-controls-negate-its-self-interest-international-solidarity-and>> (last accessed 22 July 2021).

90 ECOWAS Treaty (1975) 14 *International Legal Materials* 1200, arts 3 and 4; Southern African Development Community (SADC) Treaty (1992) 32 *International Legal Materials* 116, arts 4 and 5; Treaty Establishing the East African Community (EAC) (2000), art 5.

91 Revised Treaty of ECOWAS (1993) 35 *International Legal Materials* 660, art 4(g); SADC Treaty, art 4; Treaty Establishing the EAC, art 6(d).

92 Revised Treaty of ECOWAS, art 4(b) and (c); SADC Treaty, arts 5 and 21; Treaty Establishing the EAC, art 5.

93 Revised Treaty of ECOWAS, art 78.

94 Treaty Establishing the EAC, art 118.

the continental level, but also in their implementation at the sub-regional and national levels.

The Economic Community of West African States (ECOWAS) remains one of the most active RECs in terms of policy response to COVID-19. Based on its experience dealing with the Ebola outbreak in 2014–16, ECOWAS put in place an early mechanism to prepare for COVID-19. As far back as 27 January 2020, the West African Health Organization (WAHO), ECOWAS's specialized health institution tasked with coordinating regional health initiatives, issued recommendations to ECOWAS member states concerning the novel coronavirus outbreak, well before the WHO determined the existence of a pandemic and even before the AU and Africa CDC activated a continental response.⁹⁵ It still maintains an information dashboard, monitoring infections, deaths and recoveries from the virus in West Africa.⁹⁶ The Regional Strategic Plan 2016–20 for West Africa stipulates the promotion and harmonization of health policies and programmes for WAHO, as well as strengthening strategic partnerships for health and building institutional capacity in priority areas, including disease control, epidemics and health emergencies.⁹⁷ Due to this, WAHO entered into a strategic partnership with UNESCO as it strove for solutions to strengthen national capacities to respond to the pandemic.⁹⁸ In addition, ECOWAS has provided funds for the procurement of medical supplies and equipment, including testing kits, protective personal equipment, medication and ventilators.⁹⁹ Furthermore, WAHO strengthens the capacity of medical, laboratory and technical personnel within member states and deploys epidemiological surveillance of the virus through its Regional Centre for Surveillance and Disease Control, which is central to the operational mechanism of the Africa CDC and the Joint Continental Strategy.¹⁰⁰ Equally as important in ECOWAS's response is the decision of the Authority of Heads of States and Governments jointly to develop a post-pandemic

95 “WAHO statement on the novel coronavirus outbreak in China” (ECOWAS press release, 27 January 2020), available at: <<https://www.ecowas.int/declaration-de-looas-sur-lepidemie-du-nouveau-coronavirus-en-chine/?lang=fr>> (last accessed 22 July 2021).

96 See “ECOWAS COVID-19 dashboard”, available at: <<https://data.wahooas.org/outbreaks/#/>> (last accessed 22 July 2021).

97 WAHO “Strategic plan 2016–2020”, available at: <https://www.wahooas.org/web-ooas/sites/default/files/publications/1084/VERSION_ANGLAISE_CORRIGEE.pdf> (last accessed 22 July 2021).

98 “ECOWAS and UNESCO sign joint statement on the response to COVID-19 in West African countries” (3 July 2020), available at: <<https://en.unesco.org/news/economic-community-west-african-states-ecowas-and-unesco-sign-joint-statement-response-covid-19>> (last accessed 22 July 2021).

99 “ECOWAS communiqué no 2 of 6 April 2020 on the fight against the coronavirus disease” (2020), available at: <https://www.ecowas.int/wp-content/uploads/2020/04/uk_Communique%CC%81-n%C2%B02_COVID19.pdf> (last accessed 22 July 2021).

