



THE AFRICA GOVERNANCE REPORT

Promoting African Union
Shared Values

By the African Peer Review Mechanism
(APRM) in collaboration with the African
Governance Architecture (AGA)



AGA
African Governance Architecture



2019



the AFRICA GOVERNANCE report

Promoting African Union
Shared Values



2019

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LIST OF ACRONYMS

| | |
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| ACBF | African Capacity Building Foundation |
| ACDEG | African Charter on Democracy, Elections and Governance |
| ACSRT | African Centre for the Study of Research on Terrorism |
| AEC | African Economic Community |
| AfDB | African Development Bank |
| AFRIPOL | African Union Mechanism for Police Cooperation |
| AGA | African Governance Architecture |
| AGR | Africa Governance Report |
| AMDC | Africa Minerals Development Centre |
| AMV | African Mining Vision |
| APRM | African Peer Review Mechanism |
| APSA | African Peace and Security Architecture |
| APSTA | African Peace Support Trainers Association |
| AQIM | Al Qaida in the Islamic Maghreb |
| ASF | African Standby Force |
| AU | African Union |
| AUPSC | AU Peace and Security Council |
| CAR | Central African Republic |
| CEMAC | Central African Economic and Monetary Community |
| CEN-SAD | Community of Sahel-Saharan States |
| CEWS | Continental Early Warning System |
| COMESA | Common Market for Eastern and Southern Africa |
| DRC | Democratic Republic of the Congo |
| EASBRIG | Eastern Africa Standby Brigade |
| ECCAS | Economic Community of Central African States |
| ECOBRI | ECOWAS Standby Brigade |
| ECOWAS | Economic Community of West African States |
| FOMAC | Force Multinationale de l'Afrique Centrale |
| GDP | Gross Domestic Product |
| GEWE | Gender Equality and Women Empowerment |

| | |
|---------|----------------------------------------------------|
| HDI | Human Development Index |
| ICGLR | International Conference on the Great Lakes Region |
| IFF | Illicit Financial Flows |
| IGAD | Intergovernmental Authority on Development |
| LCBC | Lake Chad Basin Commission |
| LRA | Lord's Resistance Army |
| MDG | Millennium Development Goal |
| NASBRIG | North Africa Regional Standby Brigade |
| NDP | National Development Plan |
| NEPAD | New Partnership for Africa's Development |
| NGO | Non-Governmental Organization |
| NHRI | National Human Rights Institutions |
| OAU | Organization of African Unity |
| ODA | Official Development Assistance |
| RDC | Rapid Deployment Capability |
| RM | Regional Mechanism |
| SASBRIG | Southern Africa Standby Brigade |
| SDG | Sustainable Development Goals |
| SDGEA | Solemn Declaration on Gender Equality in Africa |
| UMA | Arab Maghreb Union |
| UN | United Nations Organization |
| UNDP | United Nations Development Programme |
| UNECA | United Nations Economic Commission for Africa |
| WEF | World Economic Forum |

AU ASSEMBLY DECISION ON THE STATE OF GOVERNANCE IN AFRICA

Assembly/AU/Dec.720(XXXII)

The AU Assembly, during its 32nd Ordinary Session, took note, with appreciation, of the Africa Governance Report. After recalling Decision Ext/Assembly/AU/Dec.(XI) adopted at its 11th Extraordinary Session held in Addis Ababa, Ethiopia, in November 2018, the Assembly commended the APRM for developing the Africa Governance Report in collaboration with AGA, pursuant to Decision Ext/Assembly/AU/Dec.(XI), and for presenting the Report to the 32nd Ordinary Session of the Assembly.

The Assembly:

WELCOMES the Africa Governance Report and **URGES** Member States to consider the recommendations contained in the Report, with a view to enhancing good governance and sharing best practices at both country and continental levels;

URGES Member States to develop national governance reports as a self-assessment tool, for promoting good governance, in line with the recommendations of the Report;

REQUESTS the APRM Secretariat to provide technical support to Member States in developing Country Self-Assessment Reports (CSAR) on Governance;

ALSO, REQUESTS APRM to launch the Report officially in collaboration with AGA, and **URGES** all AGA Members to incorporate the Report in their Annual Work Plans;

DECIDES that the Africa Governance Report shall be developed by APRM, in collaboration with AGA, and shall be presented every two (2) years for consideration by the Assembly at its Ordinary Sessions.

FOREWORD BY CHAIRPERSON OF THE AFRICAN PEER REVIEW FORUM



This inaugural 2019 Africa Governance Report (AGR) has been prepared by the Continental Secretariat of the African Peer Review Mechanism (APRM) in collaboration with the African Governance Architecture (AGA) Platform under the overarching theme: “Promoting African Union Shared Values”.

The report has been developed in compliance with the decision of the 28th Ordinary Session of the Assembly of Heads of State and Government of the African Union (Assembly of the AU) of January 2017, Assembly/AU/Dec. 631 (XXVIII). This Decision had called for the APRM to be empowered to track implementation and oversee monitoring and evaluation of the key governance areas on the continent.

This is the first report consequent to that decision and the subsequent Decision Ext/Assembly/AU/Dec.1 (XI) of the 11th Extraordinary Session of the Assembly of the AU of November 2018. In the latter, the Assembly had specifically requested the APRM to provide an update on the State of Governance in Africa to its 32nd Ordinary Session scheduled for February 2019.

The APRM Continental Secretariat, under Professor Eddy Maloka, should be commended for the tremendous efforts put into the research, analysis, consultations, drafting, validation and finalization of this Report. This is a home-grown assessment of governance on the continent. It is, therefore, a framework under which Africa can regain control of its own development agenda and accountability mechanisms. It has been developed by Africans for Africa, meaning that it will be easier for Members States to take ownership of and implement its recommendations.

This Report provides a baseline for tracking performance in the selected areas of governance and highlights sectors where more effort is needed. It should be seen as a landmark, a starting point for establishing a basis for measurement, analysis, and projection of future trends, and a bi-annual reporting tool on governance at the continental level.

The report notes that there has been significant progress in some African shared values and Agenda 2063 aspirations. Indeed, a good number of African leaders have declared National Visions and formulated innovative programmes. But though most African countries have adopted the culture of planning, there is still need for greater efforts to implement and internalize these plans to yield positive development outcomes.

It is encouraging to note that Member States have implemented constitutional reforms for greater democracy, political freedom and pluralism. Indeed, many countries have restored multi-party politics, fixed presidential term-limits, conducted regular and competitive legislative and presidential elections, improved the oversight functions of legislatures, guaranteed judicial independence and allowed civil society organizations to function freely.

However, the report also observes that there are still significant challenges to realizing the goals of democratic reforms, which need urgent attention. The report also looks at various development challenges on the continent, and recommends actions that the AU Member States can implement to achieve the objectives they have fixed.

A handwritten signature in black ink, appearing to read 'Idriss Déby Itno'. The signature is stylized and written in a cursive-like font.

H.E. Idriss Déby Itno
APR Forum Chairperson
President of the Republic of Chad

PREFACE



The Africa Governance Report (AGR) is a product of cooperation and collaboration between the African Peer Review Mechanism (APRM) and members of the Africa Governance Architecture (AGA) Platform. The AGR assesses the state of governance in Africa with a view to providing Member States of the African Union with a comprehensive baseline that can help governments to enhance governance. It provides a yardstick that can be used to measure change or to analyse, assess and track developments to determine governance trends on the continent. It thus identifies best practices that can be shared amongst the Member States through experience sharing and peer learning to enhance governance in Africa.

The AGA Platform decided that the AGR should focus on the assessment of implementation by the Member States of AU shared values in the five thematic areas of governance: transformative leadership, constitutionalism and the rule of law, peace, security and governance, development and governance, and the role of regional economic communities (RECs) in African governance.

These five thematic areas make up core components of the AU Agenda 2063, which is the AU's strategic framework for the social and economic transformation of the continent. Accordingly, the AGR focuses on the Agenda 2063 aspirations 1, 3, 4 and 6. These aspirations resonate with the (global) United Nations Agenda 2030 for Sustainable Development Goals (SDGs), which are the United Nations' universal call for action to end poverty, protect the planet, and ensure that all people enjoy peace and prosperity.

The AGR was produced using complementary research methods. These involved the examination, critical analysis and synthesis of existing information and data from published governance, economic performance, human development, peace and security, academic literature and other reports, and consultations with key stakeholders in the AGA Platform, AU Organs and Institutions, AU Member States, Regional Economic Communities, private sector organizations, civil society organizations, policy researchers and academics and other prominent persons. The APRM Secretariat wishes to thank all the stakeholders for their cooperation and collaboration in developing the Report.

This AGR is structured as follows: Chapter 1 is the introduction, which defines the concept of governance, provides background information and context, explains the purpose and methodology of the Report, and introduces the relevant structures of the AU. Chapter 2 outlines the Africa Governance Policy Framework, including the African Union Shared Values, within the context of the AU Agenda 2063. Chapter 3 looks at transformative leadership. Chapter 4 examines constitutionalism and the rule of law. Chapter 5 deals with peace, security and governance. Chapter 6 examines the nexus between development and governance. Chapter 7 considers the role of RECs in African governance.

Each chapter of the Report provides a comprehensive reflection and assessment of the state of governance in Africa, focusing on the relevant AU instruments, progress made in implementation of these instruments, challenges to and enablers of good governance, and best practices. From the analysis, each chapter proposes recommendations for improvement. The Report's recommendations are not meant to be prescriptive; rather, they are intended as a basis for discussions on reforms that can be implemented to enhance governance at the continental, regional and Member State levels.

The Report shows that, in general, governance in Africa has improved considerably. The strongest performance has been in the area of socio-economic development, and the weakest in democracy and political governance. Member States have also performed satisfactorily in economic, governance and management and in corporate governance. The Report also highlights the various challenges faced and makes a series of recommendations that the AU Member States can implement to boost governance institutions, practices, and performance.

We hope that this AGR will spur debate on governance on the continent, enable AU Member States to take a closer look at how they govern and how they address their governance challenges. We also hope that the AGR will encourage AU Member States to develop mechanisms and processes for assessing governance at the national level and for sharing best practices.



Prof Eddy Maloka

Chief Executive Officer

African Peer Review Mechanism Secretariat

ACKNOWLEDGEMENTS

A large-scale undertaking of this nature would never have been possible without the active participation and generous contributions of many organizations, institutions and people. We would like here to acknowledge all stakeholders who have helped in one way or the other to shape the development of this inaugural Africa Governance Report. Specifically, we would like to thank Mr Khayar Oumar Deffallah, APRM-CHAD Focal Point, the APRM Focal Points Committee Chairperson, Hon. Bernard Konan, Amb. Ashraf Rashed, Mr Sandjima Dounia, and Mr Ousman Diallo, who played a crucial role in guiding the process of validating the report. Sincere thanks also go to members of the African Governance Architecture Platform, African Union Commission, African Union organs, institutions and agencies, Regional Economic Communities, APRM institutions including the APR Forum, Panel of Eminent Persons, focal points, Steering Committee, and national governing councils, Member States, policy research and academic institutions; and others who are too numerous to mention individually.

We also thank in a very special way Prof Eddy Maloka, APRM Chief Executive Officer. This Report was developed and produced under his overall supervision and guidance, and his ideas and direction were instrumental to the success of the project.

The dedication and hard work of the Secretariat staff and the various divisions and units of the APRM were crucial to the development of this Report, and for this, we thank them.

This AGR benefitted enormously from the contributions and analysis of the technical team, led by Prof Jonathan Mayuyuka Kaunda, which included Prof Migai Akech, Mr Osten Chulu, Prof Chinyamata Chipeta, Prof Anthoni van Nieuwkerk, Mr Lennon Monyae, Ms Delice Zakeyo, Ms Rutendo Nazare, Ms Mary Izobo, Ms Ejigayhu Tefera, Ms Karabo Chadzingwa, Ms Virginia Mudhokwani, Mr Sampson Osei and Ms Nonkululeko Masoek. We thank them all for their dedication and commitment.

Last, but not least, we thank the members of the editorial and translation team, led by Mr Constantin Désiré Lebogo for their professionalism and sense of sacrifice. They had to endure additional demands to make the Report available in all the four languages of the AU.

EXECUTIVE SUMMARY

1. During the 28th Ordinary Session of the Assembly of Heads of State and Government of the African Union, on 30-31 January 2017 in Addis Ababa, Ethiopia, Member States resolved in decision Assembly/AU/Dec. 631(XXVIII) to entrust the African Peer Review Mechanism (APRM) with the responsibility to “play a monitoring and evaluation role for the African Union Agenda 2063 and the United Nations Sustainable Development Goals Agenda 2030”.
2. Subsequently, the African Governance Architecture (AGA) Platform Retreat of March 2018 agreed on a work plan and strategic framework that identified priorities for 2018. The APRM was identified as the lead institution for the preparation of the Africa Governance Report (AGR). The Assembly at its 11th Extraordinary Summit in November 2018 reaffirmed the need to strengthen the capacity of the APRM to deliver on its expanded mandate and enhance its functional autonomy, to enable it to develop a report on the state of governance in Africa in collaboration with the AGA. It also requested the APRM to present an update on the state of governance in Africa to the 32nd Ordinary Session of the Assembly scheduled for February 2019.
3. The AGR assesses the state of governance in Africa with a view to providing Member States with a comprehensive baseline that they can use to enhance governance. Although there are already publicly available reports in existence that assess the state of governance in Africa, such reports have largely been developed by multilateral organisations and independent think-tanks across the continent and abroad. The AGR is commissioned by the Assembly of Heads of State and Government of the African Union.
4. There is a threefold imperative for the development of an African-generated governance report: firstly, it is necessary for the continent to take control of its own development agenda and accountability mechanisms, as required by the previous decisions of the AU Assembly; secondly, the research methodology in this report benefits considerably from consultations with AU Organs and Institutions, Regional Economic Communities, and from unfettered access to Member State informants and state-held data; thirdly, the report is generated by Africans for Africa, which improves prospects for implementation of its recommendations.
5. This inaugural Report lays the foundation for future analyses of governance trends on the continent. It highlights shared values and how they can help boost governance and establishes a basis for measurement, analysis, and projection of future trends.
6. The governance assessment focuses on five key thematic areas, namely: (a) transformative leadership, (b) constitutionalism and the rule of law, (c) peace, security and governance (Silencing the Guns), (d) the nexus between development and governance, and e) the role of regional economic communities (RECS) in African governance.
7. The structure of the report is as follows:
 Chapter 1 is the introduction. It defines the concept of governance, provides background and context, explains the purpose and methodology of the report, and introduces the relevant structures of the AU.
 Chapter 2 outlines the African Governance Policy Framework, including the African Union Shared Values, within the context of the AU Agenda 2063.
 Chapter 3 examines transformative leadership.
 Chapter 4 discusses constitutionalism and the rule of law
 Chapter 5 deals with peace, security and governance.
 Chapter 6 focuses on the nexus between development and governance.
 Chapter 7 considers the role of regional economic communities in governance.
 Chapter 8 delivers a list of recommendations for the consideration of AU Member States.
8. Each chapter extensively examines and assesses the State of Governance in Africa, focusing on the relevant instruments, progress in implementation, challenges and successes of good governance, as well as best practices, and makes recommendations for improvement where necessary.
9. Governance in Africa has, in general, improved considerably. The strongest performance has been in the area of

socio-economic development, and the weakest in democracy and political governance. AU Member States have also performed satisfactorily in economic governance and management and corporate governance.

Transformative Leadership

10. Transformative leadership is critical to the realization of the African Union and Member States' objectives. African political and administrative leadership is at various levels: continental, regional, national and sub-national (in civil society, business, community and social organizations). Leadership at Member State level is central because sovereignty is vested in national entities, and this leadership mediates both intra-state and international social, political, and economic relationships.
11. Transformative leadership drives progressive change and its attributes or qualities include vision, innovation, integrity, inclusivity, responsiveness and effectiveness. Such leadership should focus on achieving the AU Agenda 2063 aspirations and global UN 2030 (SDG) objectives.
12. African transformative leadership has made significant progress towards consolidating the practice of democracy and formulating national visions. The African public appreciates democratic principles and practices, as manifested in their active participation in civil society and in the electoral processes.
13. The following are recommendations that can enhance transformative leadership: AU Member States should: (a) continue to align their National Visions, National Development Plans, and in some cases, National Action Plans (from the APRM self-assessment process) with the AU Agenda 2063 and UN SDGs; (b) end all forms of discrimination and exclusion; (c) promote democratic principles and institutions, popular participation and good governance; and (d) promote and protect human and peoples' rights.

Constitutionalism and the Rule of Law

14. Constitutionalism and the rule of law refer to recognition of the supremacy of the law where the law is the basis for political decision-making and administrative action. In concrete terms, it entails: (a) respect for law and respect for the rights of human beings; (b) the separation of powers; (c) public participation in governance; (d) accountability of the three arms of government to the public; (e) independence of the legislature and the judiciary; (f) accountability and effectiveness of the bureaucracy; and (g) access to justice.
15. There are signs of progress in African constitutionalism and the rule of law, including:
 - a. encouragement of democratization.
 - b. respect for presidential term limits, generally.
 - c. respect of human rights.
 - d. Introduction of institutional checks and balances, including systems for judicial review.
16. However, some constraints and challenges still require action. For example, AU Member States should: (a) set up and empower mechanisms to monitor and evaluate the effectiveness of integrity and anticorruption programmes and strategies; (b) incorporate local and customary practices in their formal criminal justice systems; and (c) submit periodic reports as required by the instruments they have committed themselves to.

Peace, Security and Governance

17. There are many instruments that have as objective to enhance peace, security and good governance. The AU has committed to implementing decisions and actions that would lead to peace, security and good governance and to "Silencing the Guns" by 2020. There have been several efforts by the AU, RECs, and Member States to prevent and mediate conflict and restore stability.
18. Although the number of large-scale inter-state wars has declined, instances of intra-state conflict, violence, unrest, and terrorism appear to have increased in the last two decades.
19. The Report make a number of recommendations to promote peace, security and governance. AU Member States

should: (a) sign, ratify and domesticate all the relevant international instruments; (b) improve harmonization of functions between the AU and RECs; and (c) fast-track the deployment capability of the Africa Standby Force.

Nexus between Development and Governance

20. The AU Agenda 2063 is closely related to the 2030 Agenda for Sustainable Development (UN SDGs). Many AU Member States formulate national development plans that aim to translate national visions into programmes and projects to boost national development as well as enhance social and human progress. However, the implementation of these plans is often hampered by challenges, which sometimes result from the fact that they are not adequately aligned with the AU Agenda 2063 aspirations and the UN SDGs objectives.
21. As part of recommendations, Member States should: (a) align their national development plans, national visions, and in some cases, national action plans (cf. APRM Country Review report) with the AU Agenda 2063 and UN SDGs; (b) draw up plans and programmes that promote inclusive human development; and (c) formulate realistic plans that ensure a prudent and sustainable use of scarce natural resources.

Role of the RECs in African Governance

22. Regional Economic Communities (RECs) are voluntary bodies that have as objective to foster continental unity, development, economic cooperation and integration, democracy, peace and security. The AU also works with Regional Mechanisms (RMs) that promote continental efforts to realise shared values.
23. Although they are considered as the building blocks for continental unity and development, there is need to further harmonise and coordinate the functions and responsibilities of these RECs with the AU.
24. The recommendations are that there is need to: (a) enhance collaboration between the AU and RECs, in line with the decisions of the African Union Assembly, in particular, that of the Eleventh Extraordinary Session of November 2018, and (b) ensure that all RECs align development plans with the AU Agenda 2063 and UN SDGs.

SUMMARY OF RECOMMENDATIONS

NOTE: These recommendations are not prescriptive; rather, they should be used as a basis for discussions on reforms that can bolster governance at continental, regional, and Member State levels.

TRANSFORMATIVE LEADERSHIP

African Union Member States should endeavour to:

1. Align their national visions with the AU Agenda 2063 and the UN SDGs, specifically,
 - a. The AU Agenda 2063 Aspiration 1 (A Prosperous Africa, based on inclusive growth and sustainable development) and Aspiration 6 (An Africa whose development is people driven, relying on the potential offered by people, especially its women and youth, and caring for children).
 - b. The UN SDG 5 (Gender equality), 6 (clean water and sanitation), 7 (affordable and clean energy), and 11 to 15 (sustainable cities and communities, responsible consumption and production, climate action, life below water, and life on land).
2. End all forms of discrimination and exclusion.
3. Promote democratic principles and institutions, popular participation and good governance.
4. Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.
5. Establish regular national governance reviews to assess the performance of governance.

