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ABBREVIATIONS

ACDEG:	African Charter on Democracy Elections and Governance
AGA:	African Governance Architecture
APRM:	African Peer Review Mechanism
AU:	African Union
COMESA:	Common Market for Eastern and Southern Africa
CSCPF:	Continental Structural Conflict Prevention Framework
EAC:	East African Community
EACC:	Ethics and Corruption Commission
ECCAS:	Economic Community of Central Africa States
ECCOWAS:	Economic Community of West African States
EMBs:	Election Management Bodies
IGAD:	Intergovernmental Authority on Development
NEPAD:	New Partnership for African Development
NGOs:	Non-Governmental Organizations
OAU:	Organization of African Unity
PAP:	Pan African Parliament
PSC:	Peace and Security Council
RECs:	Regional Economic Communities
SADC:	Southern African Development Community
SDGs:	Sustainable Development Goals
UN:	United Nations
UNDP:	United Nation Development Program

INTRODUCTION

Despite political instability, that has been a challenge in various parts of Africa, regional organizations on the continent are playing an increasing and vital role in upholding good governance within the members states. A considerable number of these institutions have formulated legal tools and policies for preserving fundamental constitutional values. These efforts stem from several primary considerations. Firstly, security concerns in some states can pose threats to stability in the region. For instance, changing legitimate governments by military means in one country could lead to humanitarian crises and threaten the security of neighbouring states. In such cases regional organizations may resort to intervention as a way for preventing or addressing the issue, that could have adverse regional implications.¹ Secondly, in some cases, the intervention may be the sole option to uphold legitimate government within the member state.² Thirdly, normative values and principles are often enshrined during regional treaty negotiations to serve as the foundation of the organization and guide member states in realizing common objectives.³ While these normative principles contributed to the transformation of the regional organizational frameworks from the Organization of African Union (OAU) to the African Union (AU), they often align with broader values shared among different constitutional regimes of member states.⁴ Consequently, the involvement of regional organizations in enforcing national constitutions can be seen as a means to assist member states in fulfilling their regional obligations and commitments.

The objective of this thesis is to comprehensively examine the efforts made by the African institutions, particularly the AU and some regional economic communities (RECs), in promoting good governance and democracy on the continent. Additionally, it will explore the challenges hindering application of good governance norms and values and will aim to propose potential solutions to overcome these obstacles. Despite the plethora of regional legal instruments reflecting the will of African citizens to rectify governance models, some authoritarian leaders on the continent continue to defy the aspirations of the majority. Such developments highlight the need for the AU and RECs to exert their efforts in defining precise

¹ African Union, *Constitutive Act of the African Union* (adopted 11 July 2000, entered into force 26 May 2001) 2158 UNTS 3, art 4(h) and (p).

² African Union, *Lomé Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government* (2000).

³ Solomon A Dersso, *Taking Ethno-Cultural Diversity Seriously in Constitutional Design: A Theory of Minority Rights for Addressing Africa's Multi-Ethnic Reality* (Martinus Nijhoff 2012) 215–218.

⁴ Konstantinos D Magliveras and Gino J Naldi, *The African Union: Innovative or Indefinite Suspension of Member States' Rights?* (2002) 49(1) Netherlands International Law Review 81.

conditions, under which regional organizations can protect constitutional order in member states. At the same time, it is important to strike a balance and avoid unnecessary interference. Respectively, interventions should be deemed appropriate only when fundamental values are severely violated.

The thesis envisages a comparative analysis of the law and practice of regional organizations in the field of good governance and fair elections, as well as identifies relevant good practices. Furthermore, the research is devoted to the mechanisms, aimed at aiding regional organizations in ensuring respect for constitutionalism among their member states. By identifying good practices and offering detailed policy-relevant recommendations, the thesis can be considered as a humble attempt to facilitate thematic discussions and research, especially after the recent setback in many African countries, such as Sudan, Niger and Mali.

In conclusion, the thesis demonstrates that the promotion of good governance in Africa requires collaborative efforts from both regional organizations and member states. Despite existing challenges, significant progress has been made through legal instruments and policies. By learning from successful practices and overcoming obstacles, the African institutions can further advance their objectives of upholding constitutional values and democratic principles. Fostering a culture of respect for foundational principles and engaging member states in collective efforts will be essential in ensuring a prosperous and democratic future for Africa.

CHAPTER I. ROLE OF AFRICAN REGIONAL ORGANIZATIONS

1. The Notion of Good Governance and Democracy

The concept of *good governance* is relatively recent and has been the subject of sustained scholarly and policy discussion. It lacks a definition in any universally applicable international legal instrument. Kaufmann and Kraay, in their seminal work, describe it as “a capable state that is accountable to citizens and operating under the rule of law,”⁵ a formulation that captures the essence of most contemporary references to the term. The notion remains open-ended, is employed across diverse contexts, and carries multiple shades of meaning. To date, there is no consensus regarding its precise scope or the details of its substantive content.⁶ It can be considered as a paradigm of shifting the role of citizens from passive to active participation in democracy. In its turn, democracy is conceived as a regime or system of government, in which rulers are held accountable for their actions in a public domain by citizens acting indirectly through representatives.⁷ The previous prime Minister of Malaysia Dr. Mahathir Mohammed defined good governance as the exercise of political, economic, and administrative authorities to manage nation’s affairs. This includes a complex array of mechanisms, processes, relationships and institutions, through which citizens manage affairs involving public life. As he further stated, governance is no longer an exclusive matter of state.⁸ The crucial role of good governance was also highlighted by the former United Nations (UN) Secretary General Kofi Anan, who called it “perhaps the single most important factor in eradicating poverty and promoting development.”⁹

⁵ Daniel Kaufmann and Aart Kraay, ‘Governance Indicators: Where Are We, Where Should We Be Going?’ (2008) 22 *World Bank Research Observer* 1, 2.

⁶ Tanja A Börzel, ‘Good Governance’ in Rüdiger Wolfrum (ed), *Max Planck Encyclopaedia of Public International Law* (OUP Online Edition, updated 2013) <https://opil.ouplaw.com/view/10.1093/law:epil/9780199231690/law-9780199231690-e1413> accessed 13 September 2025.

⁷ Gedeon M Mudacumura and Goktug Morcol, *Challenges to Democratic Governance in Developing Countries* (Springer International Publishing 2014) 1-2.

⁸ Sam Agere, *Promoting Good Governance: Principles, Practices and Perspectives* (11th vol, Commonwealth Secretariat 2000) 2-5.

⁹ Rachel M. Gisselquist, ‘What Does Good Governance Mean?’ (*UNU Wider*, 2012)

The World Bank became the first international institution to adopt the concept of good governance into lending arrangements for developing countries and introduce the idea to the public. In its 1989 report, the World Bank referred to the crisis in Sub-Saharan Africa region as “a crisis of governance.” In 1992 report “Governance and Development,” the notion of good governance was described as the way, in which power is used to regulate the economic and social resources of a country for development.¹⁰ Although the World Bank’s founding charter prohibits it from taking political consideration into account when designing development assistance,¹¹ it has come to realize that the quality of governance is a key factor for reflecting the ability to pursue sustainable economic development. Similarly, the Asian Development Bank describes governance as “the manner in which power is exercised in the management of a country’s economic and social resources for development.”

The World Bank further elaborated on the key components of the concept of good governance. In particular, they include “(1) the process by which governments are selected, monitored, and replaced; (2) the capacity of the government to effectively formulate and implement sound policies; and (3) the respect of citizens and the state for the institutions that govern economic and social interactions among them.”¹² This description is considered as one of the most commonly employed definitions of good governance and serves as the cornerstone for the widely utilized Worldwide Governance Indicators by the World Bank.

From a human rights standpoint, the concept of good governance can be associated with the principles and rights outlined in key international human rights instruments. For instance, article 21 of the Universal Declaration of Human Rights acknowledges the significance of a participatory government, while article 28 underscores that every individual has the entitlement to a social and international order conducive to the full realization of the rights and freedoms laid down in the Declaration.¹³

The two International Covenants on human rights provide for more specific responsibilities of governments in safeguarding and achieving all human rights. Article 2 of the International Covenant on Civil and Political Rights of 1966 obliges states parties to uphold

<<https://www.wider.unu.edu/publication/what-does-good-governance-mean>> accessed 13 September 2022.

¹⁰ ‘Good Governance: Definition and Characteristics’ (United Cities and Local Governments Asia-Pacific 2021) <<https://uclg-aspac.org/good-governance-definition-and-characteristic>> accessed 13 September 2022.

¹¹ Articles of Agreement of the International Bank for Reconstruction and Development (adopted 22 July 1944, entered into force 27 December 1945) 2 UNTS 39 art 4(10).

¹² ‘Worldwide Governance Indicators’ (World Bank Group)

<<https://www.worldbank.org/en/publication/worldwide-governance-indicators/frequently-asked-questions>> accessed 2 September 2022.

¹³ Universal Declaration of Human Rights (adopted 10 December 1948) UNGA Res 217 A(III).

and ensure the rights recognized in the Covenant and to take necessary measures to enforce those rights. In particular, states are expected to offer an effective remedy for individuals in cases of violations and to provide a just and efficient judicial or administrative mechanism for exercising the right to remedies.¹⁴ General obligation on achieving human rights is also imposed by the International Covenant on Economic, Social and Cultural Rights of 1966, which requires states to take measures, using appropriate methods, to move steadily towards the complete fulfilment of the rights outlined in the Covenant.¹⁵

The link between human rights and good governance was highlighted by the human rights treaty monitoring bodies in their practice. For instance, in General Comment no. 12 devoted to the right to food, the Committee on Economic, Social and Cultural Rights emphasized that “effective governance is indispensable for the attainment of all human rights, which includes eradicating poverty and ensuring a decent standard of living for all.”¹⁶

In addition, both the Human Rights Committee and Committee on the Rights of the Child have pointed out on several occasions the crucial role of governments’ capacity to coordinate policies and projects for better enjoyment of human rights. They have also addressed corruption as a major obstacle to achievement of the objectives of the respective human rights treaties. The two Committees regularly emphasise the importance of independent and competent judges for the adequate protection of human rights.

Apart from close link to human rights, good governance can play a key role for enhancing human well-being. Empirical studies show that good governance, in contrast to democratization, has strong positive effects on social trust, life satisfaction, peace and political legitimacy.¹⁷ This effect can occur directly, as individuals tend to be happier when they live under a well-governed system. Positive impact can be also mainstreamed indirectly, as good governance enables individuals to attain a higher level of development in other essential fields that directly contribute to their well-being. The factor, which strengthens positive effects, relates to the measures aimed at addressing corruption, which has potential of influencing well-being both directly and indirectly.

Besides well-being, the principles and practices of good governance are necessary for attaining the Sustainable Development Goals (SDGs). SDG 16 “Peace, Justice and Strong

¹⁴ International Covenant on Civil and Political Rights (adopted 16 December 1966) 999 UNTS 171.

¹⁵ International Covenant on Economic, Social and Cultural Rights (adopted 16 December 1966) 993 UNTS 3.

¹⁶ Kerstin Mechlem, ‘Treaty Bodies, and the Interpretation of Human Rights’ (2021) 42 Vanderbilt Law Review 905.

¹⁷ RN Ghosh and MAB Siddique, *Corruption, Good Governance and Economic Development: Contemporary Analysis and Case Studies* (World Scientific Publishing 2015).

Institutions” is of particular relevance, as it aims to “promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels.”¹⁸ Most of SDGs are also strongly linked to good governance, since achieving sustainable development requires those in positions of authority to demonstrate a profound commitment to human rights. This commitment should be manifested through concerted efforts to eliminate poverty, combat hunger, ensure access to quality healthcare and education for all citizens, promote gender equality, reduce social inequality, and tackle a range of interconnected issues.

Summarizing what has been outlined above, there is no universally accepted definition of good governance, and it typically encompasses a range of principles and elements. These include upholding human rights and rule of law, fostering active participation and collaborative efforts among various stakeholders, promoting political pluralism, transparency, and accountability within governmental processes and institutions. It also envisages availability of proficient and effective public sector, based on the principles of legitimacy, access to knowledge and information, political empowerment of individuals, equity, and sustainability.

2. Regional Perspectives of Good Governance and Democracy

In general, regional organizations are playing an increasing and considerable role in protecting constitutionalism and strengthening good governance. According to Wiebusch, certain regions have successfully developed normative and legal frameworks, which aim to promote “respect for human rights, adherence to the rule of law, separation of powers, and a number of essential guarantees of democratic processes such as regular, free and fair elections and a competitive multiparty electoral system.”¹⁹

Enforcement mechanisms, which can be employed by regional organizations to uphold such values, need to be considered through three interconnected considerations. Firstly, a regional organization may intervene to pre-empt or address a security crisis, that could potentially have far-reaching regional consequences. For instance, a military *coup d'état* may lead to adverse effects, including humanitarian emergencies, and pose a threat to the stability of neighbouring countries.²⁰

¹⁸ ‘Sustainable Development Goals’ (UN Department of Economic and Social Affairs) <<https://sustainabledevelopment.un.org>> accessed 15 September 2022.

¹⁹ Micha Wiebusch, *The role of regional organizations in the protection of constitutionalism* (International Institute for Democracy and Electoral Assistance 2016) 9.

²⁰ Ibid 15.

Secondly, at the stages of negotiation of regional treaties, member states typically incorporate values or guiding principles as the foundation for their normative and organizational frameworks. These principles often align with broader values, that are shared among the various constitutional systems of member states. Consequently, the regional body's involvement in enforcing national constitutions can be seen as an effort to aid member states in meeting their regional obligations and commitments.²¹

Thirdly, regional intervention may sometimes represent the sole viable option for upholding constitutionalism within a member state, especially when national constitutional order has been dismantled or eroded to the extent that no other branch of the government can effectively check the actions of the infringing authority.²²

In this section, our attention is directed towards a detailed examination of the legal and policy frameworks within the AU and certain sub-regional entities in Africa with regard to the principles of good governance and democracy. This analysis aims to pinpoint commendable approaches, that can provide valuable insights for devising, implementing and enhancing legal instruments through the lens of good governance and rule of law. Additionally, there will be carried out an overview of the strategies and mechanisms, that regional organizations can employ to ensure that their member states uphold the principles of constitutionalism. The objective of such research is to uncover and showcase good practices within these organizations, with a particular emphasis on offering policy-relevant recommendations (detailed proposals are included into Chapter III). The respective recommendations are poised to be of significant value to policymakers, academics, and officials involved into the work of the regional organizations across the diverse nations of the continent.

2.1. African Union Efforts

The OAU was founded with a mandate, among others, to expedite decolonization of the continent and foster development and cooperation among the African states.²³ Nonetheless, until its dissolution in 2002, the OAU's record in promoting good governance was widely considered inconsistent and less than satisfactory. As a result, when the AU succeeded the OAU, great expectations were placed on a new organization for undertaking more effective efforts in advancing good governance.

The AU was officially established in July 2002 in Durban (South Africa), following a

²¹ Ibid 8.

²² Ibid 8-9.

²³ Charter of the Organization of African Unity (adopted 25 May 1963) 479 UNTS 39.

decision adopted in September 1999 by OAU member states to create a new continental organisation, that would build on the OAU work.²⁴ African scholars consider such organizational transition as a pivotal and fundamental stride towards enhancing regional cooperation in matters of democracy and promotion of good governance.

The differences between the OAU and AU are significant. First of all, the organizations were founded on contrasting approaches to the possibility of intervention. The OAU adhered to the principle of non-intervention, as it was reflected in article III of the OAU Charter. The article stipulated that Member States shall “solemnly affirm and declare their adherence” to “non-interference in the internal affairs of States.”²⁵ In comparison, the AU introduced a more interventionist stance. Article 4(h) of the Constitutive Act of the AU enshrines “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity.”²⁶

Additionally, the OAU did not address the issues of commitment of member states to democracy and human rights, what now represents the AU’s core principles. Article 4(m) of the Constitutive Act commits the AU to respect “democratic principles, human rights, the rule of law and good governance.”²⁷ Institutionally, the AU has established specialized organs which are crucial for achieving the respective goals of the organization, including Pan-African Parliament and Permanent Representatives Committee. Member States also founded thematic bodies for conflict management, namely Peace and Security Council (PSC), which shall be supported by the African Standby Force.²⁸ Moreover, the AU’s New Partnership for African Development (NEPAD) Implementation Committee, composed of the heads of state and government, further demonstrates organization’s commitment to promoting comprehensive development in Africa. Overall, the AU’s institutional reforms and enhanced focus on democracy, human rights and regional security set it apart from the OAU and reinforced its effectiveness in addressing contemporary challenges.²⁹

The 1960s witnessed the emergence of the “ideology of development,” which was associated with the vision that economic development – provision of social amenities and

²⁴ ‘African Union: Overview’ (African Union) <<https://au.int/en/overview> > accessed 20 October 2022.

²⁵ OAU Charter.

²⁶ Constitutive Act of the African Union (adopted 11 July 2000) 2158 UNTS 3.

²⁷ Ibid.

²⁸ ‘The Peace & Security Council’ (African Union)

<<https://au.int/en/PSC#:~:text=The%20Peace%20and%20Security%20Council%20%28PSC%29%20is%20the,r esponses%20to%20conflict%20and%20crisis%20situations%20in%20Africa.>> accessed 5 May 2025.

²⁹ ‘Difference Between OAU and AU’ (Difference Between 2011)

<<https://www.differencebetween.com/difference-between-oau-and-vs-au/> > accessed 13 March 2022.

building of infrastructure – should be the highest goal of government.³⁰ This ideology gave prominence to collective welfare rather than good governance aspects, resulting in the spread of one-party systems, as well as of quasi- and full-scale dictatorships throughout Africa. Under these regimes, corruption, mismanagement and human rights violations became widespread. Consequently, the OAU, with its primary focus on state security and territorial integrity, largely neglected the issues related to poor governance practices.