100 Ibid.

economic recovery plan.¹⁰¹ The plan includes measures such as: issuing long-term treasury bills and bonds to finance critical investment needs to support the private sector and revive economies; providing substantial support to various social sectors and for the most disadvantaged segments of society; deploying financial tools and means through central banks to support the financial sector, and assist small and medium-scale enterprises; and implementing urgent measures to support the production of consumer products including agricultural products.¹⁰² It is important to emphasize that two ECOWAS member states, Ghana and Senegal, have been commended for providing continental leadership in the development of affordable and effective rapid testing for coronavirus.¹⁰³

On 30 March 2020, the Intergovernmental Authority on Development (IGAD) adopted a declaration in response to COVID-19. In it, IGAD resolved to formulate a comprehensive regional response strategy, called upon the international community to adopt a globally coordinated approach to the pandemic, and requested international financial institutions and other strategic partners to implement debt relief and cancellation, and provide financial assistance and concessionary loans to member states to enable them to combat COVID-19 effectively.¹⁰⁴ As a result, IGAD finance ministers committed to making available funds for disease surveillance, medical supplies, the establishment of a sustainable emergency fund for COVID-19 and other disease outbreaks, as well as undertaking other initiatives to mitigate the socio-economic impact of the virus. This included supporting member states including Sudan, South Sudan and Somalia to access funds from international financial institutions with which they have no direct relations or where they lack the capacity to implement projects.¹⁰⁵ IGAD has donated medical supplies to its member states,¹⁰⁶ and has also partnered with the EU and the UN Office for Project

101 “Extraordinary session of the ECOWAS Authority of Heads of State and Government (video conference, 23 April 2020): Final communiqué”, para 14(B), available at: <https://www.ecowas.int/wp-content/uploads/2020/04/uk2020-04-23-Communique%CC%81_Extraordinary_Summit_Coronavirus_V2-1.pdf> (last accessed 22 July 2021).

102 Ibid.

103 T Adkins and J Smith “Will COVID-19 kill democracy?” (18 September 2020) *Foreign Policy Magazine*, available at: <<https://foreignpolicy.com/2020/09/18/will-covid-19-kill-democracy/>> (last accessed 22 July 2021).

104 “IGAD Heads of State and Government declaration on the coronavirus (COVID-19) pandemic” (30 March 2020), available at: <<https://igad.int/attachments/article/2400/Final%20Declaration%20on%20the%20IGAD%20Response%20to%20COVID-19%20Pandemic.pdf>> (last accessed 22 July 2021).

105 “Call for action: IGAD ministers of finance meeting on response to the COVID-19 pandemic”, available at: <[https://igad.int/attachments/article/2406/Call%20for%20Action%20on%20COVID-19%20-%20IGAD%20for%20Ministers%20of%20Finance%20\(1\).pdf](https://igad.int/attachments/article/2406/Call%20for%20Action%20on%20COVID-19%20-%20IGAD%20for%20Ministers%20of%20Finance%20(1).pdf)> (last accessed 22 July 2021).

106 “Ethiopia receives in-kind support of personal protect equipment” (15 May 2020), available at: <<https://igad.int/coronavirus/2425-ethiopia-receives-in-kind-support-of-personal-protect-equipment>> (last accessed 22 May 2021).

Services to receive medical supplies and equipment as part of an EU response to the health and socio-economic impacts of COVID-19 in the IGAD region.¹⁰⁷

In its Regional Response to the COVID-19 Pandemic of 15 April 2020, the Southern African Development Community (SADC) undertook regional measures. These included: coordinated interventions in disaster management; re-establishing and expanding the Technical Committee for Coordinating and Monitoring the Implementation of the SADC Protocol on Health; pandemic containment and socio-economic impact mitigation through multilateral partnerships, including with the AfDB and the German government to acquire essential medical supplies and equipment, as well as with UNESCO to support the education sector; implementing pooled procurement services for pharmaceutical and medical supplies; adopting Guidelines on Harmonization and Facilitation of Cross-Border Transport Operations across the SADC region during COVID-19; and introducing a regional status report on COVID-19.¹⁰⁸ With SADC's support, the UN negotiated a humanitarian corridor in southern Africa to facilitate the distribution of food aid as a result of food shortages in the sub-region.¹⁰⁹