CONSTITUTIONALISM AND THE RULE OF LAW

Respect for the Rule of Law

6. Member States are urged to ratify all shared values instruments, and to comply with the decisions of the legal organs.
7. They are encouraged to set up mechanisms both at national and continental levels to assess and evaluate the effectiveness of anticorruption programmes and strategies.

Promotion and Protection of Human Rights

8. Member States are invited to submit periodic reports relevant to the African Charter on Human and Peoples' Rights.
9. They are encouraged to comply with the decisions of the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights.
10. Member States are encouraged to establish national human rights institutions (NHRIs).

Public Participation In Governance

11. The AU Member States are invited to ratify the African Charter on Values and Principles of Public Service and Administration;
12. The AU Member States are invited to adopt inclusive electoral systems, including proportional representation;

13. The AU Member States are encouraged to ensure the independent administration of elections, and a fair and speedy resolution of electoral disputes, in accordance with the African Charter on Democracy, Elections and Governance (ACDEG).
14. The commission assigned for reformulating the constitution must be composed of people from all walks of life in the society, including marginalized groups, women and the disabled.

Accountability of the Executive

15. The AU Member States are encouraged to adopt inclusive electoral systems.

Effectiveness and Accountability of the Public Service

16. The AU Member States are encouraged to ratify the African Charter on Values and Principles of Public Service Administration if they have not yet done so.
17. The AU Members States are encouraged to strengthen their national integrity systems.

Independence and Accountability of the Legislature

18. Member States of the African Union are encouraged to guarantee the independence and accountability of the legislature.
19. The AU Member States are urged to ratify the Protocol to the Constitutive Act of the African Union Relating to the Pan African Parliament.

Independence and Accountability of the Judiciary

20. The AU Member States are encouraged to guarantee the independence and accountability of the judiciary.

Access to Justice

21. The AU Member States are encouraged to facilitate access to justice by adopting and implementing continental and universal principles and guidelines.

PEACE, SECURITY AND GOVERNANCE

22. The AU Member States are encouraged to sign, ratify and implement all relevant instruments for peace, security and stability.
23. The African Union should operationalize the African Standby Force, and increase efforts to secure sustainable funding for peace and security initiatives.
24. The AU Member States are encouraged to strengthen the Peace and Security Council (PSC) as recommended by the Assembly of The African Union Eleventh Extraordinary Session of November 2018 (Ext/Assembly/2(XI)).

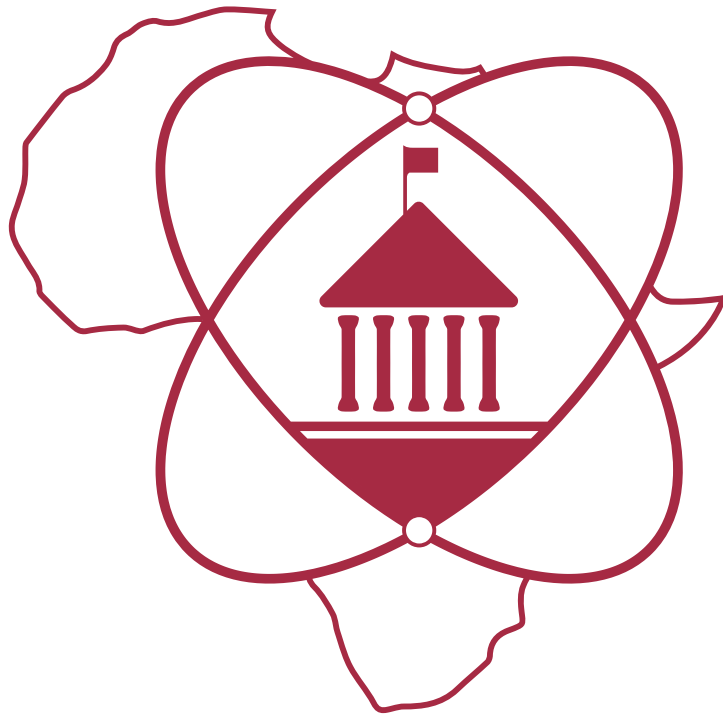
NEXUS BETWEEN DEVELOPMENT AND GOVERNANCE

25. The AU Member States are encouraged to formulate development plans and programmes that aim at inclusive human development.
26. The AU Member States align their National Development Plans, and in some cases, their National Action Plans (from the APRM self-assessment process), with the AU Agenda 2063 and UN SDGs.
27. The AU Member States are urged to ensure the sustainable and prudent utilization of natural and other resources

to allow for their full utilization for the benefit of the people of the continent and future generations.

ROLE OF RECs IN AFRICAN GOVERNANCE

28. The African Union and RECs should improve coordination and harmonization of their policies, programs, and activities.
29. The AU Member States are encouraged to sign and ratify the agreement establishing the African Continental Free Trade Area.
30. All RECs are encouraged to align their plans with Agenda 2063 and UN SDGs.



Introduction

CHAPTER 1: INTRODUCTION

1.1 The Concept of Governance

The concept of governance is traditionally linked to ruling and control, specifically the manner of exercise of power. Governance refers to the exercise of economic, political and administrative authority in the management of a country's affairs at all levels. "Good governance" has the following major characteristics: legitimacy, where the government has the consent of the governed, accountability that ensures transparency and answerability for actions, respect for law and protection of human rights, and competence, which consists of effective policy making, policy implementation and service delivery.¹ These are the basic definitions used throughout this report.

1.2 Background and Context of the Africa Governance Report

The Africa Governance Report (AGR) is a collaborative project with the African Governance Architecture (AGA) Platform. Its development is led by the African Peer Review (APRM) continental secretariat. It assesses implementation by Member States of the African Union shared values of the five areas of governance: transformational leadership, constitutionalism and the rule of law, interrelationships of peace, security, and governance, the nexus between development and governance, and the role of regional economic communities (RECs) in African governance. The AGR provides a baseline for regular and continuous tracking and analysis of governance trends.

The AGA Platform was inspired by the Constitutive Act of the African Union and is composed of AU Organs, Institutions, and regional economic communities.² The platform facilitates stakeholder dialogue for the harmonization and coordination of instruments and initiatives to promote good governance, democracy, the rule of law, and human rights. The platform's focus is on implementation of the AU Shared Values, including the African Charter on Democracy, Elections and Governance (ACDEG).³

The AGA Platform retreat of March 2018 identified a number of collaborative programmes, including development of a report provisionally entitled Assessing the State of Governance in Africa.

The development of the Africa Governance Report was guided by the Constitutive Act of the African Union and the AU Agenda 2063. The Act is the basis of the organization's establishment, objectives, and principles. It also defines the major implementing organs and institutions. The Agenda is the AU's strategic framework for the socio-economic development and transformation of the continent. By adopting this framework AU Member States have agreed and committed to act collectively to achieve the AU Vision of "An integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the international arena".⁴ The AGR is also guided by the Declaration

1 United Nations Committee of Experts on Public Administration, Fifth session, New York, 27-31 March 2006 (E/C.16/2006/4) Agenda item. 5 Compendium of basic terminology in governance and public administration. Definition of basic concepts and terminologies in governance and public administration.

2 AU Assembly decision AU/Dec.1 (XVI).

3 <http://www.aga-platform.org>.

4 African Union Commission (AUC), 2015. Agenda 2063: The Africa We Want. The AU Agenda 2063 has seven aspirations: A prosperous Africa based on inclusive growth and sustainable development; an integrated continent, politically united and based on the ideals of Pan-Africanism and the vision of Africa's Renaissance; an Africa of good governance, democracy, respect for human rights, justice and the rule of law; a peaceful and secure Africa; an Africa with a strong cultural identity, common heritage, shared values and ethics; an Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children; Africa as a strong, united and influential global player and partner.

adopted by the 16th Ordinary Session of the AU Assembly of Heads of State and Government, which invited Member States to promote the social and economic development and integration of African economies to achieve increased self-reliance and self-sustainment.

The report focuses on four AU Agenda 2063 aspirations, namely:

- Aspiration 1: A prosperous Africa based on inclusive growth and sustainable development;
- Aspiration 3: An Africa of good governance, democracy, respect for human rights, justice and the rule of law;
- Aspiration 4: A peaceful and secure Africa; and
- Aspiration 6: An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children.

Each of the four aspirations has goals, priority areas, and targets.⁵

These aspirations are in line with the (global) United Nations Agenda 2030 for Sustainable Development Goals (SDGs), which constitute the UN's universal call for action to end poverty, protect the planet, and ensure that all people enjoy peace and prosperity. In particular, Goal 16: "Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels".⁶

Therefore, the AU aspirations 1, 3, 4 and 6 and UN SDG 16 are the basis for the report, and will be the foundation for future annual monitoring, assessments and review of the state of governance on the continent.

This inaugural AGR therefore focuses on five key governance areas:

- transformative leadership;
- constitutionalism and the rule of law;
- peace and security (Silencing the Guns);
- development and governance;
- the role of regional economic communities (RECs).

The AU Assembly will decide on the scope of subsequent AGRs.

1.3 Purpose of the Africa Governance Report

The objective of the Africa Governance Report is to assess the status of African governance and to provide a basis for tracking governance developments and analysing trends on the continent. It is intended as a useful tool for the Member States, AU Organs and other stakeholders and as a source

⁵ Briefly, the priorities of: Aspiration 1: A prosperous Africa based on inclusive growth and sustainable development: ending poverty, inequalities of income and opportunity; job creation (youth employment); resolving problems of rapid population growth and urbanization; habitation and access to the basic necessities of water, sanitation, electricity; social security and protection; developing Africa's human and social capital and health care services; economic transformation; productivity and competitiveness; food self-sufficiency; harnessing the potential of Africa's ocean economy; sustainable management of biodiversity, forests, land and waters and addressing climate change. Aspiration 3: An Africa of good governance, respect for human rights, justice and the rule of law: consolidating democracy and improving the quality of governance; respect for human rights and the rule of law; institution building for a developmental state; development-oriented and visionary leadership. Aspiration 4: A peaceful and secure Africa: strengthening governance, accountability and transparency; strengthening mechanisms for securing peace and reconciliation; addressing emerging threats to Africa's peace and security; and implementing strategies for the continent's financing of security needs. Aspiration 6: An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children: full gender equality in all spheres of life; and engaged and empowered youth and children.

⁶ UN, 2015. Transforming Our World: The 2030 Agenda for Sustainable Development (A/RES/70/1).

of information to the public, Member States, the RECs, AU organs and institutions on the trends of governance in the continent. It makes recommendations on ways to boost governance in Africa. The AGR provides a foundation for regular and continuous tracking of governance, and highlights best practices that can be shared by Member States.

1.4 Methodology of the Africa Governance Report

This Report uses existing information and data as a basis for measuring and assessing change in the selected aspects of governance. It presents facts, focusing on quantifiable issues and areas that allow for the measurement and assessment of changes. Considering that it is evidence-based and action-oriented, the AGR analyses AU shared values, and all AU common decisions, declarations and agreements to implement the vision, goals, and objectives of the AU.

AU shared values and related decisions were examined to determine the status of implementation of the selected governance variables. The recommendations, which are intended to boost governance in Africa, derive from the challenges that hamper implementation of these shared values and decisions.

The AGR was developed using complementary research methods, including: (i) examination, critical analysis, and synthesis of existing information and data from published governance, economic performance, human development, peace and security literature and other reports; (ii) consultations with key stakeholders in Member States, regional economic communities (RECs), African Union Organs and Institutions and other stakeholders (private sector; civil society organizations, prominent persons); and (iii) targeted surveys.

1.5 The Mandate and Purpose of the APRM as an AU Structure

Established in 2003, the APRM is the African Union's primary institution responsible for facilitating the voluntary assessment of governance in participating Member States, and for monitoring adherence to and conformity with the Declaration on Democracy, Political, Economic and Corporate Governance, and the African Charter on Democracy, Elections and Governance (ACDEG).⁷

Following the AU Assembly decision to integrate the APRM into AU structures,⁸ its mandate was expanded in 2017. The AU Assembly adopted an initiative to revitalise and refocus the APRM as an innovative tool for sharing best practices. At the 28th Ordinary Session, the Assembly decided that the APRM should have the responsibility to oversee monitoring and evaluation in all key governance areas of the continent, including tracking implementation of the African Union Agenda 2063 and the UN Sustainable Development Goals (SDGs).⁹

⁷ NEPAD Secretariat 6th Summit of the NEPAD Heads of State and Government Implementation Committee, 9 March 2003, Abuja, Nigeria. African Peer Review Mechanism (APRM): Base Document (NEPAD/HSGIC/03-2003/APRM/mou/annex (ii); African Union Assembly of Heads of State and Government, Thirty-Eighth Ordinary Session of the Organization of African Unity, 8 July 2002, Durban, South Africa (AHG/235 (XXXVIII), Annex II).

⁸ Decision Assembly/AU/Dec. 527(XXIII), 23rd Ordinary Session of the Assembly of the African Union in Malabo, Equatorial Guinea, on the Integration of the APRM into the African Union structures.

⁹ AU Assembly/AU/Draft/Dec. (XXVIII)Rev.1; 23rd Ordinary Session of the AU Assembly/AU/Dec. 527(XXIII), Decision on the Integration of the APRM into the African Union Structures Doc. EX.CL/851(XXV); Assembly/AU/Dec. 631(XXVIII) Decision on the Revitalisation of the African Peer Review Mechanism.

Subsequently, the 30th Ordinary Session of the Assembly welcomed an initiative to re-position the APRM as an early warning tool for conflict prevention.¹⁰ This function will be performed through fostering cooperation and synergy amongst AU structures and processes, specifically, the APRM, the African Governance Architecture (AGA) and the African Peace and Security Architecture (APSA).

The implications of these AU Assembly decisions are that: (a) the APRM function was strengthened as a continental instrument for assessing, monitoring, and tracking participating countries' adherence to and conformity with the Declaration on Democracy, Political, Economic and Corporate Governance and the African Charter on Democracy, Elections and Governance and, (b) the expanded mandate included new roles in monitoring Agenda 2063 and the UN SDGs, and contributing to the establishment of an early warning system for conflict prevention.

The APRM has thus become central to the promotion of AU shared values and the implementation of agreed political, economic and corporate governance values, codes and standards by Member States. It now also tracks AU Agenda 2063 achievements and UN 2030 Agenda for SDGs in the pursuit of democracy, peace, security, political stability, and sustainable development.

¹⁰Assembly/AU/Dec. 686(XXX) 30th Ordinary Session of the Assembly, 28–29 January 2018, Addis Ababa, Ethiopia. Decision on The Report of The African Peer Review Mechanism (APRM).



The African Governance Policy Framework

CHAPTER 2: THE AFRICAN GOVERNANCE POLICY FRAMEWORK

2.1 Constitutive Act of the African Union

The Constitutive Act of the African Union is the foundation of the governance framework and the basis for policy and institutional arrangements. It defines the establishment, objectives, and principles of the AU and of the major implementing organs and institutions. Reflected in the Constitutive Act are global values, principles, and norms relating to human rights, sovereignty, peace and security, good neighbourliness, cultural and socio-economic values and international cooperation that are also contained in the Purposes and Principles of the UN¹¹ as stated in the Charter of the United Nations (UN). The Constitutive Act also calls for the promotion of sustainable development at the economic, social and cultural levels as well as for the integration of African economies (Article 3(j)).

2.2 African Union Shared Values

The African Union Vision is to achieve “An integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the international arena”.¹² Thus, unity, prosperity, peace, citizen empowerment, and global engagement are the common goals that inform collective decisions and actions.

Article 3 of the Constitutive Act has the following objectives: achieve greater unity and solidarity between African countries and the peoples of Africa; defend the sovereignty, territorial integrity and independence of its Member States; accelerate the political and socio-economic integration of the continent; encourage international cooperation, take due account of the Charter of the United Nations and the Universal Declaration of Human Rights; promote peace, security, and stability on the continent; promote democratic principles and institutions, popular participation and good governance; promote and protect human and peoples’ rights in accordance with the African Charter on Human and Peoples’ Rights and other relevant human rights instruments; and promote cooperation in all fields of human activity to raise the living standards of African peoples.

The AU has a set of shared values which centre around democracy and good governance, rule of law and human rights, peace and security and continental development and integration.

2.2.1 Democracy and Good Governance

The African Union aims to promote democracy and good governance among its Member States. These ideals are critical for development, peace, security and governance on the continent. Apart from the Constitutive Act, the AU’s commitment to these ideals is manifest in other instruments such as the Charter on Democracy, Elections and Governance (ACDEG), OAU/AU Declaration on Principles Governing Democratic Elections, the New Partnership for Africa’s Development (NEPAD) Declaration on Democracy, Political, Economic and Corporate Governance, the (Algiers and Lomé) Declarations on Unconstitutional Changes of Government, and the African Union Convention on Preventing and Combating Corruption.

11 See Annex 1, Table 1: Highlights of the interrelationships between the Global UN and OAU/AU principles, purposes and objectives

12 African Union Commission (AUC), 2015. Agenda 2063 – The Africa We Want.

2.2.2 The Rule of Law and Human Rights

The AU seeks to promote respect for the rule of law and human rights, as expressed in instruments such as: the African Charter on Human and Peoples' Rights, the Kigali Declaration on Human Rights in Africa, the Protocol on the Statute of the African Court of Justice and Human Rights, the Protocol to the African Charter establishing the African Court on Human and Peoples' Rights, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the Solemn Declaration on Gender Equality in Africa; the African Charter on the Rights and Welfare of the Child, the African Youth Charter and the Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa.

2.2.3 Peace, Security and Governance

Peace and security are another major objective of the AU. Hence the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the African Union Post-Conflict and Reconstruction Policy Framework, the Conference on Stability, Security, Development and Democracy (CSSDCA), the AU Convention Governing the Specific Aspects of Refugee Problems in Africa and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa. The Constitutive Act mandates the Memorandum of Understanding (MoU) on Cooperation around Peace and Security between the AU, RECs and the Coordinating Mechanisms of the Regional Standby Brigades.

2.2.4 Continental Integration, Cooperation and Security

Continental economic development and integration is another major priority for the AU as reiterated in the Declaration on the theme of the 2012 Summit, "Towards Greater Unity and Integration through Shared Values". The AU is progressing towards the realization of the African Economic Community (AEC). Although the original purpose of RECs was to facilitate regional and continental integration, they have increasingly been involved in peace and security and governance issues. This is why the Constitutive Act mandates the 2008 Protocol on Relations between the RECs and the AU.

2.3 The Structures of African Governance

There is an elaborate institutional framework for the realization of the ideals of democracy and good governance, the rule of law and human rights, peace and security and sustainable socio-economic development and integration on the continent. Political institutions decide on policies and priorities and administrative institutions implement them. Political and administrative institutions are at three levels: continental, regional, and Member State. The success implementation of AU decisions and the objectives of Agenda 2063 and the UN SDGs will depend on the governance structures at all these levels.

2.3.1 Member States

Member States have diverse constitutions that are the basis for their political, economic, and administrative governance. These constitutions are not derived from the AU Constitutive Act but influenced by their specificities and different cultures. Member States have their own specific governance systems.

2.3.2 Regional Economic Communities

RECs are regarded as instrumental in the efforts, through regional development and integration, to achieve the continental goals of the AU. They are part of African Peace and Security Architecture initiatives, in collaboration with Regional Mechanisms. The AU has officially recognized eight RECs. These are the: Arab Maghreb Union (UMA), the 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).

2.3.3 African Union Structures

At Continental level, the principal governance bodies of the AU are: (i) the Assembly of the Union, (ii) Executive Council, (iii) Peace and Security Council, (iv) Pan-African Parliament, (v) Legal organs, (vi) AU Commission, (vii) Permanent Representatives Committee (viii) Specialised Technical Committees, (ix) Economic, Social and Cultural Council, and the African Committee on the Rights and Welfare of the Child.



Transformative Leadership

CHAPTER 3: TRANSFORMATIVE LEADERSHIP

3.1 Introduction

Transformative Leadership refers to leadership that brings about radical change and engenders widespread improvements in peoples' lives.¹³

Transformative leadership may be characterised as visionary and oriented towards achieving goals and objectives. Such leadership is geared towards change, and possesses certain attributes and qualities, including vision, innovation, integrity, honesty, people-centredness (inclusiveness, responsiveness), prudence, and effectiveness. This is "...leadership that can set visions, provide selfless and capable leadership to turn the fortunes of the continent around".¹⁴ Additionally, such leadership is development-oriented, with the capacity to accelerate the realization of AU Agenda 2063 and global UN SDGs.

