
Great Socialist People's Libyan Arab Jamahiriya

General People's Committee for the Authority of Inspection and People's Control

For Building a control Instrumentality Supporting the African Union

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Ombudsmen, Mediators and Controllers
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By
Albadri Amer Dozan

Introduction

We all know that the establishment of the organization of African Unity (OAU) in 1963 was due to necessities dictated by that epoch of the history of this continent, where its legitimacy was built on liquidating the inheritance of the European colonization to the continent, completion of political and economic independence and strengthening cooperation between African countries in such manner that would achieve integration among them.

Therefore authorities and institutions necessary for realizing such objectives were created and several summits and conferences were held and which succeeded in what God permitted success and encountered numerous obstacles and challenges. The member states of OAU amounted to (53).

With entry of the continent and the whole world into a new epoch represented in globalization of the economy, the American mono-pole, American – Chinese – French competition on the capabilities of the continent and with emergence of issues of human rights and democracy, proper organization of political and economic affairs and technological and information advancement, a group of wise men of this continent considered the (OAU) was no longer the framework that could realize the objectives of this continent and push it forward.

The Brother Leader of the Great Al-Fateh Revolution endeavored to establish the United States of Africa similar to the United States of America and allowed the moving of groups across the borders and intervention for conflicts settlement upon the first request of the African Parliament.

For realizing that end, he exerted many efforts and sweat, as he hosted two African summits in Sirte City in (2000-2001), met many African influential leaders and personalities and moved in famous land trips among the African states addressing the leaders at times and the African People at other times.

However, the hesitation of a no. of African Leaders and their fear from the fact that the establishment of the United States of Africa will lead to occurrence of racial upsets on its borders and violation of sovereignty of its states in addition to the attempts of super states to leave the African continent unchanged in terms of ignorance, backwardness and sickness led to the agreement of the African states leaders on 9/9/1999 in the Great Jamahiriya on the basis and motives of creation of the African Union similar to the European Union the prominent of which are the following:-

1. Adoption and inspiration of the principles of African Unity and belonging founded by the first advanced party of the African leaders as an embodiment for solidarity and coherence in a community surpassing the narrow cultural – ideological – racial and national borders.
2. Continuity and completion of the struggle of the African people such that the continent will live honorable, independent and free.
3. Knowledge and perception of all challenges encountered by the continent and enhancement of aspirations of its people towards total amalgamation.

4. Conformation of such challenges and remedy of the socio-economic and political reality in an effective manner.

Declaration of the Establishment of the African Union (AU):-

After two years of exhausting and serious action from Sirte summit where the African leaders signed the statute of AU, the sons of the African continent had a new appointment where the African summit conference in its 38th session held in Derban of South Africa approved the establishment of the AU instead of OAU. That event took place in the first African summit for this union within the period from 8th -10th May 2002.

The statute of the AU had already been approved in the 36th ordinary session for African heads of states and governments in Tugo on 11th July 2000. The statute of (AU) approval by a no. of 53 African members states was drawn up in thirty three articles.

The most important preamble of this statute was that the heads of African states and governments "the signatories" sought the guidance of a joint, powerful and approved vision and the need for building a partnership between the governments and all categories of the civil society by the value of enhancing solidarity and coherence among the nations of the continent.

As they determined to enhance and protect the human rights and people, and support the institutions and democratic culture and ensure the rational rule and sovereignty of law, they also determined to take necessary measures to strengthen our joint institutions and grant them powers and resources necessary to enable them to perform such powers effectively.

They founded the (AU) in accordance with this statute and defined its objectives including article (14-2) which stipulated that: "The conference may reorganize the existing committees or form new ones whenever necessary" in addition to:-

- Enhancement and protection of human rights and people.
- Enhancement of democratic principles and institutions, people's participation and rational rule in accordance with the African charter for human rights and people and other charters relevant to human rights and people.
- Enhancement of cooperation in all areas of human activity for raising the standard of living for the African people.

Among the principles of the (AU) included in its statute are the following:-

- Enhancement of equality between the two genders.
- Respect of democratic principles, human rights, sovereignty of law and national rule.
- Enhancement of social equity to guarantee a balanced economic development.

- Respect of the sacredness of human life and rejection of the escape from punishment and rejection of political assassinations, terrorist acts and sabotage activities.