The health ministers of the East African Community (EAC) and ministers responsible for EAC affairs met on 25 March 2020 to deliberate a joint response to COVID-19,¹¹⁰ following which the EAC adopted a COVID-19 response plan aimed at a coordinated regional response and mechanism to combat the virus while minimizing infections, morbidity, mortality and the socio-economic impact of the pandemic.¹¹¹ The EAC ad hoc Regional Coordination Committee was re-purposed as the Regional Task Force on COVID-19 to manage the response.¹¹² Through its response plan, the EAC plans key interventions in COVID-19 monitoring, including: fast-tracking the implementation of a digital COVID-19 surveillance tracker tool to facilitate contract tracing and information exchange within the region; risk communication through developing and sharing guidelines, access to medical equipment and supplies, including testing kits, as well as procuring mobile

107 "First batch of EU support against COVID-19 reaches IGAD" (31 August 2020), available at: <<https://igad.int/coronavirus/2501-first-batch-of-eu-support-against-covid-19-reaches-igad-2>> (last accessed 22 July 2021).

108 "SADC regional response to COVID-19 pandemic" (April 2020), available at: <https://www.sadc.int/files/9115/8697/9635/SADC_regional_response_to_COVID-19.pdf> (last accessed 22 July 2021).

109 K Nash "Responses by African intergovernmental organizations to COVID-19" (3 July 2020) *COVID-19 Perspectives* (University of Edinburgh), available at: <<https://blogs.ed.ac.uk/covid19perspectives/2020/07/03/responses-by-african-intergovernmental-organisations-to-covid-19-by-kathryn-nash/>> (last accessed 22 July 2021).

110 "EAC unveils COVID-19 response plan" (30 April 2020), available at: <<https://www.eac.int/press-releases/147-health/1721-eac-unveils-covid-19-response-plan>> (last accessed 22 July 2021).

111 "EAC COVID-19 response plan" (2020) at 7–8, available at: <<https://www.eac.int/coronavirus>> (last accessed 22 July 2021).

112 Id at 9.

laboratories capable of diagnosing Ebola and COVID-19 for distribution to partner states; and regional capacity development.¹¹³

For its part, the Economic Community of Central African States adopted a regional response strategy to COVID-19 during a high-level meeting on 3–4 June 2020. This strategy aimed at preventing the spread of the virus, minimizing the death rate and managing infections, mitigating the socio-economic impact of the pandemic; and addressing cross-border security issues resulting from the pandemic.¹¹⁴

This overview of continental and sub-regional responses to the pandemic shows considerable preparedness that must be factored into the discourse on COVID-19 in Africa, as exemplifying much needed multilateralism and solidarity in the critical times and circumstances introduced by the pandemic. Through the regional collaborating centres, as well as in their various and varied responses to COVID-19 and their role in synergizing sub-regional and continental health, the RECs form a key part of the continental response under the Joint Continental Strategy. Critical as the sub-regional responses are, some limitations are notable. The impact of the sub-regional responses, although it is still too early to make a definitive call one way or the other, remains open because their results are somewhat mixed. ECOWAS,¹¹⁵ SADC¹¹⁶ and the AU¹¹⁷ have recognized the imperative for better harmonization and coordination between sub-regional initiatives and continental initiatives for a cohesive response in Africa. Unlike the AU, the adequacy of the communication of strategies by the RECs remains doubtful. Institutional crises within some RECs undermine their cooperative stability, as is evident in the Economic Community of Central African States, which is currently undergoing reform having adopted instruments of institutional reform in December 2019.¹¹⁸ Likewise, there are additional problems of the AU deferring to continental initiatives without replicating critical efforts, such as: creating

113 Id at 12.

114 “COVID-19 pandemic compounding grave security, development challenges in Central Africa, special representative tells Security Council, pointing to 22,000 confirmed cases” (UN Security Council press release, 12 June 2020), available at: <<https://www.un.org/press/en/2020/sc14212.doc.htm>> (last accessed 22 July 2021).

115 See Revised Treaty of ECOWAS, para 14(A)(i) and (B)(vi).

116 “Outcome of SADC Council of Ministers virtual meeting held on 29th May 2020”, para 6, available at: <<https://www.tralac.org/documents/resources/covid-19/regional/3631-outcome-of-sadc-council-of-ministers-virtual-meeting-29-may-2020/file.html>> (last accessed 22 July 2021).