Therefore, transformative leadership is central to governance, because it determines the future direction of change, the trajectory of human and social progress, and prudent management of national resources for sustained development.

All the relevant AU instruments are an essential element for the realisation of such leadership for the transformation of Africa.

3.2 Overview of Trends in Transformative Leadership

The year 1963, when the Organization of African Unity (OAU) was established, is considered a historical year because of the consensus on the adoption of African shared values. It is also the starting point for analysing governance trends in the African continent. The adoption of democratic systems of government gathered momentum in the 1990s and since then, African leaders have presided over democratic changes and constitutional reforms to grant more freedoms, restore multiparty political systems and guarantee free and fair legislative and presidential elections. Other progressive reforms by African transformative leadership have included the establishment of supreme audit authorities, offices of public defenders, independent prosecution authorities, independent judiciaries and legislatures with effective balance of power mechanisms. African leaders have also encouraged the expansion of the private media and communications, notably through (regulated) growth of the internet and mobile telephony.

As pointed out in the chapter on constitutionalism and the rule of law, many African leaders have encouraged democratization and made efforts to respect presidential term limits, human rights, institutional checks and balances, and established systems of judicial review. African countries are thus making steady progress in consolidating democracy. The African public appreciates democratic principles and practices, as manifested in their active participation in civil society and in the electoral process.

13 African Capacity Building Foundation, Africa Capacity Report 2018, page iv.

14 Sten Rylander, 2010. Governance and transformative leadership in Africa: progress, prospects and challenges. Harare: ACBF Development Memoirs Series (ACBFDMS/005/2010).

3.3 Characteristics of African Transformative Leadership

The picture is mixed regarding the types of African leadership and styles of government. However, some generalizations can be made from the answers to the questions on transformative leadership. The table below summarises the answers obtained through desk research, for each of the ten questions.

Table 1: Characteristics of Transformative Leadership in Africa

| Q | Question | No. | % |
|----|-------------------------------------------------------------------------------------------|-----|----|
| 1 | Countries with National Vision statements | 40 | 73 |
| 2 | Countries whose National Visions are aligned with the AU Agenda 2063 | 40 | 73 |
| 3 | Countries whose National Visions are aligned with the UN 2030 Agenda for SDGs (SDGs) | 40 | 73 |
| 4 | Countries that have initiated or implemented innovative programmes over the last 20 years | 41 | 75 |
| 5 | Countries with official programmes that include minority groups | 28 | 51 |
| 6 | Countries with official programmes targeted at women | 38 | 69 |
| 7 | Countries with official programmes targeting the youth | 41 | 75 |
| 8 | Governments that have discriminatory laws | 35 | 64 |
| 9 | Countries that have mechanisms for public participation | 30 | 55 |
| 10 | Countries with an official strategy to deal with corruption | 31 | 56 |

Sources: ACBF. Africa Capacity Indicators, Africa Capacity Report, AU Member States' official websites (2015, 2017).

3.3.1 National Vision Statements, AU Agenda 2063 and UN SDGs

A significant number of AU Member States have National Vision statements that appear to align with the AU Agenda 2063 and UN 2030 Agenda for SDGs (SDGs). Also, most countries have programmes targeting the youth and women.

However, a closer examination of National Visions indicates that although the majority aim to align with AU Agenda 2063 and UN 2030 Agenda for SDGs, the degree of alignment differs. There is poor alignment, especially since the following aspirations and/or goals are not highlighted or specifically mentioned in National Visions:

- a. The AU Agenda 2063 Aspiration 1 (A prosperous Africa, based on inclusive growth and sustainable development) and Aspiration 6 (An Africa whose development is people driven, relying on the potential offered by people, especially its women and youth and caring for children) are not particularly focused on.
- b. The UN SDG 5 (Gender equality), 6 (clean water and sanitation), 7 (affordable and clean energy), and SDGs 11-15 (sustainable cities and communities, responsible consumption and production, climate action, life below water, life on land) do not feature prominently in the National Visions of many countries.

3.3.2 Innovativeness

Examination of data on innovativeness shows that the implementation of innovative programmes and projects is often supported by foreign aid, international organisations and/or donor organisations. This raises the question whether these are sustainable. However, some countries have established innovative platforms for youth, women and aspiring entrepreneurs.

3.3.3 People-centredness

There are many discriminatory laws in African countries as a result of customary laws and practices that undermine gender equality, or perpetuate inequalities. One of the most glaring examples of these inequalities is the exclusion of women from land ownership. There are also many laws that exclude women from the administration of estates of deceased persons who die without a will.

There are also cases where discrimination is the norm, with no laws to protect victims. In some countries there are no discriminatory laws per se, however, there are rebel or terrorist groups that perpetuate discrimination and exclusion.

About half of AU Member States do not have programmes for minority groups.

3.3.4 Public Participation

As for the mechanisms for expression of people's concerns, just over half the Member States appear to have them. However, civil society groups often play a significant role in mobilising and providing a platform through which citizens can voice their concerns to the Government.

3.3.5 Prudent Management

Anti-corruption strategies exist in just over half of the countries. Government anti-corruption strategies in Member States are often implemented through a specialised court, agency and/or a state anti-corruption institution.

3.4 Assessing Governance Performance at Continental Level

Assessing performance makes it possible to identify areas for improvement. The African Peer Review Mechanism (APRM) is an instrument for assessing the performance of participating states. Thirty-eight (38) of the fifty-five (55) Member States of the AU are part of the APRM. Twenty-one (21) have undertaken the review and three others are on course to complete the second review. Only one country conducts regular in-country governance performance assessment. The AU Assembly continues to urge Member States that have not acceded to the APRM to do so for there to be universal accession.¹⁵

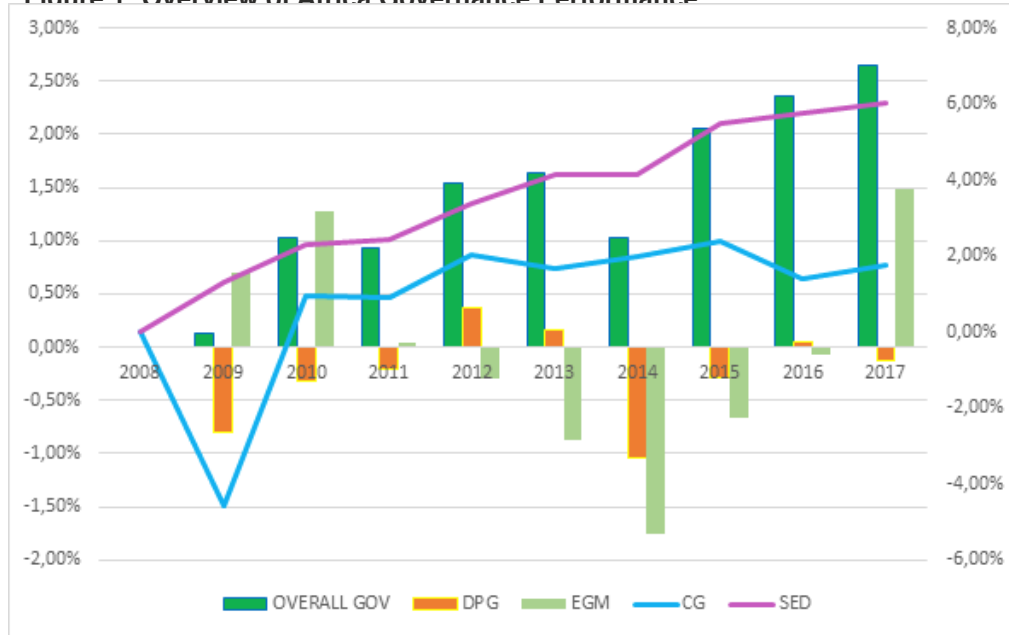
3.4.1 Overall African Governance Performance

Our assessment, which analyses information from various databases and sources with strong Africa local content using the APRM Methodology and Framework shows that, overall, governance in Member States, including non APRM participating countries, has improved since 2008.

This progress is mostly due to positive performance in the socio-economic development sectors. Performance in the area of economic governance and management as well as corporate governance was also satisfactory. However, much work still needs to be done on the area of democracy and political governance. The following graph shows the trend since 2008 in the four (4) APRM focus areas.

¹⁵ Assembly of The Union Twenty-Eighth Ordinary Session, 30-31 January 2017 Addis Ababa, Ethiopia. Decision Assembly/AU/Dec. 631(XXVIII).

Figure 1: Overview of Africa Governance Performance



SOURCE: Analysing Africa Governance Performance: APRM Perspectives.

3.5 Challenges in Transformative Leadership

In summary, there are positive signs as African leaders are declaring National Visions and formulating innovative programmes. However, there are still shortcomings that need to be addressed: the existence of discriminatory laws, exclusion of minority groups, inadequate mechanisms for public participation, inadequate freedom of association and of the media and the absence of anti-corruption strategies.

3.6 Recommendations on Transformative Leadership

A significant number of countries have developed National Visions. Those that have not should be encouraged to do so.

AU Member states should endeavour to:

1. Align their National Visions with the AU Agenda 2063 and the UN SDGs. Specifically:
 - a. The AU Agenda 2063 Aspiration 1 (A prosperous Africa, based on inclusive growth and sustainable development) and Aspiration 6 (An Africa whose development is people driven, relying on the potential offered by people, especially its women and youth, and caring for children).
 - b. The UN SDG 5 (Gender equality), 6 (clean water and sanitation), 7 (affordable and clean energy), UN SDGs 11-15 (sustainable cities and communities, responsible consumption and production, climate action, life below water, life on land).
2. End all forms of discrimination and exclusion.
3. Promote democratic principles and institutions, popular participation and good governance.

4. Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments.
5. Establish regular National Governance reviews to assess the performance in governance.



Constitutionalism and The Rule of Law

CHAPTER 4: CONSTITUTIONALISM AND THE RULE OF LAW

4.1 Introduction

This chapter examines the practice of constitutionalism and the rule of law in Member States and the effectiveness of the efforts of the African Union to enhance implementation of these governance ideals on the continent.

4.2 Principal African Union Instruments on Constitutionalism and the Rule of Law

The Constitutive Act establishes the objectives of the African Union, which include the promotion of democracy and good governance, the protection of human rights, and the promotion of peace, security and stability on the continent.¹⁶ Significantly, the Constitutive Act defines a number of principles to guide Member States in their endeavours to realise the objectives of the Union. These principles include: sovereign equality and interdependence among the Member States, the participation of the people of Africa in the activities of the Union, non-interference by Member States in the internal affairs of other Member States, the promotion of gender equality, and the condemnation and rejection of unconstitutional changes of governments.¹⁷

Even though the AU Constitutive Act respects the principles of sovereignty and non-interference by a Member State in the internal affairs of another, it recognises the principle of non-indifference, which is “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”¹⁸, as well as a serious threat to legitimate order to restore peace and stability.

The main instruments for promoting constitutionalism and the rule of law are: The African Charter on Human and Peoples’ Rights, The Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa, The African Charter on Democracy, Elections and Governance, The Declaration on Democracy, Political, Economic and Corporate Governance and The African Charter on Values and Principles of Public Service and Administration.

Table 2, below, shows the status of the principal AU instruments regarding constitutionalism and the rule of law.

16 Constitutive Act of the African Union, Article 3.

17 Constitutive Act of the African Union, Article 4.

18 Constitutive Act of the African Union, Article 4 (h).

Table 2: Status of AU Instruments Relating to Constitutionalism and the Rule of Law (September 2018)

| Instrument | Signed (Out of 55) | Ratified | Deposited |
|--------------------------------------------------------------------------------------------------------|--------------------|----------|-----------|
| Constitutive Act of the African Union ¹⁹ 54 | 55 | 55 | |
| African Charter on Democracy, Elections and Governance | 46 | 31 | 31 |
| African Charter on Human and People's Rights | 45 | 54 | 54 |
| Protocol of the Court of Justice of The African Union | 44 | 18 | 18 |
| African Union Convention on Preventing and Combating Corruption | 494040 | | |
| Protocol on the Statute of the African Court of Justice and Human Rights | 31 | 6 | 6 |
| Protocol on Amendments to the Protocol on The Statute of the African Court of Justice and Human Rights | 11 | 00 | |
| African Charter on the Rights and Welfare of the Child | 44 | 48 | 48 |
| The African Charter on Values and Principles of Public Service and Administration | 38 | 18 | 18 |
| Protocol to the Constitutive Act of The African Union Relating to The Pan-African Parliament | 1999 | | |
| Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa | 4941 | 41 | |

Source: <https://au.int/en/treaties/status>

The following section briefly examines the principal instruments for promoting constitutionalism and the rule of law.

4.2.1 The African Charter on Human and People's Rights

The African Charter on Human and Peoples' Rights (1981) seeks to promote and protect human rights and basic freedoms in Africa. It requires Member States of the AU to recognise a set of rights and freedoms, and to adopt legislative and other measures to give effect to them.

The Charter establishes the African Commission on Human and Peoples' Rights, which is responsible for its oversight and interpretation. A Protocol to the Charter adopted in 1998 created the African Court on Human and Peoples' Rights. The Protocol entered into force on 25 January 2004 and the court went operational in 2005, electing its first judges in 2006. A second Protocol in 2003 created the Court of Justice of the African Union. A third Protocol adopted in 2008 decided to merge the two courts to form the African Court of Justice and Human Rights, though this is still to materialize.

4.2.2 The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) came about out of concerns, among others, that women have remained victims of discrimination and harmful practices even though many of the AU Member States had ratified the Charter.

The Maputo Protocol requires Member States to respect and protect the human rights of women including their health and reproductive rights, and to combat all forms of discrimination against

¹⁹Some states have ratified the instruments without signing.

women through appropriate legislative, institutional and other measures. It also requires Member States to prohibit and condemn all forms of harmful practices against women, such as female genital mutilation, and to ensure that women and men enjoy equal rights in marriage, participation in the political and decision-making processes, and equality in the enjoyment of economic and social welfare rights. The Protocol also requires Member States to ensure its implementation at the national level and to indicate (in their periodic reports under the Charter) the measures taken to guarantee that these rights are respected.

Box 1: The African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights²⁰

The African Commission on Human and Peoples' Rights

At continental level, the African Commission on Human and Peoples' Rights is responsible for promoting human and peoples' rights, ensuring the protection of these rights, and interpreting the provisions of the African Charter on Human and Peoples' rights. Its promotion mandate involves advocacy, sensitization and norm development. It also includes promotional activities with Member States and institutions concerned with the promotion of human and peoples' rights, such as promotion missions, sensitization seminars, development of soft-law instruments, and publication and dissemination of information materials. Additionally, the Commission adopts resolutions, including those that elaborate specific human rights themes in greater detail, and those that address pertinent human rights concerns in the Member States.

Within its protection mandate, the Commission is tasked with receiving and examining 'communications' (complaints) submitted to it by Member States and individuals alleging human rights violations by any Member State to the African Charter on Human and Peoples' Rights. The mandate regarding protection requires receiving and examination of periodic reports from Member States on the legislative or other measures taken to give effect to the rights and freedoms recognised and guaranteed by the Charter.

These reports are presented to the Commission in its public sessions, where they are tabled and discussed. This public examination includes all the participating stakeholders. The Commission also receives "Shadow Reports" prepared by accredited NGOs and NHRIs. The Commission takes these reports into consideration when examining the state reports. The Commission also undertakes fact-finding missions whenever there is an allegation of a general nature or widespread reports of human rights violations against a State Party, usually at the request of the AU Policy Organs. The Commission is a mechanism of last resort, and only entertains communications if the applicant has exhausted local remedies, provided that such remedies are "available, effective and sufficient".

The Commission has contributed to the promotion and protection of human rights in the continent in various ways. For example, it has not only called upon respondent states to adopt and enforce appropriate measures, but also recommended that those states report to it on those measures and/or obstacles faced in implementing its recommendations. Secondly, some domestic courts have relied on the Commission's case law to find violations of human rights. Civil society has also relied on the Commission's findings to campaign for legal reform, culminating in the repeal of laws that violate rights protected in the African Charter.²¹

However, state compliance or implementation of the recommendations of the Commission remains low, due to lack of political will and inadequate monitoring. In turn, insufficient funding of the Commission has impeded its capacity to monitor the implementation of its recommendations. Additionally, many states do not seem to take seriously their reporting responsibilities and obligations, so consequently the reports are delayed or not even submitted at all.²² This has hindered the ability of the Commission to monitor state compliance with their human rights obligations under the African Charter on Human and Peoples' Rights.

The African Court on Human and Peoples' Rights

The African Court on Human and Peoples' Rights complements the protection mandate of the Commission. The Court has jurisdiction to determine "all cases and disputes" submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights, and "any other human rights instruments", such as United Nations instruments, ratified by the states concerned. For individuals and non-governmental organizations to access the Court directly, the state concerned must make an "optional declaration" recognising the competence of the Court to receive such cases. And because this declaration is optional, a state can unilaterally withdraw it. Unfortunately, most states have not deposited the optional declaration, which has severely impeded access to the Court. The Commission may also submit cases to the Court in certain circumstances.²³

Not all Member States party to the African Charter have ratified the Protocol establishing the Court. The remaining states need to ratify this Protocol. There also needs to be more allowance for individuals and NGOs to directly access the Court, as this will help to consolidate a pan-African judicial system for the protection of human rights. Alternatively, the AU Assembly of Heads of State and Government should amend Article 34(6) of the African Court Protocol to allow individuals and NGOs direct access to the Court. Further, given the limited resources of the Commission and the Court, subsidiarity needs to be strengthened, including integrating the Court with sub-regional courts.

²⁰This section is a summary of a written contribution by the African Commission on Human and Peoples' Rights Secretariat, Banjul, The Gambia.

²¹ Ssenyonjo, M. 2018. "Responding to Human Rights Violations in Africa: Assessing the Role of the African Commission and Court on Human and Peoples' Rights (1987–2018)", *International Human Rights Law Review* 1 (2018).

²² Ibid.

²³ Rule 118 of the 2010 Commission's Rules of Procedure allows the Commission to submit cases to the African Court under four circumstances: (i) where a State has not complied or is unwilling to comply with the Commission's recommendations; (ii) where a State has not complied with the Commission's request for provisional (interim/precautionary) measures; (iii) situations involving serious or massive violations of human rights; and (iv) if the Commission deems it necessary to refer a communication to the Court at any stage.

4.2.3 The African Charter on Democracy, Elections and Governance

The African Charter on Democracy, Elections and Governance (ACDEG) of 2007 was the result of concern, among others, that unconstitutional changes of government had become “one of the essential causes of insecurity, instability and violent conflict in Africa”. Therefore, the Charter underlines the determination of Member States to promote and strengthen good governance by deepening and consolidating the rule of law and by entrenching a political culture of change of power based on the holding of regular, free, fair and transparent elections.

Through this Charter, Member States undertook to promote: adherence to democracy, respect for human rights, and adherence to the rule of law. They also committed to: hold regular, free and fair elections, prohibit, reject and condemn unconstitutional changes of government in Member States, the fight against corruption, promote citizen participation in governance and accountability in the management of public affairs, gender balance and equality and best practices in the management of elections. They also agreed to enhance cooperation between the AU, RECs, state parties and the international community on democracy, elections and governance.

The Charter imposes a number of obligations on AU Member States. For example, state parties must: ensure transparent and accountable administration, improve public sector management as well as the efficiency and effectiveness of public services and combat corruption, ensure separation of powers, strengthen political institutions, create conducive conditions for civil society organizations, facilitate the participation of women in decision-making and electoral processes, promote citizen participation (particularly social groups with special needs such as youth and people with disabilities) in the governance process, ensure civilian control over the armed and security forces, ensure the independence and accountability of public institutions, promote efficient and transparent public finance management, decentralise power to democratically elected local authorities, and increase the integration and effectiveness of traditional authorities in the democratic system.

On the management of elections, ACDEG requires state parties to adhere to the Union’s Declaration on the Principles Governing Elections in Africa of 2002 (Declaration on Elections), which sought to strengthen the role of the Union in observing elections and advancing the democratization process.

