THE AFRICA GOVERNANCE REPORT

Promoting African Union Shared Values

2019

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LIST OF ACRONYMS

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	Africa 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	East Africa Standby Brigade
ECCAS	Economic Community of Central African States

ECOBRIG	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 Report
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
SADC	Southern African Development Community
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

EXECUTIVE SUMMARY

1. During the 28th Ordinary Session of the African Union Assembly of Heads of State and Government, held on the 30-31 January 2017 in Addis Ababa, Ethiopia, Member States of the Union (hereinafter Member States) resolved in its decision Assembly/AU/Dec. 631(XXVIII) to seize 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". 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, including developing 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 report to the 32nd Ordinary Session of the Assembly scheduled to take place in February 2019.

2. The AGR assesses the state of governance in Africa with a view to providing Member States with a comprehensive baseline to assist governments to enhance governance. Whilst there already exist assessment reports on the state of governance in Africa that are publicly available in public discourse, these 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 the African Union Heads of State and Government.

3. The imperative for the development of an African-generated governance report is three-fold: first, this home-grown report is consistent with previous decisions of the AU Assembly to take control of its own development agenda and accountability mechanisms; secondly, the research methodology in this report benefits considerably from consultations with the AU Organs and Institutions, Regional Economic Communities; and unfettered access to Member State informants and state-held data; thirdly, the report is generated by Africans for Africa, which improves prospects for the implementation of its recommendations.

4. This inaugural report is meant to be a foundation for future analysis of governance trends on the continent. The report highlights shared values and how they can help galvanize governance in the continent. It establishes a basis for measurement, analysis, and projection of future trends.

5. The governance assessment focuses on five key thematic areas of priority, namely: (a) transformative leadership, (b) constitutionalism and the rule of law, (c) peace, security and governance (Silencing the Guns), (d) the nexus of development and governance, and e) the role of the regional economic communities (RECS) in African governance.

6. The structure of the report is as follows:

    Chapter 1 is an Introduction that reflects on the concept of governance, provides a 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 is about Transformative Leadership.

    Chapter 4 discusses Constitutionalism and the Rule of Law

    Chapter 5 deals with Peace, Security and governance.

    Chapter 6 is on the Nexus Between Development and Governance.

    Chapter 7 considers the role of the Regional economic communities in Governance.

7. Each chapter provides a comprehensive reflection and assessment of the State of Governance in Africa by focusing on the relevant instruments, notable progress in implementation, challenges and enablers of good governance, as well as best practices, and proposes recommendations for improvement.

8. The state of governance in Africa has generally improved. The strongest performance has been registered in socio-economic development, while the least gains have been recorded in democracy and political governance. Member States have also recorded satisfactory performance in the area of economic governance and management and corporate governance.

Transformative Leadership

9. 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 (such as that in civil society, business, community and social organizations). The 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.

10. Transformative leadership drives progressive change and has attributes or qualities including vision, innovation, integrity, inclusivity, responsiveness and effectiveness. Additionally, such leadership should be oriented toward achieving the AU Agenda 2063 aspirations and global UN 2030 (SDG) objectives.

11. African transformative leadership has made significant progress towards consolidating the practice of democracy and formulating National Visions. In addition, the African public appreciates democratic principles and practices, as manifested in their active participation in civil society and through the electoral processes.

12. The following are proposed recommendations for enhancing transformative leadership: Member States should: (a) continue to align their National Visions with the AU Agenda 2063 and UN SDGs, their National Development Plans, and in some cases, the their National Action Plans (from the APRM self-assessment process); (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

13. Constitutionalism and the rule of law refer to recognition of the supremacy of the law, whereby the law is the basis for political decision-making and administrative action. In concrete terms, it entails: (a) respect for law; respect for the rights of human beings; (b) the separation of governmental 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.

14. There are signs of progress in African constitutionalism and the rule of law, including:
    a. Encouragement of democratization.
    b. Generally, respect for presidential term limits.
    c. Respecting human rights.
    d. Introduction of institutional checks and balances, including systems of judicial review.

15. However, some constraints and challenges still require action, such as (a) the Member States establishing strengthening mechanisms to monitor and evaluate the effectiveness of integrity and anticorruption programmes and strategies; (b) incorporating local and customary practices in their formal criminal justice systems; and (c) the Member States consistently submitting the periodic reports required by the instruments they have committed to.

Peace, Security and Governance

16. There are various instruments for ensuring good peace, security and good governance. At the continental level, the AU has committed to implementing decisions and actions that would lead to peace, security and good governance, to "Silencing the Guns" by 2020. There have been several efforts by the AU, RECs, and Member States to prevent and mediate conflict and establish stability.

17. Although the number of large-scale inter-state wars has declined, instances of intra-state conflicts, violence, unrest, and terrorism appear to have increased in the last two decades.

18. Various recommendations are proposed to promote peace, security and governance. The Member States should: (a) sign, ratify and domesticate all the crucial instruments; (b)

improve harmonization of functions between the AU and RECs; and (c) fast-track the rapid deployment capability of the Africa Standby Force.

Nexus of Development and Governance

19. The AU Agenda 2063 is closely related to the 2030 Agenda for Sustainable Development (UN SDGs). Many Member States formulate national development plans that aim to translate National Visions into programmes and projects for ensuring national development and social and human progress. However, the implementation of the plans faces several obstacles and challenges, including that they are not adequately aligned with the AU Agenda 2063 aspirations and objectives of the UN SDGs.

20. These are the proposed action items by Member States: (a) ensure alignment of their National Development Plans, their National Visions, and in some cases, their National action Plans (cf. APRM Country Review report) with the AU Agenda 2063 and UN SDGs; (b) make plans and programmes that aim at inclusive human development; and (c) formulate realistic plans that ensure prudent and sustainable utilization of scarce natural resources.