117 *The Status of Regional Integration in Africa: Advancing Intra-African Trade for Post-COVID Recovery* (AU integration report, December 2020) at 16, available at: <<https://au.int/sites/default/files/documents/40071-doc-africanintegrationreport-englishjan28.pdf>> (last accessed 22 July 2021).

118 “Statement by the special representative of the secretary-general for Central Africa and head of the United Nations Office for Central Africa, François Louncény Fall, 17 June 2020”, available at: <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/s_2020_542.pdf> (last accessed 22 July 2021).

special funds at the sub-regional level for combating the virus;¹¹⁹ non-compliance with regional COVID-19 plans including unilateral measures by some national governments and even delayed national measures; funding challenges by the RECs and insufficient resources to implement and coordinate responses; and political instability as a result of armed conflicts, especially in Central Africa, as well as the political crisis caused by a recent military coup d'état in Mali and the death of the president of Burundi.¹²⁰ There is also the absence of regional and national leadership, as shown in the case of the late President John Magufuli of Tanzania, who was also the chair of SADC, regarding his scepticism and denial of the virus's existence,¹²¹ or even President Muhammadu Buhari of Nigeria. The latter (although appointed by the ECOWAS Authority of Heads of State and Governments as the "champion" to coordinate the COVID-19 response and eradication process at the sub-regional level)¹²² has failed to show the necessary cogency or leadership in addressing the pandemic at the national level; this is evident in the misappropriation by government officials of palliatives meant to mitigate the economic hardship of the pandemic, as shown to the world during the "#EndSARS" protests against police brutality and bad leadership.¹²³ Nevertheless, the AU can leverage these continental and sub-regional initiatives for multiple goals beyond combatting the pandemic.

THE PROSPECT OF UTILIZING THE AU'S RESPONSE TO COVID-19 AS A TEMPLATE FOR ACHIEVING ITS SUPRANATIONAL ASPIRATIONS

Rationale

The way in which the AU has responded to the COVID-19 pandemic so far has been commendable. Despite its many challenges, the AU has been able to craft a sound continental response strategy that is matched by concomitant policy actions and processes. Such a positive response raises a further question, one that is at the heart of this article: could this serve as a window of opportunity for creating the template for the AU to achieve its supranational aspirations? In his analysis of the role of the Africa CDC in coordinating the response to COVID-19, Engel argued that this action is an important investment in region-building, especially through the implementation of a "strategy of creating

119 L Louw-Vaudran and M Diatta "How have Africa's regions fared in tackling COVID-19?" (8 July 2020, Institute for Security Studies), available at: <<https://issafrica.org/iss-today/how-have-africas-regions-fared-in-tackling-covid-19>> (last accessed 22 July 2021).

120 Ibid.

121 Ibid.

122 See "ECOWAS communiqué no 2", above at note 99, para 16.

123 N Orjinmo "Why Nigerian looters are targeting COVID-19 aid" (26 October 2020) BBC News, available at <<https://www.bbc.com/news/world-africa-54695568>> (last accessed 22 July 2021).

hubs and spokes in the African regions”.¹²⁴ The implication of this is that strategies employed by the Africa CDC, and the AU, during this period provide processual experiences that can be further explored in not only recognizing the imperative of enhanced regionalism but also understanding the dynamics of putting in place supranational measures for regional integration in Africa.

The concept of supranationalism denotes the existence of the competence of regional institutions to exercise binding powers over their member states.¹²⁵ Weiler identified two elements of supranationalism: normative and decisional.¹²⁶ Normative supranationalism speaks to the ability of an organization to make norms that: have direct effect in member states; are superior to the laws of member states; and pre-empt member states from making contradictory norms.¹²⁷ Decisional supranationalism denotes the existence of an arrangement where norms are arrived at through a majority voting system rather than consensus among member states.¹²⁸ Similarly, Pescatore noted that a supranational arrangement is composed of the following: recognition of common values and interests; the creation of an effective power; and the autonomy of such powers.¹²⁹ Theorists have argued that the absence of these elements, particularly the enactment and enforcement of binding powers, implies that such an organization is a mere inter-governmental entity, which only exists as a platform for interaction among member states.¹³⁰ The AU is one such example of an inter-governmental organization, albeit with aspirations of becoming a supranational organization.¹³¹ The Assembly, an archetypical intergovernmental structure, remains

124 U Engel “Public health policies beyond the state: A socio-spatial analysis of early responses to COVID-19 in Africa” (Recent Globe working paper series no 41, 2020) at 17, available at: <https://www.uni-leipzig.de/fileadmin/Einrichtung_ReCentGlobe/WP41_EngelPublic_Health_Policies_beyond_the_State_200605.pdf> (last accessed 22 July 2021).