4.2.4 The Declaration on Democracy, Political, Economic and Corporate Governance

The Declaration on Democracy, Political, Economic and Corporate Governance of 2003 (NEPAD Declaration) committed Member States to work together to pursue the following objectives: democracy and good political governance, economic and corporate governance and socio-economic development. By this declaration, Member States reaffirmed their commitment to: promote democracy, constitutionalism and the rule of law, respect human rights, ensure good economic and corporate governance and pursue socio-economic development.

To facilitate implementation of these objectives, Member States agreed to adopt codes, standards and indicators of good governance at the national, sub-regional and continental levels.

4.2.5 The African Charter on Values and Principles of Public Service and Administration

The African Charter on Values and Principles of Public Service and Administration (2011) (Public Service Charter) reiterates the political commitment of Member States to strengthen professionalism and ethics in the public service. Its objectives include: encouraging citizens and users of public services to participate in public administration processes, promoting transparent service delivery, improving the working conditions of public service agents and ensuring the protection of their rights, promoting gender equality within public service and administration structures and, encouraging the harmonization of policies and procedures and the exchange of experiences and best practices among Member States.

Member States undertook to pursue these objectives in compliance with the principles of impartiality, fairness and due process in the delivery of public services. They also agreed to adopt a culture of accountability, integrity, and transparency in the public service and administration.

4.3 The Parameters for Measurement of Constitutionalism and the Rule of Law

Eight parameters are used to measure the extent to which Member States are practising constitutionalism and the rule of law : (i) respect for law, (ii) respect for and enforcement of human rights, (iii) public participation in governance, (iv) accountability of the executive, (v) effectiveness of the bureaucracy (vi) independence and accountability of the legislature (vii) independence and accountability of the judiciary and (viii) access to justice.

4.4 The Practice of Constitutionalism and the Rule of Law in AU Member States

The AU Constitutive Act establishes an institutional framework that Member States can use to achieve the objectives of the Union. This framework consists of: The Assembly of the Union, the Executive Council, the Pan-African Parliament, the Court of Justice, the Commission, the Permanent Representatives Committee, the Specialised Technical Committee, the Economic, Social and Cultural Council and the Financial Institutions.²⁴ The following summarises performance in the eight parameters mentioned above (Section 4.4).

4.4.1 Respect for the Rule of Law

Respecting the rule of law means observing the requirements of the law. It means that members of the society and its institutions should habitually comply with the legally established principles and procedures. The following factors continue to negatively affect the respect for law in African countries: selective application of the law, disregard for public procurement rules and procedures, failure to respect court decisions, neglect of local and customary practices for dealing with crime and incumbent presidents manipulating the law and legal processes to retain power.

4.4.2 The Promotion and Protection of Human Rights

Many AU Member States have ratified the African Charter on Human and Peoples' Rights. However, most have not been assiduous in submitting reports on the implementation of this treaty.²⁵ Only ten states are in full compliance with their reporting obligations under the Maputo Protocol.

²⁴ Constitutive Act of the African Union, Article 5

²⁵ African Commission on Human and Peoples' Rights, 2016. State Reports and Concluding Observations (2016).

National human rights institutions also face a number of challenges: some duplicate the work of other state institutions, thus confusing stakeholders with regard to their functions. Others either lack the resources needed to effectively discharge their mandate or the autonomy to function effectively since they depend on the Executive for funding.

Although most Member States have established legal frameworks and institutions to promote and protect human and peoples' rights, far too many people still do not enjoy the rights enshrined in these frameworks. At continental level, the African Commission on Human and Peoples' Rights is under-resourced. Worse still, State compliance with and/or implementation of Commission recommendations and decisions remains low.²⁶

Table 3: Status of Submission of Periodic Reports Relevant to the African Charter on Human and Peoples' Rights (August 2018)

| Status | State Party |
|---------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Up to date: 14 | Angola, Botswana, Côte d'Ivoire, Democratic Republic of Congo (DRC), Eritrea, Kenya, Mali, Mauritius, Namibia, Niger, Nigeria, Rwanda, South Africa and Togo. |
| 1 Report overdue: 10 | Algeria, Burkina Faso, Djibouti, Ethiopia, Liberia, Malawi, Mozambique, Senegal, Sierra Leone and Uganda. |
| 2 Reports overdue: 3 | Gabon, The Sudan, and the Sahrawi Arab Democratic Republic (SADR) |
| 3 Reports overdue: 3 | Cameroon, Burundi and Libya. |
| More than 3 Reports overdue: 18 | Benin, Cape Verde, Central African Republic (CAR), Chad, Congo, Ghana, Guinea Republic, Lesotho, Madagascar, Mauritania, Seychelles, Swaziland, Tanzania, The Gambia, Tunisia, Zambia and Zimbabwe |
| Never submitted a Report: 5 | Comoros, Equatorial Guinea, Guinea Bissau, Sao Tome and Principe, South Sudan and Somalia. |

Source: African Commission on Human and Peoples' Rights, "Information on the African Commission on Human and Peoples' Rights", submitted to the APRM in October 2018.

National Human Rights Institutions

To complement the continental structures, many Member States have institutions for the promotion and protection of human and peoples' rights. These include national human rights institutions (NHRIs) which monitor the protection of human rights and assist citizens in seeking redress for violation of their rights.²⁷ The NHRIs are complemented at continental level by the African Commission on Human and Peoples' Rights and the Court on Human and Peoples' Rights (See Box 1). These institutions are discussed below.

26 Ssenyonjo, M. 2018. "Responding to Human Rights Violations in Africa: Assessing the Role of the African Commission and Court on Human and Peoples' Rights (1987-2018)", *International Human Rights Law Review* 1 (2018).

27 Akokpari J, 2008. "Introduction: Human Rights Actors and Institutions in Africa", in Akokpari J and Zimble DS (eds.) *Africa's Human Rights Architecture* 1, Centre for Conflict Resolution.

Box 2: National Human Rights Institutions

All Member States have constitutions with bills of rights to protect human rights and mechanisms for their protection. Some States have set up legal frameworks to protect human rights defenders, while others are in the process of doing so.

Despite these positive developments, implementation of continental human rights instruments and protections provided for by national constitutions are still far from satisfactory, as reports by the African Commission on Human and Peoples' Rights indicate. In many Member States, press freedom is curtailed, and opposition politicians are constantly threatened with arrest and detention. Many governments continue to forcefully prevent peaceful demonstrations, even where the law does not require prior authorization. Such endeavours to prevent citizens from enjoying their rights to assemble and peacefully demonstrate have in many cases led to the arbitrary arrest, detention and ill-treatment of citizens by police and security forces. The promotion and protection of civil and political rights therefore need to be strengthened.

However, it is encouraging that in some countries, the courts have declared criminal defamation laws unconstitutional, while other States have simply abolished such laws. The abuse of the rights of women and children also remains widespread, with women and girls being subjected routinely to rape and other sexual violence. Many countries, fortunately, have adopted policies and laws to promote and protect women's and children's rights.

African countries have also continued to experience internal and external conflicts, which are invariably accompanied by massive human rights violations. However, there are also human rights abuses in countries where there is relative peace. Common human rights violations include the forcible displacement of populations, extrajudicial executions, torture and other forms of ill-treatment that in some cases lead to death. These violations are serious abuses of international humanitarian and human rights law.

Social and economic rights have not fared much better, with countries doing little to ensure their enjoyment. Poverty and social inequalities have not only remain widespread, but have been exacerbated by the prevalence of corruption in most countries. Such corruption deprives the State of the resources it needs to provide its citizens with essential services like healthcare, water and education. The African Commission on Human and Peoples' Rights estimates that Africa loses around USD 148 billion a year to corruption. In addition, corruption creates discrimination in access to these services, further undermining the social and economic rights of the poor, marginalised and disadvantaged groups. These are conditions that often drive disaffection, revolt and even terrorism.

An increasing number of Africans are fleeing their homes for neighbouring countries to escape from violence, insecurity, conflicts, natural disasters, the negative effects of major development projects and climate change. As a result, Africa now has a large population of refugees, asylum seekers, displaced persons and migrants who are exposed to human rights abuses due to their statelessness.

In addition, the laws, policies and practices of many countries remain hostile towards indigenous populations. For example, the lands of indigenous populations in many cases, are routinely expropriated without compensation or their consent. Countries also need to step up efforts to promote and protect the rights of older persons and peoples with disabilities.

Many countries do not provide for social and economic rights in their constitutions. Such rights are often merely mentioned under headings like "directive principles of state policy" in spite of the fact that these rights are enshrined in the African Charter on Human and Peoples' Rights.²⁸ For this reason, courts in those countries are not in a position to enforce such rights.

On the bright side, a good number of countries have introduced free education for both primary and secondary school age children. Many also have revised or are in the process of revising their mineral rights regimes to ensure that citizens benefit from extractive industries, and that the activities of these industries are environmentally sustainable.

4.4.3 Public Participation in Governance

The practice of constitutionalism and the rule of law requires effective public participation in governance. It is only by participating effectively in public decision-making that people and groups can have their needs and interests addressed. Popular participation not only enhances the quality of the decisions of government but also the prospects of their successful implementation. Government and public officials have a duty to consult those likely to be

²⁸ Mubangizi JC, 2006. "The Constitutional Protection of Socio-Economic Rights in Selected African Countries: A Comparative Evaluation", African Journal of Legal Studies 1, 2006.

affected by their decisions so that the latter can, through participation, make their views known and influence the substance of the said decisions and actions. Effective participation requires access to information and transparency so that the public can see whether and how their contributions have been considered.

Many African countries now appreciate the significance of public participation and access to information and have enacted freedom of information laws that give individuals the right of access to information held by government. Local government structures are also used in many countries as a means to boost citizen participation.

Unfortunately, citizen participation, in some cases, is still being hindered by lack of transparent procedures, poverty, discrimination and the absence of feedback from government agencies.

Best practice in public participation can be seen in the functioning of the African Peer Review Mechanism (APRM). This Mechanism requires participating states to establish national structures to administer the peer review process. National Governing Councils (NGCs) play a major role in this respect. NGCs facilitate broad-based stakeholder participation in national governance discourse.

Africa also needs to enhance youth participation in governance. Member states are therefore encouraged to, as a priority, sign, ratify and implement the 2006 African Youth Charter.

4.4.4 Accountability of the Executive

The practice of democracy requires mechanisms for holding government accountable for the exercise of the powers of decision making and executive action that the people delegate to it. Periodic elections, which give the people the opportunity to confirm or change its representatives from time to time, are one such mechanism. However, these elections do not often offer the electorate an adequate degree of oversight over government. There is need therefore for additional mechanisms to facilitate the day-to-day accountability of the executive.

Most countries in Africa practice a form of multiparty democracy. Term limits are specified in many constitutions, leading to regular elections and reasonably peaceful changes of power through those elections.

Unfortunately, the executive is often all powerful despite implementation of democratic and constitutional reforms. Many executives do not have any restraint on their use of power to control resources and appoint key state functionaries. This has allowed executive control over electoral processes and use of public resources either for patronage or withdrawal of benefits. Worse still, in many countries, the electoral system is seen as an instrument for inclusion and/or exclusion in the sharing of national resources. Many of these States have continued to harass the opposition and impose tough restrictions on non-State media. Attempts at manipulation of electoral results are common, incumbents enjoy undue advantages, and elections often generate open conflict.

4.4.5 Effectiveness and Accountability of the Public Service

The bureaucracy does not always act in the public interest, especially in situations where self-serving and corruption are prevalent. There is therefore need for mechanisms to ensure

accountability and responsibility in order to restore public trust in the government.

4.4.6 Independence and accountability of the Legislature

The legislature represents society's diverse interests in government and is an important mechanism for achieving accountability of the government to the people. However, the legislature can only perform these functions if it is independent of the executive and exercises meaningful power.

4.4.7 Independence and Accountability of the Judiciary

The judiciary applies and interprets the laws that the legislature enacts. It also exercises the power of judicial review, by which it validates or invalidates the actions and decisions of government, depending on whether they conform to or violate the constitution or other laws. Judicial review therefore functions to either check the government or legitimise its actions, which makes it a powerful instrument that the courts can use to enhance constitutionalism and the rule of law.

The powers of the judiciary are important mechanisms for limiting the will of the majority so that it can respect the rights of minorities. In their absence, majority rule may lead to tyranny of the majority. The realization ideal of the rule of law requires suitable application mechanisms, including an independent and professional judiciary, easy access to dispute resolution forums, and reliable enforcement agencies.

4.4.8 Access to Justice

Access to justice requires the existence of dispute resolution mechanisms that are affordable, proximate, comprehensible, and responsive, which can guarantee speedy justice to users. The concept emerged from the realization that formal judicial processes are often costly and slow, with complexities that often intimidate or confuse parties. Access to justice also requires trust by users in the process.

It therefore requires the removal of obstacles such as high monetary and time costs, ignorance of legal rules and procedures, cultural and even language barriers. For this, the justice system needs to pay attention to issues such as the language of court proceedings, including availability of interpretation services, court fees, public involvement in the administration of justice.

There is also now an increasing awareness that that methods such as arbitration and mediation sometimes work better and more justly than the formal court system.

To enhance access to justice, some African countries have made provision in their constitutions for formal and informal dispute resolution mechanisms. Others have also established initiatives to enhance access to justice, including: legal aid schemes (in some cases backed by a law, including the constitutionalising of legal assistance), small claims courts, public interest litigation, and the office of public defender.

There have also been efforts to use new technologies and the social media to facilitate access to justice. Many countries have set up legal information structures and use these technologies to provide accessible legal information on the decisions of courts. Finally, Some countries are training non-lawyers (paralegals) to help the indigent to navigate complex justice systems.

Recognition of traditional dispute resolution mechanisms is one way of enhancing access to justice. However, these informal structures must respect the rights of those who come before them.

4.5 Achievements in African Constitutionalism and the Rule of Law

Over the last three decades, there has been considerable progress in constitutionalism and the rule of law. At continental level, Member States have made commendable efforts to promote democracy and good governance. They consider these ideals as critical to the attainment of sustainable peace, security, and development on the continent. The AU has spelt out its commitment to these ideals in its instruments, including the AU Constitutive Act, the declaration on unconstitutional changes of government, the declaration governing democratic elections, the declaration on observing and monitoring elections, and the more recently, the African Charter on Democracy, Elections and Governance (ACDEG).

Member States have also implemented constitutional reforms for greater political freedom and democratic pluralism. Key achievements include: restoring multi-party politics, fixing presidential term-limits, conducting regular free and fair legislative and presidential elections, restoring the legislative and oversight functions of legislatures, guaranteeing judicial independence and promoting the emergence and growth of private media and civil society.

Additionally, constitutional rules are taken seriously, and presidential term limits are now widely respected. It is also noteworthy that many African constitutions now demand respect for the rule of law, human rights, and have made provisions for institutional checks and balances, including judicial review.

African countries, as we can see, have made considerable progress towards consolidating the practice of democracy. The African public too has become more demanding as its democratic awareness increases. They now perceive democracy in terms of protection of civil liberties, participation in decision-making, voting in elections, and governance reforms.

4.6 Challenges to Constitutionalism and the Rule of Law

The African Union has established an elaborate institutional framework for promoting democracy and governance on the continent. This framework consists of institutions and Organs such as: the African Union Commission (AUC), the African Commission on Human and Peoples' Rights, the African Court on Human and Peoples' Rights, the Pan-African Parliament, the African Peer Review Mechanism (APRM), the Economic, Social and Cultural Council, the African Union Advisory Board on Corruption, and Regional Economic Communities.

It also set up the African Governance Architecture Platform (AGA) in 2007.²⁹The objective of this platform, which entered into force in 2012, is to enhance the ratification, domestication and implementation of African Union norms on governance, particularly the African Charter on Democracy, Elections and Governance (ACDEG). It should be noted that the AGA is an informal mechanism, and therefore, does

²⁹The members of the AGA Platform are: the Peace and Security Council the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child, the African Peer Review Mechanism, the Pan African Parliament, the African Union Development Agency (formerly New Partnership for Africa's Development – NEPAD), the African Commission on International Law, the African Union Advisory Board on Corruption, the Economic, Social and Cultural Council, Regional Economic Communities, the Permanent Representatives Committee, and Specialised Technical Committees.

not play a formal role in the AU's decision-making process; it only makes recommendations to policy organs.³⁰

The African Union also established the African Peace and Security Architecture (APSA), which works in collaboration with the AGA. The APSA has as mandate to prevent, manage and resolve conflicts on the continent. The AGA supports the APSA in addressing the root causes and drivers of conflicts on the continent. The African Union therefore considers democracy, good governance and the rule of law as instrumental in preventing conflicts.³¹

According to the African Charter on Democracy, Elections and Governance (ACDEG) “unconstitutional change of government” means accessing to or maintaining power through coups d'état, intervention by mercenaries to replace a democratically elected government, replacement of a democratically elected government by armed dissidents or rebels, refusal by an incumbent government to relinquish power to the winning party or candidate after free and fair elections, or amendment or revision of the constitution or any other law in a manner that infringes the principles of democratic change of government.³² This issue is currently under review by the AU Member States.

The ACDEG has mandated the AUC to develop benchmarks for implementation of its principles and commitments, and to evaluate compliance by Member States. To this end, the AUC has designed a State Reporting Questionnaire that it uses to assess Member States. It also requires Member States to submit a bi-annual report to the AUC on the measures taken to implement its provisions. Very few states have submitted this report.³³

The AUC observes elections in Member States as part of its efforts to ensure the implementation of the provisions of ACDEG and the Declaration on the Principles Governing Democratic Elections in Africa (the Durban Declaration). The AU's Guidelines for Elections Observation Missions of 2002 requires the AUC to not only observe elections (that is, gather information and make informed judgments about them), but also monitor elections (that is, observe the election process and intervene if relevant laws or standard procedures are being violated).

The AU initially viewed election observation as a mechanism for preventive diplomacy, that is, a tool for averting the possible outbreak of conflict. The AU now takes a long-term view to election observation and is increasingly looking at all the stages of elections, namely pre-voting, voting and post-voting. Election observation therefore entails examining aspects like constituency demarcation, voter and candidate registration, and post-election dispute settlement, etc.

The AU has therefore shifted its election observation focus from just diplomacy to more technical and independent missions.³⁴ Observer missions make recommendations which the concerned Member State is expected to implement before the next election. The AUC has developed a strategy for enhancing these recommendations. This strategy could be used to promote institutional and electoral

30 Aggad F and Apiko P, 2017. “Understanding the African Union and its Governance Agenda – African Governance Architecture and the Charter for Democracy Elections and Good Governance”, Political Economy Dynamics of Regional Organisations (2017).

31 African Union, Framework of the African Governance Architecture (2007).

32 ACDEG, (Article 23).

33 African Union, 2018. Progress Report of the Chairperson of the Commission on the AU Institutional Reform Pursuant to Assembly Decision Assembly/Y/AU/Dec. 635(XXVIII), Assembly/AU/2(XXXI), July 2018.

34 Anieke CC and Atuobi SM, 2016. ‘Two Decades of Election Observation by the African Union: A Review’, 15 Journal of African Elections 25 (2016).

reforms in Member States, in line with the ACDEG.³⁵

4.7 Recommendations for Strengthening Constitutionalism and the Rule of Law

There are a number of recommendations that could be considered to enhance and/or improve governance performance in the area of constitutionalism and the rule of law. They are listed below.

4.7.1 Respect for the Rule of Law

The AU Member States are urged to ratify all the shared values and instruments, and comply with the decisions of the legal organs.

Member States are encouraged to set up mechanisms both at the national and continental level to assess and evaluate the effectiveness of anticorruption programmes and strategies.

4.7.2 Promotion and Protection of Human Rights

Member States are invited to submit relevant periodic reports to the African Charter on Human and Peoples' Rights.

They are encouraged to comply with the decisions of the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights.

Member States are encouraged to set up NHRIs.

4.7.3 Public Participation in Governance

Member States are invited to ratify the African Charter on Values and Principles of Public Service and Administration.

The African Union should encourage Member States to adopt inclusive electoral systems, including proportional representation.

They are encouraged to ensure the independent administration of elections and fair and speedy resolution of electoral disputes, in accordance with the African Charter on Democracy, Elections and Governance (ACDEG).

The commission assigned for formulating the constitution must be composed of people from all walks of life, including marginalized groups, women and the disabled in the society.

4.7.4 Accountability of the Executive

Member States are encouraged to adopt inclusive electoral systems.

4.7.5 Effectiveness and Accountability of the Public Service

Member States that have not ratified the African Charter on Values and Principles of Public Service Administration are encouraged to do so.

They are also encouraged to strengthen their national integrity systems.