Role of the RECs in African Governance

21. The Regional Economic Communities (RECs) are voluntary associates that have functions relating to continental unity, development, economic cooperation and integration, and promotion of democracy and peace and security. Additionally, the AU works with Regional Mechanisms (RMs) that aim to enhance continental efforts at realising shared values.

22. Although regarded as the building blocks for continental unity and development, there is a need to further work on the harmonization and coordination of the functions and responsibilities of the RECs with the AU.

23. The proposed recommendations are: (a) to enhance collaboration between the AU and RECs, in line with the decisions of the African Union Assembly, in particular the Eleventh Extraordinary Session of November 2018, and (b) to ensure that all the RECs align development plans with the AU Agenda 2063 and UN SDGs.

SUMMARY OF RECOMMENDATIONS

NOTE: The recommendations are not meant to be prescriptive, but to form a basis for discussions regarding the most crucial issues for reform to enhance governance at continental, regional, and Member State levels.

TRANSFORMATIVE LEADERSHIP

The 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 of governance.

CONSTITUTIONALISM AND THE RULE OF LAW

Respect for the Rule of Law

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

7. The Member States are encouraged to establish mechanisms both on the national and continental level to assess and evaluate the effectiveness of anticorruption programmes and strategies.

Promotion and Protection of Human Rights

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

9. The Member States 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. The Member States are encouraged to establish NHRIs.

Public Participation In Governance

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

12. TheMember States are encouraged to adopt inclusive electoral systems, including proportional representation.

13. TheStates are encouraged to ensure the independent administration of elections, and fair and speedy resolution of electoral disputes, in accordance with ACDEG.

14. The commission assigned for formulating the constitution must be composed of all categories of the society, including the marginalized groups, women and the disabled.

Accountability of the Executive

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

16. The Member States are encouraged to ensure the independent administration of elections, and fair and speedy resolution of electoral disputes, in accordance with African Charter om Democracy, Elections and Governance.

Effectiveness and Accountability of the Public Service

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

18. The Member States are encouraged to strengthen their national integrity systems.

Independence and Accountability of the Legislature

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

20. The Member States are encouraged to ratify the Protocol to the Constitutive Act of the African Union Relating to the Pan African Parliament.

Independence and Accountability of the Judiciary

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

Access to Justice

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

PEACE, SECURITY AND GOVERNANCE

23. The Member States are encouraged to ensure signature, ratification and implementation of all relevant instruments for peace, security and stability.

24. The AU should operationalize the African Standby Force, and increase efforts to secure sustainable funding of peace and security activities.

25. The 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

26. The Member States are encouraged to formulate development plans and programmes that aim at inclusive human development.

27. The Member States are encouraged to align their national development plans with AU Agenda 2063 and UN SDGs.

28. The Member States are encouraged 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

29. The AU and RECs should improve the coordination and harmonization of their policies, programs and activities.

30. The Member States are encouraged to sign and ratify the Agreement Establishing the African Continental Free Trade Area.

31. All RECs are encouraged to align their plans with Agenda 2063 and UN SDGs.

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 to manage a country's affairs at all levels. "Good governance" has the following major components: legitimacy, whereby 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 that are utilised throughout this report.

1.2 Background and Context of the Africa Governance Report

The Africa Governance Report (AGR) a collaborative project of the African Governance Architecture (AGA) Platform. Its development is led by the African Peer Review (APRM) continental secretariat. The AGR assesses the implementation of the African Union (AU) shared values by the Member States in five areas of governance: transformational leadership; constitutionalism and the rule of law; Interrelationships of peace, security, and governance; the nexus of 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 is inspired by the Constitutive Act of the African Union and was established as a mechanism composed of AU Organs, Institutions, and the Regional Economic Communities.[2] The platform functions to facilitate stakeholder dialogue for the harmonization and coordination of instruments and initiatives for promoting 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 several collaborative programmes, including development of a report provisionally entitled Assessing the State of Governance in Africa.

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[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.

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 constitutes the AU's strategic framework for socio-economic development and transformation of the continent. The adoption of this framework meant that the Member States 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 adopted by the 16th Ordinary Session of the AU Assembly of Heads of State and Government, which committed Member States to promote the social and economic development and integration of African economies to achieve increased measures of 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.
- 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]

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[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.

[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.

These aspirations resonate 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 starting point for the baseline report, and will be the foundation for future annual monitoring, assessments, and reviews of the state of governance on the continent.
Therefore, this inaugural AGR focuses on five key governance assessment 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 decisions of the AU Assembly will determine the scope of subsequent AGRs.

1.3 The Purpose of the Africa Governance Report
The objective of the Africa Governance Report is to provide an assessment of the status of African governance and provide a basis for tracking of governance developments and analysing trends on the continent. It aims to be relevant for the Member States, AU Organs, and other stakeholders. Its other purpose is to inform the public, Member States, the RECs, AU organs and institutions on the trends of governance in the continent. Additionally, it aims at determining recommendations for the enhancement and/or improvement of governance in promoting African progress. The AGR is intended to provide a foundation for regular and continuous tracking of governance, and to underline and share best practices among Member States.

1.4 Methodology of the Africa Governance Report
This is a baseline report that relies on existing information and data that could be used as a basis for measuring and assessing change in the selected aspects of governance. The report presents facts, and therefore, it focuses on issues and areas that could be quantified to allow for the measurement and assessment of changes. With the purpose of being evidence-based and action-oriented, the AGR sought to analyse the AU shared

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

values, and AU common decisions, declarations and agreements that were adopted for collective actions aimed at realising the vision, goals, and objectives of the AU.

Crucial in explaining the status of the selected governance variables was the examination of the implementation of those decisions and other expressions of AU shared values. The proposed recommendations derive from the challenges that constrain the implementation of shared values. These recommendations are suggested for consideration in the quest to enhance governance in Africa.