It is worth mentioning that the OAU (before its dissolution) tried to align its activities with efforts exerted by international institutions to promote good governance and democracy by developing three unbinding legal instruments (declarations), namely:

1. The Universal Declaration on Democracy of 1997, which was adopted by the Inter-Parliamentary Council at its 161st Session in Cairo.
2. Algiers Declaration of 1999, which reflected the concerns of African leaders regarding governance practices and aimed to promote strong and democratic institutions, good governance and human rights as essential elements for building stable governments and contributing to conflict prevention. The declaration stated that member states, where governments came to power through unconstitutional means after the Harare Summit, should restore constitutional legality. The OAU Secretary-General was requested to be actively seized of developments in those countries and to assist in programmes intended to ensure return to constitutional and democratic governments within such countries.³¹
3. Lomé Declaration of 2000, which reflected the intentions of the OAU to monitor political developments on the continent, in particular with regard to unconstitutional changes of government and to consolidate democracy in Africa.

Undoubtedly, the OAU grappled with significant contradictions concerning the promotion of good governance. Despite organization's commitment to human rights in theory, certain member states – in practice – resorted to harsh repression of human rights and displayed autocratic tendencies. The cases of the regimes under Jerry Rawlings in Ghana, Daniel Arap Moi in Kenya, Frederick Chiluba in Zambia, Macias Nguema in Equatorial Guinea, and Kamuzu Banda in Malawi represent significant instances where the promotion of good governance and respect for human rights faced serious challenges within the framework of the

³⁰ TM Callaghy, 'Politics and Vision in Africa: The Interplay of Domination, Equality and Liberty' in Patrick Chabal (ed), *Political Domination in Africa: Reflections on the Limits of Power* (Cambridge University Press 1986) 30-51.

³¹ Algiers Declaration (adopted by the Thirty-Fifth Assembly of Heads of State and Government (12-14 July 1999) AHG/Decl.1 (XXXV) <https://au.int/sites/default/files/decisions/9544-1999_ahg_dec_132-142_xxxv_e.pdf> accessed 20 October 2022.

Organization of African Unity (OAU). A closer look can be taken at each case to demonstrate the rule of law and democracy challenges in the region:

1. Jerry Rawlings in Ghana (1981–2001):

Jerry Rawlings initially came to power in Ghana through a coup in 1979 and again in 1981, after briefly ceding power to a civilian government. Rawlings justified his coups as necessary to curb corruption and inefficiency in governance. However, during his rule Ghana “experienced lengthy period of political oppression, with disappearances and incarceration of opposition figures, significant media repression.” Over time, Rawlings did transition Ghana toward multiparty democracy, but the early years of his regime were marked by autocratic governance.³²

2. Daniel Arap Moi in Kenya (1978–2002):

Daniel Arap Moi ruled Kenya for 24 years after taking over from the country’s first president, Jomo Kenyatta. His regime represents a classic example of “big man rule,” marked by repressions of political opposition, demands of unconditional loyalty, suppressions of civil society and press. Corruption flourished during his presidency, and his government was accused of human rights abuses and torture. Although Moi was pressured into reintroducing multiparty politics, 1992 and 1997 elections were neither free nor fair and were accompanied by “unprecedented levels of communal violence and foul play,” leading to further deterioration of Kenya’s governance standards.³³

3. Frederick Chiluba in Zambia (1991–2002):

Frederick Chiluba rose to power in Zambia through the Movement for Multiparty Democracy, marking the end of Kenneth Kaunda's long reign. While Chiluba initially came to power with promises of reform and democratic governance, his administration soon devolved into autocracy and “progressively centralised executive control, sacked dissidents and intensified its rhetorical puritanism.”³⁴ Even though Chiluba’s attempts to extend power beyond two presidential terms failed, he still managed to consolidate his rule and become a leader of a ‘de facto one-party state.’ While being prevented from taking full control, his presidency has contributed to undermining the credibility of Zambia’s democracy.³⁵

4. Macias Nguema in Equatorial Guinea (1968–1979):

³² J Haynes, ‘Revolutionary populism and democracy in Ghana’ (2022) 60 *Journal of Modern African Studies* 503, 506-507, 522.

³³ Joel D. Barkan, ‘Kenya after Moi’ (2004) 1 *Foreign Affairs* 87, 88-90.

³⁴ Carolyn Baylies and Morris Szeftel, ‘The Fall and Rise of Multi-Party Politics in Zambia’ (1992) 54 *Review of African Political Economy* 75, 76.

³⁵ Stephen McLoughlin, ‘Reconceptualizing Mass Atrocity Prevention: Understanding Risk and Resilience in Zambia’ (2014) 27 *International Journal of Politics, Culture, and Society* 427, 432, 438.

Macias Nguema, who ruled in Equatorial Guinea, is often regarded as “one of the twentieth century’s most brutal dictators.” After gaining independence from Spain in 1968, Nguema established an absolute dictatorship in which “the 1968 Constitution was suppressed, citizens were deprived of the right to vote, Christian churches were persecuted and ‘kangaroo courts’ dealt swiftly with political suspects.” His regime was responsible for widespread human rights abuses, including the mass killings of political opponents, intellectuals, and ethnic minorities. Nguema’s rule led to the virtual collapse of the state and a reign of terror that earned Equatorial Guinea the reputation of being one of the most repressive regimes in Africa.³⁶

5. Kamuzu Banda in Malawi (1964–1994):

Hastings Kamuzu Banda ruled Malawi with an iron fist for 30 years, following the country’s independence in 1964. Banda established a one-party state and adopted a title of His Excellence Life President.³⁷ His rule was characterized by widespread coercion, terror, “draconian control of the media,” and the brutal treatment of political dissidents. Banda maintained tight control over the political landscape and used state power to eliminate any form of opposition to his rule. With the powers of police becoming arbitrary and unpredictable, Banda created a climate of fear where abduction and murder of the rivals for power were regular tactics.³⁸

These regimes employed such tactics as suppressing opposition, curtailing freedom of the press and detaining dissidents without due legal process. Such actions directly contradicted to the democratic principles, rule of law and respect for human rights, that the OAU professed to uphold.

Apart from repression, some leaders, including Mobutu Seseko in Zaire, Moussa Traore in Mali, and Houphouet Boigny in Ivory Coast (to name a few), remained corrupt and accumulated personal fortunes, huge enough to pay off the entire external debts of their countries. These examples illustrate the negative impact of black neo-colonialism. It is overly simplistic to attribute Africa’s challenges solely to external factors. African leaders share responsibility for betraying their people’s aspirations and undermining indigenous political systems. We can acknowledge the emergence of a new struggle for good governance across the continent, aiming to replace corrupt regimes and revive enduring African traditions in the face

³⁶ Simon Baynham, ‘Equatorial Guinea: The Terror and the Coup’ (1980) 36 *The World Today* 65, 67-68.

³⁷ Jan Kees van Donge, ‘Kamuzu's Legacy: The Democratization of Malawi: Or Searching for the Rules of the Game in African Politics’ (1995) 94 *African Affairs* 227, 229-230.

³⁸ Alison Jones and Domoka Lucinda Manda, ‘Violence and ‘Othering’ in Colonial and Postcolonial Africa. Case Study: Banda's Malaŵi’ (2006) 18 *Journal of African Cultural Studies* 195, 204-207.

of both historical white colonialism and contemporary black neo-colonialism.³⁹

Hereby, these historical contradictions have significantly influenced the perception of governance challenges in Africa. The transition from the OAU to the AU marked a commitment to address the existing issues more proactively, with the AU integrating the promotion of democracy, good governance, and human right into its strategies. Nevertheless, the legacy of colonialism and long-standing challenges in implementing reforms for good governance still remain relevant and impactful.⁴⁰

When the AU was established, a number of fundamental questions emerged. Were the expectations for promoting good governance well-placed? Could the AU venture into a new territory and achieve what the OAU could not? Was the AU capable of significantly improving the quality of life for Africans, particularly in the field of good governance? In the following sections, we delve deeper into these queries, scrutinizing legal instruments adopted under the aegis of the AU and assessing the practices of its organs.

2.1.1. The Constitutive Act of the AU

The Constitutive Act of the AU of 2000 was adopted as the first step in supporting democracy and constitutionalism and preventing the overthrow of governments by military actors or civilians. It contains the commonly known provisions for unconstitutional changes of government, which marked the initial shift from the previous OAU policy of non-interference to the AU policy of non-indifference and intervention.⁴¹ Article 3 of the Constitutive Act underscores the importance of collaborative endeavours aimed at achieving unity, peace, security and stability. It also emphasizes the promotion of both political and socioeconomic integration, along with strengthening democratic principles and institutions, popular participation and good governance. Additionally, article 23(2) provides for the Assembly of Heads of State and Government to impose sanctions on any member state that does not adhere to the AU decisions and policies, including in the field of safeguarding constitutional order. Such provisions are intertwined with article 30, which forbids governments to come to power

³⁹ G Ayittey, *Africa Betrayed* (St Martins Publishing 1992) 233.

⁴⁰ Tiyanjana Maluwa, 'The transition from the organization of African unity To the African Union' in Abdulqawi A. Yusuf and Fatsah Ouguergouz (eds), *The African Union: Legal and Institutional Framework* (Martinus Nijhoff Publishers 2012); Tim Murithi and Angela Ndinga-Muvumba, *Building an African Union for the 21st Century* (Centre for Conflict Resolution 2005) 17.

⁴¹ Michael Vunyingah, *Unconstitutional Changes of Government in Africa: An Assessment of the Relevance of the Constitutive Act of the African Union* (Africa Institute of South Africa 2011).

through unconstitutional means.⁴² At the same time, it provides no guidance on the types of unconstitutional transfers of power. To fill the gap, the Rules of Procedure of the Assembly of Heads of State and Government of the African Union (rule 37) make a reference to the Lomé Declaration, which indicates what should be considered as unconstitutional change of government.

Particular attention can be devoted to article 4, as it is considered an innovative norm in the realm of African legal instruments and international treaties. The article grants the AU the right to intervene in a member state under specific circumstances and also allows member states to request such an intervention from the AU.⁴³ Respectively, article 4 is composed of two elements:

1. **Right of AU intervention:** the Constitutive Act confers upon the AU the authority to intervene in a member state under grave circumstances, which encompass such acts as war crimes, genocide, and crimes against humanity.
2. **Right of member states to request intervention:** member states have the prerogative to request an AU intervention to re-establish peace and security within their borders. This provision is designed for instances where a member state struggles with internal conflicts or security issues that necessitate external support for resolution.

The provisions of article 4 raise important questions concerning the relationship between regional organizations, like the AU, and the UN. According to Article 53 of the UN Charter, regional organizations can engage into maintaining peace and security in their respective regions. However, their intervention is likely to fall within the scope of the UN mandate and require prior authorization from the UN Security Council tasked with “primary responsibility for the maintenance of international peace and security.” In this regard, concerns can be expressed over compatibility of the AU’s intervention mechanism under Article 4 with the UN Charter. While the AU’s intention to address grave circumstances and promote peace and security in Africa is commendable, there may be room for potential overlaps and challenges in coordinating actions with the UN.

To ensure effective cooperation and avoid conflicts between the AU and UN, it is essential for both organizations to maintain open communication and work collaboratively, when addressing security and humanitarian crises on the continent. The AU should be mindful of seeking authorization or ensuring coordination with the UN Security Council, especially

⁴² Constitutive Act of the AU.

⁴³ Ibid.

when the intervention may have implications beyond Africa's borders. The implementation and application of article 4 will require careful consideration and adherence to international law principles, including respect for state sovereignty and protection of human rights. The AU should strive to strike a balance in upholding human rights and maintaining security of its member states, while respecting the global framework established by the UN.

2.1.2. The Peace and Security Council Protocol

In 2002, the AU adopted the Protocol Relating to the Establishment of the PSC. The Protocol vested the Council with the authority to impose sanctions in response to unconstitutional changes of government. It identified military coups, subversion of constitutional order and absence of robust democratic institutions as factors contributing to insecurity, instability and violent conflicts in Africa.⁴⁴

Articles 6(d), 7(e) and 7(f) of the Protocol provide for specific function and powers of the PSC in peace support operations and interventions under articles 4(h) and 4(j) of the Constitutive Act of the AU. In the context of article 4(h) the PSC has a power to make recommendations to the AU Assembly concerning interventions in member states in case of grave circumstances, including war crimes, genocide, and crimes against humanity. The PSC's recommendations serve as important guidance to the Assembly when considering the need for intervention in specific situations. With regard to article 4(j) of the Constitutive Act, the PSC is entitled to approve the modalities for intervention by the AU following a decision by the Assembly.⁴⁵ Once the Assembly has endorsed intervention in a particular situation, the PSC ensures that the appropriate modalities and strategies are approved and implemented.

Crucially, the Protocol underscores the significance of collaboration between the AU and UN Security Council. While the UN bears the primary responsibility for upholding international peace and security, the PSC acknowledges the imperative of working in tandem with the UN Security Council in peace operations and interventions. When required, the PSC is authorized to request assistance from the UN, especially of financial, logistical, and military nature, to facilitate the effective work of peace support operations.

Overall, the Protocol ensures that the AU's interventions in member states' affairs are conducted with due regard to the principles of upholding peace, security and human rights. The

⁴⁴ Protocol Relating to the Establishment of the Peace and Security Council of the African Union (adopted 9 July 2002, entered into force 26 December 2003) < <http://papsrepository.africa-union.org/handle/123456789/1379> > accessed 20 April 2023.

⁴⁵ Ibid.

PSC's role in making recommendations and approving modalities for intervention allows for a thorough and principled approach to addressing crises and conflicts on the continent.

2.1.3. The African Charter on Democracy, Elections and Governance

The African Charter on Democracy, Elections and Governance (ACDEG) is a significant and comprehensive framework adopted by the AU to promote democracy and good governance in Africa. Enacted in 2012, the instrument imposes legal obligations on states in the field of democracy, emphasizing the responsibility of governments towards their citizens in political, economic and social realms of governance.

The ACDEG's main objectives, as outlined in article 2, include promoting adherence to universal values and principles of democracy and respect for human rights, upholding rule of law, based on respect for constitutional order, and encouraging effective coordination and harmonization of governance policies to foster continental and regional integration.⁴⁶ Moreover, one of the most critical roles of the ACDEG is serving as an accountability framework. It provides for a benchmark to assess how countries are fulfilling their commitments to democracy and good governance. By evaluating a country's progress in meeting its obligations under the ACDEG, it becomes possible to gauge the level of compliance. The accountability mechanism allows for comparisons to be made over time within the same country, helping track progress, determine challenges and areas for improvement in governance. Additionally, it facilitates comparisons between different countries, fostering peer learning and encouraging states to adopt good practices that have shown commendable progress. As countries strive to meet the respective commitments, they are expected to make positive changes in their governance practices, promoting transparency, accountability and respect for human rights.⁴⁷

To ensure that, ACDEG enlists different guiding principles and values reflected in its chapters. Chapter 4 explicitly focuses on democracy, rule of law and human rights, highlighting the crucial role of constitutional rule (article 5), supremacy of constitution (article 10) and universal enjoyment of fundamental freedoms and rights (article 6). Chapter 5 elaborates on the culture of democracy and peace, with the need to ensure transparent and accountable administration, strengthened civil society and enhanced civic education (article 12). Chapters 6

⁴⁶ African Charter on Democracy, Elections and Governance adopted by the Eighth Ordinary Session of the Assembly of the African Union (Addis Ababa, 2007) (ACDEG).

⁴⁷ Micha Wiebusch and others, 'The African Charter on Democracy, Elections and Governance: Past, Present and Future' (2019) 63 *Journal of African Law* 9.

and 7 are devoted to the democratic institutions and elections, aiming to enhance constitutional control over military forces (article 14), support creation of democratic public institutions (article 15), maintain fair, transparent and free elections (article 17).⁴⁸

At the very centre of ACDEG there is a commitment to constitutional order, which opposes all forms of military coups and revolutions. This concern is raised prominently in the preamble of the document, and it reflects the views of contracting parties, conscious of their own vulnerability against the trend of power grabs on the continent. Such considerations shaped chapter 8, which is instrumental in determining the measures, which can be adopted in cases of unconstitutional changes of government. First, article 23 provides clear instances of such unconstitutional changes, in particular:

1. “Any putsch or coup d’états against a democratically elected government;
2. any intervention by mercenaries to replace a democratically elected government;
3. any replacement of a democratically elected government by armed dissidents or rebels;
4. any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair, and regular elections; or
5. any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government”.⁴⁹

In case unconstitutional change occurs, ACDEG in article 24 confirms the PSC’s powers, which were outlined above, in order to maintain the constitutional order in accordance with relevant provisions of the Protocol Relating to Establishment of the PSC. Under article 25 of ACEG, when the PSC observes that there has been an unconstitutional change of government in a state party, and all diplomatic efforts have failed, it shall immediately suspend that state party from exercising its right to participate in the activities of the AU. However, the suspension shall not preclude the state from fulfilling its obligations to the AU, in particular with regard to human rights. Nor will suspension preclude the AU from maintaining diplomatic contacts with a state party concerned and taking any initiatives to restore democracy within the latter. Article 25 also includes an important safeguard against perpetrators of unconstitutional change of government. In particular, they shall be prevented from participating in elections held to restore the democratic order or hold any position of responsibility in political institutions of their state. Besides, perpetrators may even undergo trials before the competent court of the AU. The

⁴⁸ Ibid.

⁴⁹ Ibid.