On the other hand, the statute of the (AU) established the following bodies:-

1. The union's conference
2. The executive council
3. Pan Africa parliament
4. Court of justice
5. Permanent representatives committee
6. Financial institutions
7. Competent technical committees
8. African Peace and Security council
9. Unions' secretariat "The Commission"
10. Socio-economic and cultural council

- Any other bodies to be established by a decision of the conference.

The statute also determined the components and powers of the said bodies in details.

Historical profile on ombudsman(en)

When the Swedish King Charl the 12th was a political refugee in the Ottoman state, he attended several sessions for Grievances Divan used to be held to treat the aggrieved with Justice. He admired the notion and when he was to Sweden and took the reins of government he established in 1909 what was so called the "Ombudsmanen". Ombudsman is a Swcdish word meaning the commissioner, a person entrusted by the parliament to monitor the executive management and protect the rights and freedoms of individuals in order to treat the individuals of the people with justice against the oppression of management and in particular against tax collectors.

When the influence of the Swedish parliament increased at the beginning of the 19th century, the parliament adopted the plan of "Ombusdmanen" which was a mechanism for monitoring the extent of laws implementation by the officials. This authority had elaborated powers.

Henceforth, the idea of treating citizens with Justice against tyrannical bodies of the state spread and offices for complaints, councils for grievances and bodies for ombudsmanship, control and mediation were established accordingly.

Despite the nominations of such bodies and institutions in different states, their final goal is to improve the relationship between the different executive bodies of the state and individuals and endeavor to assist whomsoever may find it difficult to deal with the state.

The dissemination of such means or bodies was enhanced by the increase of feeling of individuals of insufficiency of traditional means in controlling the business of management and protection of rights and freedoms of individuals on one hand and defects latent in conventional means in terms of their slowness, complication of procedures and high cost on the other hand.

Since that time such organizations spread worldwide, where they existed in more than 147 states composing more than 700 member organizations.

The said organizations subsequently established a world union for ombudsmanship and mediation institutions.

African Mediators, ombudsmen and controllers organization:-

Within the 8th regional conference held in the capital of Burkina Faso "Wagadogo", a decision for establishment of (A.O.M.A) was passed, dashing from the recommendations and decisions of the 7th regional African conference held in Sichel in 2001 and the fourth meeting of the African Mediators Board of Directors.

Within the 8th regional conference, the statute of the organization was approved.

Having a glimpse to the statute of AOMA we can clarify the following:-

Firstly: Objectives:-

This organization tries to achieve a set of objective the most important of which are the following:-

- Encouraging the establishment and development of African institutions for mediation, control and ombudsmanship.
- Increasing the cooperation and common action through sharing of information, training and development among mediators, ombudsmen and controllers and backing up the processes of human rights, administrative equity and democracy.

Secondly: Membership:

The membership of this organization is subdivided into three categories which are ordinary membership – participation membership and honorary membership.

More than 30 African states has joined this organization up-to-date and it seems that such number will multiply within the coming period after the states of the continent felt the significance of this organization and the role that it can play.

Thirdly: Components and Bodies of AOMA:-

1. **The General Assembly:** It is composed of all members paid their subscriptions and are accepted by the General Assembly which is the supreme authority in making the decisions of the organization.

2. **Executive committee:** It is the executive instrument of the organization and it runs, monitors and directs the affairs of the organization.
3. **Secretariat of the organization:** It undertakes the daily management of the organization.
4. **Subsidiary structures:** They coordinate all activities within the following subsidiary regions: South Africa – East Africa – West Africa- North Africa - Central Africa – Indian Ocean.
5. The General Assembly may add more subsidiary structure as it thinks fit. The statute defined the formation, specialties and powers of each of the components of the organization.

Fourthly: Domicile of the organization:-

The organization is domiciled in Webind Hook city of Namibia on a temporary basis. The organization held its first conference in 2005 in Derban City of South Africa and it is now holding its second conference.

An effective organization supporting the African Union (AU):-

The great objectives for which this youthful organization was established require that such organization must be powerful and able to realize its objectives and so it should be effective and in order to be characterized by effectiveness, it must be one of the AU institutions, where the significance of AU is unquestionable for the African Continent which had suffered from many challenges and obstacles. Therefore we call for the following:-

Firstly: Strengthening (AOMA) through:-

1. Gathering or bringing together the largest possible number of the African states which did not join the organization and obtain its membership.
2. Supporting the organization with highly competent human cadres capable to run the organization and develop its performance.
3. Procuring financial resources sufficient to carry out the activities of the organization.