The AGR aims to be an evidence-based report. Its development combined 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, and other reports; (ii) consultations with key stakeholders in the Member States, Regional Economic Communities (RECs), the African Union Organs and Institutions and other stakeholders (private sector; civil society organizations, prominent persons); and (iii) supplementation of these with targeted, selective surveys.

1.5   The Mandates and Purposes 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 the participating Member States, and monitoring their 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 the implementation of the African Union Agenda 2063 and the UN Sustainable Development Goals (SDGs).[9]

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[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 held 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 a tool for early warning on conflict prevention.[10] This function would be performed through the establishment of harmony and synergy amongst the 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. Additionally; 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.

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

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[10] Assembly/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).

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. The Act is the basis for policy and institutional arrangements; it defines the establishment, objectives, and principles of the AU and 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 UN[11] as stated in the Charter of the United Nations (UN) Organization. The Constitutive Act also calls for the promotion of sustainable development at the economic social and cultural levels as well as 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 could be categorised around: democracy and good governance; rule of law and human rights; peace and security; and continental development and integration.

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[11] See Annex 1, Table 1: Highlights of the interrelationships of the Global UN and OAU/AU principles, purposes and objectives.
[12] African Union Commission (AUC), 2015. Agenda 2063 – The Africa We Want.

2.3.1 Democracy and Good Governance

The African Union aims to promote democracy and good governance among its Member States. That serves to confirm that these ideals are critical to the attainment of development, peace, security and governance on the continent. Apart from the Constitutive Act, the AU commitment to these ideals manifests in various instruments, including the Charter of 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 African Union Convention on Preventing and Combating Corruption.

2.3.2 The Rule of Law and Human Rights

The AU seeks to promote respect for the rule of law and human rights, as expressed in other instruments including: the African Charter of 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.

2.3.3 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.

2.3.4 Continental Integration, Cooperation and Security

Continental economic development and integration is the other major focus 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 the RECs was to facilitate regional and continental integration, they have increasingly been involved in peace and security and governance issues. Regarding these, the

Constitutive Act mandates the 2008 Protocol on Relations between the RECs and the AU.

2.4 The Structures of African Governance

There is an elaborate institutional framework for the realization of the ideals of: democracy and good governance; rule of law and human rights; peace and security; and continental socio-economic sustainable development and integration. The political institutions decide on policies and priorities whereas the administrative are the implementers of those political choices. The political and administrative institutions are at three levels: The Continental, Regional, and Member State. The successful achievement of the objectives of AU collective decisions and achievement of the AU Agenda 2063 and the UN SDGs depends on the functioning of implementation structures at all these levels.

2.4.1 Member States

The 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. The Member States have their own varying governance systems.

2.4.2 The Regional Economic Communities

The RECs are regarded as the building blocks for achieving continental goals of the AU, especially through regional development and integration. However, they assist in operationalization of African Peace and Security Architecture initiatives, in collaboration with Regional Mechanisms. Eight RECs are officially recognised by the AU: Arab Maghreb Union (UMA); Common Market for Eastern and Southern Africa (COMESA); Community of Sahel-Saharan States (CEN-SAD); East African Community (EAC); Economic Community of Central African States (ECCAS); economic Community of West African States (ECOWAS); Intergovernmental Authority on Development (IGAD); and the Southern African Development Community (SADC).

2.4.3 African Union Structures

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

CHAPTER 3: TRANSFORMATIVE LEADERSHIP

3.1 Introduction

Transformative Leadership refers to leadership that brings about radical change. It is leadership that engenders widespread improvements in peoples' lives.[13]

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Transformative leadership may be characterised as being 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 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 was marked as a historical year due to the consensus on the adoption of African shared values. It is also considered as a starting point for analysing trends of governance in the African continent. The adoption of democratic systems of government gathered momentum in the 1990s. Henceforth, there have been democratic changes, in which African leaders presided over constitutional reforms that led to liberalization, (re)establishment of multi-party-political systems, and regular elections for legislatures and executives. Other progressive reforms by African leadership have included the establishment of supreme audit authorities, offices of public protectors, independent prosecution authorities, independent judiciaries, and legislatures with effective countervailing powers. African leaders have also encouraged the expansion of the private media and communications, notably through (regulated) growth of the internet and mobile telephony.

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[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).

As pointed out in the chapter on constitutionalism and the rule of law, African leadership has encouraged democratization. Several leaders have made efforts to respect presidential term limits, human rights, institutional checks and balances, and systems of judicial review. Therefore, African countries continue to progress in consolidating the practice of democracy. In addition, the African public appreciates democratic principles and practices, as manifested in their participation in civil society and electoral process.

3.4   Characteristics of African Transformative Leadership

The picture is mixed regarding the varieties of African leadership and the existing styles of government. However, some generalizations could be made from the answers to the questions we posed above, in relation to the attributes of transformative leadership. The table below summarises the answers obtained through desk research, for each of the ten questions we posed above.

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 had initiated or implemented innovative programmes over the last 20 years	41	75
5	Countries that have official programmes that include minority groups	28	51
6	Countries that have official programmes targeted at women	38	69
7	Countries that have official programmes targeted at 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).

3.4.1   National Vision Statements, AU Agenda 2063 and UN SDGs

A significant number of Member States have National Vision statements that appear to align with the AU Agenda 2063 and UN 2030 Agenda for SDGs (SDGs). Moreover, most countries have programmes targeted at 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 degrees of alignment differ. There is poor alignment, especially since the following aspirations and/or goals, which are not highlighted or specifically mentioned in the 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 particularly not pronounced.

(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) are all not highly featured in the National Visions of many countries.