Assembly of the Heads of State and Government may decide to apply other forms of sanctions on perpetrators of unconstitutional change of government including punitive economic measures.⁵⁰

While ACDEG brought additional clarity to the AU approaches in case of deterioration of constitutional order in states, it strengthened the provisions of the Lomé Declaration, which was adopted by the OAU to address the issues of unconstitutional changes of government. ACDEG makes three notable amendments to the Lomé Declaration. First, it includes attempts to revise constitutions of states to extend the respective rules on the unconstitutional change of government. Second, it authorises the PSC of the AU to respond to such changes. And third, it stipulates that those who obtain power through unconstitutional means should not participate in or contest the elections aimed at restoring constitutional rule.⁵¹

Thus, ACDEG indeed holds a significant role as the AU's main normative instrument for establishing standards for better governance across the continent. Its impact has been profound, and its adoption marks a pivotal moment in Africa's commitment to democracy, human rights and effective governance. Coming into force in February 2012 after ratification by 15 states (with 38 ratifications as of February 2023 – latest available data), ACDEG sets itself apart from previous legal instruments, as it adopts a comprehensive and holistic approach. By combining the key elements of democracy, human rights and governance, it addresses multiple dimensions of good governance, fostering a more inclusive and accountable political environment. In addition, it offers the benchmark by which states can measure progress in democratic governance, encouraging adherence to the high standards.

The ACDEG's objectives align with core values crucial for Africa's development and progress. It seeks to enhance the quality of elections across the continent, aiming for transparent, fair, and credible electoral processes that reflect the genuine will of the people. By doing so, the legal instrument promotes democratic practices and encourages active citizen participation in shaping political landscape.

Strengthening rule of law is another fundamental objective of the ACDEG. It recognizes that a strong legal framework is essential for effective governance, stability and the protection of citizens' rights. By upholding constitutions and constitutional order, it aims to ensure the legitimacy and stability of political institutions. ACDEG also addresses the persistent issue of unconstitutional changes of government in Africa by seeking to prevent and react to such

⁵⁰ Ibid.

⁵¹ 'A New Coup Era for Africa?' (Accord 2022) <<https://www.accord.org.za/conflict-trends/a-new-coup-era-for-africa>> accessed 20 February 2023.

actions and facilitating lawful and constitutional transitions of power.⁵²

2.1.4. The Pan-African Parliament

The Pan-African Parliament (PAP) was officially established in accordance with articles 5(1)(c) and 17 of the Constitutive Act of the AU with a broad mandate to ensure the active involvement of the African peoples in the continent's development and economic integration.⁵³ Its inception was seen as a pivotal moment, signalling an end to the lack of African people participation in decision-making processes. The primary objective of the PAP is to serve as a platform where people of Africa can directly engage in continental decision-making. This engagement is intended to complement the Economic and Social Community, which is tasked with representing civil society within the AU. Originally, the PAP's long-term goal was to evolve into an institution with full legislative powers, allowing it to play a more substantive role in shaping African policies and laws. To achieve this, its members were planned to be elected through universal suffrage, thus ensuring democratic representation.

Article 3 of the Protocol to the Treaty Establishing the African Economic Community relating to the PAP outlines a comprehensive set of key objectives that the body shall carry out. These objectives are diverse and address critical aspects of Africa's development and integration within the framework of the AU. Firstly, the PAP is tasked with promoting fundamental values such as human rights, democracy, peace and security across the continent. By advocating for and upholding these principles, the PAP seeks to create an environment that fosters stability, inclusivity, and respect for the rights and dignity of all Africans. Secondly, the PAP aims to facilitate cooperation and development among the African countries. Through its work, it strives to enhance collaboration between member states, address regional challenges, and foster sustainable development for the benefit of all Africans. Another crucial objective is to enhance continental unity and nurture a feeling of common destiny among the diverse populations of Africa.⁵⁴

Even though the PAP plays a role in fostering an environment conducive to good governance, the initial years of its functioning have brought to light several obstacles, that the institution needs to surmount. One of the most pressing challenges is its limited capacity to enforce decisions, which confines its role to being advisory and consultative. Consequently, it

⁵² Ben Kioko, 'The African Charter on Democracy, Elections and Governance as a Justiciable Instrument' (2019) 63 *Journal of African Law* 39.

⁵³ Constitutive Act of the African Union (n 21).

⁵⁴ Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament (adopted 2 March 2001) 13(1) *AJICL* 86.

impedes the PAP's ability to drive concrete results and put its recommendations into practice. Another hurdle concerns the method of selecting the PAP members, who are not directly elected but nominated by national parliaments. This approach compromises the parliament's independence, as members may be subject to replacement by their respective national authorities for various reasons, affecting their capacity to act impartially.

To enhance democratic accountability and strengthen the PAP's effectiveness, policy-making organs of the AU need to consider ceding more decision-making power to the PAP and increasing institution's autonomy. Endowing the PAP with the power to make and enforce decisions would elevate its status as an influential body, better positioned to address the pressing challenges. Such measures need to be coupled with implementing the vision for the PAP to evolve into a full legislative and representative body with elected members, as it was originally outlined in the Protocol to the Treaty Establishing the African Economic Community relating to the PAP. However, some observers remain sceptical about the likelihood of such reforms taking place, given the prevailing political culture of corruption and lack of free and fair elections. "The president for life" tendencies and undemocratic acts in certain countries often diminish the influence of parliamentary bodies, like the PAP, impeding their transformation into fully legislative bodies with substantial decision-making authority.⁵⁵

In late 2022, the PAP adopted a resolution whereby it vowed to intensify its activities in support of ACDEG, including awareness-raising, advocacy for its universal ratification and implementation, and the deployment of civic tech for upholding democratic values. The PAP has also resorted to establishment of numerous election-observation missions across the continent, with the recent deployments to Sierra Leone in 2023⁵⁶ and Namibia in 2024.⁵⁷ It also set up several fact-finding missions. For instance, between 2006 and 2019, the PAP deployed fact-finding missions on peace, security and conflicts in the Democratic Republic of Congo (DRC), Sudan, Central African Republic, Chad, Mali, Libya, South Sudan, etc.⁵⁸

Transforming the PAP into a robust and fully legislative institution would require concerted efforts from the AU policy-making organs and a shift in the prevailing political culture towards empowering parliamentary bodies. By addressing these obstacles, the PAP can fully realize its potential as a key player in advancing Africa's development, governance and

⁵⁵ Bheki R. Mngomezulu, 'Reflecting on the Pan-African Parliament: Prospects and challenges' (2018) 7 *Journal of African Union Studies* 45, 55-59.

⁵⁶ 'PAP at the forefront of democratic process in Sierra Leone' (PAP) < <https://pap.au.int/en/news/press-releases/2023-06-26/pap-forefront-democratic-process-sierra-leone> > accessed 5 June 2025.

⁵⁷ 'Preliminary Statement: African Union Election Observation Mission to the Republic of Namibia' (PAP) <https://www.peaceau.org/en/article/preliminary-statement-2Y> accessed 5 June 2025.

⁵⁸ 'Fact finding missions' (PAP) < <https://pap.au.int/en/fact-finding-missions> > accessed 5 June 2025.

integration agenda.

2.1.5. The New Partnership for Africa's Development

The NEPAD was adopted by the African Heads of State and Government within the OAU in 2001 and was subsequently endorsed by the AU in 2002.⁵⁹ It represents a new approach to addressing Africa's development challenges. NEPAD's main objectives are to combat poverty, foster sustainable development, integrate Africa in the global economy and empower women. NEPAD acknowledges that true democracy, respect for human rights, peace and good governance are essential prerequisites for development. It emphasizes a commitment to uphold global standards of democracy, transparent governance, civil society participation, partnership between and among African peoples, and accelerated regional integration.⁶⁰

To achieve the outlined objectives, several action plans were adopted under the NEPAD, including the Declaration on Democracy, Political, Economic and Corporate Governance. The document is based on several pillars of development priorities, with the pillar on "Democracy and Good Political Governance" demonstrating the aspirations of states to:

- "Ensure that ... respective national constitutions reflect the democratic ethos and provide for demonstrably accountable governance" (para. 13).
- "Strengthen and, where necessary, establish an appropriate electoral administration and oversight bodies in our respective countries and to provide the necessary resources and capacity to conduct elections which are free, fair and credible" (para. 13).
- "Ensure the effective functioning of parliaments and other accountability institutions in our respective countries, including parliamentary committees and anti-corruption bodies" (para. 14).
- "Ensure the independence of the judicial system that will be able to prevent abuse of power and corruption" (para. 14).⁶¹

The pillar on "Democracy and Good Political Governance" is further underpinned by the pillars on "Economic and Corporate Governance" and "Socio-Economic Development" (para. 6), representing the idea that "NEPAD is founded on a hardheaded assessment of the

⁵⁹ 'New Partnership for Africa's Development: Who We Are' (NEPAD) <https://www.nepad.org/microsite/who-we-are-0#about_us> accessed 20 April 2023.

⁶⁰ Alhagi Marong, 'New Partnership for Africa's Development (NEPAD)' (2010) Max Planck Encyclopedia of International Law 659.

⁶¹ Declaration on Democracy, Political, Economic and Corporate Governance (adopted 8 July 2002) AHG/235 (XXXVIII).

political and socio-economic realities in Africa” (para. 26).⁶²

Through the NEPAD frameworks, African leaders have taken – perhaps for the first time – open collective commitment to promote and abide by the principles of good governance. This commitment has been inseparable from other related commitments aimed at promoting peace and security, carrying out capacity building and institutional reforms and improving economic governance. To accomplish these objectives, dedicated organs have been set up within the NEPAD.⁶³ At the same time, the initiative is surrounded by a great deal of controversy over its origins. While the NEPAD is proclaimed by the African leaders to serve as a homegrown programme designed to advance development of the continent, some critics consider the document as a reformulated version of the discredited structural adjustment programs, developed by Western creditors as a weapon to control Africa.⁶⁴

2.1.6. The African Peer Review Mechanism

Established in 2003 by the NEPAD Heads of State and Government Implementation Committee, it serves as a tool for the AU member states to engage in self-assessment of their governance performance. The founding idea of the African Peer Review Mechanism (APRM) is to mutually evaluate the quality of governance on a voluntary, but standardised basis in four areas – democratic and political governance, economic governance and management, corporate governance, and socio-economic development.⁶⁵

The APRM covers four types of country reviews, namely base reviews conducted immediately upon obtaining membership, periodic reviews conducted every four years after membership, requested reviews, and reviews authorized by the African Peer Review Forum when early signs of political and economic crisis emerge. Review process involves five steps, which include:

- country self-assessment, which is based on questionnaire designed by the APRM Secretariat and covers four thematic pillars on “Democracy and Political Governance,” “Economic Governance and Management,” “Corporate Governance,” and “Socio-Economic Development;”

⁶² Ibid.

⁶³ ‘New Partnership for Africa’s Development (NEPAD)’ (African Union) <<https://au.int/en/organs/nepad>> accessed 20 February 2023.

⁶⁴ JO Adesina, ‘Development and the Challenge of Poverty: NEPAD. Post-Washington Consensus and Beyond’ (South African Sociological Association Congress, East London, 2002).

⁶⁵ Sven Grimm and others, ‘The African Peer Review Mechanism (APRM) as a Tool to Improve Governance?’ (German Development Institute 2009) <<https://www.files.ethz.ch/isn/114013/Study%2045e.pdf>> accessed 5 April 2023.

- country review mission, which is conducted by the Country Review Team to a country to validate the Self-Assessment Report;
- preparation of draft Country Review Report by the Team;
- peer review at African Peer Review Forum, where the Country Review Report is considered and adopted by the participating Heads of State and Government;
- adoption and circulation of Country Review Report.⁶⁶

Although the APRM's reports do not hold coercive power, they have proven to have normative value and direct attention of states to critical situations in the region. For example, 2007 report raised early concerns about potential political unrest arising from xenophobia in South Africa, 2011 report recommended to address the imbalances between the regions and national groups in Ethiopia, and 2019 report highlighted that electoral processes can be key triggers of violence in Mozambique. While providing assessments of situations, the APRM mechanism has been crucial in warning unfolding crises in the countries under consideration.⁶⁷

The peer review has also remained valuable for the African Governance Architecture Secretariat. Initially, the Secretariat was intended to monitor the implementation of the ACDEG in member states. However, due to limited reporting by states, this function was hindered. The APRM stepped in to fill this gap by providing country reports that cover governance dynamics and implementation of adopted policies. Moreover, the findings of the APRM help inform the African Governance Reports. While 2019⁶⁸ and 2021⁶⁹ reports were devoted to governance futures and promotion of the shared values respectively, the recent volume published in 2023 focuses on unconstitutional changes of government.⁷⁰

Despite such contributions, the APRM has faced some challenges, in particular when governments demonstrate lack of political will to begin the review process, even several years after joining the mechanism. In addition, the mechanism does not include any enforcement mandate to oversee the implementation of its recommendations and is based on presumption that participating states shall act in good faith, with any shortcomings resolved through negotiation rather than sanctions. Such issues are further compounded by the staff shortages

⁶⁶ 'Africa Peer Review Mechanism' (AU) < <https://au.int/en/organs/aprm> > accessed 5 June 2025.

⁶⁷ 'Reflections on the Enhancing the Role of the APRM in Early Warning, Conflict Prevention and Strengthening Good Governance' (Accord 2025) < <https://www.accord.org.za/analysis/reflections-on-the-enhancing-the-role-of-the-aprm-in-early-warning-conflict-prevention-and-strengthening-good-governance/#> > accessed 5 June 2025.

⁶⁸ AMRM, *Africa Governance Report 2019: Promoting African Union Shared Values* (APRM 2019).

⁶⁹ AMRM, *Africa Governance Report 2021: Africa's Governance Futures for the Africa We Want* (APRM 2021).

⁷⁰ APRM, *Africa Governance Report 2023: Unconstitutional Change of Government in Africa* (APRM 2023).

and resource constraints. Notwithstanding the challenges, the APRM can be considered as an important tool in promoting good governance in Africa. The APRM performs various functions, including monitoring of compliance with agreed norms; promoting policy dialogue; disseminating information and best practices; and identifying capacity constraints and ways to address them.⁷¹

In conclusion, the African Union has made commendable progress in promoting democratic values and good governance in Africa. It has established important frameworks and institutions that have encouraged positive political developments in some countries. However, enforcement of these standards remains inconsistent, and challenges such as limited resources, tolerance for authoritarian leaders, and ongoing conflicts weaken the AU's overall impact. While the AU has improved upon the shortcomings of its predecessor, the OAU, its success in fully realizing its governance and democracy goals will depend on the strengthening of its mechanisms and the consistent application of its principles across all member states.

2.2. Sub-Regional Organizations

The RECs are created with the purpose of facilitating regional economic integration within the specific regions of the continent. There are several RECs nowadays, which include Arab Maghreb Union (UMA), Common Market for Eastern and Southern Africa (COMESA), Community of Sahel-Saharan States (CEN-SAD), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD), and the Southern African Development Community (SADC).⁷²

The RECs are intricately intertwined with the activities of the AU and form the pillars of the latter. The relationship between the AU and the RECs is legally outlined in the Abuja Treaty and Constitutive Act of the AU and is further elaborated in the Protocol on Relations between the RECs and the AU of 2008. Additional guidance is also provided by the Memorandum of Understanding on Collaboration in the Realm of Peace and Security, which involves the AU, RECs, and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern and Northern Africa.⁷³

⁷¹ Alfred Makotsi, Pontian Okoth and Elijah Odhiambo, 'Challenges and Opportunities of the African Union Peer Review Mechanism (AUPRM) in Enhancing Electoral Democracy Kenya Since 2003' (2021) 26 IOSR Journal of Humanities and Social Science 66.

⁷² 'Regional Economic Communities' (African Union) <<https://au.int/en/organs/recs>> accessed 5 April 2023.

⁷³ Ibid.

The RECs support the goals of promoting good governance and have aligned their efforts with the AU's role and priorities in this field. These have been actively engaged into managing conflicts and preventing movement toward authoritarianism. However, country-level commitment to democratic governance remains uneven and inconsistent.⁷⁴ For the purpose of this thesis, the role of certain sub-regional bodies will be examined to identify their approaches to support constitutionalism and good governance on the continent.

2.2.1. Southern African Development Community

The development of the norms, standards and relevant institutional mechanisms in the field of good governance in Southern African region has been driven by the provisions of the SADC Treaty of 1992, signed in Windhoek (Namibia). Specifically, article 4 stipulates that “human rights, democracy and the rule of law” are principles guiding the acts of its members, and article 5 commits member states to “promote common political values, systems and other shared values which are transmitted through institutions, which are democratic, legitimate and effective.”⁷⁵ Apart from the objectives of promoting good governance, the SADC can engage into the efforts aimed at conflict resolution, as empowered by chapter VIII of the UN.

During 2004 summit, two major developments occurred in the history of the SADC, namely the adoption of the Strategic Indicative Plan of the Organ on Politics, Defence, and Security Cooperation, as well as Principles and Guidelines Governing Democratic Elections and Security Cooperation. The latter document is the outcome of extensive consultations conducted by the SADC Electoral Advisory Council, which involved member states, stakeholders and regional electoral experts. Its principal aim is to encourage the conduct and monitoring of democratic elections in accordance with the shared values and principles of democracy, rule of law, and respect for human rights, as stipulated in the Treaty of the SADC.⁷⁶ In line with such objectives, the SADC has constantly been dispatching missions to observe elections in member states. However, the credibility of these missions has been challenged mainly due to the absence of any negative comments on the elections held in the region. At the same time, some reports openly criticised the national electoral process and its outcomes.

Although the SADC countries form a heterogeneous group in terms of democratic practice and governance, the region hosts five out of ten best-governed countries in Africa

⁷⁴ Gilbert M. Khadiagalla, *Regional Organization on Democratization and Conflict Management in Africa* (Carnegie Endowment for International Peace 2018).

⁷⁵ Treaty of the Southern African Development Community (adopted 17 August 1992) IUCN TRE-001243.

⁷⁶ A Palloti, ‘Human Rights and Regional Cooperation in Africa: SADC and the Crisis in Zimbabwe’ (2020) 35 Strategic Review for Southern Africa 17.

according to the Ibrahim Index of African Governance (2021).⁷⁷ Nonetheless, in Southern Africa, Zimbabwe and the DRC are considered among the least well-governed on the African continent.