35 Interview with representatives of the Democracy and Electoral Assistance Unit, Department of Political Affairs, AUC.

4.7.6 Independence and Accountability of the Legislature

Member States are encouraged to ensure the independence and accountability of the legislature.

They are encouraged to ratify the Protocol to the Constitutive Act of the African Union Relating to the Pan African Parliament.

4.7.7 Independence and Accountability of the Judiciary

Member States are encouraged to ensure the independence and accountability of the judiciary.

4.7.8 Access to Justice

Member States are encouraged to facilitate access to justice by adopting and implementing continental and universal principles and guidelines.



Peace,
Security and
Governance

CHAPTER 5: PEACE, SECURITY AND GOVERNANCE

5.1 Introduction

There are many descriptions and definitions of peace. Generally, peace is the absence of war and civil conflict and the prevalence of security, especially in an environment that is conducive for sustained social and political stability. The African Union considers governance, peace and security as prerequisites for sustainable development.

The assessment of peace and security focuses on progress towards “Silencing the Guns”. This chapter presents the principal AU instruments, and the key decisions, declaration, and actions aimed at realising the Africa we want. It identifies the structural causes of conflict and instability, highlights the peace and security initiatives of the AU, RECs, and Member States and examines the functioning of the African Peace and Security Architecture (APSA).

5.2 The Interrelationship between Peace, Security and Governance

Democratic governance, peace and security are complementary and essential to social and economic development. They are interrelated, interdependent, and mutually reinforcing imperatives for continental integration and sustainable development, hence, Agenda 2063 Aspiration 4, which envisages a peaceful and secure Africa as fundamental to African progress.

5.3 African Union Instruments on Peace, Security, and Governance

AU instruments on peace, security, and governance include: the Constitutive Act, the African Charter on Democracy, Elections and Governance, the Declaration on Principles Governing the Conduct of Democratic Elections in Africa, the Convention on the Prevention and Combating of Terrorism and the Protocol Relating to the Establishment of the Peace and Security Council of the African Union.

The table below shows the Member States that have signed, ratified and deposited the various AU instruments.

Table 4: Status of AU Peace and Security Instruments (September 2018)

| Instrument | Signed (Out of 55) | Ratified | Deposited |
|---------------------------------------------------------------------------------------------------------------------------|--------------------|----------|-----------|
| Constitutive Act of the African Union | 54 ³⁶ | 55 | 55 |
| African Charter on Democracy, Elections and Governance | 46 | 31 | 31 |
| Protocol to the OAU Convention on The Prevention and Combating of Terrorism | 45 | 21 | 21 |
| African Union Non-Aggression and Common Defence Pact | 44 | 22 | 22 |
| The African Nuclear-Weapon-Free Zone Treaty (The Treaty of Pelindaba) ⁵² | 41 | 41 | |
| OAU Convention for the Elimination of Mercenaryism In Africa | 36 | 32 | 32 |
| Statute of the African Union Mechanism for Police Cooperation (AFRIPOL) ⁰⁰⁰ | | | |
| OAU Convention on the Prevention and Combating of Terrorism | 50 ⁴³ | 43 | |
| African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention) | 40 ²⁷ | 27 | |
| African Union Convention on Cross-Border Cooperation (Niamey Convention) ¹⁵ | 3 | 3 | |
| Protocol Relating to the Establishment of the Peace and Security Council of the African Union | 53 | 52 | 52 |

Source: <https://au.int/en/treaties/status>

5.4 Assessing Peace and Security

The assessment of peace, security, and governance focuses on quantification of non-peaceful occurrences, that is, identification of the causes of conflict, unrest and instability, continental efforts to promote peace, security and stability, efforts by RECs and Member States to prevent, resolve and manage conflict, and progress in the development of the African Standby Force and the AU Peace Fund.

5.5 The Causes of Conflict in Africa

There is a close relationship between peace, security and democratic governance. The minutes of the open session of the 766th Meeting of the African Peace and Security Council states:

Council and participants acknowledged that most of the violent conflicts and crises facing parts of the African continent are rooted in governance deficits, which include mismanagement of diversity, manipulation of constitutions, marginalization of the youth and mismanagement of natural resources. In this regard, Council and participants urged all Member States to redouble their efforts and improve their governance systems.³⁷

The African Union has identified the following seven (7) major causes of conflict and instability:

- i) poverty: there is a strong relationship between poverty and instability; internal armed violence is significantly more frequent in low-income and lower-middle-income countries than in upper-middle-income or wealthy countries;
- ii) disruptive transitions: Change, particularly including transitions from autocracy to democracy often leads to violence. Indeed, adverse regime changes are often violent;

³⁶ Some countries ratified the instrument without signing.

³⁷ African Union Commission (2018), 766th Peace and Security Council Meeting, PSC/PR/BR. (DCCLXVI)

- iii) lack of democracy: the lack of democracy or democratic accountability has potential to trigger instability;
 - iv) population imbalance and social and economic exclusion: these two factors are drivers of violence and instability. This has been observed in poor countries with relatively large youthful populations that are economically and socially excluded. The exclusion factor becomes particularly acute if education levels, rates of urbanisation and unemployment are comparatively high.
 - v) continuous violence. Any country that has experienced large-scale violence is susceptible to more of the same;
 - vi) the ‘bad-neighbourhood’ effect, where countries that are close to or bordering on other countries that are experiencing conflict are exposed to it;
 - vii) Self-serving leadership: this is associated with the prevalence of poor governance.
- Exacerbating these is the impact of excessive dependence on commodity exports, and the resultant reliance on external funding for State expenditures and the economy. All these factors are interdependent.

5.6 Africa’s Conflict Zones

The AU has identified 21 current conflicts in the 55 countries that make up the African Union (as of July 2018). Some countries are experiencing internal conflicts and other forms of unrest, while others are facing violent disturbances as a result of economic difficulties, race, religion, political divisions, violent extremism, terrorism, etc.

A recent analysis for the African Union has identified major conflict zones and highlighted conflict-resolution dynamics. Four major conflict zones are: the Mano River Region, the Great Lakes Region, the Horn of Africa, and the Sahel/Maghreb Region.³⁸

5.6.1 The Mano River Region

This geopolitical region covers the Mano River Union, which is a political and economic structure consisting of Liberia, Sierra Leone, Guinea and Cote d’Ivoire. These countries have since 1990 faced serious security challenges, including military coups and civil wars. Leaders of these countries tended to exploit cross-border ethnic linkages to further their own domestic political and security advantages, at the expense of peace and stability of the region. The Economic Community of West African States (ECOWAS) has played a significant role in preventing and managing conflict (peacekeeping and peace enforcement) in this region.

5.6.2 The Great Lakes Region

This region, which straddles eastern and central Africa, and whose countries are members of the International Conference on the Great Lakes Region (ICGLR), is made up of Angola, Burundi, CAR, Republic of the Congo, DRC, Kenya, Rwanda, Republic of South Sudan, Sudan, Tanzania and Zambia. Instability and intractable conflicts have plagued the region since the 1990s, including the so-called “Africa’s World War” in the DRC in the late 1990s and the Rwandan genocide of 1994. Although these conflicts have been within borders, they have had regional ramifications. The region is characterised by alliances among States and non-State actors trying to ensure their security, survival and interest through armed activities. “Outsiders”, whose interests are economic, political, or even criminal, are often contributors to conflict in this region.

38 Aboagye F (ed) 2016. A Comprehensive Review of African Conflicts and Regional Interventions. Addis Ababa: AU Commission and African Peace Support Trainers Association (APSTA).

The ICGLR, ECCAS, SADC and the AU play active roles in peacebuilding. One of their most significant initiatives is the Peace, Security and Cooperation Framework for the DRC and the Region negotiated by the AU, ICGLR Secretariat and SADC, with active support from the UN. This was signed at the AU Commission in Addis Ababa in early 2013. At the behest of these organizations, an Intervention Brigade was established within its peacekeeping mission in the DRC.

5.6.3 The Horn of Africa Region

This geographically strategic region covers Djibouti, Eritrea, Ethiopia, Somalia and Sudan, which together with South Sudan form the Inter-Governmental Authority on Development (IGAD). This region has one of the world's highest occurrences of conflict, featuring eight clusters of distinct but interrelated conflict systems, involving (i) Eritrea and Ethiopia, (ii) Somalia, (iii) Sudan and South Sudan, (iv) South Sudan, (v) Sudan, (vi) Ethiopia, (vii) the Lord's Resistance Army (LRA), and (viii) armed cattle-raiding in the border areas between Kenya, Uganda, Ethiopia and Sudan.

5.6.4 The Sahel and Maghreb Regions

The (broader) Maghreb region is composed of the countries of north, west and east Africa: Egypt, Libya, Algeria, Tunisia, Morocco, Mauritania, Libya, Burkina Faso, Mali, Niger, Chad and Sudan. A number of conflict systems and dynamics occur in these regions, comprising civil wars, crime and terror, and demands for democratic reforms. Another conflict dynamic is fuelled by Boko Haram and Al Qaida in the Islamic Maghreb (AQIM). Boko Haram is particularly active in the northern Nigerian states of Borno, Yobe and Adamawa, bordering Cameroon and Chad.

A unique characteristic of the security environment of this region has been the steady increase in the number of political conflicts and criminal activities resulting from the radicalized misuse of religion. This conflict in the region has been internationalised through the American "war on terror" and more recently, the open identification of Boko Haram with the Islamic State (IS or ISIS).

The fight against Boko Haram has led to sustained and concerted efforts by the countries directly affected by its atrocities such as Benin, and other members of the AU as well as by the Lake Chad Basin Commission (LCBC),.

5.7 Trends of African Conflict and Instability

Africa's experience with conflict has highlighted four macro-trends that require different and complex responses. First, Africa's peace and security situation has a historical dimension since many conflicts are prolonged and intractable. Second, conflicts are increasingly taking on a regional and/or international character, with interconnected socio-economic, political, identity and criminal drivers. Agents of conflict and violence intersect, so there is need to address the problem from a regional, continental and global perspective. Third, interventions are increasingly prioritising "stabilisation" activities to the detriment of conflict prevention or of addressing deep-seated causes of the conflict and instability. Fourth, Africa is expected to provide robust conflict management skills and expertise in resolving these conflicts, even though they will continue to rely on external donors who, because of this will continue to influence the continent's conflict management agenda.³⁹

³⁹Van Nieuwkerk A, 2016. "Learning lessons from Africa's responses to conflict" in Aboagye, F (ed) A Comprehensive Review of African Conflicts and Regional Interventions. Addis Ababa: AU Commission and APSTA.

Since 2001, there has been a change in the scope, scale and nature of armed conflict and violence in Africa. Large-scale wars have declined in proportion to population growth and political violence such as riots and violence against civilians has increased.⁴⁰Intra-state occurrences are more prevalent than conflicts between different countries. Fewer countries are involved in inter-state conflicts now than they were 20-30 years ago. In some cases, States have declared the end of hostilities (most recently Ethiopia and Eritrea).

The AU response to these changes can be seen in its approach to terrorism, which is one of the greatest security threats across Africa.

Box 3: African Union Efforts in Fighting Terrorism⁴¹

The AU framework for preventing and combating terrorism is inspired by the 1992 (OAU) Resolution on the Strengthening of Cooperation and Coordination among African States [AHG/Res.213 (XXVIII)], the 1994 Declaration on the Code of Conduct for Inter-African Relations [AHG/Dec. (XXX)], the 1999 OAU Convention on the Prevention and Combating of Terrorism, the 2001 Dakar Declaration Against Terrorism and the 2002 AU Plan of Action on the Prevention and Combating of Terrorism.

These texts are all intended to combat extremism and terrorism, and its manifestations in sectarianism, tribalism, ethnicity or religion. Terrorism is thus considered a criminal act. For this reason, African countries have been urged to cooperate in fighting such acts through extradition, extra-territorial investigations and mutual legal assistance. The 2002 Plan of Action adopted practical counter-terrorism measures such as police and border inspections, legislative and judicial measures, information exchange, and mechanisms to stop financing of terrorism,.

The implementation of the 2002 Plan of Action led to the setting up of the African Centre for the Study of Research on Terrorism (ACSRT) in 2004. The ACSRT is an AU forum for interaction and cooperation among Member States and Regional Mechanisms. Its functions are to research and analyse terrorism and its organization, and to develop counter-terrorism capacity building programmes.

The position of AU Special Representative for Counter-Terrorism Cooperation was also created in 2010.. The AU Commission developed the African Model Law on Counter Terrorism that was endorsed by the decision of the 17th Ordinary Session of the Assembly of the African Union in Malabo in July 2011 [Assembly/AU/Dec. 369(XVII)]. The purpose of the model law is to assist AU Member States in implementing continental and international counter-terrorism instruments, including the 1999 OAU Convention on the Prevention and Combating of Terrorism and its related Protocol.

5.8 Achievements in Peace, Security and Governance

The African Union has, in terms of policy and practice, established overarching mechanisms to attain peace and security and strengthen democratic governance. The AU has adopted a set of instruments for promoting and safeguarding peace, security and governance. The principal ones are listed above.

There is also an elaborate institutional framework for achieving the objectives of a peaceful and prosperous Africa. The principal institutions for promoting peace, security, and development are the African Peace and Security Architecture (APSA), the African Governance Architecture (AGA) and RECs

The APSA addresses the continent’s peace and security agenda. It is structured around the following pillars: the AU Peace and Security Council (AUPSC), the AU Commission (AUC), the Panel of the Wise,

the African Standby Force (ASF), the Continental Early Warning System (CEWS) and the Peace Fund.

The AU Peace and Security Council is the standing organ for decision-making, and has as role to:

⁴⁰African Union, 2018. Concept Note on the Peace and Security Council Open Session on Africa’s Peace and Security Landscape by 2023 (End of First Ten-Year Plan of the AU Agenda 2063): A Prospective Analysis of Peace and Security Challenges.

⁴¹ <http://www.peaceau.org/en/page/64-counter-terrorism-ct>.

prevent conflict through an early warning system and diplomacy, manage conflicts through peace-making and peace-support operations support peace-building and post-conflict reconstruction and recommend interventions in Member States to promote peace, security, and stability.⁴²

The AGA was established in recognition of the centrality of democratic governance in addressing structural causes of conflict and crises, including curbing unconstitutional changes of government. The AGA was thus designed to complement APSA to address the structural or root causes and drivers of conflicts. The institutional complementarity of the AGA and APSA is affirmation that democratic governance, peace and security are interrelated and mutually reinforcing imperatives. `

RECs have also been increasingly involved in peace and security initiatives, including mediation, peace building and management. The involvement of RECs in AU peace efforts is grounded in the

2008 Protocol on Relations between the RECs and the AU, and the Memorandum of Understanding (MoU) on Cooperation in the Area of Peace and Security between the AU, RECs and the Coordinating Mechanisms of the Regional Standby Brigades of eastern and northern Africa.

Box 4: Contributions of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) to Peace and Security

The African Committee of Experts on the Rights and Welfare of the Child (ACERWC) was established in 2001. Its mandate derives from the African Charter on the Rights and Welfare of the Child (Articles 32-46). The main roles are promoting, protecting, and respecting the rights of children. The committee's functions include: interpreting the Charter, monitoring its implementation, receiving and considering individual complaints about violations of children's rights, investigating measures adopted by Member States to implement the Charter, collecting information and providing recommendations to governments and child rights organisations for the promotion and protection of the rights of children.

As of July 2018, Forty-eight of the 55 AU Member States had ratified the Charter. Member States are required to submit reports on implementation of the Charter every three years. Civil society organizations also present shadow reports.

The ACERWC has been very influential in addressing issues relating to the impact of conflicts and crises on child rights. Its investigations and recommendations have included children on the move, attacks on schools during conflict, issues of nationality and statelessness of migrant children, children and slavery, and laws about the age of adulthood. In collaboration with some RECs, the ACERWC is working on regional child rights policies.

The ACERWC developed the Africa Agenda for Children 2040: Fostering an Africa Fit for Children, which was adopted by the AU Assembly and is currently being popularised. The agenda, which is inspired by the Children's Charter, also draws on other relevant legal and political documents, to develop an effective framework for the advancement of children's rights such as access to nourishment and basic necessities, right to education, protection from abuse, and efforts to develop a child-sensitive criminal justice system, etc.

Sources: <https://au.int/en/sa/acerwc>; ACERWC, Africa's Agenda for Children 2040: Fostering an Africa Fit for Children

5.9 Challenges to Peace, Security and Governance in Africa

Despite the existence of policy and institutional frameworks for peace and security, there are still many challenges to the effective development of these ideals.. These are due mainly to shortcomings in the implementation of the instruments and the functioning of institutions.

5.9.1 Implementation of the AU Shared Values Instruments

There are many instruments for preventing conflicts and crises, and for promoting sustainable peace, security and governance on the continent. However, more Member States should be encouraged to sign, ratify and implement all them. Indeed, the Open Session of the AUPSC

42 <https://au.int/en/organs/psc>.

in April 2018 decried numerous governance deficits, which could be attributed to the apparent lack of commitment by Member States to implement the shared values instruments.

- 5.9.2 **Functioning of Institutions Involved in Implementation of the Objectives of “Silencing the Guns”**
Despite the existence of the APSA framework to prevent, manage and resolve conflicts in Africa, the continent continues to grapple with pockets of intractable and violent conflict.⁴³
The functional relationship between the APSA and AGA needs to be strengthened. In particular, AGA needs nurturing and proactive support, especially in the strategic area of conflict prevention, and where necessary, conflict management such as peace-making, peace keeping and peace building.

The establishment of the African Standby Force, highlighted below, illustrates some of the constraints the AU faces in the area of peace, security and governance.

Box 5: The African Standby Force (ASF)

The ASF is one of five efforts of the African Peace and Security Architecture (APSA) that allows the AU to intervene within Member States. Such intervention can only be done under strict conditions, namely war crimes, genocide and crimes against humanity. The four other efforts that support this structure are: (i) the Peace and Security Council, (ii) Panel of the Wise, (iii) Continental Early Warning System, and (iv) the African Union Peace Fund.⁴⁴

The establishment of the ASF was directed by the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, which was signed in July 2002 and entered into force in December 2003.⁴⁵

This Protocol explicitly recognised the roles of RECs in promoting peace and security in Africa. For that reason, the final concept for the ASF, presented in the Maputo Report of July 2003, provided for five regional Standby Brigade Forces: North African Regional Standby Brigade (NASBRIG), Eastern Africa Standby Brigade (EASBRIG), Force Multinationale de l’Afrique Centrale (FOMAC), Southern Africa Standby Brigade (SADCBRIG) and ECOWAS Standby Brigade (ECOBIRIG).

The Protocol defined six ASF deployment scenarios. The organization agreed on troop levels of about 15,000 soldiers continent-wide. The AU is expected to contribute 25% of the budget and the remaining 75% will come from the UN, EU and bilateral donors.⁴⁶

The ASF Policy Framework and the Roadmap for the Operationalization of the ASF called for the establishment of a “Rapid Deployment Capability” (RDC) capable of intervening, within fourteen days, in cases of genocide and gross human rights abuses under Scenario 6. The RDC became an integral part of the regional Standby Forces to be deployed at the entry point, as a precursor to the deployment of a larger mission. At the end of 2013, the Expert Panel of the AU stated that the goal, recommended in Roadmap III, to test, evaluate and operationalise the RDC by 2012, had not been met.⁴⁷

5.10 Recommendations for Peace, Security and Governance

There has been significant progress in peace, security and governance in Africa. For example, inter-state conflicts have declined in the last generation. However, more Member States need to sign, ratify, domesticate and comply with the relevant instruments. The harmonization and coordination the African Peace and Security Architecture (APSA) and the African Governance Architecture (AGA) are still not up to par. There is also need to improve cooperation and collaboration between the AU, the RECs and Regional Mechanisms, between the AU and the United Nations, and between the AU and other international entities.

43 ACCORD (2015) *Silencing the Guns, Owning the Future: Realising a conflict-free Africa*.

44 Institute of Security Studies (2015) *ISS: Understanding the African Standby Force, Rapid Deployment and Amani Africa II (Media Toolkit)*.

45 “Protocol relating to the establishment of the Peace and Security Council of the African Union” (PDF). peaceau.org. African Union.

46 Ibid.

47 African Union Independent Panel of Experts, October 2013. *Assessment of the African Standby Force and Plan of Action for Achieving Full Operational Capability by 2015*.