3.4.2   Innovativeness

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

3.4.3   People-centredness

Regarding discriminatory laws, there are prevailing tendencies. These relate to the existence of customary laws and practices that undermine gender equality, or perpetuate such inequalities, in areas such as exclusion of women from land ownership. Also common are laws that lead to the exclusion of women from the administration of estates of those who died without a will, whereas men are granted such powers.

There are also cases of discriminatory practices being the norm, without there being laws to protect victims or there being discriminatory exceptions. 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 the Member States do not have programmes that include minority groups.

3.4.4   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 voice their concerns to the Government.

3.4.5   Prudent Management

Anti-corruption strategies are only evident in just over half of the countries. Member States that have government anti-corruption strategies often take the form of a specialised court, agency and/or a state anti-corruption institution.

3.5   Assessing Governance Performance at the Continental Level

Assessing performance facilitates the identification of 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 have signed up for the APRM. Twenty-one (21) have undertaken the review. Whereas three (3) have proceeded to complete the second review, only one country conducts regular in-country assessment of governance performance. Meanwhile, the AU Assembly continues to urge Member States that have not acceded to the APRM to do so to achieve universal accession.[15]

3.5.1 Overall African Governance Performance

Employing a trend analysis method in analysing the Africa governance performance based on the dataset from various databases and sources with strong Africa local content, using the APRM Methodology and Framework to assess governance progress of the African Union fifty-five (55) Member States including APRM participating and non-participating Countries shows an overall improvement since 2008 to date.

This performance is due to the strong performance registered in Socio-economic Development thematic area during the period. The analysis also registered satisfactory performance in Economic Governance and Management as well as Corporate Governance. Nonetheless, the analysis of the performance is showing warming signs in Democracy and Political Governance. The following graph shows the trend since 2008 in the four (4) APRM focus areas.

Figure 1: Overview of Africa Governance Performance

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[15] Assembly of The Union Twenty-Eighth Ordinary Session, 30-31 January 2017 Addis Ababa, Ethiopia. Decision Assembly/AU/Dec. 631(XXVIII).
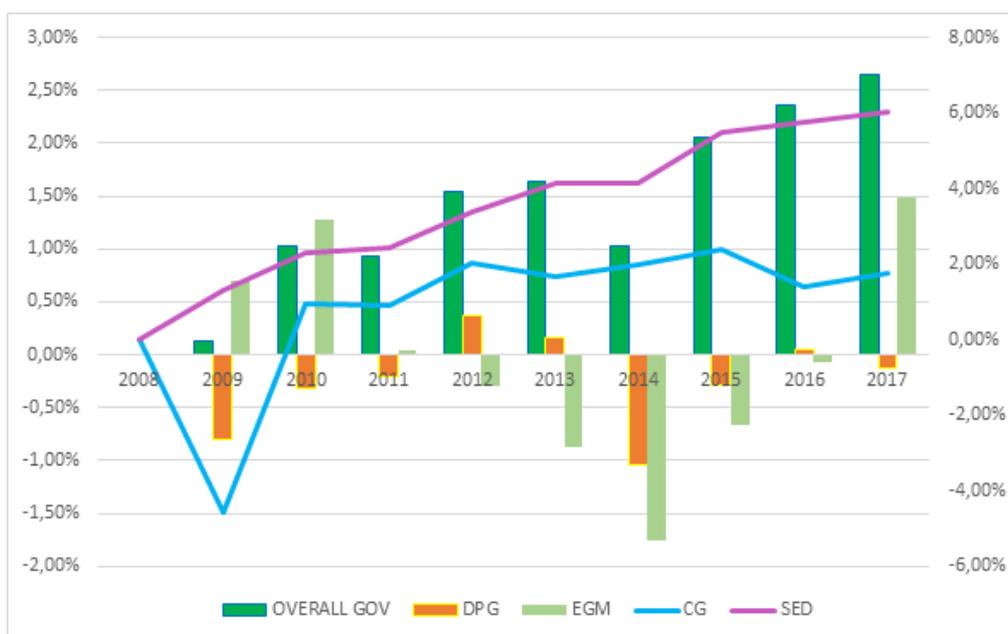
Source: Analysing Africa Governance Performance: APRM Perspectives

3.6   Challenges in Transformative Leadership

In summary, there are positive signs of African leaders declaring National Visions and formulating innovative programmes. However, various challenges require resolution among which are: the existence of discriminatory laws; the exclusion of minority groups; inadequate mechanisms for public participation; inadequate freedom of association and of the media; and the absence of anti-corruption strategies.

3.7   Recommendations on Transformative Leadership

Although a significant number of countries have developed National Visions, others should be encouraged to do so.

The 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 of governance.

CHAPTER 4: CONSTITUTIONALISM AND THE RULE OF LAW

4.1 Introduction

This chapter examines the practice of constitutionalism and the rule of law in the Member States, and the effectiveness of the efforts of the African Union to enhance the realization of these ideals of governance 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 governance on the continent.[16] Significantly, the Constitutive Act establishes several principles meant 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]

However, 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 as well as a serious threat to legitimate order to restore peace and stability".[18]

The major instruments for promoting constitutionalism and the rule of law include: 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.

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[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	49	40	40
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	0	0
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	19	9	9
Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa	49	41	41

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

The following briefly elaborates 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 undertake 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 was operationalised in 2005, with the first judges being elected in 2006. A second Protocol adopted in 2003 created the Court of Justice of the African Union. A third Protocol adopted in 2008 sought to merge the two courts to form the African Court of Justice and Human Rights. However, this has yet to materialize.

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[19] Some states have ratified the instruments without signing.

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) arose out of concerns, among others, that women have remained victims of discrimination and harmful practices even though many of the Member States had ratified the Charter.

It 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 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 indicate (in their periodic reports under the Charter) the measures they have taken to ensure the realization of these rights.

Box 1: The African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights[20]

The African Commission on Human and Peoples' Rights

At the 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".