125 Rosamond defines supranationalism as “the development of authoritative institutions and network of policy-making activity above the nation state”: B Rosamond *Theories of European Integration* (2000, Palgrave Macmillan) at 204. Similarly, Haas describes the idea as “the existence of governmental authorities closer to the archetype of federation than any past international organization but not yet identical with it”: B Haas *The Uniting of Europe: Political, Social, And Economic Forces 1950–1957* (1958, Stanford University Press) at 59.

126 J Weiler “The community system: The dual character of supranationalism” (1981) 1 *Yearbook of European Law* 267 at 271.

127 Ibid.

128 Id at 271 and 281.

129 See P Pescatore *The Law of Integration* (1974, Sijthoff) at 51–52.

130 H Schemmmer and N Blokker *International Institutional Law* (1995, Martinus Nijhoff) at 40.

131 Fagbayibo “Looking back, thinking forward”, above at note 19 at 414. For an analysis of the challenges of supranational attempts in post-colonial Africa, see B Fagbayibo “Common problems affecting supranational attempts in Africa: An analytical overview” (2013) 16 *Potchefstroom Electronic Law Journal* 31.

the organization's apex decision-making authority, with structures such as the AU Commission, the proposed African Court of Justice and Human Rights, and the Pan-African Parliament lacking meaningful powers to make norms and / or enforce their decisions.¹³²

This idea of linking the AU's response to COVID-19 and its supranational ambitions is predicated on four factors. One is the extent to which the AU has displayed progressive internationalism, especially amid the increasing deficit of multilateralism in global realpolitik. Witt described the AU's actions regarding COVID-19 as "a rare case of internationalism: it has played an important role in providing coordination, expertise and technical support to its member states, engaging in advocacy, and mobilizing resources".¹³³ This contrasts with the situation in Europe and the USA, where populist politics and an increasing sense of nationalism have ensured a retreat from international cooperation and attacks on multilateral institutions. For example, former US President Donald Trump accused the WHO of mismanaging and covering up the spread of COVID-19 and, pending a review, halted funding that was critical to the organization's functioning, especially in the midst of the current pandemic.¹³⁴ Secondly, the swiftness of the AU's action to address the pandemic speaks to the expected kind of urgency needed for reforming and enhancing its powers to coordinate policies and norms. Thirdly, the level of agency and ownership of initiatives and process displayed through the AU chairperson, the AU Commission, and the Africa CDC in engaging member states, the private sector and international partners speak to the possibility of activating the requisite political will for advancing and deepening continental regionalism. Lastly is the optics of this process, especially as it relates to the AU's legitimacy as the primary driver of regional integration in Africa, and the platform from which external actors can meaningfully engage the continent.

These factors jointly provide an avenue for rethinking the lethargic approach to endowing the AU with supranational powers and exploring feasible and meaningful ways to achieve this goal. The AU's ongoing institutional reforms have borne some results. These include: financing the AU through a 0.2 per cent tax levy on eligible imports into member states; the decision to reduce the number of AU Commission portfolios from eight to six; and the adoption and entry into force of the agreement establishing the African

132 Ibid.

133 Witt "An island of internationalism", above at note 17.

134 "Coronavirus: US to halt funding to WHO, says Trump" (15 April 2020) *BBC*, available at: <<https://www.bbc.com/news/world-us-canada-52289056>> (last accessed 22 July 2021). This position was reversed by new President Joe Biden. See "Biden to reengage with World Health Organization, will join global vaccine effort" (21 January 2021) *Washington Post*, available at: <https://www.washingtonpost.com/world/biden-administration-who-covax/2021/01/20/3ddc25ce-5a8c-11eb-aaad-93988621dd28_story.html> (last accessed 22 July 2021).