Even though SADC's commitment to democratic practices is explicit in the guiding documents as reflected above, the SADC strategies for achieving democracy mainly focus on upholding electoral standards in the region. Despite all its attempts to consolidate peace through democratic governance, countries in the region are still facing numerous challenges in areas of democracy, good governance and socio-economic development. In addition to these challenges, the SADC lacks preparedness to deal with governance deficits and shortcomings in economic development, especially in Zimbabwe and DRC, where it is considered as source of instability.

Besides, the SADC demonstrated some failures in playing its role for effective promotion of democratic institutions and practices in its member states. It is often characterised by turning a blind eye to authoritarianism and repression, displayed hesitancy and lack of assertiveness, in particular with regard to the reform of security services and electoral commission in Zimbabwe. Moreover, some rulers of the countries in the region exert pressure on the mechanisms of the SADC. A prominent example relates to reducing the powers of the SADC Tribunal, what resulted in its transformation into an administrative body incapable of fulfilling its original mandate.⁷⁸

2.2.2. Economic Community of West African States

In 2001, ECOWAS adopted Protocol on Democracy and Good Governance as an attempt to deter and prevent military coups and unconstitutional change of government. This was hailed as a step in the right direction because one cannot promote democracy and good governance without the needed legal frameworks. The protocol introduced a mechanism, that automatically suspends the membership from ECOWAS in case of unconstitutional changes of government.⁷⁹

It also contains numerous provisions relating to electoral law and constitutional transfer of power, due to the concerns of military interference in governance and spate of election-related violence in the sub-region. In particular, the protocol elaborates on the Election

⁷⁷ Mo Ibrahim Foundation, 'Ibrahim Index of African Governance Index Report' (2022) <<https://mo.ibrahim.foundation/sites/default/files/2023-01/2022-index-report.pdf>> accessed 23 February 2023.

⁷⁸ Adriana Lins de Albuquerque and Cecilia Hull Wiklund, 'Challenges to Peace and Security in Southern Africa: The Role of SADC' (Swedish Defence Research Agency 2015).

⁷⁹ Frederick Cowell, 'The Impact of the ECOWAS Protocol on Good Governance and Democracy' (2011) 19 African Journal of International and Comparative Law 331.

Management Bodies (EMBs), their nature and responsibilities in articles 3, 5, 6 and 7. For example, article 3 stipulates that authorities, tasked with constitutional responsibilities for organizing elections, must “be independent [and] neutral and enjoy the confidence of all political actors.” The article also encourages organization of national consultations to determine the nature and structure of EMB if needed. Article 8 of the protocol assigns roles for civil society organizations in undertaking civil education for the public on the need for violent-free elections. Among others, article 9 stipulates that any candidate who loses an election must admit defeat, while article 10 requires all officials to refrain from intimidation and harassment of defeated candidates.⁸⁰

While ECOWAS has received international acclaim for its efforts to maintain stability in West Africa, several challenges affect successful functioning of the regional community. The sub-region continues to experience instances of military involvement in governments. Recent military coups in three West African countries – Mali (August 2020 and May 2021), Guinea (September 2021), and Burkina Faso (January 2022) – have drawn attention to the importance of promoting and reinforcing democratic ideals and good governance. However, ECOWAS approaches in case of unconstitutional change of governments became the subject of criticism. The regional community is quick to sanction the military overthrow of constitutional order but fails to equally sanction heads of state, who – after completion of their mandated terms in office – use any means to change the constitution to run for office again. Even though that action is equally unconstitutional, ECOWAS usually remains silent on this.⁸¹

One of the recent cases, which demonstrates the shortcomings in functioning of the ECOWAS, relates to the attempts by former Senegalese president Macky Sall to indefinitely postpone the presidential elections in February 2024. All eyes turning to the ECOWAS to see its reaction to this blatant disregard for democratic principles. Many observers anticipated its response would be weak, given ECOWAS record in similar situations. Instead of imposing sanctions or restrictions on Sall, the organization merely encouraged the announcement of a new election date.⁸²

Despite such a tepid response, Senegal’s Constitutional Court intervened, demonstrating a more resolute stance on the issue than the ECOWAS. The Court ruled that the election must

⁸⁰ Protocol on Democracy and Good Governance (adopted 21 December 2001) A/SP1/12/01 ECOWAS.

⁸¹ Francis Kwesi Kyirewiah, ‘The Role of the Economic Community of West African States in the Promotion of Democracy and Good Governance in the Sub-continent’ (2022) 11 *Journal of African Union Studies* 65.

⁸² ‘Ecowas in crisis: Why West Africa's united front is in tatters’ (BBC 2024) <<https://www.bbc.com/news/world-africa-68255833>> accessed 5 June 2025; ‘Senegal elections: Why has President Macky Sall postponed voting?’ (Al Jazeera 2024) <https://www.aljazeera.com/news/2024/2/8/senegal-elections-why-did-president-macky-sall-postpone-the> accessed 5 June 2025.

occur before the end of Sall's term. Consequently, opposition candidate Bassirou Diomaye Faye, who had been released from prison only days earlier, won the first round of the election. Sall left office, having failed to secure an election win for his chosen successor and being remembered more for his attempts to undermine Senegalese democracy than for his infrastructure projects and development achievements during his 12 years in office.⁸³

Apart from Senegal, latest developments in Togo have also posed greater threats to democracy in the region and further tarnished ECOWAS credibility. In 2019, Togo amended its constitution to allow President Faure Gnassingbé to reset his electoral eligibility and run for two additional terms. In March 2024, his government passed a new set of amendments to constitution that transformed Togo from a presidential to a parliamentary system, consolidating the Gnassingbé family's control over the country. The new constitution, introduced just before legislative elections, clearly violates ECOWAS Protocol on Democracy and Good Governance, which states that "[n]o substantial modification shall be made to the electoral laws in the last six (6) months before the elections."⁸⁴ The new constitutional amendment aimed to circumvent presidential term limits, allowing Gnassingbé, who will now serve as president of the Council of Ministers (a role akin to a prime minister), to maintain power indefinitely. ECOWAS reaction to these manipulations has been nearly non-existent.⁸⁵

However, such challenges to upholding democracy in the region are not recent and took place earlier in other countries in West Africa. In Benin, opposition parties were effectively excluded from the 2019 legislative elections due to strict eligibility laws and a subsequent boycott. In the 2021 presidential election, several leading candidates were barred from running for office and were sentenced to prison for long terms. Although opposition parties participated in the 2023 legislative election, the ruling coalition won and retained power.⁸⁶

In 2020, Guinean president Alpha Condé, who had already served two terms, amended the constitution to reset term limits, allowing him to be re-elected for another six-year term in an election marred by violence and irregularities. The same year, Ivorian president Alassane Ouattara revoked a promise not to seek an unconstitutional third term after his chosen successor passed away. His bid for a third term, like Condé's, was marked by widespread violence and

⁸³ Gilles Yabi and Saskia Holman, 'Senegal: From Constitutional Crisis to Democratic Restoration' (Carnegie Endowment for International Peace 2024) <<https://carnegieendowment.org/research/2024/04/senegal-from-constitutional-crisis-to-democratic-restoration?lang=en>> accessed 5 June 2025.

⁸⁴ Protocol on Democracy and Good Governance (n 77).

⁸⁵ 'Hasty constitutional reforms deepen tensions in Togo' (Institute for Security Studies 2024) <<https://issafrica.org/iss-today/hasty-constitutional-reforms-deepen-tensions-in-togo>> accessed 5 June 2025.

⁸⁶ Dominika Koter, 'Elite Collusion and Dismantling Democracy in Benin' (2025) 712 *American Academy of Political and Social Science* 211.

unrest, although he eventually won amid an opposition boycott.⁸⁷

Although such record does not showcase ECOWAS effectiveness, some West African countries, as in the case of Senegal, show commitment to uphold democratic norms that the ECOWAS claims to represent. The democratic victory for Senegal brings opportunities to rejuvenate the faltering ECOWAS, which could facilitate enforcement of similar standards across West Africa, renewing hopes for preservation and relevance of democracy in a region influenced by multiple coups and military attempts since 2020.

2.2.3. Intergovernmental Authority on Development

As stipulated in article 7 of the Agreement Establishing IGAD, the aims of the organization include, among others, promoting peace and stability in the region and creating mechanisms for prevention, management and resolution of inter-state and intra-state conflicts through dialogue.⁸⁸ Accordingly, this is exemplified by the regular use of the IGAD as a vehicle for helping restore democratic path in its member states and addressing regional problems and concerns such as the Sudan and Somalia Peace Processes.

Among the documents defining IGAD's governance support is the 2002 Conflict Early Warning and Response Mechanism. The IGAD Secretariat has also developed Guidelines for Election Observers and a Code of Conduct for Election Observers of 2011, as well as draft Protocol on Democracy, Governance and Elections of 2014. Although the latter document shows that good governance issues are relevant to IGAD, it has not been adopted yet by the political level and remains dormant. As a result, it leaves the organisation without a mission statement and explicit mandate on governance when it comes to monitoring governance situations.⁸⁹

IGAD's Political Affairs Programme, established within its Peace and Security Division in 2008, is responsible for addressing peace and security issues in the region by promoting good governance, free and open elections, respect for human rights, etc. Although the programme facilitates political integration, it has been reported to be the least active IGAD programme,

⁸⁷ 'Guinea elections: Alpha Condé wins third term amid violent protests' (BBC 2020) <<https://www.bbc.com/news/world-africa-54657359>> accessed 5 June 2025.

⁸⁸ Agreement Establishing the Intergovernmental Authority on Development (IGAD) (adopted 21 March 1996) IGAD/SUM-96/AGRE-Doc.

⁸⁹ Faten Aggad, 'Understanding IGAD engagement in governance promotion' (ECDPM 2017) <<https://ecdpm.org/application/files/4816/6134/1585/IGAD-Governance-Background-Paper-PEDRO-Political-Economy-Dynamics-Regional-Organisations-Africa-ECDPM-2017.pdf>> accessed 5 June 2025.

partly due to limited resources and mandate-related challenges.⁹⁰

Similarly, in the field of election monitoring, IGAD has not had sufficient resources to develop a permanent roster of electoral observers. Notwithstanding such constraints, it still managed to carry out its functions and deploy election observation missions upon an invitation from countries, such as Kenya in 2022⁹¹ and Djibouti in 2023.⁹² Nevertheless, the independence of IGAD's election observation missions have been questioned, in part due to the fact that there are no common agreements governing IGAD's engagement in electoral processes. While the mentioned Protocol was never adopted, it was endorsed at a technical level via IGAD's Committee of Ambassadors.⁹³

IGAD has also taken steps to improve coordination between member states on governance issues. In 2021, it launched the IGAD Governance Forum, which is a regional platform for IGAD member states to share experiences in the area of governance, election, rule of law and human rights. In addition to increasing coordination and cooperation between IGAD member states in such fields, the Forum is also meant to contribute to the implementation of IGAD and AU instruments on governance, elections and democracy, including the ACDEG.⁹⁴

2.2.4. East African Community

The EAC is a regional intergovernmental organization comprising seven partner states – Burundi, DRC, Kenya, Rwanda, South Sudan, Uganda, and Tanzania – with headquarters located in Arusha (Tanzania).

The EAC operations are primarily guided by its Treaty, which established the Community in 2000, following ratification by the initial three partner states – Kenya, Tanzania, and Uganda. In accordance with article 5(1), the EAC has a fundamental objective to develop and implement policies and programs that promote cooperation among its partner states across a wide spectrum of areas. These areas include politics, economics, social issues, culture,

⁹⁰ Faten Aggad, 'IGAD and the governance agenda: The region may not always be a catalyst' (ECDPM 2017) <<https://ecdpm.org/application/files/9216/5546/8780/IGAD-Governance-Policy-Brief-PEDRO-Political-Economy-Dynamics-Regional-Organisations-Africa-ECDPM-2017.pdf>> accessed 5 June 2025.

⁹¹ 'Head of IGAD Election Observation Mission H.E. Dr. Mulatu Teshome arrives in Kenya' (IGAD 2022) <<https://igad.int/head-of-igad-election-observation-mission-h-e-dr-mulatu-teshomer-arrives-in-kenya/>> accessed 5 June 2025.

⁹² 'Preliminary Statement of the IGAD Election Observation Mission to the Legislative Election of Djibouti' (IGAD 2023) <<https://igad.int/preliminary-statement-of-the-igad-election-observation-mission-to-the-legislative-election-of-djibouti/>> accessed 5 June 2025.

⁹³ 'IGAD Committee of Ambassadors Endorse Protocol and Code of Conduct' (IGAD 2014) <<https://igad.int/igad-committee-of-ambassadors-endorse-protocol-and-code-of-conduct/>> accessed 5 June 2025.

⁹⁴ 'IGAD Launched the IGAD Governance Forum' (IGAD 2021) <<https://igad.int/igad-launched-the-igad-governance-forum/>> accessed 5 June 2025.

research, technology, defense, security, and legal and judicial affairs. Specifically, article 123(3) states the main objectives of the common foreign and security policies, which include, among others, developing and consolidating democracy, rule of law and respect for human rights and fundamental freedoms. Such provision is complemented by articles 3(b) and 6(b), which stipulate that adherence to good governance, democracy, rule of law and human rights are a precondition for membership and constitute an obligation of the member states.⁹⁵

To ensure that decision-making processes are inclusive and representative, article 127 of the Treaty imposes an obligation on states to create an enabling environment for active engagement by private sector and civil society in shaping policies and initiatives.⁹⁶ This commitment underscores the EAC's dedication to fostering cooperation and good governance across its partner states.

These principles are further elaborated on in the EAC Vision 2050, which serves as the comprehensive roadmap for socio-economic transformation and development in the region. This strategic document places a significant emphasis on good governance, peace, and security as pivotal, cross-cutting issues to be addressed. Additionally, the EAC adopted the 2012 Principles for Election Observation and Evaluation. These principles serve as a set of guidelines for such missions and outline a code of conduct for election observers. While the EAC has contemplated the development of a Protocol on Good Governance, progress in this area has been ongoing but inconclusive. A draft of this Protocol was presented for member states' consideration in 2011. Despite a series of reviews and dialogues conducted over the years, the formalization and ratification of this instrument remain pending.

2.2.5. Economic Community of Central African States

The ECCAS has acknowledged the vital role of good governance and transparent management of public affairs in enhancing the well-being of people and fostering improved economic performance across the entire subregion. While its establishing Treaty does not explicitly mention peace, security, stability, and governance within its institutional framework,⁹⁷ the organization took a significant step by adopting the Special Protocol for Peace and Security in February 1999. This Protocol was designed to address conflicts and political instability within the region, emphasizing the importance of maintaining peace and security.⁹⁸

⁹⁵ Treaty for the Establishment of the East African Community (adopted 30 November 1999) 2144 UNTS 255.

⁹⁶ Ibid.

⁹⁷ Economic Community of Central African States Treaty (adopted 18 October 1983) ECCAS.

⁹⁸ 'ECCAS - Peace, Security, Stability and Governance' (UNECA) < <https://archive.unece.org/oria/pages/eccas-peace-security-stability-and-governance> > accessed 5 June 2025.

Furthermore, the Bata Declaration for the Promotion of Lasting Democracy, Peace and Development in Central Africa was adopted by the Subregional Conference on Democratic Institutions and Peace in Central Africa. This declaration reaffirms “the sovereign right of each State to establish a political, social and economic system appropriate to its own culture and to determine the rate at which its institutions would be democratized” (para. 8). States further recognized that the process of democratization “must inevitably lead to the development of a dynamic political system capable of allowing the full expression of the people's will” based on the principles of rule of law, political pluralism, free, transparent and honest elections, freedom of press, independence of the judiciary (para. 11).⁹⁹

Over the past decades, ECCAS has achieved some progress in the area of peace and security, although the region still faces serious security challenges. The organization centred its activities around strengthening normative, policy and institutional frameworks, among others, by establishing the Council for Peace and Security in Central Africa and adopting the Central African Convention for the Control of Small Arms and Light Weapons. At the programme level, the ECCAS has cooperated with ECOWAS in responding to armed conflicts and instability in the region, particularly in Nigeria affected by Boko Haram. Nevertheless, there is reportedly room for progress to be done in advancing a more effective response to governance issues as root causes of conflicts.¹⁰⁰

2.2.6. The African Governance Architecture

To prevent duplications in all initiatives mentioned earlier in this Chapter, the AU established the African Governance Architecture (AGA) and introduced the Shared Values Agenda of 2011 as fundamental principles to guide governance in Africa.

Operating under the Department of Political Affairs within the AU, the AGA strives to bolster operational connections by coordinating and aligning existing governance institutions and mechanisms. It actively involves itself in advocacy initiatives to ensure that member states adopt not just normative frameworks but also incorporate constitutional values into their national legislation and governance practices. Furthermore, the AGA collaborates with the African Peace and Security Architecture (APSA) in enhancing the nexus between democracy, security and development. In its turn, APSA plays a pivotal role in promoting peace and

⁹⁹ ‘Bata Declaration for the Promotion of Lasting Democracy, Peace and Development in Central Africa’ in *Compilation of Documents or Texts Adopted and Used by Various Regional or National Mechanisms Concerned with Democracy* (OHCHR 2003).

¹⁰⁰ Gabriella Ingerstad and Magdalena Tham Lindell, ‘Challenges to Peace and Security in Central Africa: The Role of ECCAS’ (2015) 5327 *Studies in African Security*.

stability throughout Africa, functioning as the central institution for conflict prevention, management and resolution.¹⁰¹

Though specific interactions among the AGA, APSA and other AU entities are continuing to evolve, the continent's normative frameworks for democracy and conflict resolution are gaining momentum. The AU's successful implementation of such normative values has gradually popularized them, fostering a culture of shared values and good governance across Africa.

Concluding based on what has been outlined in this Chapter, we can observe that the African regional and sub-regional organizations, including the AU and its RECs, have made significant efforts in establishing a normative framework to uphold constitutional values and principles. Through various instruments and decisions, they have prioritized promotion of human rights, adherence to the rule of law, separation of powers, advancement of democratic processes, including organization of regular, free and fair elections.