The following are recommendations for peace and security:

1. Member States are encouraged to sign, ratify and implement all relevant peace, security and stability instruments.
2. The AU should operationalize the African Standby Force, and increase efforts to secure sustainable funding for peace and security activities.
3. Member States are encouraged to strengthen the Peace and Security Council (PSC) as recommended by the Assembly of The African Union Eleventh Extraordinary Session of November 2018 (Ext/Assembly/2(XI)).



The Nexus between Development and Governance

CHAPTER 6: THE NEXUS BETWEEN DEVELOPMENT AND GOVERNANCE

6.1 Introduction

Development is a process associated with growth or change, for that which is more advanced, more recent, or newer. The definition of development, its measures, and strategies for its attainment have evolved over time.

In the 2000s it was argued that people should be allowed to use their identity and culture to determine the course of their development. That they should be free to use their ethnicity, religion, language, or culture to determine their future. The idea here was that, in addition to democracy and equitable growth, Member States should adopt multicultural policies that recognise human differences and promote diversity and cultural freedom.⁴⁸

Efforts to address the rather disjointed and fragmented approaches to development culminated in the Millennium Declaration and the Millennium Development Goals (MDGs). The MDGs sought to address three dimensions of development: the economic, social, and environmental. The UN 2030 Agenda for Sustainable Development Goals reinforced the convergence of the development agenda, by strengthening emphasis on equity, human rights, and non-discrimination.⁴⁹

As one can see, the concept of development is broad, but for the purposes of the AGR, we shall focus on the AU Agenda Aspirations 1, 3, 4 and 6, and SDG 16 of the (global) UN 2030 Agenda.⁵⁰

Annex 1 summarises the evolution in global development thinking over the past 60 years thinking which culminated in the 2015 UN 2030 Agenda for Sustainable Development (SDGs). The table also highlights the trend of Africa's development from post-independence up to the launch in 2013 of its development frameworks, the African Union Agenda 2063: The Africa We Want. This framework is said to have inspired the 2030 Agenda SDGs of the UN.

6.2 National Development Plans: The Interface Between Governance and Development

Governance is the exercise of political, economic and administrative authority to manage a country's affairs. Through National Visions, countries articulate political and developmental objectives for their citizens. NDPs translate these visions into programmes and projects. National development plans outline the strategies, ways and means by which National Visions will be implemented. National budget allocations specify the resources for implementing NDPs. In some instances, National Visions and NDPs are consolidated into a single framework.

48 UNDP, 2004. Human Development Report 2004 – Cultural Liberty in Today's Diverse World.

49UN General Assembly Resolution adopted by the General Assembly (A/55/L.2)] 55/2. United Nations Millennium Declaration (18 September 2000); UN, 2015. Transforming Our World: The 2030 Agenda for Sustainable Development (A/RES/70/1); Kumar, S, et.al. 2016. "Millennium Development Goals (MDGs) to Sustainable Development Goals (SDGs): Addressing Unfinished Agenda and Strengthening Sustainable Development and Partnership". February 2016.

50UN 2030 Agenda for SDGs: SDG 16: Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels, and AU Vision 2063. Aspiration 1: A prosperous Africa based on inclusive growth and sustainable development, Aspiration 3: An Africa of good governance, democracy, respect for human rights, justice and the rule of law, and Aspiration 4: A peaceful and secure Africa.

Development planning therefore provides “a systematic approach to identifying, articulating, prioritising, and satisfying the economic and social needs and aspirations of a country within a given (often limited) resource envelope”.⁵¹ By examining NDPs, and the budgets allocated for implementation, we can determine a connection between governance and national and human development.

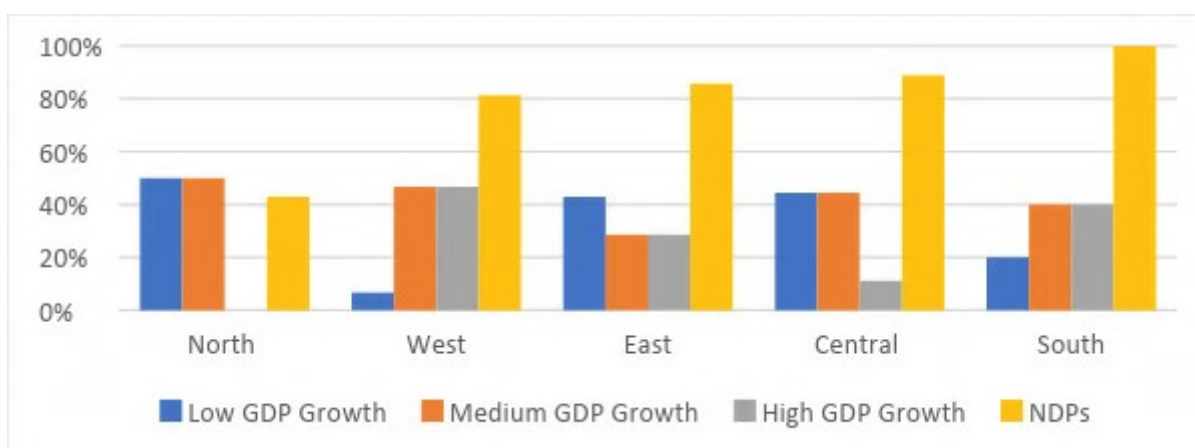
The domestication and alignment of the UN SDGs and AU Agenda 2063 requires that each Member State must decide how Agenda 2063/SDGs should be incorporated into national planning processes, policies and strategies and into setting national targets, taking into consideration national circumstances and peculiarities in a process of “mainstreaming”.

6.2.1 Existence of National Development Plans

In general, most countries in Africa have both long-term National Visions and medium-term development plans, reflecting each country’s aspirations to improve the welfare of its citizens. Country data from UNDP Country Offices and research on various country websites reveal that 88 per cent have a national vision or long-term development strategy/plan while 86 per cent have NDPs. The countries that have not reported the existence of a National Vision or a national development plan are either in conflict or recovering from one.

There is a positive correlation between growth and national development planning. This means that, at a minimum, countries with clearly articulated NDPs will exhibit some level of growth in real GDP. This may not be so apparent at the regional level, given the margin of error in aggregation. Nonetheless, when the fifty-five-year (1963-1918) average growth of real GDP is plotted against the existence of national development planning frameworks at the regional level, it emerges that in all regions except northern Africa, the regions with high prevalence of NDPs post higher real GDP growth patterns than those with low prevalence of NDPs. However, it should also be noted that the high prevalence of medium and high GDP growth does not necessarily imply high development outcomes.

Figure 2: Percentage Of Countries With NDPs And Distribution Of Growth Levels By Region



Source: United Nations Development Programme, Human Development Report (2000, 2008, 2016 and 2018 Statistical Update).

Tracing the pattern of growth of real GDP over time shows how countries have managed to cope given the many developmental challenges the continent has faced since independence.

Each period as yielded varying degrees of economic performance.

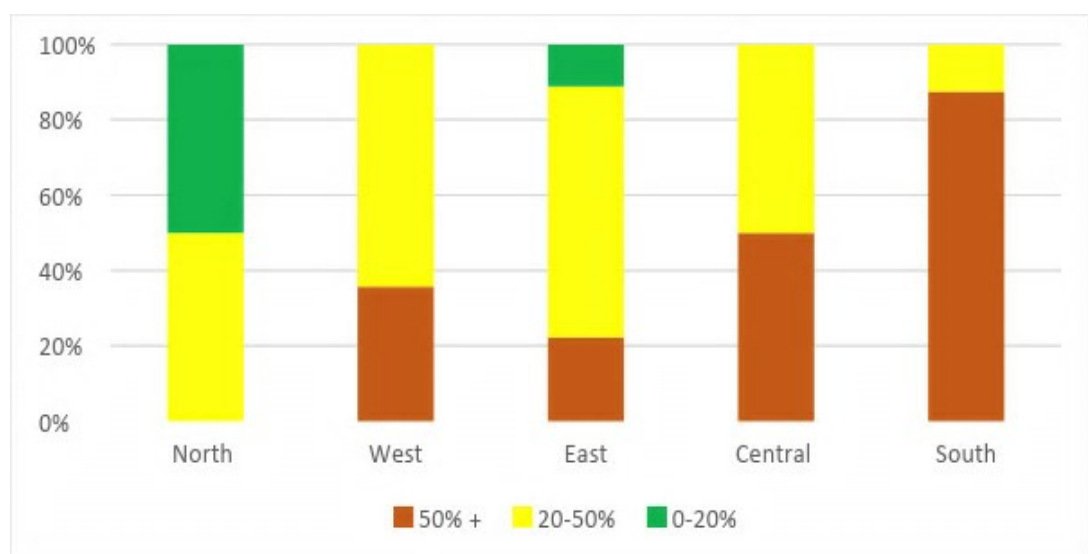
Recent economic performance on the continent is mixed. The global financial and economic crisis of 2008/2009 hampered growth in countries that were exposed to external shocks. Africa rebounded from the 2009 slowdown to a high growth rate of 5.4 per cent in 2010. Recent fluctuations in commodity prices have affected Member States differently, with non-oil exporting countries recording increases in GDP growth rates and the economies of oil exporting countries suffering.

6.2.2 National Development Planning and Poverty

The World Bank and the United Nations have defined people living in poverty as those who live on less than USD 1.25 a day. In this report however, the poverty headcount measure is derived from national poverty lines.

On this basis, regional aggregate data reveals that northern Africa, which posts low to medium GDP growth, also has the lowest incidence of poverty as measured through the Poverty Headcount Ratio. On the other hand, the south, which has a 100 per cent occurrence of NDPs and a reasonably high prevalence of medium and high real GDP growth rates posts very high levels of poverty, with 88 per cent of countries posting poverty levels of 50 per cent or greater. Similarly, the central Africa region has a high prevalence of poverty, although this is commensurate with low to medium GDP growth rates. The distribution of poverty in the eastern region matches the levels of real GDP growth, with 67 per cent of countries posting moderate levels of poverty. In west Africa, 64 per cent of countries have moderate levels of poverty of between 20 and 50 per cent and only 36 per cent have poverty levels exceeding 50 per cent, which is in tandem with the distribution of real GDP growth across the region. This means that on average, real GDP growth for countries in the south and central regions of Africa is not as inclusive as that of the north and the east of Africa.

Figure 3: Poverty Headcount Ratios at National Poverty Lines by Region



Source: World Bank, 2007-2017.

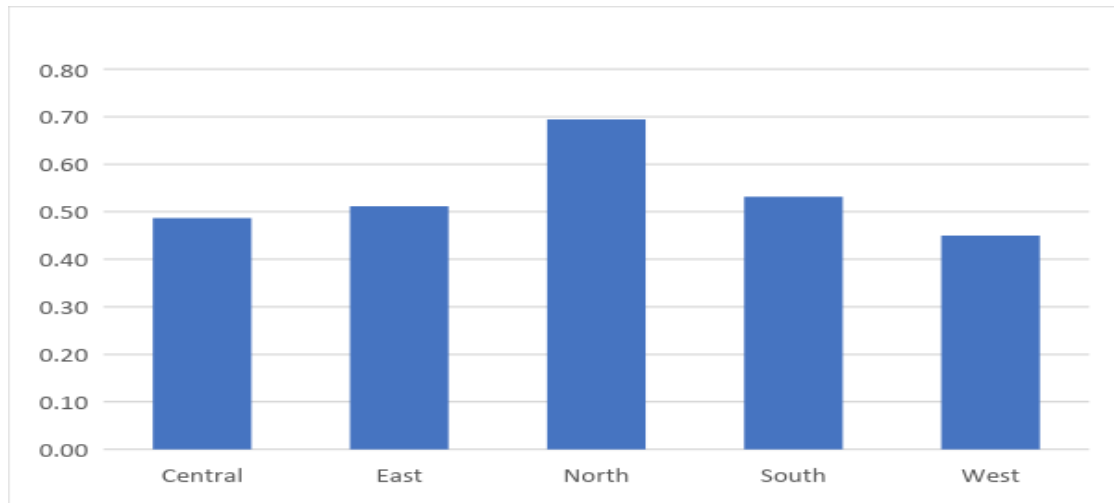
6.2.3 Human Development Index

The African Union Agenda 2063 explicitly mentions development in two of its seven aspirations:

Aspiration 1: A prosperous Africa based on inclusive growth and sustainable development, and Aspiration 6: An Africa whose development is people-driven, relying on the potential of African people, especially its women and youth, and caring for children.

The figure below provides a snapshot of the levels of Human Development, averaged over ten years by country, for each region in Africa.

Figure 4: Average Human Development Index by regions



Source: UNDP Human Development Reports (Various years)

Similar to real GDP per capita and poverty headcount data, north Africa has the highest average human development of 0.69 (medium human development) while the HDI for rest of Africa is hovering between 0.4 and slightly over 0.5 in value terms. While medium to low HDI alludes to low performance in some aspect of the combined dimensions of the index, it is crucial to identify, and bring to the fore, some key challenges which might be responsible for compromising the value of the HDI and ultimately, the overall development trajectory of a particular country.

6.3 Some Development Challenges

The key to the successful implementation of a national development agenda as articulated in development plans is the availability of adequate resources, governance structures and institutional capacities that can realise its objectives. Although there are many challenges to Africa’s development, this inaugural report will only examine five of them, namely Natural Resource Governance, Illicit Financial Flows, Dependency on ODA, Corporate Governance, and Unemployment and Gender Equality.

6.3.1 Natural Resource Governance in Africa

Africa is abundantly endowed with a large variety of natural resources. However, this has not translated into improved prosperity, broad-based development, resource-based industrialization and decent development in the continent.

The continent has 30 per cent of all global minerals, including more than half of the world’s rare minerals. It is rich in both renewable and non-renewable natural resources. Its geography includes the world’s largest arable landmass, the second largest and longest rivers (the Congo and Nile, respectively), and the second largest tropical forest. The continent’s proven oil

reserves constitute eight per cent of the world’s stock, while those of natural gas amount to seven per cent. Minerals account for an average of 70 per cent of total African exports and about 28 per cent of its gross domestic product. Recent discoveries of oil, gas and minerals in some countries could, in future, significantly boost government revenues.

Table 5: Africa’s Mineral Endowments

| Mineral | Production | Rank | Reserves | Rank |
|---------------------------------|------------|-------|----------|------|
| Platinum group metals (PGMs)54% | 1 | 60%+1 | | |
| Phosphate | 27% | 1 | 66% | 1 |
| Gold | 20%1 | 42% | 1 | |
| Chromium | 40%1 | 44% | 1 | |
| Manganese | 28% | 2 | 82% | 1 |
| Vanadium | 51% | 1 | 95%1 | |
| Cobalt | 18% | 1 | 55%+1 | |
| Diamonds | 78% | 1 | 88% | 1 |
| Aluminium | 4% | 7 | 45% | 1 |

Also, Titanium (20%), Uranium (20%), Iron (17%), Copper (13%), etc.

Source: African Mining Vision 2009.

Despite the abundance of natural resource, social development is still lagging. Evidence from several institutions and studies point to poor governance as the major obstacle to the development of Africa’s potential. In other words, the proper management of Africa’s natural resources can lead to better human and economic development.

Poor implementation of natural resource governance in the continent, due to weak institutions and policies, often results in short-term gains rather than long-term development.⁵²

Another problem that prevents countries from benefiting from their natural resources is the state and structure of Africa’s extractive industries. Most countries on the continent are still exporting raw or lightly processed commodities⁵³, a sign of poor natural resources management and inadequate prioritisation of policies and implementation.

Africa’s response to the paradox of great mineral wealth existing side by side with pervasive poverty was articulated in the African Mining Vision (AMV) that was adopted by the Summit of Heads of State in February 2009. This vision called for “transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic development”.⁵⁴ If implemented, the potential for African countries to finance the AU Agenda 2063 and UN Sustainable Development Goals would be significantly boosted.

Managed prudently, extractive industry investments can catalyse economic development and diversification, skills development and technology transfer. Extractive industries would then emerge as a powerful engine for economic growth and development.

52 United Nations Conference on Trade and Development (UNCTAD), *Extractive Industries: Optimising Value Retention in Host Countries* (New York and Geneva: United Nations, 2012),

53 United Nations Economic Commission for Africa (UNECA) Sub-regional Office South Africa, ‘Report of the ad-hoc expert group meeting (AEGM) on industrialisation for economic transformation and sustainable development in southern Africa: addressing the gaps’, Addis Ababa, March 2013.

54 The AMV has seven pillars: A knowledge-driven African mining sector that catalyses and contributes to the broad-based growth and

The proper management of natural resources could provide the revenue needed for investment in social services such as health and education. Poorly managed, extractive industries have the potential to generate violent conflict, poor economic growth, corruption, environmental degradation and its related social ills, human rights violations, and gender-based violence. In a conflict prone or fragile environment, poor management of these industries can heighten the risk of conflict or worsen existing ones.

The AMV is to be implemented in phases, the idea being to integrate the mineral sector into the economy of each country. To support the realization of the AMV, the AU established the Africa Minerals Development Centre (AMDC) in 2013, to support Member States by providing strategic operational support for the Vision and its Action Plan. A core function of the AMDC is to support Member States to enhance their capacities for effective mineral policy and regulatory design and implementation. Member States have also been encouraged to review and align their national mineral policies and regulatory frameworks with the AMV. So far, many Member States have not yet aligned their mining regimes with the AMV, although their mining policies and laws address the goals of the AMV in various respects.

6.3.2 Illicit Financial Flows

Illicit financial flows (IFFs) have an impact on good governance and Africa's development priorities. The High-Level Panel on Illicit Financial Flows from Africa defines IFF as "Money that is illegally earned, transferred or utilised. These funds typically originate from three sources: commercial tax evasion, trade mis-invoicing and abusive transfer pricing; criminal activities, including the drug trade, human trafficking, illegal arms dealing, and smuggling of contraband; and bribery and theft by corrupt government officials".⁵⁵

The drivers of IFFs include the desire to hide illicit wealth, weak regulatory structures, unnecessary tax incentives and poor governance. Central to all these is poor governance, which undermines Africa's goals of self-sustainability, and its ability to domestically finance its development priorities at the continental, regional and national levels.

A major finding of the High-Level Panel was that Africa is inadvertently a net creditor to the rest of the world. The implication is that despite the inflows of ODA, the continent suffers from a continuous crisis of insufficient resources for its own development, social services, infrastructure and funding of investments. In brief, African countries are unable to mobilise domestic resources to implement their development goals. It is therefore necessary for the continent to track, stop and even reverse IFFs to ensure development.

The High-Level Panel observed that increased illicit financial outflows coincided with a period of relatively high economic growth in Africa, and that IFFs are therefore negating the positive

development of, and is fully integrated into, a single African market; sustainable and well-governed mining sector that effectively garners and deploys resource rents and that is safe, healthy, gender and ethnically inclusive, environmentally friendly, socially responsible and appreciated by surrounding communities; A mining sector that has become a key component of a diversified, vibrant and globally competitive industrialising African economy; A mining sector that has helped establish a competitive African infrastructure platform, through the maximisation of its propulsive local and regional economic linkages; A mining sector that optimises and husbands Africa's finite mineral resource endowments and that is diversified, incorporating both high value metals and lower value industrial minerals at both commercial and small-scale levels; A mining sector that harnesses the potential of artisanal and small-scale mining to stimulate local/national entrepreneurship, improve livelihoods and advance integrated rural social and economic development; and A mining sector that is a major player in vibrant and competitive national, continental and international capital and commodity markets (AU, 2009).

55 AU/ECA Conference of Ministers of Finance, Planning and Economic Development, 2015. "Illicit Financial Flow Report of the High Level Panel on Illicit Financial Flows from Africa".