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

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 state allowance of 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.

4.2.3   The African Charter on Democracy, Elections and Governance

The African Charter on Democracy, Elections and Governance (ACDEG) of 2007 arose out of a 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 the Member States to promote and strengthen good governance, by deepening and consolidating the rule of

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[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.

law; and entrenching a political culture of change of power based on the holding of regular, free, fair and transparent elections.

By this Charter, the Member States committed themselves to the following objectives: promoting adherence to democracy and respect for human rights; promoting and enhancing adherence to the rule of law; promoting the holding of regular free and fair elections; prohibiting, rejecting and condemning unconstitutional changes of government in Member States; promoting the fight against corruption; promoting citizen participation in governance and accountability in the management of public affairs; promoting gender balance and equality; promoting best practices in the management of elections; and, enhancing cooperation between the AU, RECs, state parties and the international community on democracy, elections and governance.

The Charter imposes various obligations on Member States. For example, it requires state parties to: ensure transparent and accountable administration; improve public sector management; improve 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 the Member States to work together to pursue the following objectives: democracy and good political governance; economic and corporate governance; socio-economic development. By this declaration, the Member States reaffirmed their commitment to: promoting democracy, constitutionalism and the rule of law; respecting human rights; ensuring good economic and corporate governance; and pursuing socio-economic development.

To facilitate the realization of these objectives, the 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 the 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.

The Member States commit to pursuing these objectives in accordance with several principles: impartiality, fairness and due process in the delivery of public services; and the institutionalization of a culture of accountability, integrity, and transparency in public service and administration.

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

The extent to which Member States are practising constitutionalism and the rule of law is done through evaluation of their performance under eight parameters: (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 Member States

The AU Constitutive Act establishes an institutional framework for the Member States to utilise in realising 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 Member States have ratified significant human rights instruments such as the African Charter on Human and Peoples' Rights. However, most have not punctually submitted their reports on the implementation of this treaty.[25] Only ten states are up to date with their reporting obligations in terms of the Maputo Protocol.

The national human rights institutions are also facing several challenges. For example, some NHRIs share a mandate with other state institutions, which tends to confuse stakeholders regarding their functions, and do not have the resources they need to discharge their mandate effectively or lack the autonomy since they are dependent on the Executive for their budgets.

Although most Member States have established legal frameworks and institutions for the promotion and protection of human and peoples' rights, far too many individuals still do not enjoy the rights enshrined in these frameworks. Further, the NHRIs do not have the requisite resources and autonomy to function effectively. At the continental level, the African Commission on Human and Peoples' Rights is under-resourced. Further, state compliance with and/or implementation of Commission recommendations and decisions remains low.[26]

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[24] Constitutive Act of the African Union, Article 5.

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

[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).

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.
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National Human Rights Institutions

To complement the continental institutions, many Member States have institutions for the promotion and protection of human and peoples' rights. These include national human rights institutions (NHRIs) to monitor the realization of human rights and assist citizens in seeking redress for the 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.

Box 2: National Human Rights Institutions

All Member States have constitutions that contain bills of rights intended to protect human rights and establish mechanisms for their realization. Some states have established legal frameworks for the protection of human rights defenders, while a number are in the process of doing so.

Despite these positive developments, the level of the implementation of the continental instruments and national constitutions is not ideal, as reports of the African Commission on Human and Peoples' Rights indicate. Thus, the promotion and protection of civil and political rights needs to be strengthened. For example, press freedom is curtailed in many countries, while 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

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

citizens from enjoying their rights to assemble and demonstrate peacefully have in many cases included arbitrary arrests, detention and ill-treatment of citizens by police and security forces.

However, it is encouraging that the courts of some countries have declared criminal defamation laws unconstitutional, while others have abolished such laws. The abuse of the rights of women and children also remains widespread, although many countries have adopted policies and laws for the promotion and protection of women's rights. For example, women and girls are often subjected to rape and other sexual violence.

African countries also continue 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. No doubt, these violations constitute serious abuses of international humanitarian and human rights law.

Social and economic rights have not fared any better, with countries doing little to ensure their enjoyment. Thus, conditions such as poverty and social inequalities remain widespread, and have been exacerbated by the prevalence of corruption in most countries. Corruption often deprives the state of the resources it requires to provide its citizens with essential services such as health care, 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, thereby particularly undermining the social and economic rights of the poor, marginalised and disadvantaged groups. These conditions constitute sources of disaffection, revolt and even terrorism. An increasing number of Africans have fled their countries and sought refuge in neighbouring countries in the recent past, due to factors such as violence, insecurity, conflicts, natural disasters, major development projects and climate change. As a result, Africa now has a large population of refugees, asylum seekers, internally displaced persons and migrants who are exposed to human rights abuses due to their statelessness.

Another issue is that the laws, policies and practices of many countries remain hostile towards indigenous populations. For example, the lands of indigenous populations have, in various cases, been expropriated without their consent or compensation. Countries also need to enhance their efforts to promote and protect the rights of older persons and peoples with disabilities.

Many countries have also failed to incorporate social and economic rights in their constitutions, merely including them in what are termed "directive principles of state policy"; notwithstanding the recognition of these rights in the African Charter on Human and Peoples' Rights.[28] This means that the courts cannot enforce these rights.

Nevertheless, several countries have introduced free education for both primary and secondary school age children. It is also encouraging that various countries 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 mandate effective public participation in governance. It is only by participating effectively in public decision-making processes that individuals and groups can ensure that their needs and interests

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[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.

are 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 affected by their decisions so that the latter can, through participation, make their views known and influence the substance of governmental 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.

Several African countries now appreciate the significance of public participation and access to information. They have enacted freedom of information laws that give individuals the right of access to information held by government. Local government structures are also utilised in many countries as a mechanism for encouraging citizen participation.