These normative frameworks represent a collective commitment to good governance and democratic principles in Africa. They provide a basis for addressing governance challenges and promoting accountability, transparency and respect for constitutional order. The overlap in fundamental values and principles across different instruments reflects the shared aspirations of African nations to establish and maintain effective governance systems.

However, the challenges related to interpretation and enforceability of these norms can affect the overall effectiveness of the work of regional organizations. There is a clear need for further clarity and consensus on the precise content and benchmarks of the shared values. This will enable a more consistent and structural application of the normative framework across the continent. Efforts should be made to strengthen the capacity of regional and national bodies to enforce these norms, maintaining uniformity and consistency in their application.

Despite these challenges, the AU and RECs have made important progress in handling governance issues in Africa. The establishment of certain institutions, such as the African Court on Human and Peoples' Rights and the African Commission on Human and Peoples' Rights has contributed to the interpretation and protection of constitutional values and principles. Furthermore, the initiatives like the High-Level Panel for Egypt demonstrate a commitment to addressing emerging governance issues.

¹⁰¹ 'The African Peace and Security Architecture (APSA)' (African Union 2012)
<<https://www.peaceau.org/en/topic/the-african-peace-and-security-architecture-apsa>> accessed 22 April 2023.

As a way forward, continued collaboration and coordination between the AU, RECs, and member states are essential for successful implementation and enforcement of the normative framework. It shall build upon the existing achievements and aim to further strengthen regional mechanisms for monitoring, reporting and addressing governance challenges. Such steps can include enhancing the capacity of institutions, promoting knowledge sharing and good practices, and fostering cooperation among member states.

CHAPTER II. GOOD GOVERNANCE CHALLENGES IN AFRICA

Despite commendable efforts made by the African institutions, constraints to good governance remain one of the most significant challenges facing the continent. Over the years, the nations of Africa have struggled to fully embrace and implement effective governance practices. Notwithstanding the liberation from colonial rule several decades ago, many attempts have been made to establish robust and functional governance structures. The potential for development, that accompanied the decolonization era, has been hindered due to governance failures.

Instead of making significant progress, numerous African states find themselves in a worse position compared to their colonial past. While a few states such as Ghana and South Africa have managed to achieve some level of progress, others have experienced significant setbacks. Such dynamics raise questions about the rationale behind their independence, if states are unable to effectively govern their affairs and serve their people. The fact that Africa lags behind in terms of quality governance is a key factor contributing to the widespread lack of human and capital development on the continent.

The current Chapter aims to provide a detailed examination of the challenges which are faced by many African countries in achieving good governance. Some of these challenges relate to the conceptual differences. In particular, many African scholars believe that the concept and elements of good governance in its current form are not compatible with the African view, and they need to be designed taking into account the nature and concerns of the African nations (respective proposals will be discussed in Chapter III). The supportive evidence for this claim lays in the fact that the constitutions adopted, when African countries became independent, were the results of negotiations between colonial governments and local political leaders, which did not represent the real intentions of all citizens. In this Chapter we will provide an overview of the main challenges, which relate to the constraints of the AU normative framework (1), lack of clarity regarding principal legal definitions (2), limitations of the tools to assess political crises and ineffectiveness of sanctions (3), spread of corruption (4), increase of insecurity levels (5), democratic erosion (6), shortage of strong leadership (7).

1. Legal, Policy, and Practical Constraints of the AU Normative Framework

Despite the extensive number of legal norms enacted by the AU and its regional economic community bodies, significant challenges persist in effectively enforcing these

norms, especially those pertaining to constitutionalism. Such challenges arise from the diverse nature of both binding and non-binding instruments within the AU normative framework.

The prohibition of unconstitutional changes of government is clearly incorporated in the Constitutive Act of the AU,¹⁰² making it applicable and enforceable for all member states. However, this provision solely addresses the transfer of power and does not encompass other serious abuses of power.

Certain instruments, like ACDEG, encompass extensive mechanisms for safeguarding constitutional order. However, their binding nature is applicable solely to states that have formally ratified them. In contrast, the Lomé Declaration has acquired substantial normative significance within the AU's constitutionalism agenda, but it lacks stringent legal enforcement as a non-binding mechanism. Despite this, the normative importance of the Lomé Declaration becomes evident in the decisions of the PSC, which frequently makes references to the Declaration and implements its provisions.

Furthermore, the AU Assembly's Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union to Manage Such Situations of 2010 might serve as a legal foundation for more extensive disciplinary measures. Member states are bound to respect such policies, as failing to do so may result in sanctions, as stated in Article 23(2) of the Constitutive Act of the AU.¹⁰³ However, there is still a deficiency in accurately delineating the substance and significance of the normative principles embedded in the AU framework. This absence of precision could present obstacles to the comprehensive implementation and efficient enforcement of these principles.

The African Court on Human and Peoples' Rights has started developing jurisprudence related to broader democratic principles and has contributed to the interpretation of constitutional values and principles enshrined in the regional framework. The relevant case includes *Tanganyika Law Society et al. v Tanzania*,¹⁰⁴ in which the Court considered the right of citizens to participate in government. In its turn, the African Commission on Human and Peoples' Rights has adopted a number of resolutions and decisions relating to democratic principles, including a Resolution on Electoral Process and Participatory Governance of 1996, Dakar Declaration on the Right to a Fair Trial of 1999, Declaration on Principles on Freedom of Expression of 2002, Resolution on Elections in Africa of 2008.¹⁰⁵ Crucial communications

¹⁰² Constitutive Act of the African Union (n 21).

¹⁰³ Ibid.

¹⁰⁴ *Tanganyika Law Society et al. v Tanzania* (2013) 1 AfCLR 34 [4].

¹⁰⁵ Wiebusch (n 10)

have been considered by the institution, namely *Jawara v Gambia*¹⁰⁶ on freedom of expression and the right to information, as well as *Lawyers for Human Rights v Swaziland*¹⁰⁷ on the right to fair trial and independence of the judiciary.

While the human rights framework plays a crucial role in safeguarding constitutional values, it may not fully encompass all the principles reflected in ACDEG. As a result, there might be variations in the interpretation of these governance-related principles. The lack of a more comprehensive and dedicated mechanism for enforcing governance principles within the AU framework could leave ACDEG vulnerable to inconsistencies and gaps in its implementation.

2. Lack of Agreement on Definition of Violation of Constitutional Order

The absence of a well-defined and consistently applied policy framework has resulted in discrepancies in implementing the normative framework, especially in the context of popular uprisings in Northern Africa. The main uncertainty related to the question as whether such cases amounted to violations of constitutional order. Despite discussions within the AU, aimed at defining popular uprisings and creating a framework for addressing them, no formal policy has been officially endorsed. The High-Level Panel for Egypt put forward distinct criteria to differentiate between popular uprisings and unconstitutional changes of government.¹⁰⁸ These criteria can be summarized as follows:

1. The government's transition to full authoritarianism, leading to a reduced perception of legitimacy.
2. Inadequate or ineffective constitutional mechanisms for facilitating a governmental transition.
3. The broad popularity of uprisings, garnering significant backing from diverse sections of the population with varying ideological perspectives.
4. The government's ousting without resorting to military intervention.
5. The non-violent character of popular demonstrations, as a method of expressing dissatisfaction and advocating for change.

The recommendation from the High-Level Panel to set a high bar for distinguishing a

¹⁰⁶ *Jawara v Gambia* (2000) 8 IHRR 243.

¹⁰⁷ *Lawyers for Human Rights v Swaziland* (2005) 13 IHRR 887.

¹⁰⁸ 'Final Report of the African Union High-Level Panel for Egypt' (African Union 2014) <<https://www.peaceau.org/en/article/final-report-of-the-african-union-high-level-panel-for-egypt>> accessed 20 April 2022.

situation of a popular uprising from unconstitutional change of government suggests that uprising might be tolerated to uphold the imperative of fundamental human rights, including the rights to freedom of expression, assembly and participation in government. However, establishing clear criteria for evaluating these aspects proves challenging, especially with regard to such factors as military involvement, peaceful nature of protests, level of authoritarianism and the breakdown of constitutional processes. Ensuring consistent and transparent evaluation of such factors requires the development of a comprehensive framework with more nuanced standards and benchmarks, which is currently absent in the AU policies and practices.

3. Limitations of Tools for Comprehensive Assessment of Political Crises and Inefficiency of Sanctions

Limitations of the tools for conducting a thorough assessment of political crises and inefficiency of sanctions pose challenges to mainstreaming democratic values, rule of law and good governance. The AU relied on Continental Structural Conflict Prevention Framework (CSCPF) to tackle the underlying causes of conflict and foster peace and stability. This framework seeks to pinpoint and alleviate structural vulnerabilities in countries, that could potentially lead to conflict. It incorporates tools like the Country Structural Vulnerability and Resilience Assessment (CSVRA) and the Country Structural Vulnerability Mitigation Strategy (CSVMS), which facilitate early identification and propose actions to address structural challenges.¹⁰⁹

Despite these efforts, concerns linger about whether the CSCPF can be effective in preventing conflicts and crises in the region. During a meeting in 2024, governments raised their concerns over “the limited accession of Member States to the CSCPF tools – CSVRA and CSVMS, nine (9) years after adoption” (para. 10). Understanding the challenges, Member States requested the AU Commission to:

- “Undertake a comprehensive review of the CEWS, CSVRA and CSVMS with a view to reengineering the tools to effectively respond to the threats to peace and security and proposing appropriate interventions.”
- “Develop and implement concrete awareness-raising campaigns and actions to popularize the CSCPF and the two tools – CSVRA and CSVMS, as well as capacity building programmes, working closely with the APRM and RECs/RMs to ensure

¹⁰⁹ AU, *Continental Structural Conflict Prevention Framework* (2018).

Member States are sensitized on the benefits of the tools.

- “Mobilise sustainable funding, including through the Peace Fund, to support CSVRA/CSVMS processes, ensuring adequate resources to support Member States for stakeholder engagement and the effective implementation of identified mitigation strategies.”
- “Provide half-yearly reports on the implementation of the CSVRA and CSVMS to the Council.”¹¹⁰

In terms of response mechanisms, the AU has made certain efforts in developing a sanctions regime to address unconstitutional changes of government. While article 23(2) of the Constitutive Act of the AU allows for political and economic sanctions, the content of the provisions is vague limiting its practical application. Overall, the sanctions can take form of the automatic suspension of membership, what represents general and initial step in reacting to the violations of the common values. In addition, specific targeted sanctions, like travel bans and asset freezes, can be applied by the AU. To enhance monitoring and implementation of sanctions, the AU needs to develop clearer guidelines, what will ensure progressive and predictable application of the sanction regime for restoring constitutional order in states.

4. Spread of Corruption at All Levels of State in Africa

Undoubtedly, corruption continues to pose a significant obstacle to good governance and development in Africa. Its detrimental impact extends across various sectors and levels of society, affecting well-being of the public in Africa. This pervasive issue hampers progress and has resulted in the continent’s overall underdevelopment.

Corruption has been mainstreamed into government institutions in such a way that bribery has become an unfortunate norm in public interactions throughout Africa. The prevalence of corruption is so widespread that it is nearly impossible to navigate public spaces without encountering demands for bribes. Regrettably, many politicians who hold positions of power engage in embezzlement, illicit transfer funds to offshore bank accounts, and illegal exploitation of natural resources. According to the Transparency International review of corruption in public institutions, most Africans think that corruption is rising fast on the continent, with more than one in four Africans having to give a bribe to access public services

¹¹⁰ Communiqué on enhancing the AU Continental Early Warning System (CEWS) and the Implementation of Early Action: Review of the Country Structural Vulnerability and Resilience Assessment (CSVRA) and Country Structural Vulnerability Mitigation Strategies (CSVMS) (adopted 17 December 2024) Peace and Security Council PSC/PR/COMM.1251.

in healthcare, police and education.¹¹¹ Such corrupt practices in government institutions result in poor population being continuously deprived of the access to essential services and puts additional pressure by making them spend meagre savings on bribes to access such services.¹¹²

Across Africa police became the most notorious sector for corruption. In fact, the Nigerian Police practices giving change in smaller denomination of the naira to citizens who give them higher denominations as bribes because they have no smaller denominations.¹¹³ They confidently practice this on Nigerian highways in the glare eyes of the public, and none has been convicted or dismissed for such act. A show of some confidence demonstrates that those at the top of the hierarchy are in support of their sharp practices. Given the spate of corruption in Africa, including its ravaging effects, it has been correctly captioned as the AIDS of democracy on the continent which has continued to destroy the hope and future of many societies.¹¹⁴

The intertwining of politics and bureaucracy in Africa has become a major catalyst for the widespread corruption. When bureaucracy becomes politicized, civil servants are often appointed based on political loyalty rather than merit or competence. This leads to the prioritization of personal and political interests over the welfare African nations. As bureaucrats align themselves with politicians, they may engage in corrupt practices to secure their positions or to satisfy the political agenda of their patrons. Furthermore, the politicization of bureaucracy can compromise the independence of key institutions responsible for oversight and accountability. Independent agencies, such as anti-corruption bodies and auditing departments, may become susceptible to political interference, hindering their functions. The problem is further exacerbated by corruption in the field of procurement, where contracts are awarded based on bribes rather than competence and quality of candidates. The consequences of such practices are far-reaching and lead to an environment conducive to the embezzlement of public funds and mismanagement of resources, resulting in inadequate infrastructure, limited access to essential services, and hampered economic growth.¹¹⁵

Moreover, the prevalence of corruption in African parliaments erodes public trust in governance and decision-making. The practice of parliamentarians receiving kickbacks to favor

¹¹¹ 'One in four people in Africa pay bribes to access services, survey says' (Transparency International 2019) <<https://www.transparency.org/en/press/one-in-four-people-in-africa-pay-bribes-survey-says>> accessed 20 June 2022.

¹¹² 'Citizens speak out about corruption in Africa' (Transparency International 2019) <<https://www.transparency.org/en/news/citizens-speak-out-about-corruption-in-africa>> accessed 7 July 2022.

¹¹³ Ibid.

¹¹⁴ KR Hope and B Chikulo, *Corruption and development in Africa* (Palgrave Macmillan/Houndmills 2000).

¹¹⁵ Jorum Duri, *Overview of corruption and anti-corruption in sub-Saharan Africa* (U4 2020).

certain firms and individuals compromises the integrity of the legislative process and undermines democratic principles. When parliamentarians prioritize personal gain over the welfare of their constituencies, it leads to a significant disconnect between elected officials and people they represent. Instead of focusing on implementing projects and policies that would benefit their communities, these politicians are driven by self-interest and perpetuate a cycle of underdevelopment and poor governance.¹¹⁶

It is essential to acknowledge that corruption is not limited to politicians and public officials but extends to citizens' involvement in corrupt practices. When corruption becomes ingrained in society, it is challenging to break the cycle. In local communities, instances of corruption can be also observed. For instance, the findings by Corruption Watch uncovered the practice of corruption (based on the reports of 5,000 whistle-blowers), which had been persistent in municipalities of South Africa. Apart from irregularities in procurement, funds embezzlement and employment issues, corruption at the local level includes "nepotism, bribery, and disregard for policies and laws, with implicated officials rarely being held accountable." In addition, irregularities involved companies "billing double prices for services ... or allegations of business syndicates with major influence over municipal processes."¹¹⁷

Respectively, tackling corruption requires a comprehensive approach, that involves not just targeting corrupt politicians but fostering a culture of transparency, accountability, and ethical behaviour among the general population. It calls for collective efforts to combat corruption at all levels and establish a governance system that prioritizes the well-being and development. Setting up strong legal frameworks and institutions that enforce anti-corruption measures is crucial. Efforts should be made to enhance transparency in public administration, create effective channels for reporting corruption, and ensure swift and impartial justice for those involved in corrupt practices. To tackle corruption at the citizen level, collective efforts are necessary. Governments, civil society and educational institutions should work together to raise awareness about the detrimental effects of corruption and promote ethical values. According to the 2019 study, civil society's growing engagement in governance is closely linked to advancing transparency, the rule of law, human rights, and anti-corruption efforts. The study also revealed that greater involvement of civil society organizations can positively influence governance by enabling them to serve as watchdogs, holding governments

¹¹⁶ Ibid.

¹¹⁷ 'CW Report Reveals Municipal Managers Commit Most Corruption in Local Govt' (Corruption Watch 2021) <<https://www.corruptionwatch.org.za/cw-report-reveals-that-most-local-government-corruption-occurs-in-municipal-managers-office/>> accessed 5 June 2025.

accountable and ensuring they effectively meet public needs.¹¹⁸

However, it is still vital to address the root causes that drive individuals to engage in corrupt behaviour. Factors such as poverty, lack of opportunities and weak governance contribute to the persistence of corruption. Therefore, it is necessary to pursue good governance, inclusive economic growth, reduce income inequality and create additional opportunities for development of communities.¹¹⁹

5. Increasing Spate of Acts of Insecurity

Insecurity is undeniably a pressing issue, that has severe implications for governance and development in Africa. Various security challenges, e.g. presence of extremist groups like Boko Haram in Northern part of Nigeria and the Islamic State in West Africa, along with incidents of kidnapping and proliferation of armed groups, have created an environment of fear and instability. Additionally, conflicts in Sub-Saharan Africa for the past several decades have not only caused immense human suffering but also carried substantial economic costs. On average, countries experiencing intense conflict see annual growth rates that are about 2.5 percentage points lower, with the negative impact on per capita GDP compounding over time. In addition, conflicts place heavy pressure on public finances by reducing revenue, increasing military expenditure, and diverting resources from development and social services, vital for societies.¹²⁰

Years of dedicated resource commitment are indeed necessary to rebuild societies impacted by wars and insecurity. The economic, social, and political development of such societies requires substantial investment to rehabilitate and restore stability. In this regard, it is equally important for governments to strike a balance and address other critical governance challenges. Investing in comprehensive security strategies involves not only strengthening security forces but also addressing the root causes of insecurity, such as poverty, inequality, and marginalization. By tackling these underlying issues, governments can create an environment that fosters social cohesion, reduces tensions and promotes peace and stability. Governments should also prioritize investments in education and healthcare to build a skilled

¹¹⁸ Victor H. Mlambo, Sphephelo P. Zubane and Daniel N. Mlambo, 'Promoting good governance in Africa: The role of the civil society as a watchdog' (2019) 20 *Journal of Political Affairs* 1989.