Secondly: Considering the organization as one of the (AU) instruments:-

We knew that the people and leaders of the African continent are fully convinced with the significance and necessity of the establishment of the African Union (AU) as the first phase for the establishment of the United States of Africa.

We likewise knew that the statute of the AU emphasized in its preamble the fact that the leaders of the continent are determined to enhance and protect the human rights and people, support institutions and democratic culture, take necessary measures to strengthen the joint institutions and grant them powers and resources necessary to enable them to perform their powers effectively.

Therefore, the enhancement and protection of human rights and people require the finding of mechanisms and instrumentalities capable to realize the foregoing goals.

Thus (AOMA) can be deemed as one of the (AU) instruments for realizing the said ends and objectives, especially that the same preamble stated that the African Leaders are determined and insisting on taking the necessary measures to strengthen the joint institutions of the AU in order to enable them to play the role assigned thereto.

The fact that the lofty objectives and the noble principles contained in the statute of the AU necessitate the existence of instruments capable of treating the simple African citizen with justice when the management arbitrarily behaves against his rights using its powerful means and considerable capabilities.

The existence of the African court of justice does not suffice the existence of AOMA in treating the African citizen with justice and in applying the AU agreements for preventing and fighting corruption, and the African charter for human rights. This is because AOMA has many merits and advantages when carrying out its powers such as flexibility, where there are no formal procedures and rules to be followed by applicants. Also ombudsmen, mediators and controllers keep amicable relationships between the litigants on the contrary to cases of recourse to litigation.

Furthermore, the expeditions settlement in the cases filed to this organization and finding fast solutions distinguish the recourse thereto before recourse to the African court of justice in addition to limitedness or complete absence of costs at the resort to this organization for dispute settlement. The last characteristic feature of recourse to AOMA is the achievement of common gains for both parties of dispute.

The statute of the AU does not mind rather than it encourages the existence of organizations within its bodies and mechanisms, where paragraph (1) of article (5) mentioned the bodies that form the AU, while paragraph (2) of the same article allowed the creation by the African conference of any other bodies.

Thus it is permissible to consider AOMA as one of the bodies of the AU.

Since the AU recognizes in its conventions and treaties that freedom, equality, equity, peace and dignity are lofty objectives for the realization of lawful hopes of the African people, and since it provides for enhancement of human rights, support of institution and democratic culture, guarantee of national rule and supremacy of law and since it gives considerable significance to the respect of human dignity and enhancement of political and socio-economic rights, so for such broad hopes it needs mechanisms and bodies to support it and realize such hopes and the optimum picture for that is AOMA. If the AU will benefit from the existence of AOMA among its bodies and mechanisms to achieve its lofty goals and noble principles, AOMA will undoubtedly be more effective and more capable of realizing its objectives by joining and operating under the umbrella of the AU.

Considering it as one of AU's institutions, AOMA will be more energetic to work for the sake of the African human dignity against arbitrariness of the executive bodies in the African countries.

From this site, AOMA will benefit from the material and human capabilities as well as from the moral power of the AU in realizing the high goals to which all ombudsmen, mediators and controllers worldwide endeavor to achieve.

We avail ourselves of this considerable occasion to strongly demand the creation of a new mission within the framework of this organization, which is the mission of the African ombudsman, mediator and controller. We also feel the importance of the existence of an African ombudsman, mediator or controller.

We do not create new issues, but we follow the wise steps in this field which we derive from the EU (European Union) which created the mission of the European ombudsman.

The case of this demand may be what role can the African ombudsman play in enhancing this organization, realizing its objectives, confirming rights and dignity of the African human being and strengthening the role of the world ombudsmen, mediators and controllers organization.

The fact that the merging of AOMA program into the program of completing the establishment of the AU institutions and considering it as one of the AU institutions will undoubtedly lead to the strengthening of the action of the organization and will realize the hopes and ambitions of the African citizen in living in happiness, freedom and dignity.

Albadir Amer Dozan

Manager of Legislation Follow-up Department