Continental Free Trade Area.¹³⁵ However, not much has been achieved to ensure that member states comply with AU democratic norms or to transfer meaningful binding powers to institutions such as the Pan-African Parliament and AU Commission.¹³⁶

The AU's coordinating strategies in combatting the COVID-19 pandemic present instructive pointers for crafting a feasible template for broader supra-national ambitions. As already noted above, four key issues are relevant in this regard: progressive internationalism; swiftness of action; agency and ownership of the process; and legitimacy. These factors should be adopted and adapted to ongoing normative processes of transforming the AU. The engagement with relevant stakeholders in the process of enhancing the AU's powers must be informed by ideas that indicate the necessity of urgency, continued and sustained engagement, transparency of activities, and the understanding that context matters in policy formulation and implementation. It also shows the importance of prioritizing multi-sectoral and intersectional approaches in addressing critical issues. The successes of the Africa CDC, in its first three years of existence and despite its many challenges, reflect the possibility of effectiveness on the part of regional institutions once the necessary political will exists. This also shows the efficacy of soft law in achieving the objectives of coordinating policies and norms. Similarly, the sustained interaction among key AU actors and civil society in strengthening intervention strategies and exploring possible means of improvement underline the much-needed cooperation in advancing the cause of regional integration. The recognition of the AU's efforts by external actors further enhances its legitimacy and the possibility of its capacity to act as the continent's voice on the global stage.

Challenges and prospects

Before considering the methods of adapting the lessons from the AU's approach to addressing the COVID-19 pandemic, it is first imperative to consider the possible normative challenges in this respect. The first is the absence of a normative framework regulating relations between the AU and RECs. Although a framework was adopted in 2007,¹³⁷ it never came into force. This led to a new draft protocol that is also yet to come into effect.¹³⁸ This

135 "Statement by President Paul Kagame: Overview of the implementation of the institutional reform of the AU" (9 February 2020), available at: <<https://au.int/en/speeches/20200209/statement-president-paul-kagame-overview-implementation-institutional-refo-rm-au>> (last accessed 22 July 2021).

136 Fagbayibo "Looking back, thinking forward", above at note 19 at 415.

137 Protocol on Relations between the African Union and the Regional Economic Communities (RECs) (2007), available at: <https://archives.au.int/bitstream/handle/123456789/1621/Protocol_Relations_AU_RECs_E.pdf?sequence=1&isAllowed=y> (last accessed 22 July 2021).

138 "Defining AU-REC relations is still a work in progress" (1 August 2019, Institute of Security Studies), available at: <<https://issafrica.org/pscreport/psc-insights/defining-aurec-relations-is-still-a-work-in-progress>> (last accessed 22 July 2021).

normative gap means that there is no clarity in terms of division of labour and functions between the AU and the RECs, exacerbating their inability to coordinate policies and strategies effectively around regional integration. The existence of such a normative framework would have provided the Africa CDC with an easier task of ensuring compliance from the RECs, as well as enhanced synergy with them, in terms of combatting the pandemic. As Medinilla et al pointed out, the lack of a clearly articulated framework complicates the ability of the AU and the Africa CDC to harmonize and coordinate efficiently the allocation of funds for addressing COVID-19.¹³⁹ This is further complicated by the fact that the AU lacks assertive, supranational powers to ensure that member states comply with its norms. Unfortunately, the Joint Continental Strategy is not clear as to the specifics of the mode of the institutional synergy and coordination that it clearly envisages, and this compromises the implementation of the strategy and continental initiatives in response to COVID-19. This point is evident in the AU's inability to apply punitive measures against member states that have violated, and continue to violate, the Africa CDC guidelines on handling the pandemic.

Another challenge is that some AU member states have refused to comply with the continental agenda on social distancing, reporting of infections, closing airspace and respect for fundamental human rights.¹⁴⁰ Countries such as Burundi, Cameroon, the Democratic Republic of the Congo, Eritrea, Madagascar, South Sudan, Somalia and Zimbabwe have been mentioned as non-compliant in this regard.¹⁴¹ In Tanzania, the government suspended a journalist for six months for reporting on COVID-19 and introduced laws restricting freedom of expression and media rights.¹⁴² Similarly, in Zimbabwe, the government has used the pandemic as a pretext for preventing protests and many activists have been unlawfully arrested.¹⁴³ The Africa CDC criticized the Burundian government for expelling WHO officials who highlighted that crowded election rallies could spread the virus.¹⁴⁴ The suppression of fundamental rights undercuts AU norms of democratic governance, and further enhances the possibility of political instability and conflicts in member states.