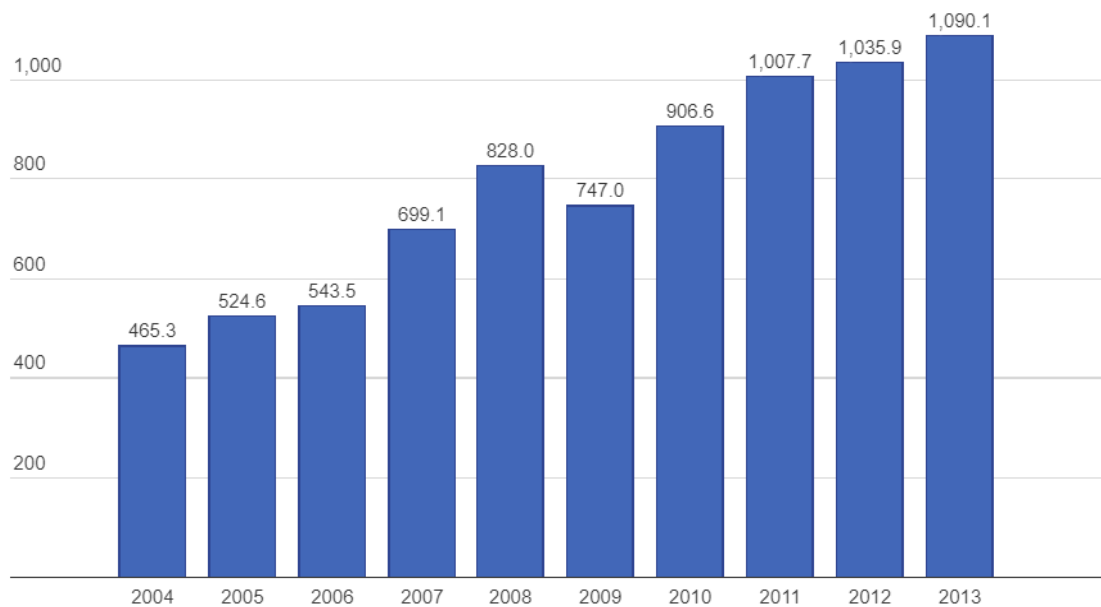
impact of increased growth on the continent.

The panel also noted that corrupt practices in Africa are not necessarily the source of these outflows; rather, corruption and weak governance often facilitate them. In addition to technical

capacity, lack of political will by governments often undermines the struggle against illicit financial flows.

Estimating the exact level of IFFs from Africa is a challenge, due to lack of clear data, and because IFFs are not easy to trace since they are generally well concealed. So far, only indirect methods have been used by the United Nations, think tanks and non-profit organisations to determine the volumes of outflows from the continent. the volume of IFFs is increasing as table below shows.

Figure 5: Illicit Financial Flow Trends, 2004 to 2013 (USD)



Source: Global Financial Integrity, 2017, Illicit Financial Flows to and from Developing Countries: 2005-2014

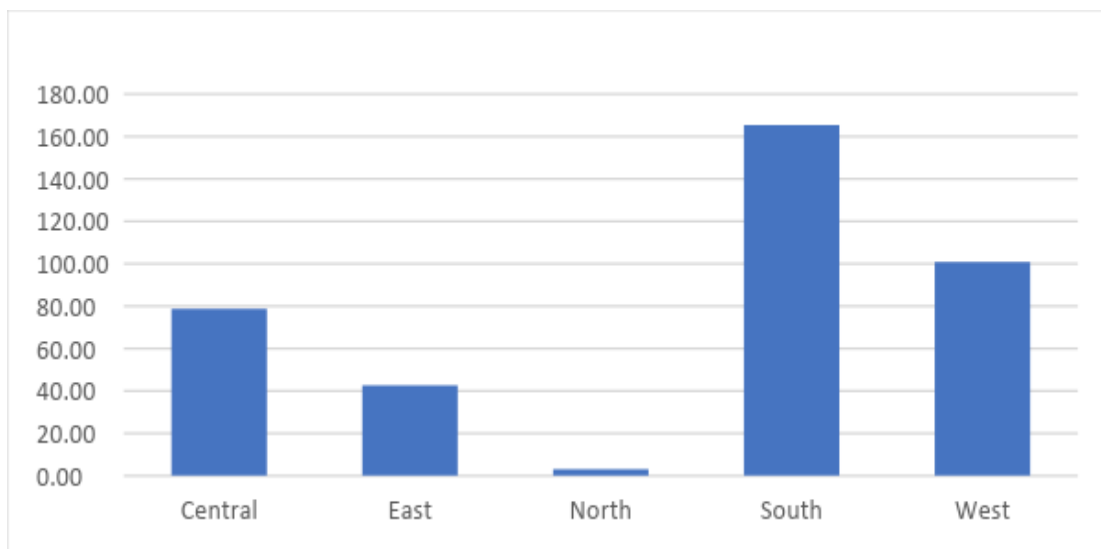
The development impact of illicit financial flows from Africa is numerous. They erode the revenue for public investment and social spending, hence weakening governance and institutions. They eat into domestic savings and perpetuate dependence on official development assistance, thus deepening reliance on donors. By discouraging value creation, illicit financial flows also negatively impact African aspirations for structural transformation. This means they subvert the implementation of NDPs, the AU Agenda 2063 and UN SDGs.

Therefore, African governments should look for ways to stop IFFs to maximise their revenues, retain investible resources within their countries, and impede criminal and illicit activities. At the continental level, the recommendations by the panel asking the AUC, UNECA, AfDB and RECs to follow up the development and implementation of a systematic and coherent plan (Anti-IFF Project) should be taken seriously.

6.3.3 Dependence on Official Development Assistance (ODA)

Although Africa is a net contributor to the wealth of developed countries and others through IFFs, and through legal channels, the continent is highly dependent on ODA from developed nations. The dependency ratio varies significantly across different countries. Even some countries that have reasonably high levels of domestic resources from economic activity remain highly dependent on foreign resources. The table below illustrates the proportion of ODA to total government expenditure averaged over a ten-year period between 2007 and 2017. It is evident that those countries that are in conflict, or are recovering from one have a higher proportion of ODA to total government expenditures, pointing to the prevalence of resource mobilisation and institutional challenges at country level.

Figure 6: Net ODA as a percentage of government expenditure by region



Source: Development Indicators 2018, World Bank Group

As the table shows, the contribution of ODA to total government expenditure is very low in north Africa. On the other hand, the South relies heavily on ODA, followed by the west and Central regions. Strengthening domestic resource mobilisation efforts and promoting efficiencies in the use of resource in these regions, will reduce dependency on ODA and improve sovereignty in policy decision-making and implementation.

6.3.4 Corporate Governance and Development

The AU Agenda 2063 and the 2030 Agenda for Sustainable Development both emphasize the importance of rapid and inclusive economic growth that is underpinned by structural economic transformation. Such transformation should be delivered by the private sector.

Good corporate governance aims to boost the development and sustenance of corporations in a manner that serves both businesses and citizens. As such, it contributes to the development of the economy and society through increased job creation, improved socio-economic conditions, and greater contribution to the fiscus. The principles of good corporate governance, which include transparency and accountability, primarily promote the efficient use of natural, financial and human resources.

The link between good corporate governance and development is premised on the need to balance economic, social and environmental factors. Adherence to these principles also boosts

investor confidence. Equally, there is a need to establish effective regulatory frameworks to achieve the objectives of the AU Agenda 2063 and the UN SDGs.

Inclusive growth implies that the benefits of growth generated within African economies is distributed more equitably to prevent rising inequality or to reduce inequalities in economies where such inequality is high. To achieve this, African countries, which still rely heavily on the primary sector, must promote greater industrialization and diversify their economies using the potential for increased cross-frontier value chains as well as forward and backward linkages.

States are urged to establish regulatory and legal frameworks to address fundamental and structural economic challenges beyond the confines of corporate social responsibility, including environmental management and the preservation of social cultural heritage.

Nineteen Member States have established a collaborative network called the Corporate Governance Network to enhance their institutional capacity for the sustainable development of public and private corporations.

6.3.5 Gender Equality, Gender Mainstreaming and Development

Gender equality has long been recognised as the key to unlocking and unleashing the development potential of the continent. Though significant progress has been made on many fronts, gender equality for African women and girls is still far from satisfactory in most countries. According to the Africa Human Development Report 2016, gender inequality is costing sub-Saharan Africa on average six per cent of the region's GDP, thereby jeopardising the continent's efforts for inclusive human development and economic growth.⁵⁶

The United Nations Entity for Gender Equality and the Empowerment of Women (UN Women) contends that gender inequality is a governance failure. National plans, policies, institutions and budgets reflect how governments translate commitments to gender equality into results for women. Too often, however, there is a gap between policy and practice.

Globally, gender inequality has assumed a central position in development discourse, as demonstrated by the inclusion of gender-specific goals and targets in both the MDGs (MDG 3) and the SDGs (SDG 5) that require women's empowerment and promotion of gender equality as a cross-cutting component in NDPs. This is in addition to ending violence against women. The AU Agenda 2063 places gender equality at the core of all development efforts stating that "African women and youth shall play an important role as drivers of change" and that "the African woman will be fully empowered in all spheres, with equal social, political and economic rights, including the rights to own and inherit property, sign a contract, register and manage a business. Rural women will have access to productive assets, including land, credit, inputs and financial services".

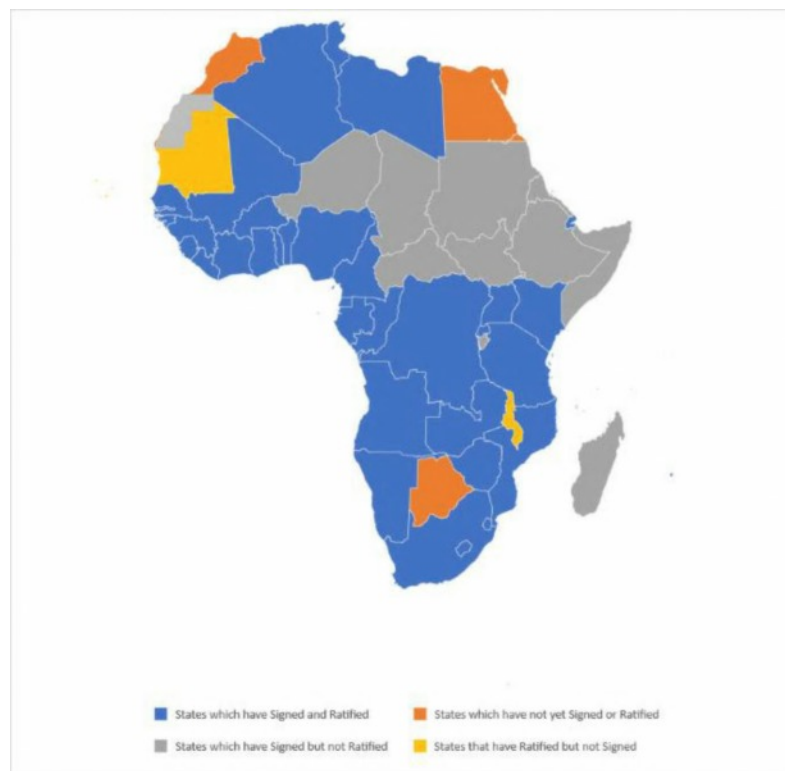
Progress in gender equality has been inconsistent and slower than expected in many African countries. Implementation of the African Union Agenda 2063 provisions on gender, as well as the UN resolutions and multiple legal frameworks for realization of gender equality, have only been partially successful in many of these countries because of cultural barriers and lack of structural policies and the political will to promote women's rights and empowerment.

A recent evaluation of the MDG’s implementation shows that some countries are still struggling with gender equality. It has also concluded that ending the gender gap may take up to 100 years in some countries in Africa.⁵⁷ However, it is rather deceptive to address gender equality in Africa at a continental level without considering the sub-regional and national efforts to empower women, particularly at the sectoral level. African countries are making steady progress towards

gender equality and gender mainstreaming in NDPs. Forty-nine countries have signed and 40 have ratified the protocol.

Sub-Saharan Africa made the most progress in Women’s access to paid employment in the non-Agriculture sector, moving from 24 to 34 per cent between 1994 and 2015.⁵⁸ Instruments such as the African Women Decade (AWD) (2010-2020) adopted in 2009, with the theme Grassroots Approach to Gender Equality and Women’s Empowerment (GEWE), the Maputo Protocol, the African Youth Charter, and the Solemn Declaration on Gender Equality in Africa (SDGEA) defined the baseline for governmental obligations on women’s rights and, most importantly, reporting on progress towards the implementation of these instruments.

Figure 7: Status of Ratification of the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa



Source: African Union, 2018, List of countries which have signed and ratified/acceded to the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa ([https://au.int/sites/default/files/treaties/7783-sl-protocol to the african charter on human and peoples rights on the rights of women in africa 7.pdf](https://au.int/sites/default/files/treaties/7783-sl-protocol%20to%20the%20african%20charter%20on%20human%20and%20peoples%20rights%20on%20the%20rights%20of%20women%20in%20africa_7.pdf))

57 WEF, 2017.
58 UNDP, 2016.

6.4 Recommendations for Development and Governance

Some of the major hindrances to development and governance revolve around inclusive development, management of natural resources and threats such as illicit financial flows and corruption.

The following are recommendations to improve development and governance:

Members States are encouraged to:

1. formulate development plans and programmes for inclusive human development.
2. align their National Development Plans, and in some cases, their National Action Plans (from the APRM self-assessment process), with the AU Agenda 2063 and UN SDGs.
3. ensure the sustainable and prudent use of natural and other resources to enable the people of the continent and future generations to benefit from them.



Role of the RECs in African Governance

CHAPTER 7: ROLE OF REGIONAL ECONOMIC COMMUNITIES (RECs) IN AFRICAN GOVERNANCE

7.1 Introduction

This chapter examines the role of Regional Economic Communities (RECs) in African governance in advancing AU shared values, norms, and standards regarding continental unity, development, democracy and elections, and peace and security.

RECs are voluntary associations of independent African states whose origins differ, with some dating back to the colonial era. They were formed for different reasons, but are mostly rooted in the desire for economic and political cooperation. Generally, their objectives are to promote regional economic welfare, collective self-reliance, and regional integration.

7.2 The Continental Role of RECs

The quest for African unity resulted in the formation of the OAU, which evolved into the AU. The OAU Treaty of 1963, the Lagos Plan of Action of 1980, and the Final Act of Lagos elaborate the principles of African unity, dignity, and status in global affairs. These principles are further expounded in the African Union Agenda 2063, a pan-African reform initiative that confirms the vision of an integrated, prosperous, and peaceful African continent that is independent and internationally recognised.⁵⁹

The Abuja Treaty of 1991 established the African Economic Community (AEC), and emphasised the importance of solidarity and collective self-reliance, self-sustained and endogenous development strategies, and a policy of self-sufficiency in basic needs.⁶⁰ RECs are regarded as the building blocks of the AEC.

The AU has acknowledged the significant roles of RECs in bolstering the efforts of continental integration, and has officially recognised eight. These are the Arab Maghreb Union (AMU), Community of Sahel-Saharan States (CEN-SAD), Common Market for Eastern and Southern Africa (COMESA), East African Community (EAC), Economic Community of Central African States (ECCAS), Economic Community of West African States (ECOWAS), Intergovernmental Authority on Development (IGAD) and Southern African Development Community (SADC).

7.3 African Union Instruments on RECs

Regional Economic Communities play a key role in regional cooperation and integration, contribute to the establishment of the AEC and coordinate Member States' interests in peace and security, governance, and development. The relationship between the AU and RECs is defined by the Abuja Treaty and the Constitutive Act of the African Union. The functional relationship between the AU and the RECs is

⁵⁹The African Union Vision is to "build an integrated, prosperous, and peaceful Africa, driven and managed by its own citizens and representing a dynamic force in the international arena". African leaders, at the celebration of the fiftieth anniversary of the OAU, declared Eight Priorities of the 50th Anniversary Solemn Declaration: African Identity and Renaissance, Continue the Struggle against Colonialism and the Right to Self-determination, The Integration Agenda, Agenda for Social and Economic Development, Peace and Security Agenda, Democratic Governance, Determining Africa's Destiny, and Africa's Place in the World (AU Agenda 2063: The Africa We Want).

⁶⁰Organization of African Unity (OAU), 1991. Treaty Establishing the African Economic Community, 3 June 1991, Abuja, Nigeria

guided by the 2008 Protocol on Relations between the RECs and the AU, and the Memorandum of Understanding (MoU) on Cooperation in the Area of Peace and Security between the AU, RECs and the Coordinating Mechanisms of the Regional Standby Brigades of Eastern and northern Africa.

7.4 The Relationship between RECs and Governance

RECs bring together Member States of the African Union. They have comparative advantages, especially better understanding of the socio-cultural and political nuances in their respective regions. Hence, the AU's recognition of the significant roles of RECs and Regional Mechanisms in bolstering efforts at continental integration, and in maintaining peace and security on the continent.

A number of RECs have enacted instruments that complement the instruments of the AU and are important in the promotion of constitutionalism and the rule of law on the continent. These instruments include protocols to the REC treaties, guidelines, plans of action and model laws. They deal with democracy, good governance, the conduct of elections, and the promotion and protection of human rights.

Consequently, some of these instruments authorise RECs to intervene in Member States where there are "serious and massive" violations of human rights and the rule of law. RECs have also incorporated the promotion and protection of human rights into their constitutive treaties, recognising that human rights play an essential role in economic development.

These regional instruments also have mechanisms, such as courts, that are making a significant contribution to the protection of human rights in the continent.⁶¹ These courts are using the African Charter on Human and Peoples' Rights as their normative framework. In some cases, these courts have established sub-registries in the Member States, bringing the courts closer to their potential users, and thus enhancing access to justice. Some courts also hold sessions in different countries of the REC to facilitate access for citizens.⁶²

These courts do not require the exhaustion of local remedies, which also enhances access to justice. Thus, citizens of Member States can approach the courts even where national courts have issued unfavourable decisions. Various RECs have also sought to promote transitional justice by extending the jurisdiction of these courts to cover international crimes.⁶³

A major drawback for these courts is that Member States have not shown great commitment to enforcing their decisions. Further, only a few states allow domestic courts to enforce the decisions of international or regional courts. Overlapping memberships also means that there are instances where the jurisdictions of the regional courts conflict.

Another challenge is that these regional courts face resources constraints that result in staff shortages, which hinders their efforts to provide accessible justice to users. These courts mostly depend on foreign

61 Ruppel OC, 2009. "Regional Economic Communities and Human Rights in East and Southern Africa", in *Human Rights in Africa: Legal Perspectives in their Protection and Promotion* 275 (Bosl A and Diescho J, eds., 2009); Abebe D, 2016. "Does International Human Rights Law in African Courts Make a Difference?", *Virginia Journal of International Law* 527 (2016).

62 Ebobrah ST, 2013. "Human Rights Developments in African Sub-Regional Economic Communities During 2012", *13 African Human Rights Law Journal* 178 (2013); Nwauche ES, 2009. "Regional Economic Communities and Human Rights in West Africa and the African Arabic Countries", in *Human Rights in Africa: Legal Perspectives in their Protection and Promotion* 319 (Bosl A and Diescho J, eds, 2009).

63 Ibid.

donors, a situation which limits their independence and impartiality. High costs (in terms of information, access, money and time) have also made it difficult for victims of human rights violations to pursue their

claims before these courts. Such constraints have limited the capacity of these courts to significantly influence human rights outcomes on the ground. There is also need to clarify the relationship between the African Court of Human and Peoples' Rights and these regional courts.⁶⁴

RECs also deploy teams to observe elections in their Member States, a process that in some cases entails sending fact-finding teams ahead of the missions to study and assess the general environment prior to the elections. However, the election observation initiatives of the RECs and the African Union are not adequately coordinated, even if there is ad hoc cooperation between them that includes the exchange of information and joint evaluation of the pre-election environment. There is therefore need for these institutions to establish a framework for cooperation in this important area of governance.⁶⁵

7.5 Assessing the Role of RECs in Governance

The main areas of examination are: (i) Is there alignment of REC Treaties with the Constitutive Act of the African Union? (ii) What is the division of labour between the AU and RECs in observation of elections? (iii) do REC guidelines for the conduct of elections align with those of the AU? (iv) What is the division of labour between the AU and the REC in peace and security activities, what are the harmonization mechanisms and how are they coordinated? (v) What are the approaches of RECs to the realization of the AU Agenda 2063? (vi) Are there mechanisms for monitoring REC implementation of AU shared values instruments?

7.6 Observations on the Relationships between the AU and RECs

Four issues are crucial in the relationships between the AU with RECs: alignment of the REC treaties with the Constitutive Act, division of labour, the implementation of the AU Agenda 2016 and monitoring of implementation of the AU shared values instruments.

7.6.1 Alignment of REC Treaties with the Constitutive Act of the AU

The varying origins and histories of the RECs mean that their treaties are not based on the Constitutive Act.

7.6.2 Division of Labour Between the AU and RECs

RECs consider that there is clear division of labour between the AU and RECs regarding promotion of democracy and observation of elections. Both the AU and RECs send election observers, and communicate on arrangements of the observation teams. Sometimes there are even more complex arrangements involving observation teams from the AU, the REC in which the Member State conducting the election belongs, and observers from other RECs regarding peace and security. The AU has agreements with RECs and regional mechanisms to operationalise their objectives. However, operational harmonization and coordination are often constrained by a number of factors, including limited capacities and inadequate financial resources. Some RECs or countries within RECs have their own arrangements that often bypass the official structures.