¹¹⁹ 'The way out of poverty and corruption is paved with good governance' (World Bank) <<https://blogs.worldbank.org/en/voices/way-out-corruption-paved-good-governance#:~:text=Chronic%20mismanagement%20and%20corruption%20demoralizes%20citizens%20and%20undermines,participation%20in%20their%20governments%20stunts%20their%20full%20potential.>> accessed 5 June 2025.

¹²⁰ Xiangming Fang and others, 'The Economic Consequences of Conflict in Sub-Saharan Africa' (IMF 2020).

and healthy workforce. In its turn, infrastructure development is essential for fostering economic growth and improving the overall quality of life for citizens.

Apart from socio-economic factors, governance failures often contribute to insecurity and instability. Governments that neglect to prioritize the welfare of their citizens create conditions that drive some individuals towards acts that threaten state security. For example, in the Niger Delta region of Nigeria, militant groups emerged in response to years of neglect and marginalization despite being the mainstay of the nation's economy through oil production. The region suffers from economic disparities, infrastructural decay, and environmental degradation, while politicians misappropriate funds from oil exploration, leaving the region impoverished. In an attempt to attract government attention, militant groups resort to violent actions, exacerbating security challenges.

Similarly, the autocratic and greedy nature of African leaders has led to conflicts in Sierra Leone, Guinea-Bissau, Liberia, and Cote d'Ivoire over the past decade.¹²¹ In addition, the practices of ethnic favouritism usually lead to alienating or marginalizing certain groups, what creates a sense of dissatisfaction and injustice, prompting such groups to use violence against the state and resort to secessionism.

To address the challenges posed by insecurity, whether stemming from governance failures, socio-economic situation or external factors, African leaders must prioritize good governance practices that uphold democratic principles, inclusivity and respect for human rights. By fostering transparency, accountability, and fairness in governance, leaders can create an environment that encourages cooperation and unity among diverse ethnic and social groups. This unity and inclusivity can be instrumental in mitigating secessionist movements and other sources of instability.

Apart from internal policies and efforts, cooperation among African nations and institutions is essential to effectively address regional security challenges. By working together, sharing intelligence and collaborating on counter-terrorism efforts, countries can combat transnational security threats that extend beyond national borders. The lack of significant development, ongoing chaos and instability in many parts of the continent can be attributed, in part, to the failure to effectively tackle these security challenges.

Hereby, sustainable and comprehensive development in Africa requires a focus on both security and good governance. By addressing the root causes of insecurity and prioritizing

¹²¹ Rashid I Adebajo, *West Africa's security challenges: building peace in a troubled region* (Lynne Rienner Publishers 2004).

investments in education, healthcare and infrastructure, governments can contribute to fostering peace and stability in society. In turn, a peaceful and stable environment will pave the way for meaningful development and progress. Building trust and engaging in open dialogue with various stakeholders, including secessionist groups, can foster understanding and pave the way for peaceful resolutions. By advancing good governance and inclusive policies, leaders can further build a brighter and more prosperous future for their nations and the continent.

6. Democratic Erosion

While there was a wave of democratization in Africa during early 1990s, the actual practice of democracy in many African nations has fallen short of the principles it espouses. There is a growing sense of disillusionment among citizens, who hoped for positive change and good governance when it was introduced. The concept has been misused for the sake of maintaining autocratic rule by some leaders, resulting in lack of genuine democratic governance and trust in democratic institutions. Critical democratic principles, such as rule of law, separation of powers, and respect for human rights, are often disregarded or undermined. The rule of law is essential for ensuring that everyone, including those in power, is subject to and bound by the same laws. However, in some cases, leaders act with impunity or openly disregard the rule of law. This erodes trust in the justice system, exacerbates societal inequalities and shakes the very foundation of a just and equitable society.¹²²

Moreover, the separation of powers, which aims to ensure checks and balances within the government, is weakened when the executive branch exerts excessive control over the judiciary and legislature. When these institutions become subject to political pressures, citizens' rights and freedoms are at risk, and democratic governance is undermined. For example, in many regions of the continent, the president retains the authority to appoint and dismiss chief justices, enabling them to terminate these positions at their discretion or if the appointees resist conforming to their preferences.¹²³

Another challenge of governance relates to maintaining free and fair elections. While it is a cornerstone of democracy, in some cases elections are marred by irregularities and lack of political pluralism, preventing genuine representation of people's will. Incumbent leaders tend

¹²² OD Akinkugbe, 'The Challenge to the Rule of Law and Democracy in Contemporary West and Central Africa' in G Shaffer and W Sandholtz (eds), *The Rule of Law under Pressure: A Transnational Challenge* (Cambridge University Press 2025).

¹²³ HA Idowu and NO Mimiko, 'Election management systems and peaceful alternation of power between incumbent and opposition governments in Ghana and Nigeria' (2020) 44 *Politikon* 88.

to use their positions of power, electoral violence and intimidation to influence the electoral management bodies, leading to biased decision-making and outcomes that favour the incumbents.

Constitutionalism, which upholds the primacy of the constitution as the supreme law of the land, is sometimes compromised when leaders manipulate or change the foundational law to prolong their time in office or grant themselves more powers. Since 2000, 15 countries, including Togo, Gabon, Chad, Cameroon, Djibouti, DRC, Sudan, Eritrea, and the Republic of Congo, have introduced controversial amendments altering the presidential limits in constitutions.¹²⁴ For example, in 2015, both Rwanda and Burundi underwent constitutional modifications to remove presidential term limits, enabling their sitting presidents to prolong their time in office which has been criticized broadly. In the same vein, Uganda adjusted its presidential age limit and parliamentary term limit, allowing president Yoweri Museveni to run for re-election in 2020 and granting parliamentarians the opportunity for extended re-election eligibility. The Director of the Royal African Society stated, that “[t]he longer somebody stays in power, the less effective they are and breaking the rule of law and the constitution weakens the state.”¹²⁵

In contrast, Guinea’s president Alpha Conde’s attempt to alter the constitutional term limit to pursue a third term sparked resistance and faced public outcry. Ultimately, his actions led to his arrest and eventual overthrow by the country’s armed forces. Similarly, attempts to tinker with presidential term limit have failed elsewhere in Africa – Nigeria (2005), Burkina Faso (2014), Niger (2009–2010), and Zambia (2001). These undemocratic practices undoubtedly undermine good governance on the continent by preventing capable leaders from taking charge and addressing Africa’s numerous challenges. Instead, those responsible for perpetuating the continent’s current situation remain in power, perpetuating mediocrity in governance and exacerbating the issues at hand.

Along with constitutionalism crisis, human rights abuses in Africa remain a significant concern, with citizens, especially those associated with opposition governments, often facing intimidation and unjust imprisonment. The targeting of opposition members and activists creates an atmosphere of fear and repression, hindering democratic practices and stifling dissenting voices. Such actions infringe upon citizens’ rights to freedom of expression and

¹²⁴ J Stremlau, *Africa’s democracies: promises, progress and prospects*. Electoral Institute for Sustainable Democracy in Africa (EISA 2016).

¹²⁵ Constance Johnson, ‘Rwanda Referendum Approves Extended Presidential Terms’ (*Library of Congress* 2015) <<https://www.loc.gov/item/global-legal-monitor/2015-12-30/rwanda-referendum-approves-extended-presidential-terms/>> accessed 13 August 2023.

press, undermining the foundations of a democratic society. According to the 2025 findings by Amnesty International, the military regimes in Mali, Guinea, Burkina Faso, and Niger are actively suppressing criticism of those in power. To stifle dissent, security and defence forces frequently use tactics such as enforced disappearances and unlawful detentions.¹²⁶

The democratic erosion or pseudo democracy, which has become prominent in Africa, results in poor governance currently accompanied by poverty, hunger, economic backwardness, corruption and incompetence.¹²⁷ To address these challenges and build a more inclusive and accountable democracy, it is essential for African leaders and institutions to respect constitutional term limits and recommit to upholding democratic principles, respecting human rights, promoting transparency and accountability. Strengthening rule of law, ensuring the independence of the judiciary, and upholding the separation of powers are another crucial step towards restoring and safeguarding democratic governance on the continent. Additionally, it is vital to hold politicians and influential figures accountable for their actions, irrespective of their social status or wealth, to foster a just and equitable society.

For a democracy to function effectively, the legislature must be independent, active, and accountable to the people it represents. It should serve as a forum for informed debates, where diverse perspectives are considered, and decisions are made in the best interests of the citizens. The integrity of the electoral process is crucial for ensuring that the voice of the people is heard and that leaders are truly chosen based on the will of the electorate. Furthermore, the international community can promote democratic governance and support transparent electoral processes, safeguarding human rights, and advocating for democratic norms.

7. Lack of Effective and Influential Leadership

The issue of leadership in Africa is deeply intertwined with the concept of good governance. Effective governance relies heavily on strong leadership qualities such as charisma, discipline, intelligence and foresight. However, many African rulers seem to lack these essential attributes, leading to numerous challenges in governance. Some of them may present themselves as qualified candidates during elections, but often lack necessary training and experience to provide effective leadership, while others are simply promoted by individuals

¹²⁶ 'Enforced disappearances as a means of repression by military authorities in West Africa' (Amnesty International) (Amnesty International 2025) < <https://www.amnesty.org/en/latest/news/2025/04/enforced-disappearances-west-africa/> > accessed 5 June 2025.

¹²⁷ L Diamond, 'Elections without democracy: thinking about hybrid regimes' (2002) 13(2) Journal of Democracy 21.

seeking to benefit from their rule. As a result, the continent struggles with a critical question of whether its leaders are truly fit for their roles.¹²⁸

Politicians often tend to personalize power and prioritize their personal interests, focusing on accumulating personal wealth at the expense of the impoverished population, displaying a lack of concern for the future of their countries and citizens. Respectively, the commitment to genuinely benefit the state and its citizens is severely lacking and, in certain instances, completely absent. Furthermore, African leaders have increasingly embraced autocratic inclinations, undermining the separation of powers. Africa needs figures such as Nelson Mandela and Kwame Nkrumah, with the right leadership insight to drive good governance and much-desired development.¹²⁹

State captures of the institutions, that were ordinarily designed to act as watchdogs to the state, represents another critical governance challenge. A disturbing trend persists among African leaders who employ oppressive and intimidating tactics to silence vital institutions that could drive the implementation of development-oriented and progressive ideas and policies. Non-governmental organizations (NGOs), democratic groups, civil society, and human rights defenders, which should serve as watchdogs, have unfortunately fallen under the control of state regime and face significant challenges in their missions. Consequently, this has led to an alarming proliferation of governance styles and policies that are often detrimental to the well-being of the people.¹³⁰

Media and journalists have not been spared from suppression either. While some have been forcibly silenced, others have been co-opted by state governments through financial enticements. The consequences of such actions have severely impacted press freedom on the continent. As a result, limited number of Africans have access to unbiased and free media reporting, which is essential for holding governments accountable and ensuring effective governance. Additionally, opposition governments are scarce, and those that exist often face intimidation and harassment by incumbent governments. In some instances, African governments have gone as far as creating and funding their own groups to manipulate public opinion and eliminate constructive criticism.

¹²⁸ Steven Friedman, 'The problem of leadership in Africa' (Democracy in Africa) <<https://democracyinafrica.org/problem-leadership-africa/#:~:text=Perhaps%20the%20most%20oft-repeated%20explanation%20for%20the%20weaknesses,Europe%20and%20North%20America%20and%20in%20Africa%20itself.>> accessed 5 June 2025.

¹²⁹ 'Is Africa still capable of producing visionary leaders to solve today's problems?' (BBC 2023) <https://www.bbc.co.uk/programmes/p0fwzg00> accessed 5 June 2025.

¹³⁰ HA Idowu, 'Understanding Governance Challenges in Africa' in A Farazmand (ed), *Global Encyclopedia of Public Administration* (Springer Nature 2020).

For Africa to achieve good governance, it is imperative to ensure that watchdog institutions are allowed to operate freely and independently. Upholding press freedom, protecting the rights of opposition parties, and safeguarding the autonomy of civil society organizations are crucial steps in promoting transparency and accountability in governance. Governments should embrace constructive criticism and engage with these institutions as partners in the nation-building process. By respecting their role, leaders can create an environment conducive to open dialogue, public participation, and effective policymaking.

As a conclusion to the current Chapter, it can be highlighted that a number of challenges represent some of the most pressing and concerning issues facing the state of democracy and good governance on the continent. While African regional and sub-regional organizations have demonstrated commendable efforts in establishing a framework to uphold constitutions, challenges persist in the interpretation and enforcement of these constitutional values and principles. Although there is considerable overlap in fundamental values such as human rights, the rule of law, separation of powers, and democratic processes, the lack of clarity in their concrete content and interpretation poses obstacles in establishing clear standards and benchmarks. This ambiguity hampers the identification of violations, especially in complex cases involving the systematic infringement of the constitutional order.

While the challenges discussed in this chapter are not exhaustive, they form the principal obstacles to significant progress in governance and development. To ensure such progress, it is imperative to address these challenges comprehensively and directly.

By confronting these issues, Africa can forge a path towards a brighter future and reclaim its potential for greatness. This requires a holistic approach and concerted efforts from all stakeholders to overcome these governance challenges and foster an environment conducive to good governance.

CHAPTER III. SOLUTIONS FOR THE CHALLENGES OF GOOD GOVERNANCE IN AFRICA FROM AFRICAN AND WESTERN PERSPECTIVES

Agenda 2063 (“The Africa We Want”)¹³¹ represents the AU’s shared 50-year development and transformation program for realizing the full potential of the continent. The main priorities are anchored around the vision of “Africa of good governance, democracy, respect for human rights, justice and the rule of law,” which is a key to Africa’s political and economic transformation in the next decade. Reiterating the statement made by former UN Secretary-General Kofi Annan, “good governance is perhaps the single most important factor in eradicating poverty and promoting development.” However, the main question arises about the effective steps that need to be taken to put the African governments on the right track.

While international development assistance can play a role in promoting better governance, it is crucial to recognize the unique realities of governance in weak and fragile states. Misunderstanding these realities and adopting idealistic models of governance can lead to ineffective interventions and further mistrust from citizens, particularly when initiatives are perceived as being driven solely by Western interests.

Understanding the historical and cultural factors shaping African governance systems is essential for developing context-specific solutions that resonate with the aspirations of the people. African perspectives and local ownership should be at the forefront of governance reform efforts. This means incorporating the views and priorities of African citizens, leaders, and civil society to ensure that interventions are relevant, responsive and effective.

1. Understanding African Perspectives on Good Governance

1.1. Cultural Context

Africa is a continent known for its rich cultural diversity, encompassing a wide range of languages, traditions, customs and beliefs. This cultural diversity plays a significant role in shaping the perceptions and practices of governance across the continent. Understanding the impact of cultural context is essential for comprehending African perspectives on governance.

Ikuenobe, who examines how communal values shape various aspects of African ethics,

¹³¹ First Ten-Year Implementation Plan (2014–2023) of the Agenda 2063: The African We Want (adopted September 2015) African Union Commission.

explains that communalism in African traditions is not just a social-political concept, but a broader notion that reflects the shared kinship, beliefs, values and aspirations of a group of people living together in a community. Furthermore, he delves into the impact of communalism on African perspectives regarding individual identity, ethical relationships with the environment, personal rights and responsibilities, and the underpinnings of their ontological and religious beliefs. As Ikuenobe reflects, African cultures often emphasize communal values, collective decision-making and respect for elders and traditional authorities.¹³²

These cultural values have historically influenced the governance structures in various African societies. Traditional systems of governance, such as chieftaincy and tribal councils, have played a vital role in local administration and conflict resolution. These systems have endured over generations and continue to coexist alongside modern state structures. The relevance of traditional systems of governance in Africa should not be underestimated, as they provide a sense of identity and community. In many instances, traditional leaders are seen as custodians of culture and values respected by tribes. Their role in governance reflects the needs of the local population, what is based on ubuntu as an old African value that promotes unity and collectivism. Such traditional approach is still relevant today for promoting human rights and good governance.¹³³

While traditional systems of governance continue to be influential, African countries have also adopted modern governance structures influenced by the Western models. These models, often inherited from colonial administrations, are characterized by centralized power, formal institutions and legal frameworks. In recent years, there has been a growing recognition of the importance of incorporating traditional governance practices into modern governance frameworks. This acknowledgement stems from the realization that African perspectives on governance are not solely defined by Western norms and principles. By incorporating elements of traditional governance, African countries can create governance systems that resonate with their unique cultural contexts and address the specific needs of their populations. It also entails promoting cultural heritage preservation and fostering the empowerment of local communities.¹³⁴

¹³² P Ikuenobe, 'African Communal Ethics' in MF Murove (ed), *The Palgrave Handbook of African Social Ethics* (Palgrave Macmillan 2020).

¹³³ Noluthando S. Matsiliza, 'The strategic role of traditional leadership in promoting good governance' (2024) 12 *Africa's Public Service Delivery and Performance Review* 825.

¹³⁴ United Nations Economic Commission for Africa, 'Relevance of African Traditional Institutions of Governance' (2007) <https://repository.uneca.org/bitstream/handle/10855/3086/bib.%2025702_I.pdf> accessed 15 April 2023; Kidane Mengisteab, 'Traditional Institutions of Governance in Africa' (2019) Oxford Research Encyclopedia of Politics.

Hereby, the cultural context in Africa significantly influences governance perceptions and practices. Understanding and appreciating the diversity of African cultures is essential for comprehending African perspectives on governance. By recognizing the relevance of traditional systems of governance alongside modern structures, African countries can develop governance frameworks that are responsive to the needs of their populations and promote inclusive and effective governance.