On the other hand, Citizen participation continues to be constrained by factors such as the absence of clear procedural mechanisms, poverty, discrimination, and the failure of government agencies to give feedback.

An example of best practice in public participation is to be found in the context of the African Peer Review Mechanism (APRM). The APRM requires participating states to establish national structures to administer the peer review process. National Governing Councils (NGCs) constitute an important structure in this respect. The NGCs facilitate broad-based stakeholder participation in national governance discourse.

Africa also needs to enhance the participation of its youth in governance. The Member states are therefore encouraged to prioritize the signing, ratification, and implementation of the African Youth Charter of 2006.

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. The periodic election, which gives the people an opportunity to confirm or change its representatives from time to time, is one such mechanism. However, the periodic election does not offer the electorate an adequate degree of oversight over government. A need therefore arises 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.

On the other side, the executive remains dominant despite the implementation of far-reaching democratic and constitutional reforms in the recent past. Many executives do not have restraints on the use of power to control resources and appoint key state functionaries. This has allowed executive control over electoral processes and use of public resources for patronage or denial of benefits. Worryingly, in many countries the electoral system is seen as an instrument for inclusion and/or exclusion in the sharing of national resources. Additionally, the repression of opposition interests and restrictions on non-state media continue. Attempts at manipulation of electoral results are still evident; the incumbents still enjoy undue advantages; and elections often generate open conflict.

4.4.5   Effectiveness and Accountability of the Public Service

The bureaucracy may not always act in the public interest, leading to the pursuance of self-serving interests and corruption. Therefore, there need to be systems to ensure their accountability and responsibility. Thus, there would be public trust and legitimacy 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 where it is autonomous from 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 significant 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 of the rule of law ideal 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

The concept of access to justice mandates the provision of dispute resolution mechanisms that are affordable, proximate, comprehendible, responsive to users, and

ensure speedy justice. The concept emerged out of the realization that formal judicial processes are often costly and slow, and their complexities intimidate or confuse many parties. Access to justice also focuses on ensuring that the justice system is responsive to the needs of its users and commands their confidence.

Facilitating access to justice has therefore involved removing barriers such as high monetary costs, time costs, limited knowledge of legal rules and procedures, cultural barriers and language barriers. It is also increasingly recognised that methods such as arbitration and mediation might work better and more justly, than the formal court system.

To enhance access to justice, the constitutions of a few African countries have sought to integrate formal and informal dispute resolution mechanisms. Many countries have also established various initiatives regarding 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 utilise technologies including ICTs and social media to facilitate access to justice. Several countries have created legal information institutions and are now using these technologies to provide accessible information on the work of their judicial systems, including reporting the decisions of the courts. Finally, various countries are training non-lawyers (paralegals) to assist the indigent to navigate their formal justice systems.

Recognition of traditional dispute resolution mechanisms is one way of enhancing access to justice. However, these non-formal methods ought to ensure respect for the rights of those they affect or participate in. Access to justice also focuses on ensuring that the justice system is responsive to the needs of its users and commands their confidence. Therefore, 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, accessibility to persons with disability, and access to information.

4.5   Achievements in African Constitutionalism and the Rule of Law

Over the last three decades, there have been considerable achievements in constitutionalism and the rule of law. At the continental level, the Member States have sought to promote democracy and good governance. The Member States consider these ideals as critical to the attainment of sustainable peace, security, and development on the continent. It has, accordingly, spelt out its commitments to these ideals in various

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).

At the level of the Member States, there have been constitutional reforms relating to democratization initiatives that have led to significant political liberalization and pluralism in African countries. Key achievements of these initiatives include: the reintroduction of multi-party politics; the endorsement of presidential term-limits; the execution of regular and competitive elections for legislative chambers and presidential office; the restoration of legislative and oversight functions to legislatures; the guarantee of judicial independence; and 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 establish mechanisms for institutional checks and balances, including judicial review.

Therefore, African countries have made considerable progress towards consolidating the practice of democracy. In addition, the African public is increasingly demanding and appreciating democracy; they perceive democracy in terms of the 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 Member States have established an elaborate institutional framework for promoting democracy and governance on the continent. This framework consists of the following institutions and Organs: 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 the Regional Economic Communities.

Additionally, the African Union Member States established the African Governance Architecture Platform (AGA) in 2007.[29] The objective of this platform, which entered into force in 2012, is to enhance the ratification, domestication and implementation of

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[29] The 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.

African Union norms on governance, particularly the African Charter on Democracy, Elections and Governance (ACDEG). It is worth mentioning that the AGA is an informal mechanism, therefore, it does not seem to have a formal positioning in the AU's decision-making process, and merely makes recommendations to the policy organs.[30]

The African Union Member States also established the African Peace and Security Architecture (APSA), which precedes the AGA. The APSA's mandate is to prevent, manage and resolve conflicts on the continent. Concerning the relationship of the two frameworks, the AGA's role is to support the APSA to address the structural root causes and drivers of conflicts on the continent. The African Union therefore considers the promotion of democracy, good governance and the rule of law to be instrumental in preventing conflicts.[31]

The African Charter on Democracy, Elections and Governance (ACDEG) defines the term "unconstitutional change of government" to mean illegal means of accessing or maintaining power, which include *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, and an amendment or revision of the constitution or other law that infringes the principles of democratic change of government.[32], Accordingly this issue is currently under review by the Member States.

The ACDEG mandates the AUC to develop benchmarks on the implementation of its principles and commitments, and evaluates Member States' compliance. The AUC has therefore developed a State Reporting Questionnaire to execute this mandate. Additionally, it requires the Member States to submit a bi-annual report to the AUC on the measures they have taken to implement its provisions. Very few states have submitted this report.[33]

The AUC observes the conduct of elections in the Member States, as part of its responsibility 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).

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[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.