The third challenge is that both the AU and the Africa CDC are hampered by limited human and financial resources for effectively combatting the virus. Although the AU has been proactive in setting up funding structures for the Africa CDC and its activities, the agency still relies extensively on external

139 Medinilla et al "African regional responses", above at note 17 at 9.

140 A Adeoye, A Allison, A Atabong and A Brima "Crisis, what crisis? How not to handle a pandemic" (27 April 2020) *Mail & Guardian*, available at: <<https://mg.co.za/africa/2020-04-27-crisis-what-crisis-how-not-to-handle-a-pandemic/>> (last accessed 22 July 2021).

141 Ibid.

142 Adkins and Smith "Will COVID-19 kill democracy?", above at note 103.

143 Ibid.

144 P Fabricius "Africa CDC head rebukes Burundi for expelling WHO" (15 May 2020) *Daily Maverick*, available at: <<https://www.dailymaverick.co.za/article/2020-05-15-africa-cdc-head-rebukes-burundi-for-expelling-who/#gsc.tab=0>> (last accessed 22 July 2021).

funding.¹⁴⁵ Such reliance exposes organizational activities to fluctuations, as donors may choose to decrease or completely stop the channelling of funds. Furthermore, it raises a significant question regarding the genuineness of African agency, especially its oft-mentioned mantra of “African solutions to African problems”.

Lastly is the inadequacy of national health systems and the insufficiency of public health assets. This puts a strain on the ability to address the pandemic and other critical diseases effectively and efficiently. The health system in many African countries is affected by a combination of low access, chronic underfunding, lack of personnel, and the poor maintenance and / or lack of healthcare system infrastructure.¹⁴⁶ While corruption, mismanagement and lack of political will remain key reasons behind this, a recent analysis by the Jubilee Debt Campaign showed how certain African countries end up spending more on debt repayments than on health.¹⁴⁷ The breakdown shows that, in 2019: The Gambia spent 4 per cent of government revenue on health as opposed to 38 per cent on servicing external debt; the Republic of Congo spent 6 per cent on health and 37.3 per cent on servicing external debt; Ghana spent 10.8 per cent on health and 39.1 per cent on servicing external debt; Zambia spent 8.8 per cent on health and 32.6 per cent on servicing external debt; and Cameroon spent 3.2 per cent on health and 23.8 per cent on servicing external debt.¹⁴⁸

These challenges are part of the systemic issues undermining the AU's capacity adequately to address regional integration and governance. As already mentioned in this section, these challenges have spurred reform efforts in the AU. While these reform efforts are still at an embryonic stage, it is argued that the way in which the AU has displayed assertiveness in combatting COVID-19 can serve as a guideline for achieving its core objectives. In this respect, the discussion below teases out the normative issues that should inform this process. Three normative zones of engagement are considered: a strategic approach to subsidiarity; measurability of actions and standards; and the flexibility of implementation. It is crucial to emphasize that, while a broader supranational role for the AU remains the ideal goal, there is a

145 Medinilla et al “African regional responses”, above at note 17 at 9. See also Witt “An island of internationalism”, above at note 17. The director of the Africa CDC, John Nkengasong, has also highlighted the acute shortage of human and material resources needed to combat the pandemic. He noted that the continent needs 6,000 epidemiologists but only 1,900 are available. He further noted that, while the continent requires 25,000 frontline responders, only 5,000 are available. See A Adeoye “Africa’s leaders have left us at the mercy of the West on vaccines” (29 March 2021) *Mail & Guardian*, available at: <<https://mg.co.za/africa/2021-03-29-africas-leaders-have-left-us-at-the-mercy-of-the-west-on-vaccines/>> (last accessed 22 July 2021).

146 Medinilla et al, id at 3. See also Adeoye, *ibid*.

147 “Sixty-four countries spend more on debt payments than health” (12 April 2020, Jubilee Debt Campaign), available at: <<https://jubileedebt.org.uk/press-release/sixty-four-countries-spend-more-on-debt-payments-than-health>> (last accessed 22 July 2021).