1.2. Historical Experiences

1.2.1. Legacy of Colonialism

One crucial aspect, which needs to be considered for better understanding of African perspectives on governance, is the legacy of colonialism. European colonial powers established political, economic, and administrative systems that significantly impacted African governance structures. Colonial rule often marginalized local governance institutions and imposed Western models of governance, resulting in enduring challenges for independent African states.¹³⁵ Colonial powers pursued exploitative economic policies, extractive practices, and resource exploitation, primarily serving the interests of the colonizers. These policies often undermined indigenous governance systems and disrupted traditional modes of decision-making. The imposition of centralized rule and arbitrary borders further exacerbated social divisions and ethnic tensions, creating challenges for governance and nation-building. The impact of colonialism on governance is evident in the persistence of power imbalances, weak institutions, and a legacy of authoritarianism in some post-colonial African states. The concentration of power, lack of transparency, and limited accountability are among the challenges inherited from colonial rule. These factors continue to shape African perspectives on governance and influence efforts to establish inclusive and participatory systems.

1.2.2. Post-Colonial Challenges

After gaining independence, African countries faced a myriad of challenges in building effective governance structures. The transition from colonial rule to self-governance was often accompanied by political instability, economic disparities and social tensions. Post-colonial African states had to navigate the complexities of nation-building, often striving to balance diverse ethnic, linguistic and cultural identities within their borders. The continuous task of

¹³⁵ Olufunmilayo B Arewa, *Disrupting Africa: Technology, Law, and Development* (Cambridge University Press 2021).

building national unity, while respecting local autonomy and embracing cultural diversity, is a persistent challenge for African countries. The historical divisions inherited from the colonial era and the ongoing efforts to reconcile them have had a profound impact on governance approaches and perspectives.¹³⁶

Furthermore, economic challenges present another significant obstacle to effective governance in Africa. Limited access to resources, economic dependency, and unequal global trade relations have hindered the development of sustainable and inclusive economies. Lack of responsible management of resources and the policies to address economic disparities are additional factors, which hamper effective economic governance.

Addressing these challenges requires proactive and inclusive governance strategies that promote unity, respect for diverse cultural identities and equitable economic development. By effectively managing resources and implementing policies to address economic disparities, African countries can work towards achieving sustainable and inclusive growth.

1.3. Current Socio-Economic Realities

Socio-economic conditions, that shape the continent, can offer additional insights into African viewpoints on governance. Persistent poverty and inequality create social unrest and undermine trust in governance institutions. The concentration of wealth and limited economic opportunities contribute to feelings of marginalization and exclusion, leading to social tensions and political instability. Inadequate access to essential services further exacerbates these challenges, affecting the overall perception of governance effectiveness.

It is crucial to recognize the interplay between economic development and effective governance. Economic growth alone is not sufficient for achieving sustainable development and good governance. Rather, inclusive and participatory governance processes are needed for fostering equitable systems. Efficient governance establishes the essential structures and organizations for the transparent and responsible administration of resources, drawing in investments, and nurturing a favourable business climate. It upholds the principles of law, safeguards property rights, and guarantees the equitable allocation of economic advantages. In instances where governance systems lack strength or are susceptible to corruption, they obstruct economic progress, thereby sustaining the cycle of poverty and inequality.

In its turn, sustainable economic development contributes to improved governance

¹³⁶ Kassaye Nigusie and NV Ivkina, 'Post-colonial Period in the History of Africa: Development Challenges' in AM Vasiliev (ed), *Africa and the Formation of the New System of International Relations* (Springer 2021).

outcomes. It generates resources for public investment, poverty reduction programs, and social welfare initiatives. Economic empowerment enhances citizens' trust in governance institutions and creates opportunities for active participation in decision-making processes. Respectively, recognizing the interplay between economic development and effective governance in Africa is requisite for designing policies and strategies that address the continent's socio-economic challenges and promote inclusive growth.

2. Handling Common Challenges Faced in African Governance

2.1. *Preventing Corruption and Enhancing Accountability*

Corruption is a common challenge faced in African governance, that undermines development efforts, hinders economic growth, and erodes public trust in institutions. It involves the misuse of public resources for personal gain, bribery, embezzlement, and nepotism. The prevalence of corruption creates a culture of impunity and weakens governance structures, making it difficult to achieve sustainable development.

To address this challenge, African countries have implemented various strategies to enhance transparency and accountability, among others, by establishing anti-corruption institutions, that play a great role in investigation and prosecution of corruption cases. For instance, the Economic and Financial Crimes Commission¹³⁷ in Nigeria and the Ethics and Anti-Corruption Commission¹³⁸ in Kenya have been instrumental in combating corruption and promoting accountability. African countries have also enacted legislation and policies to tackle corruption in public administration. This includes the implementation of financial management systems that track public expenditures, creation of procurement regulations to ensure fair and competitive bidding processes, and development of codes of conduct for public officials. Botswana is often cited as a best practice case due to its strong anti-corruption measures and effective governance systems. The country has implemented comprehensive laws, established an independent anti-corruption agency, and promoted a culture of accountability and transparency in public administration.

Additionally, regional initiatives have been launched to address corruption through collective efforts. The AU adopted the Convention on Preventing and Combating Corruption,¹³⁹ which sets standards for member states to address corruption, promote good governance and

¹³⁷ 'The Economic and Financial Crimes Commission' (EFCC) < <https://www.efcc.gov.ng/>> accessed 3 April 2023.

¹³⁸ 'Ethics and Anti-Corruption Commission' (EACC) < <https://eacc.go.ke/default/>> accessed 3 April 2023.

¹³⁹ Convention on Preventing and Combating Corruption (adopted 1 July 2003) African Union.

enhance transparency and accountability. The AU Advisory Board on Corruption¹⁴⁰ was established in 2009 as an autonomous organ of the AU, with the main objective to promote and encourage the adoption and implementation of anti-corruption measures among the AU member states. While it made valuable contributions to anti-corruption efforts in Africa, it is essential to strengthening its enforcement power, providing adequate resources, safeguarding its independence, and fostering public awareness and engagement. At the national level, it is requisite to advance institutional capacity, promote civic engagement and foster culture of integrity, what will contribute to tackling corruption and ensuring accountability in governance.

2.2. *Reinforcing Institutions and Their Capacity-Development*

In Africa, the prevalence of weak institutions stands as a formidable obstacle to effective governance. Inadequate institutional capacity impedes governments from successfully implementing and enforcing policies, delivering public services, and maintaining rule of law. Such challenges require Africa to promote various capacity-building initiatives such as establishment of specialized training programs and institutions aimed at enhancing the skills and knowledge of public officials. These programs usually focus on the areas of public administration, financial management, policy development, and leadership. For instance, the African Capacity Building Foundation provides technical assistance, training, and research to strengthen the capacity of African institutions in key areas of governance and development. Furthermore, partnerships and collaborations between African countries and international organizations are considered instrumental in building institutional capacity. The United Nations Development Programme (UNDP), the African Development Bank and other regional and international actors provide support through funding, technical expertise, and knowledge sharing. These partnerships help strengthen governance institutions by improving policy formulation, promoting accountability mechanisms, and enhancing service delivery.¹⁴¹

It is important to ensure that such capacity building efforts are well designed to meet the actual needs of the continent. This requires conducting thorough needs assessments and engaging in collaborative processes with local stakeholders. Capacity building initiatives should be inclusive, participatory, and locally driven, involving government officials, NGOs, academia, and the private sector. This approach will ensure that the programmes are responsive

¹⁴⁰ 'The African Union Advisory Board on Corruption' (African Union) <<https://anticorruption.au.int/>> accessed 15 March 2023.

¹⁴¹ Michel Dessart and Roland Ubogu (eds), *Capacity Building, Governance, and Economic Reform in Africa* (IMF 2001).

to the unique challenges faced by African countries.

Capacity-building efforts shall be coupled with investment into research and knowledge generation. Supporting research institutions and think tanks that focus on governance issues can contribute to evidence-based policymaking and decision-making processes. These institutions can conduct research, analyse data, and provide valuable insights and recommendations to inform governance strategies and initiatives.¹⁴²

In addition to capacity-building initiatives, institutional reforms are crucial for strengthening governance. African countries have undertaken efforts to streamline administrative processes, enhance transparency, and promote accountability. For example, Rwanda has implemented comprehensive public sector reforms, including the use of technology to improve service delivery and reduce corruption. The country's e-government platform has digitized administrative processes, leading to increased efficiency and transparency.¹⁴³

Furthermore, regional integration initiatives, such as the African Continental Free Trade Area, contribute to strengthening institutions by promoting trade, economic cooperation, and harmonization of regulations among African countries. This integration fosters institutional collaboration, enhances regional governance frameworks, and strengthens the capacity of institutions.¹⁴⁴

However, addressing the issue of weak institutions requires a long-term commitment and sustained efforts. It requires investments in human capital, promotion of merit-based recruitment and retention practices, and enhancement of independence and integrity of institutions.

2.3. *Inclusivity and Participation*

Inclusive governance and citizen participation play a pivotal role in advancing sustainable development and tackling the challenges confronting African nations. Inclusive governance guarantees that every sector of society, including marginalized groups, is afforded a voice in decision-making processes and has access to public services. It acknowledges the

¹⁴² C Leuz, 'Evidence-based policymaking: promise, challenges and opportunities for accounting and financial markets research' (2018) 48 *Accounting and Business Research* 582.

¹⁴³ Pierre Bakunzibake, Gunnar O. Klein and Sirajul M. Islam, 'E-government implementation and monitoring: The case of Rwanda's 'one-stop' E-government' (2019) 85 *The Electronic Journal of Informational Systems in Developing Countries*.

¹⁴⁴ 'Agreement Establishing the African Continental Free Trade Area: Brief Overview' (AfCFTA) <<https://au-afcfta.org/about/>> accessed 12 April 2023.

significance of diversity and advocates for equal participation of all citizens in shaping policies and programs that impact their lives. Empowering marginalized groups and promoting inclusivity requires implementation of mechanisms and strategies, in particular inclusive policy frameworks and legal provisions, that protect the rights of marginalized groups and promote their representation in decision-making bodies. Such measures align with the African Charter on Human and Peoples' Rights, which emphasizes the rights of individuals and groups to participate in governance and development processes of their countries.¹⁴⁵

In addition to legislative frameworks, capacity-building initiatives and awareness-raising campaigns are essential to empower marginalized groups. This can include training programs, workshops and mentorship opportunities, that provide skills and knowledge in areas such as leadership, advocacy, and public speaking. For example, such organizations as the African Women's Development Fund provide capacity-building support to women's groups across the continent, enabling them to participate effectively in decision-making processes.

Moreover, the use of technology and digital platforms has emerged as a powerful tool for enhancing citizen participation in governance. Online platforms, social media, and mobile applications provide avenues for citizens to voice their opinions, participate in consultations, and contribute to policy discussions. In particular, Kenya has introduced online platforms, such as Huduma Namba, which allows citizens to access government services and participate in public consultations.¹⁴⁶

Furthermore, civil society and community-based groups play a vital role in promoting inclusivity and citizen participation. These organizations serve as intermediaries between citizens and governments, advocating for the rights and interests of marginalized groups, and facilitating their engagement in decision-making processes. For example, the Social Accountability Monitoring Initiative in Uganda works with local communities to monitor service delivery and engage in dialogue with government officials to address gaps and improve service provision.

It is important to recognize that promoting inclusive governance is an ongoing process, that requires continuous efforts and commitment to social justice. By empowering marginalized groups and ensuring their participation in decision-making, African countries can benefit from diverse perspectives, leverage untapped potential and foster inclusive and equitable society.

¹⁴⁵ African Charter on Human and Peoples' Rights (adopted 27 June 1981, entered into force 21 October 1986) 21 ILM 58 art 13.

¹⁴⁶ CK Tsuma and FO Onditi, 'Social Media and Citizen Engagement: A Case Study of Huduma Namba Kenya' 8(8) Journal of Media and Communication Studies 84.

3. Incorporating African Peculiarities into Governance Systems Based on Western Models

3.1. Recognizing Local Governance Traditions

In order to enhance current governance systems, which are based on Western models, it is essential to recognize and appreciate the richness and value of African traditional systems. These systems have long played a significant role in African societies, and their integration into modern governance systems can contribute to more effective and contextually relevant governance practices. African traditional governance systems are rooted in indigenous knowledge, cultural values, and community participation. They often emphasize consensus-building, community decision-making, and the inclusion of various stakeholders. By integrating elements of these systems into modern governance frameworks based on Western models, African states can benefit from the inherent strengths of their local peculiarities.

One example of incorporating African traditional governance systems is the case of Botswana. The country has a dual legal system, that recognizes both common law and customary law. The latter is applied in cases, that involve issues of personal status, inheritance, and land rights, among others.¹⁴⁷ This recognition of traditional governance practices has allowed for integration of local customs and community-based decision-making within the legal framework, promoting a more inclusive and culturally sensitive approach to governance. Similarly, in Ghana, the chieftaincy system plays a significant role in local governance. Chiefs are traditional leaders who are recognized and respected within their communities.¹⁴⁸ They have influence in decision-making processes, particularly in matters related to land and community development. The government of Ghana has acknowledged the importance of traditional leadership structures and collaboration with chiefs implementing development initiatives, what strengthened local governance and fostered community participation in decision-making.¹⁴⁹

Enhanced governance also depends on the indigenous knowledge systems, which encompass practices, approaches and beliefs developed by African communities over generations. It offers unique insights into resource management, sustainable development, and community resilience. For instance, in Zimbabwe, the concept of “chivanhu” or cultural heritage is embedded in governance practices. It recognizes the importance of traditional values,

¹⁴⁷ CMG Himsworth, ‘The Botswana Customary Law Act, 1969’ (1972) 1 *Journal of African Law* 4.

¹⁴⁸ Isaac Owusu-Mensah, ‘Politics, Chieftaincy and Customary Law in Ghana’ in G Wahlers, *Tradition and Justice* (Konrad Adenauer Stiftung 2013).

¹⁴⁹ N Chazan and S Naidu, *Traditional Leadership and Democratic Governance in Sub-Saharan Africa* (Development Policy Review 2006).

cultural practices, and indigenous knowledge in guiding decision-making processes. The incorporation of “chivanhu” in governance frameworks has helped preserve cultural heritage, empower local communities, and promote sustainable development initiatives that align with indigenous knowledge.¹⁵⁰

Respectively, upgrading of the modern governance systems, based on Western models, requires recognizing and integrating African traditional governance systems and indigenous knowledge. Countries like Botswana and Ghana have successfully incorporated elements of traditional governance into their legal and governance frameworks, fostering inclusive decision-making and community participation. Embracing and valuing indigenous knowledge, as seen in Zimbabwe, contributes to more holistic and sustainable governance practices. By incorporating these perspectives, Western approaches can bring more effectiveness to governance.

3.2. Partnering for Co-Creation

Incorporating African peculiarities in modern governance systems, based on Western models, requires active collaboration and partnership between stakeholders from both regions. By engaging in joint initiatives and co-creating solutions, Western and African stakeholders can foster a deeper understanding of African perspectives and develop governance practices that are effective.

One successful example of such partnership for co-creation includes cooperation between the AU and European Union (EU). Two organizations interact to address common challenges and promote sustainable development in both regions. This partnership emphasizes mutual respect and shared responsibility, as well as helps integrate African perspectives into decision-making processes. Through dialogue and collaboration, the AU-EU partnership has resulted in various development programs and policy frameworks, that reflect the needs and priorities of African countries. For instance, the EU-AU Joint Strategy and the African Peace Facility contribute to overall planning and coordination of efforts.¹⁵¹

Another example relates to collaboration between Western NGOs specializing in human rights and African NGOs advocating for democratic governance. It proved to be instrumental in promoting accountable governance, protecting human rights, and strengthening democratic

¹⁵⁰ L Chipfupa and D Chikodzi, ‘Cultural Heritage and Traditional Governance: A Panacea to Development in Zimbabwe’ (2018) 1(1) *Journal of Art, Design, and Built Environment* 35.

¹⁵¹ ‘Africa-EU Partnership’ (European Union External Action (2021) <<https://eeas.europa.eu/>> accessed 22 March 2023).

institutions. Furthermore, academic collaborations and research partnerships between Western and African institutions play a crucial role in incorporating African perspectives in governance. Through joint research projects, knowledge exchange, and capacity-building initiatives, scholars and researchers from both regions contribute to a deeper understanding of African governance systems and practices. This collaboration facilitates the co-creation of knowledge, the identification of best practices, and the development of innovative governance solutions that are grounded in African realities.

To encourage more partnerships for co-creation, it is important to establish platforms and mechanisms that facilitate dialogue, networking, and collaboration between Western and African stakeholders. These platforms can include conferences, workshops, and knowledge-sharing initiatives, that provide opportunities for meaningful engagement and exchange of ideas. Additionally, funding agencies and donors can play a role in supporting joint initiatives and encouraging partnerships that incorporate African perspectives.

3.3. Tailoring Solutions to Context

To effectively address governance challenges in Africa, it is crucial to develop context-specific strategies that are tailored to the unique needs, priorities, and cultural context of African countries. This approach recognizes that governance solutions cannot be imposed externally but should be developed in collaboration with African countries, respecting their sovereignty and ensuring local ownership of the solutions. One example of tailoring solutions to context is the APRM. As elaborate in Chapter I, the APRM is a voluntary self-assessment and monitoring initiative that African countries can join to evaluate their governance performance. It provides a platform for African countries to assess their governance practices and develop action plans to address identified challenges. The APRM process is conducted by African countries directly, with support from other states or organizations in the region. This approach ensures that the proposed governance solutions are rooted in local context and reflect priorities and aspirations of African nations.

Additionally, partnerships between African countries and international organizations, have been instrumental in tailoring solutions to context.¹⁵² For example, the UNDP's Governance for Peace and Development initiative works closely with African governments to strengthen their governance structures, enhance accountability, and promote citizen

¹⁵² 'Governance for Peace and Development' (United Nations Development Programme 2021) <<https://www.undp.org/governance-peace-and-development>> accessed 20 March 2023.

participation, taking account of local peculiarities. This cooperative approach acknowledges the significance of local ownership and permits tailored governance solutions.