The AU initially viewed election observation as a mechanism for preventive diplomacy, that is, a tool for averting the possible outbreak of conflict. Increasingly, the AU now takes a long-term view to election observation and embraces all stages of elections, namely pre-voting, voting and post-voting. The process of election observation therefore entails the examination of issues such as constituency demarcation, voter and candidate registration, and post-election dispute settlement.

Thus, the AU has shifted the focus of election observation from diplomacy, by making the missions more technical and independent.[34] The observer missions make recommendations, which the Member States are expected to implement before their next elections. The AUC has developed a strategy for enhancing these recommendations. This strategy could be used to advocate for institutional and electoral reforms in the 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

6. The AMember States are encouraged to ratify all the shared values and instruments, and comply with the decisions of the legal organs.

7. The Member States are encouraged to establish mechanisms both on 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

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

9. The Member States 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. The Member States are encouraged to establish NHRIs.

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[34] Aniekwe CC and Atuobi SM, 2016. 'Two Decades of Election Observation by the African Union: A Review', 15 *Journal of African Elections* 25 (2016).
[35] Interview with representatives of the Democracy and Electoral Assistance Unit, Department of Political Affairs, AUC.

4.7.3   Public Participation In Governance

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

12. The African Union Member States are encouraged 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.

13. The Union Member States are encouraged to ensure the independent administration of elections, and fair and speedy resolution of electoral disputes, in accordance with ACDEG.

14. The commission assigned for formulating the constitution must be composed of all categories of the society, including the marginalized groups, women and the disabled.

4.7.4   Accountability of the Executive

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

16. The Member States are encouraged to ensure the independent administration of elections, and fair and speedy resolution of electoral disputes, in accordance with African Charter om Democracy, Elections and Governance.

4.7.5   Effectiveness and Accountability of the Public Service

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

18.   The Member States are encouraged to strengthen their national integrity systems.

4.7.6   Independence and Accountability of the Legislature

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

20. The Member States 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

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

4.7.8   Access to Justice

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

Chapter 5: PEACE, SECURITY AND GOVERNANCE

5.1 Introduction

There are many descriptions and definitions of peace. Generally, peace is a situation whereby wars and civil conflict are absent, but security prevails, usually in the context of a conducive environment for sustained social and political stability. The African Union considers that governance, peace and security are prerequisites for sustainable development.

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

5.2 The Interrelationship of Peace, Security and Governance

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

5.3 African Union Instruments Relating to Peace, Security, And Governance

The crucial AU instruments relating to peace, security, and governance include the: Constitutive Act; African Charter on Democracy, Elections and Governance; Declaration on Principles Governing the Conduct of Democratic Elections in Africa; 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 status of selected AU instruments in terms of signature, ratification, and deposition by the Member States.

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

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[36] Some countries ratified the instrument without signing.

Instrument	Signed (Out of 55)	Ratified	Deposited
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)	0	0	0
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   The Measures for Assessing Peace and Security

The assessment focuses on quantification of non-peaceful occurrences: identification of the causes of conflict, unrest and instability; continental efforts aimed at promoting peace, security and stability; efforts of the RECs and Member States regarding conflict prevention, resolution and management; and the progress of development of the African Standby Force and AU peace Fund.

5.5   The Causes of Conflict in Africa

There is a close relationship between peace, security and democratic governance. The record 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 identifies seven (7) major causes of conflict and instability as follows:

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

First, 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.

Second, disruptive transitions as evident in times of change, including transitions from autocracy to democracy are often unstable and prone to violence. Similarly, adverse regime changes are often violent.

Third, lack of democracy or democratic accountability has potential to trigger instability. Fourth, population imbalance and social and economic exclusion could also influence 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.

Fifth, continuous violence, whereby a country that has experienced large-scale violence is susceptible to more of the same. Sixth, there is the 'bad-neighbourhood' effect when countries that are close to or bordering on other countries that are experiencing conflict are exposed to it.

Finally, many of these factors are associated with the prevalence of poor governance, as evident in self-serving leadership. Exacerbating these is the impact of excessive dependence on commodity exports, and the associated implications such as dependence on external funding for running the state and managing the economy. There are long-standing relationships amongst these factors.

5.6   Africa's Conflict Zones

The AU has identified 21 current conflicts in the 55 African Union Member States (as of July 2018). There are a number of countries with internal conflicts and other forms of unrest, and there are violent disturbances involving economic issues, race, religion, political divisions, violent extremism, terrorism, and so forth.

A recent analysis commissioned by the African Union locates the major conflict zones and discusses conflict-resolution dynamics. Four major conflict zones are identified: the Mano River Region, the Great Lakes Region, the Horn of Africa, and the Sahel/Maghreb Region.[38]

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[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).

5.6.1   The Mano River Region

This geopolitical region covers the Manu 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 conflict prevention and management (peacekeeping and peace enforcement) in this region.

5.6.2   The Great Lakes Region

Straddling eastern and central Africa, the membership of the International Conference on the Great Lakes Region (ICGLR) includes central, eastern and southern African countries, namely, Angola, Burundi, CAR, Republic of 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 countries, they have had regional ramifications. The region is characterised by alliances among states and non-state actors who seek to ensure their security, survival and interest through armed activities. An apparent contributing factor in the conflicts is the role of "outsiders", whose interests are economic, political, or even criminal.

The ICGLR, ECCAS, SADC and the AU play active roles of pacification, with one of the most important regional initiative being 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 constitute 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 relates to the behaviour of 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 increasing number and constant occurrences of political violence and even criminal activities with radicalized misuse of religion. This feature of the region has fast been internationalised through the American "war on terror" and more recently, the open identification of Boko Haram with the Islamic State (IS or ISIS) based in the Iraq/Syria conflict system.