148 *Ibid*.

need to consider the pragmatic value of first applying these three approaches to discrete policy areas. The reason for this is two-fold. First that a wholesale, blanket approach to supranationalizing the organization may engender significant push-back from member states. Secondly that the strategic application of supranational measures to specific areas can serve as a useful lesson for expanding policy methods to other integration objectives.

As just shown, the AU currently lacks a binding framework for delineating the RECs' functions and coordinating their activities. Despite this gap, the work of the Africa CDC reveals the importance of the multidimensionality of strategies in achieving the AU's supranational ambitions. In this respect, the work of the Africa CDC has been enhanced by soft law documents such as the Joint Continental Strategy, active support of the Assembly chair, and the use of technology in coordinating strategies and responses of both governmental and non-governmental activities in confronting the coronavirus pandemic. These multiple strategies speak to the centring of pragmatism in carefully achieving outlined targets. The issue here is that, even if the normative document on relations between the AU and RECs eventually becomes operational, the feasibility of its effective implementation will have to rely on similar factors that have enhanced the work of the Africa CDC. Similarly, other elements of the AU's supranational focus, such as free trade, free movement, and endowing the Pan-African Parliament with meaningful legislative powers, all require a combination of approaches that balance state-centric realities with the exigencies of supranationalism.

The second point in this regard is the measurability of actions and standards. Through the constant provision of updates on infection figures, intervention methodologies and guidelines to RECs and member states, the Africa CDC provides an important template for the facilitatory role of regional organs in the supranationalism matrix. Such meticulous monitoring and evaluation of practices provides valuable raw material for the design of feasible implementation frameworks. It is important to emphasize that the data gathered on how member states are complying with, or diverging from, the Africa CDC guidelines further illuminates the compliance behaviour of member states to organizational norms. As Adkins and Smith noted, Tanzania's response to the pandemic has shown the inextricable link between "secrecy around COVID-19 infections and poor governance".¹⁴⁹ Similarly, the commendable actions of Ghana and Senegal are in tandem with the democratic milieu of both countries.¹⁵⁰

The last point is the flexibility of implementation. Flexibility arrangements ensure that member states that are willing and able to advance with integration programmes, despite limiting normative stipulations, can proceed at a quicker pace.¹⁵¹ This approach recognizes that, while member states may

149 Adkins and Smith "Will COVID-19 kill democracy?", above at note 103.

150 Ibid.

151 See for example, D Naurine and R Lindahl "Out in the cold? Flexible integration and the politics of Euro optouts" (2010) 11 *European Union Politics* 485 at 486.

have a similar ideology on integration objectives, the approaches to achieving such common objectives differ, and thus implementation requires some bespoke normative frameworks. By providing guidelines to member states and RECs, without prescribing the implementation approach, the Africa CDC lends credence to this approach, and points to the practicalities of its utilization as a tool for fast-tracking continental integration. In this respect, the way in which some member states have responded to the Africa CDC's guidelines could serve as an indication of some form of shared vision on compliance. In the same vein, it could also expose the reasons behind non-compliance and the interventions needed in this respect.

CONCLUSION

Established as a pan-African construct for economic and political integration, the AU has been a solid expression of continental solidarity and policy coherence, especially in its response to COVID-19. Despite its many challenges, the AU has proved to be an effective case study for progressive internationalism in a world that is currently experiencing increasing nationalism. The negative impact of the COVID-19 pandemic on public health, political rights and socio-economic conditions has highlighted the importance of a multi-sectoral approach to addressing it. The AU's positive multi-pronged response to the crisis has shown its potential to be a major platform for coordinating actions for enhanced cooperation and regionalism on the continent, thus providing a template for enhancing the AU's powers. The AU's intervention shows four key factors that are necessary for enhancing its powers: progressive internationalism; swiftness of action; agency and ownership of the process; and legitimacy. These four factors should be adopted and adapted to ongoing processes to transform the AU. Indeed, the AU cannot afford to waste the lessons learned from, and opportunity created by, the current pandemic, which it can leverage to enhance its powers and achieve its aspirations.

CONFLICTS OF INTEREST

None