Respecting sovereignty and local ownership of solutions is essential for tailoring governance strategies to the African context. It requires genuine engagement with African governments, civil society organizations and citizens to understand their perspectives, aspirations and challenges. This collaborative process ensures that solutions are culturally appropriate, responsive, and sustainable. It also fosters a sense of ownership and commitment among African stakeholders, increasing the likelihood of successful implementation and long-term impact.

4. Strengthening African Regional Organizations

African regional organizations play a crucial role in governance development and coordination on the continent. These organizations, such as the AU, ECOWAS, SADC, and EAC, have the mandate to promote regional integration, peace, stability, and good governance among their member states. Strengthening these regional organizations is essential for advancing governance agendas in Africa.

One key aspect of strengthening African regional organizations is enhancing their institutional capacity. This involves providing adequate financial and technical resources to support their governance-related programs and initiatives. Western countries and international organizations can collaborate with African regional bodies by providing technical assistance, training, and financial support to build the capacity of their secretariats. This capacity-building effort can focus on areas such as policy development, monitoring and evaluation, data analysis, and knowledge sharing. By strengthening the institutional capacity of African regional organizations, they can effectively carry out their governance-related mandates and provide valuable support to member states in addressing governance challenges.

Promoting coordination and collaboration between Western and African regional organizations is another important aspect. These partnerships can involve sharing best practices, exchanging knowledge and expertise, and supporting joint initiatives. Furthermore, Western organizations can support African regional organizations in their efforts to harmonize governance standards and frameworks across the continent. This includes supporting the development and implementation of regional governance frameworks, protocols, and conventions that promote democratic principles, human rights, and the rule of law.

5. Leveraging Technology and Innovation

The rapid advancements in technology present unique opportunities to improve transparency, accountability, and citizen engagement. By leveraging technology and embracing innovation, African countries can enhance governance practices, streamline service delivery, and foster inclusive and participatory decision-making processes. Digital platforms can be utilized to create open data portals, where government information, budgets, and expenditures are made accessible to the public. This promotes transparency and enables citizens to monitor government actions and hold officials accountable for their decisions. Examples of successful technology and innovation initiatives in Africa include Ushahidi, a crowdsourcing platform used for reporting and mapping election violence in Kenya. In addition, the use of online portals for procurement processes can minimize corruption risks in bidding and contract awarding.

E-participation platforms and mobile applications can be used to collect feedback, opinions, and suggestions from citizens on policy matters and decision-making processes. For instance, Ghana's Open Data Initiative has promoted transparency and data-driven decision-making. Apart from e-participation, these platforms can enable delivery of public services and ensure greater inclusivity by reaching populations that may have been marginalized or face geographical barriers. The examples of such initiatives include Rwanda's e-government platform, which streamlined public service delivery. Similarly, the Huduma platform in Kenya allows citizens to access e-services, reducing bureaucracy and enhancing efficiency.¹⁵³

Furthermore, technology can improve access to essential services such as healthcare and education. Digital platforms and mobile applications can be utilized to provide remote access to healthcare services, especially in underserved areas. E-learning platforms can enhance educational opportunities, allowing students to access educational resources and courses online. Innovative solutions, such as blockchain technology, can also contribute to enhancing governance in areas of electoral processes. Such technology can provide secure and tamper-proof records, ensuring transparency and reducing the potential for fraud. Similarly, by digitizing land records using blockchain, African countries can mitigate land disputes and improve land governance.

It is important to note that technology and innovation are not a panacea for all governance challenges. They should be seen as tools that complement broader governance reforms and efforts. It is crucial to consider ethical, social, and legal implications of technology

¹⁵³ 'Digital Economy for Africa: Kenya Case Study' (World Bank Group 2019) <<https://www.worldbank.org/en/programs/all-africa-digital-transformation>> accessed 22 April 2023.

adoption, ensure inclusivity, accessibility and digital literacy among citizens, as well as mainstream data protection in all digital initiatives. By harnessing the potential of technology and innovation, African countries can leapfrog traditional development models and address governance challenges in innovative and transformative ways.

CONCLUSION

The AU and RECs are playing a crucial role in promoting good governance in Africa. Over the years, they have spearheaded efforts to establish comprehensive normative legal frameworks aimed at addressing governance and electoral challenges. Frameworks such as the ACDEG and the APRM reflect the AU's commitment to strengthening governance standards. However, the effective implementation of these frameworks remains hindered by several obstacles, including political instability, weak institutional capacity, corruption, and, critically, military interventions.

Political instability remains a major obstacle to establishing and maintaining strong democratic institutions in certain African countries. The volatile political landscape undermines the stability required for the effective functioning of democratic systems. Weak institutional capacity, characterized by insufficient resources and limited technical expertise, poses significant challenges to mainstreaming good governance that meets international standards. Additionally, corruption continues to be a pervasive issue in many African nations, eroding transparency and accountability in public administration. Lastly, lack of political will among some leaders to fully embrace democratic principles and foster inclusive governance further exacerbates governance issues.

To address these challenges, a range of solutions can be adopted to bolster good governance and ensure fair elections in Africa. Strengthening institutions through capacity building initiatives is crucial for establishing robust and independent bodies. This entails providing adequate training and resources to the executive, judiciary, and other stakeholders involved in governance processes.

Efforts to combat corruption are vital for safeguarding the integrity of governance. Implementing comprehensive anti-corruption measures, including stringent financial oversight, helps enhance transparency and accountability in public administration.

Furthermore, fostering a culture of political dialogue and consensus-building among political actors promotes peaceful and democratic transitions of power, thereby reinforcing good governance practices. Promoting civic education initiatives that emphasize the importance of citizen engagement in governance fosters a sense of ownership, accountability, and active participation among the population.

In addition, international cooperation is essential in supporting African countries' efforts to improve governance and electoral processes. Collaborating with international partners, civil society organizations, and regional bodies enables the exchange of expertise,

resources, and monitoring mechanisms that strengthen democratic practices.

It is also highly important to sensitize African scholars to develop and promote African-centered governance standards, a multifaceted approach is required that emphasizes African ownership of the governance narrative, builds academic networks, and encourages policy-engaged scholarship. African scholars should prioritize creating governance frameworks that reflect the continent's unique political, cultural, and social realities, drawing from indigenous philosophies like Ubuntu and traditional dispute resolution mechanisms. Collaborating through regional academic networks, such as those facilitated by organizations like the Council for the Development of Social Science Research in Africa (CODESRIA), can help scholars share knowledge and create standards that resonate across the continent. Scholars should also engage more directly with policymakers, offering expertise to African Union (AU) bodies, Regional Economic Communities (RECs), and national governments to ensure their research informs governance reforms. This engagement can be supported through policy briefs, reports, and partnerships with think tanks and advocacy groups, ensuring that African-led ideas are implemented. A critical element of this process is the need for greater funding dedicated to African-centric research, with African development banks, philanthropic foundations, and international donors supporting independent initiatives that focus on local governance standards. Beyond academia, scholars should lead public awareness campaigns to educate citizens on African governance traditions, fostering a sense of ownership and pride in Africa's political systems. By engaging in civic education, writing accessible publications for the public, and organizing community outreach programs, scholars can inspire broader societal support for homegrown governance reforms. The African diaspora, with its wealth of knowledge and resources, should also be engaged, with regular diaspora conferences and collaborative projects providing valuable insights for governance standards that balance global perspectives with African realities. Ultimately, by taking the lead in developing governance systems rooted in African values and traditions, African scholars can help create more legitimate, effective, and sustainable institutions, driving forward the continent's democratic progress and fostering long-term stability and development.

Regional organizations across the world have developed distinct approaches to promoting good governance, shaped by their institutional structures, historical trajectories, and political contexts. The African Union (AU) and its Regional Economic Communities (RECs) have made commendable strides in articulating governance norms, particularly through frameworks such as the African Charter on Democracy, Elections and Governance (ACDEG)

and the African Peer Review Mechanism (APRM). Yet, the continent continues to face serious implementation and enforcement challenges, partly due to structural constraints and partly due to a continued reliance on consensus-driven diplomacy and voluntary compliance.

Comparatively, the European Union (EU) provides a striking model of how good governance can be advanced through strong legal and institutional integration. From the outset, the EU has required its member states to adhere to strict democratic standards, beginning with the Copenhagen Criteria for accession. These standards do not cease to matter post-accession; they are maintained through continuous oversight from institutions like the European Commission and the European Court of Justice. Article 7 of the Treaty on European Union further allows the Union to suspend a member state's rights when it violates foundational democratic values, a provision that, while politically sensitive, provides a legal anchor for enforcement. The EU's success lies not only in its normative commitments but also in the strength of its supranational institutions, such as the European Parliament, which plays a significant oversight role, and in the strategic use of funding conditionality to incentivize compliance.

In the Americas, the Organization of American States (OAS) has also built a robust, albeit more political, framework for democratic governance. The Inter-American Democratic Charter is a key legal-political instrument that commits member states to the defence of democracy and provides mechanisms for collective action in cases of democratic breakdowns. The OAS distinguishes itself by its long history of electoral observation missions, technical support for democratic processes, and the work of the Inter-American Commission on Human Rights (IACHR), which, although not legally binding, has had a substantial normative influence. Similar to the EU, the OAS has used suspension as a tool of last resort, as seen in the case of Honduras following the 2009 coup. While it lacks the legal enforcement power of the EU, the OAS benefits from a culture of democratic expectation and civil society engagement that reinforces accountability.

In Africa, the AU and RECs operate within a complex landscape where political diversity, post-colonial state formation, and uneven institutional development shape the dynamics of governance promotion. The AU's normative shift from non-interference to non-indifference has enabled it to suspend member states following unconstitutional changes of government, a practice that aligns with global standards. The Peace and Security Council of the AU and the more assertive actions of certain RECs, such as ECOWAS's intervention in The Gambia in 2017, demonstrate a growing willingness to act when governance norms are

flagrantly violated. However, enforcement remains largely reactive and uneven, often hindered by political considerations and limited resources. Institutions such as the APRM offer valuable peer-learning platforms but suffer from their voluntary nature and lack of consequences for non-compliance.

The structural limitations of African governance frameworks become more evident when compared to the deeply institutionalized arrangements in the EU. While both the EU and AU have expressed commitment to upholding democratic norms, the EU has invested heavily in judicial mechanisms, legislative oversight, and policy instruments that make enforcement a reality. Similarly, although the OAS does not possess the EU's legal machinery, it maintains a stronger record than the AU in integrating civil society into governance monitoring and leveraging political tools to pressure compliance.

Outside these three, ASEAN provides another point of contrast. Founded on the principles of non-interference and consensus, ASEAN has remained largely disengaged from the governance agenda. The creation of the ASEAN Intergovernmental Commission on Human Rights has not translated into effective oversight or enforcement, and the region's institutions remain advisory at best. In this respect, the AU's normative frameworks are more advanced, but implementation remains the greater challenge.

Despite the divergences, important similarities unite these regional efforts. All recognize that governance is central to stability and integration. Each has adopted declarations, treaties, or charters committing their members to uphold democracy, human rights, and the rule of law. They have also established peer review mechanisms, whether legally binding or voluntary, and have shown a willingness—albeit varying in degree—to sanction member states in cases of serious violations. Furthermore, these regional bodies increasingly understand the importance of linking governance with development funding, as seen in the EU's conditionality model and the OAS's capacity-building efforts.

For the AU and RECs, the experiences of the EU and OAS provide valuable insights. Institutional enforcement matters; so, does the presence of regional courts with jurisdiction over governance issues and the ability to implement decisions. The integration of civil society in monitoring, as practiced by the OAS, could strengthen transparency and pressure for reform. Conditional funding mechanisms tied to governance benchmarks, although politically sensitive, could improve compliance and discourage backsliding. Most critically, African governance

mechanisms must be backed by adequate financial and technical resources and must move toward semi-binding arrangements that maintain respect for sovereignty while strengthening accountability.

Ultimately, while African institutions have made important normative advances, their impact remains constrained by design limitations, voluntary compliance, and lack of enforcement capacity. The EU and OAS demonstrate that with the right mix of legal enforceability, peer review, and institutional authority, regional organizations can play a transformative role in shaping governance outcomes. For the AU and RECs, adapting these lessons to the African context—considering the continent’s political diversity, indigenous governance traditions, and emphasis on subsidiarity—offers a path toward more effective and resilient governance architecture.

By considering the implementation of these recommendations, the AU and RECs can significantly contribute to consolidating democratic progress in Africa. This, in turn, will lead to greater political stability, social cohesion, and sustainable development across the continent. Continued commitment from African leaders, coupled with unwavering support from international partners, is imperative for achieving lasting positive change in governance and rule of law throughout Africa.

ABSTRACT

This master's thesis examines the pivotal role of African regional and subregional organizations (African Union and regional economic communities) in recognizing and enhancing good governance, democracy, and fair elections across the continent. With a focus on the dynamic political landscape of Africa, this research investigates how regional organizations contribute to fostering transparent, inclusive, and accountable governance practices, among others, by elaborating a set of legal instruments. The research utilizes a hybrid methodology, encompassing both qualitative and quantitative data analysis techniques. In-depth case studies of selected African countries provide valuable insights into the efforts made by regional organizations in advancing good governance principles and enhancing democracy.

Drawing on extensive literature review, this thesis uncovers the multifaceted challenges faced by the African regional organizations in their pursuit of promoting good governance and conducting free and fair elections. It critically assesses strengths and weaknesses of various regional initiatives and strategies, shedding light on the barriers that impede progress towards democratic consolidation.

The findings reveal that while African regional organizations have demonstrated commendable commitment and have achieved significant milestones, there are a number of several obstacles. Among them are political interference, resource constraints and lingering authoritarian legacies, that persistently hinder the potential of organizations in mainstreaming good governance. The thesis also highlights the interplay between regional and international actors, stressing the importance of cooperation and synergy for sustainable governance.

The outcomes drawn from this research can be utilized by policymakers, practitioners, and stakeholders involved in democratic governance and electoral processes in Africa. The study advocates for strengthening regional mechanisms, capacity-building efforts, and resource mobilization to enhance the effectiveness and impact of regional organizations' interventions. Furthermore, it underscores the necessity of aligning regional initiatives with national contexts to create an enabling environment for democratic advancement.

In conclusion, this thesis contributes to the existing knowledge on the role of African regional and sub-regional organizations in promoting good governance and democracy. By illuminating the successes, challenges, and opportunities faced by these organizations, it offers insights, which can facilitate evidence-based decision-making and policy formulation, ultimately contributing to democratic governance and rule of law in Africa

ZUSAMMENFASSUNG

Diese Masterarbeit untersucht die zentrale Rolle afrikanischer regionaler und subregionaler Organisationen (Afrikanische Union und Regionale Wirtschaftsgemeinschaften) bei der Anerkennung und Förderung guter Regierungsführung, Demokratie und fairer Wahlen auf dem gesamten Kontinent. Mit einem Schwerpunkt auf der dynamischen politischen Landschaft Afrikas untersucht diese Forschung, wie regionale Organisationen unter anderem durch die Ausarbeitung einer Reihe von Rechtsinstrumenten zur Förderung transparenter, integrativer und rechenschaftspflichtiger Regierungspraktiken beitragen. Die Forschung verwendet eine hybride Methodik, die sowohl qualitative als auch quantitative Datenanalysetechniken umfasst. Ausführliche Fallstudien ausgewählter afrikanischer Länder liefern wertvolle Einblicke in die Bemühungen regionaler Organisationen, Grundsätze guter Regierungsführung voranzutreiben und Demokratiesysteme zu verbessern.

Auf der Grundlage einer umfassenden Literaturrecherche deckt diese Arbeit die vielfältigen Herausforderungen auf, denen afrikanische regionale Organisationen bei ihrem Streben nach Förderung guter Regierungsführung und Durchführung freier und fairer Wahlen gegenüberstehen. Sie bewertet kritisch die Stärken und Schwächen verschiedener regionaler Initiativen und Strategien und beleuchtet die Hindernisse, die den Fortschritt hin zur demokratischen Konsolidierung behindern.

Die Ergebnisse zeigen, dass afrikanische Regionalorganisationen zwar ein lobenswertes Engagement gezeigt und bedeutende Meilensteine erreicht haben, es jedoch eine Reihe von Hindernissen gibt. Dazu gehören politische Einmischung, Ressourcenknappheit und anhaltende autoritäre Hinterlassenschaften, die das Potenzial der Organisationen bei der Integration guter Regierungsführung nachhaltig behindern. Die Arbeit beleuchtet auch das Zusammenspiel zwischen regionalen und internationalen Akteuren und betont die Bedeutung von Zusammenarbeit und Synergien für eine nachhaltige Regierungsführung.

Die Ergebnisse dieser Forschung können von politischen Entscheidungsträgern, Praktikern und Interessenvertretern genutzt werden, die an demokratischer Regierungsführung und Wahlprozessen in Afrika beteiligt sind. Die Studie plädiert für die Stärkung regionaler Mechanismen, Kapazitätsaufbaubemühungen und Ressourcenmobilisierung, um die Wirksamkeit und Wirkung der Interventionen regionaler Organisationen zu verbessern. Darüber hinaus unterstreicht sie die Notwendigkeit, regionale Initiativen mit nationalen Kontexten in Einklang zu bringen, um ein förderliches Umfeld für demokratischen Fortschritt zu schaffen.

Zusammenfassend trägt diese Arbeit zum bestehenden Wissen über die Rolle afrikanischer regionaler und subregionaler Organisationen bei der Förderung guter Regierungsführung und Demokratie bei. Durch die Erläuterung der Erfolge, Herausforderungen und Chancen dieser Organisationen bietet es Erkenntnisse, die eine faktenbasierte Entscheidungsfindung und Politikgestaltung erleichtern und so letztlich zu einer demokratischen Regierungsführung und Rechtsstaatlichkeit in Afrika beitragen können.

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