64 Nwauche 2009; Abebe 2016; Ruppel 2009.

65 UNISA (University of South Africa), Management of Democratic Elections in Africa, 2014; Nwauche, 2013; Ruppel, 2009.

In practice, the AU–RECs partnership has been characterised by challenges such as lack of clarity over roles and responsibilities, which have made it ineffective. “RECs are not well

integrated into the policy and decision-making processes of the Union”, a situation that has led them to play only a marginal role. It has also been deplored that “there is no coherence in the decisions and activities of the AU as they relate to the RECs”.⁶⁶

RECs have played an important role in facilitating the enforcement of the AU’s shared values, particularly in situations involving unconstitutional change of government. However, the AU and RECs have often adopted differing approaches and actions in such situations, which has hindered the effectiveness of their interventions. Further, these approaches and actions have not been well coordinated.

This lack of coordination can in part be explained by the absence of a clear definition or shared understanding of the principle of subsidiarity, to which the AU and the RECs therefore give varied or opposing interpretations. In addition, most RECs face considerable challenges that hinder their effectiveness. For example, they often have overlapping memberships and mandates. The fact that several states belong to more than one REC hinders coherence and coordination of approaches and responses. It also causes ambiguity and confusion over leadership and responsibilities.

Accordingly, one of the priorities of the AU Assembly will be to clarify the division of labour and collaboration between the Union and the RECs, in line with the principle of subsidiarity and complementarity.⁶⁷

7.6.3 REC Approaches to the AU Agenda 2063

The AU Agenda was a result of consultations and consensus that culminated in the Common African Position in negotiations for the post-2015 global agenda. Therefore, RECs endorse the vision and aspirations in the Agenda 2063. Although RECs agreed to harmonise their strategies and implementation plans with the First Ten-Year Implementation Plan of the AU Agenda 2063, this, as of now, has not been entirely successful as they are still in the process of reconciling existing frameworks with the Agenda.

7.6.4 Mechanism for Monitoring Implementation of Shared Value Instruments

This appears to be an area that deserves attention because there does not seem to be any systematic attempt in each REC to monitor implementation of AU shared values instruments.

7.7 Regional Integration and AU Agenda 2063

Regional integration is one of the seven aspirations of Agenda 2063. In particular, Aspiration 2 of Agenda 2063 calls for an integrated, politically united prosperous and peaceful Africa driven by its own citizens. It is therefore encouraging that all the eight RECs are pursuing regional integration, which is also consistent with the ideals of the Abuja Treaty.

RECs are encouraged to adopt AU Agenda 2063 and its First Ten-Year Plan as the basis for developing

66 African Union, 2018. Ibid, Annex 1.

67 Ibid.

their regional visions and plans. Agenda 2063 also mandates them: to serve as focal points for the adoption, implementation, reviewing, monitoring and evaluation of all continental frameworks related to Agenda 2063 by Members States of the AU, to report annually to the AU Assembly on the same, and to facilitate resource mobilisation and capacity development initiatives of Member States for the implementation of the Ten-Year Plan.

7.8 The Status of the 2008 Protocol on Relations between the AU and the RECs

The existence and implementation of this Protocol has led to some improvement in the working relationship between the AU and RECs. But more needs to be done to enhance collaboration and partnership.

7.9 Recommendations on RECs and their Role in African Governance

The recommendations here are as follows:

1. The AU and RECs should improve the coordination and harmonization of their policies, programs and activities.
2. AU Member States are encouraged to sign and ratify the Agreement Establishing the African Continental Free Trade Area.
3. All RECs are encouraged to align their plans with Agenda 2063 and UN SDGs.

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ANNEXES

ANNEX 1: Highlights of The Interrelationships of The Global UN and OAU/AU Principles, Purposes and Objectives.

*NOTE: The **bold** highlights similar or directly reflected purposes, principles, and objectives in the UN, OAU/AU founding documents.*

| Charter of the United Nations Organization (UN) (1945) ⁶⁸ | |
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| <p>PURPOSES AND PRINCIPLES</p> <p>Article 1</p> <p>The Purposes of the United Nations are:</p> <ol style="list-style-type: none"> 1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace; 2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace; 3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights, and for fundamental freedoms for all without distinction as to race, sex, language, or religion; and 4. To be a centre for harmonising the actions of nations in the attainment of these common ends. <p>Article 2</p> <p>The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.</p> | <ol style="list-style-type: none"> 1. The Organization is based on the principle of the sovereign equality of all its Members. 2. All Members, to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter. 3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered. 4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations. 5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action. 6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security. 7. Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII. |

68 Charter of the United Nations (1945). <http://www.un.org/en/sections/un-charter/un-charter-full-text/>

| Organization of African Unity (OAU) (1963) | African Union (AU) (2001) |
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| PURPOSES | OBJECTIVES |
| <p>Article II</p> <p>1. The Organization shall have the following purposes:</p> <p>(a) To promote the unity and solidarity of the African States;</p> <p>(b) To coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa;</p> <p>(c) To defend their sovereignty, their territorial integrity and independence;</p> <p>(d) To eradicate all forms of colonialism from Africa; and</p> <p>(e) To promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.</p> <p>2. To these ends, the Member States shall coordinate and harmonize their general policies, especially in the following fields:</p> <p>(a) Political and diplomatic cooperation;</p> <p>(b) Economic cooperation, including transport and communications;</p> <p>(c) Educational and cultural cooperation;</p> <p>(d) Health, sanitation and nutritional cooperation;</p> <p>(e) Scientific and technical cooperation; and</p> <p>(f) Cooperation for defence and security.</p> | <p>Article 3</p> <p>The objectives of the Union shall be to:</p> <p>(a) achieve greater unity and solidarity between African countries and the peoples of Africa;</p> <p>(b) defend the sovereignty, territorial integrity and independence of its Member States;</p> <p>(c) accelerate the political and socio-economic integration of the continent;</p> <p>(d) promote and defend African common positions on issues of interest to the continent and its peoples;</p> <p>(e) encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights; promote peace, security, and stability on the continent;</p> <p>(g) promote democratic principles and institutions, popular participation and good governance; promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;</p> <p>(i) establish the necessary conditions which enable the continent to play its rightful role in the Global economy and in international negotiations;</p> <p>(j) promote sustainable development at the economic, social and cultural levels as well as the integration of African economies;</p> <p>(k) promote cooperation in all fields of human activity to raise the living standards of African peoples;</p> <p>(l) coordinate and harmonize the policies between the existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;</p> <p>(m) advance the development of the continent by promoting research in all fields, in science and technology;</p> <p>(n) work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.</p> |

ANNEX 2: Development Periods and Their Principal Focus

| Period | Global Development Characteristics | Africa's Development Characteristics |
|-----------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Post WWII – Marshall Plan | Development largely synonymous with industrialisation and post-war recovery in Europe. Enhance country's capacity to manufacture finished goods through the transfer of public capital and technical expertise. | Africa remained colonised and a reservoir for free natural resources to colonial powers. Populations were marginalised and served only as free, cheap or indentured labour in extractive sectors serving colonial powers. Liberation activities intensified – few gain their independence. |
| 1961 – 1970: The First United Nations Development Decade | Developing countries to set their own targets and achieve a minimum annual growth rate of five per cent of aggregate national income. Also, call for accelerated measures to eliminate illiteracy, hunger and disease. Limited progress made after ten years, with ultimate goals still very distant. This is exacerbated by the cold war being played out between the West led by the USA and the East led by the USSR | Independent African States emerge: raise the dignity of Africans A time to eradicate colonialism, speed up economic growth and improve living standards of the people. Role of the state is central in building social and economic infrastructure and providing social services to citizens. A key feature was the import substitution strategy (ISI) that was intended to ensure protection of local industries and employment. This poses a threat to traditional economic discourse: extract natural resources from Africa and import most manufactured goods from the rest of the world. The OAU is formed. |
| 1971 – 1980: The Second United Nations Development Decade | Features included the call for a major part of financial resource transfers to developing countries to be provided in the form of official development assistance (ODA); developed countries to provide such assistance to a minimum level of 0.7 per cent of their gross domestic product (GDP) by the middle of the Decade, and the provision of special measures for the least developed among developing countries. Implementation severely compromised by the global economic crisis caused by the collapse of the Gold Standard to which several currencies were pegged. Lack of political will by developed countries to take urgent action on ODA and the development of a new world economic order. | De-emphasis on social and human development policies and entry into the debt crisis In the late 1960s, the momentum of Africa's development had slowed down considerably usually attributed to "over-investment" in the social sector and corruption; through the World Bank and the IMF; cash-strapped African Countries are enticed into massive borrowing for infrastructure. By 1970, many African states had been seriously weakened, a situation worsened by the oil price shock of 1973 that left African countries becoming crushed under huge foreign debt. The result was a sharp drop in overall investment in social services leading to sharp declines in living standards. Some African economies started recording negative economic growth rates and the incidence of poverty started rising again after some remarkable improvements in the 1960s. It was during this period that African countries, unable to manage on their own, were 'handed-over' to international financial institutions to manage, and donor dependency became the norm. |

| Period | Global Development Characteristics | Africa's Development Characteristics |
|----------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>1981 - 1990: The Third United Nations Development Decade</p> | <p>Address the unfinished business of the Second Development Decade. Targets to be reached by 1990 included growth rates for developing countries of 7.5 per cent of GDP among other economic targets; concessional financing to reach and surpass 0.7 per cent of GDP of developing countries; the reduction and elimination of poverty; a significant reduction of mortality rates; international structural change, including the early establishment of the new international economic order; and changes in international institutions and mechanisms.</p> <p>Ten years after the call for a new international economic order, no progress made towards its establishment. Most targets set for the Third Decade had not been met.</p> | <p>Privatisation, liberalisation and fiscal austerity: High levels of debt</p> <p>The IMF, through its Article 4 consultations, provided a cue for other 'donors' to provide resources to African countries – usually recommending extreme austerity measures that left a trail of social devastation across the continent. At the beginning of the 1980s, the West forced Africa to follow World Bank /IMF structural adjustment programmes by tying all their grants and loans to strict adherence to IMF and World Bank conditionalities. Mass poverty, starvation, diseases and ignorance were widespread in Africa which during the course of the decade became a platform for experimentation of the Washington Consensus with official development assistance (ODA) as the main tool - the IFIs initiated a policy-based lending and tied development assistance to structural adjustment policies with the focus on macroeconomic policies. With the shift of emphasis from social development to macroeconomic stability, Governments were forced to focus on fiscal and monetary policy at the expense of sectors such as local government, rural development, education, health and employment and infrastructural development.</p> |
| <p>1991 – 2000: The Fourth United Nations Development decade</p> | <p>Address the shortcomings in implementing provisions of the Third Development Decade and redirect development towards previously abandoned social sectors. The 1990s would witness the accelerated development of developing countries – ushering in the decade of “Development with a Human face”</p> <p>Progress mixed, with many challenges remaining. Economic growth no longer a sufficient factor of development. The focus had shifted to institutional preconditions for development, including good governance, transparency and accountability, decentralization and participation, and social security.</p> | <p>Poverty Reduction Strategies and HIPC Initiative. Conflict had beset Africa – one in every five Africans lived in a conflict zone and the HIV pandemic had established itself as a massive killer and drain on the human resource capacity base, worsening an already dire situation. Most countries had accumulated foreign debt of well over 150% of their GDP over the two past decades of structural adjustment – many were forced to spend over a third of their export earnings on foreign debt servicing. Intense pressure from the United Nations and international civil society organisations to forgive Africa of its huge debt. the World Bank and the IMF came up with the Heavily Indebted Poor Countries (HIPC) initiative. This initiative required African countries to prepare Poverty Reduction Strategy Papers (PRSPs) as a condition for debt relief and access to the IMF Poverty Reduction and Growth Facility and the World Bank concessional loans and grants. The period from 1971 up until the end of the 1990s is often referred to as the 'lost decades.</p> |

| Period | Global Development Characteristics | Africa's Development Characteristics |
|----------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>2000 – 2015: Millennium Declaration and the Millennium Development Goals (MDGs)</p> | <p>The 2000 Millennium Declaration sought to combine past efforts to address poverty and economic and social development in a holistic fashion. The MDGs launched in 2001, later complemented by the Monterey Consensus on Financing for Development that recognised that the 0.7 target for ODA set in 1970 had not been met, and called on developed countries that had not done so to redouble their efforts in that regard if the MDGs were to be achieved.</p> <p>The idea of 'Development Decades' has been abandoned indicating that development is a complex activity with results coming in small incremental and often unnoticed steps.</p> | <p>The return of Development Planning, the MDGs and the AU Agenda 2063.</p> <p>To augment the poverty-reducing provisions in PRSPs, countries reinvigorated the notion of planning – specifically, MDG-based National Development Plans to respond to the new challenges advanced by the Millennium Declaration and the MDGs. Further, at the continental level, the Omega Plan and the Millennium Africa Recovery Programme (MAP) were combined to form the New Partnership for Africa's Development (NEPAD) which provided a blueprint for Africa's recovery using home-grown solutions. A peer review mechanism to respond to the challenges of governance in all areas was established as another home-grown solution to the challenges experienced over the past 'lost decades. In 2013, during the celebrating the 50th anniversary of the formation of the Organisation of African Unity, the AU Agenda 2063: The Africa We Want was launched to plot Africa's hopes and aspirations for the next 50 years. The primary goal of this "African Agenda" is to integrate the continent into the global economy based on "mutual responsibility" and "mutual accountability".</p> |
| <p>2016–2030: Agenda 2030 for Sustainable Development and the Sustainable</p> | <p>Put sustainable development at the core – integrate social, economic and environmental dimensions of sustainability in all programmes; (iii) Transform economies for jobs and inclusive growth; (iv) Build peace and effective, open and accountable institutions for all; and (v) forge a new global partnership.</p> <p>Implementation is underway in tandem with Africa Union Agenda 2063 covering the fifty-year period from 2013 – 2063</p> | <p>Union urges its Member States to implement the two Agendas in tandem. At the continental level, Agenda 2063 is being implemented through five ten-year implementation plans, with the African Development Bank's High Fives as the vehicle through which this is to be achieved.</p> |

ANNEX 3: The Eight Regional Economic Communities Recognised by the African Union

| Regional Economic Community | Member States |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Arab Maghreb Union (AMU), established in 1989 Population 91.2 million, Per capita GDP USD 4,518 | Algeria, Libya, Mauritania, Morocco, Tunisia |
| Community of Sahel-Saharan States (CEN-SAD), established in 1998, Population 535.0 million, Per capita GDP USD 1,363 | Benin, Burkina Faso, Cape Verde, Central African Republic, Chad, Comoros, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, Sao Tome and Principe, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia |
| Common Market for Eastern and Southern Africa (COMESA), first established as Preferential Trade Area in 1981, became COMESA in 1994 Population 492.5 million, Per capita GDP USD 1,335 | Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Eswatini, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Somalia, Seychelles, Sudan, Tunisia, Uganda, Zambia, Zimbabwe |
| East African Community (EAC), established in 1967 with roots going back to 1917, Population 168.5 million, Per capita GDP USD 918 | Burundi, Kenya, Rwanda, Uganda, United Republic of Tanzania, South Sudan |
| Economic Community of Central African States (ECCAS), established in 1983, Population 158.3 million, Per capita GDP USD 1,631 | Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic of the Congo, Equatorial Guinea, Gabon, Rwanda, Sao Tome and Principe |
| Economic Community of West African States (ECOWAS), established in 1975, Population 339.8 million, Per capita GDP USD 2,130 | Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo |
| Intergovernmental Authority on Development (IGAD), first established in 1986 as Intergovernmental Authority on Drought and Development, became IGAD in 1996, Population 247.4 million, Per capita GDP USD 874 | Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Uganda |
| Southern African Development Community (SADC), first established as Southern African Development Coordination Conference in 1980, became SADC in 1992, Population 312.7 million, Per capita GDP USD 2,255 | Angola, Botswana, Comoros, Democratic Republic of the Congo, Eswatini, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, United Republic of Tanzania, Zambia, Zimbabwe |

Source: African Union, African Development Bank Group and UN Economic Commission for Africa, Africa Regional Integration Index Report 2016.

ANNEX 4: Consultation List, June-December 2018

| Organisation | Name |
|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------|
| African Union Organs and Institutions | |
| ACERWC | Mrs Cisse Mariama Mohamed Mr Philippe Sekone Wendyam Mr Ayalew Getachew Asseffa |
| ACHPR | Mrs Marie Saine Dr Mary Maboreke Ms Irene Desiree Mbengue |
| AfCHPR | Dr Robert Eno Mr Nouhou Diallo Mr Victor Lowilla |
| AGA Secretariat | Amb Salah Siddig Hammad Mr Ibraheem Sanusi Ms Rizzan Nassuna Dr Nelson Magbagbeola |
| AU CIDO & ECOSOCC | Mr Kyeretwie Osei Ms Hazel Maureen Danetta Dixon Mr William Carew Sarah Abdel-Mohsen Ms Betty Mupenda |
| AUABC | Ms Charity Hanene Nchimunya Mr Selemani Kinyunyu |
| AUC Office of the Secretary General | Mr Mourad Ben Dhiab |
| AUC Bureau of the Chairperson | Amb Lindiwe Khumalo Amb Jean Mfasoni Amb Hadiza Mustapha |
| AUC Conflict Prevention & Early Warning | Mr Charles Mwaura Ms Shewit Hailu |
| AUC Department of Political Affairs | Dr Khabele Matlosa Mr Guy Cyrille Tapoko Mr Issaka Garba Abdou Mr Ahmed Mokhtar Awed |
| AUC Economic Affairs | Amb. Fred Ngoga |
| AUC Humanitarian Affairs | Mr Olabisi Dare |
| AUC Gender Directorate | Ms Elizabeth Maloka Mr Abdul Matundu |
| AUC Institutional Reforms Unit | Ms Ciru Mwaura |
| AUC Leadership Academy | Ms Mounna Hamdok |
| AUC Office of the Legal Counsel | Mr. Adewale Iyanda |
| AUC Strategic Planning, Policy, Monitoring, Evaluation & Resource Mobilisation | Dr Kassim M. Khamis |
| AUPSC | Dr Admore Mupoki Kambudzi |
| ECOSOCC | Mr. Abozer Elmana Mohammed Elligai Ms Thandile Nhlengethwa |
| AU Development Agency / NEPAD | Ms Florence Nazare Mr Bob Kalanzi |
| PAP | Mr Vipya Harawa Mr Galal Nassir |
| PAPU | Mr Younouss Djibrine Mr Amadou Mr Nathan Mkandawire |

| Regional Economic Communities | |
|--------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------|
| CEN-SAD | Amb. Youssouf Sangare |
| COMESA | Dr Dev Haman Mr Thierry Mutombo Kalonji Amb. Salvator Matata Ms Elizabeth Mutunga |
| EAC | Dr David Onen Ms Ethel Sirengo |
| ECCAS | Amb. Njikam Theodore |
| ECOWAS | Dr Nelson Magbabeola Ms Valentine Atonde |
| IGAD | Amb. Abuzeid Ellhassan Ms Helen Hailu Mr Kagwe Mutahi |
| SADC | Mr Kondwani Chirambo Mr Maxwell Mkumba Ms Nomatamsanga Sopazi |
| Policy Research and Academic Institutions | |
| AGI | Ms Maty Ndiaye Cisse |
| ESRF | Dr Bohela Lunogelo |
| CODESRIA | Prof Sozinho Fransisco Matsinhe Mr Ato Onoma Mr Abdon Sofonou Ms Bouchra Sidi Hida Mr Devine Fuh Mr Williams |
| HARDR | Mr Olabise Dare |
| HSRC | Dr Greg Houston Dr Yule Davids |
| OECD | Ms Eva Beuselinck Mr Marcos Bonturi |
| SAIIA | Mr Steven Gruzd |
| SaSHA | Ms Marie Laberge |
| University of Cape Town | Prof Shameel Jappie |
| Institute of African Renaissance Studies (UNISA) | Prof Shadrack Gutto |
| University of the Witwatersrand | Prof Gilbert Khadiagala Ms Luanda Mpungose |
| Independent Advisor | Prof Adele Jinadu |



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