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

5.7   Trends of African Conflict And Instability

Africa's experience with conflict reveals four macro-trends that require different and complex responses. First, Africa's peace and security terrain has a historical dimension since many conflicts are prolonged and intractable. Second, conflicts increasingly take on a regional and/or international character, with interconnected socio-economic, political, identity and criminal drivers. The agents of conflict and violence intersect, and hence the problem needs to be addressed from a regional, continental and global perspective. Third, interventions increasingly prioritise "stabilisation" activities to the detriment of conflict prevention or addressing deep-seated causes of the conflict and instability. Fourth, Africa is expected to provide robust conflict management skills and expertise, albeit with limited capacity and reliance on external donors who continue to influence the continent's conflict management agenda.[39]

The general trends are that the period from 2001 has witnessed change in the scope, scale and nature of armed conflict and violence in Africa. Whereas large-scale wars have declined in proportion to the growth in population, political violence such as riots

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[39] Van 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.

and violence against civilians has increased.[40] Intra-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; notably some have declared the end of hostilities (most recently Ethiopia and Eritrea).

The AU response to these trends is illustrated in its approach to terrorism, which is one of the most problematic security threats across Africa.

Box 3: African Union Efforts in Fighting Terrorism[41]

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

These meant to combat extremism and terrorism, and its manifestations in sectarianism, tribalism, ethnicity or religion. Terrorism was declared a criminal act. African countries were urged to cooperate in fighting such acts through extradition, extra-territorial investigations and mutual legal assistance. The Plan of Action adopted practical counter-terrorism measures, including police and border control, legislative and judicial measures, financing of terrorism, and exchange of information.

The implementation of the 2002 Plan of Acton introduced 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.

Additionally, there is from 2010 the AU Special Representative for Counter-Terrorism Cooperation (2010). The AU Commission developed the African Model Law on Counter Terrorism, endorsed by the decision of the 17th Ordinary Session of the Assembly of the African Union, held in Malabo, in July 2011 [Assembly/AU/Dec. 369(XVII)]. The purpose of the model law is to assist the Member States to implement the 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 Promoting 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 significant 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,

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[40] African 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.

and development are the African Peace and Security Architecture (APSA), the African Governance Architecture (AGA), and the 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); AU Commission (AUC); Panel of the Wise; African Standby Force (ASF); Continental Early Warning System (CEWS); and the Peace Fund.

In terms of decision-making, the AU Peace and Security Council is the key element of APSA's functioning. It is a standing organ for decision-making, with the roles of: preventing conflict through an early warning system and diplomacy; managing conflicts through peace-making and peace-support operations; supporting peace-building and post-conflict reconstruction; and recommending 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. Therefore, the AGA was designed to complement APSA in a bid to address 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. `

The RECs have also been increasingly involved in peace and security issues, including mediation, peace building and management. The engagement of the RECs in AU peace efforts is through implementation of 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: interpretation of 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; collection of information; and providing recommendations to governments and child rights organisations in promoting and protecting the rights of children.

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[42] https://au.int/en/organs/psc.

Forty-eight of the 55 Member States had ratified the Charter by July 2018. The 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. It's 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 was developed on the basis of 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; their access to nourishment and basic necessities; right to benefit from education; protection of children from abuse; and efforts to develop a child-sensitive criminal justice system, and so forth.

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

5.9 Challenges Relating to African Peace, Security and Governance

Despite the existence of the policy and institutional frameworks for peace and security, there are several challenges that limit effectiveness. These relate mainly to the implementation of the instruments and the functioning of institutions.

5.9.1 Implementation of the AU Shared Values Instruments

The AU Peace and Security Council has noted that there are available requisite normative instruments for preventing conflicts and crises, and for promoting sustainable peace, security and governance on the continent. However, there is a need to encourage more Member States to sign, ratify and implement all AU instruments. Hence the Open Session of the AUPSC in April 2018 noted there still were governance deficits, which no doubt could be attributed to the apparent lack of commitment by Member States to implement the shared values instruments.

5.9.2 Functioning of The Institutions in The Implementation of 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, violent conflict.[43]. The functional relationship of the APSA and AGA requires strengthening. In particular, this relationship AGA needs nurturing and proactive support, particularly in pursuing the strategic objective of conflict prevention, and where necessary, conflict management interventions such as peace-making, peace keeping and peace building.

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[43] ACCORD (2015) Silencing the Guns, Owning the Future: realising a conflict-free Africa.

The establishment of the African Standby Force, highlighted below, illustrates some of the constraints facing the AU 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. This is only under severe conditions, namely war crimes, genocide and crimes against humanity. The other four 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]

The key document 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, at the time provided for five regional Standby Brigade Forces: North Africa Regional Standby Brigade (NASBRIG), East Africa Standby Brigade (EASBRIG); Force Multinationale de l'Afrique Centrale (FOMAC); Southern Africa Standby Brigade (SADCBRIG); and ECOWAS Standby Brigade (ECOBRIG).

The same document defined six ASF deployment scenarios. The organization at that time agreed on force levels of about 15,000 soldiers continent-wide. Regarding funding arrangements, it is expected that the AU will contribute 25% and the remaining 75% will be contributed by the UN, EU and bilateral support.[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, was not met.[47]

5.10   Proposed Recommendations for Peace, Security and Governance

There have been major achievements in achieving peace and security in the governance of Africa. For example, inter-state conflicts have declined in the last generation. However, there is a need to increase the levels of Member State signature, ratification, domestication and compliance with the relevant instruments. There are limitations in the harmonization and coordination of the functioning of the African Peace and Security Architecture (APSA) and the African Governance Architecture (AGA). The AU has recorded progress in the implementation of the AU Master Roadmap of Practical Steps to Silence the Guns in Africa by the Year 2020. The cooperation and collaboration

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[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.

between the AU and the RECs and Regional Mechanisms, the AU and the United Nations, and between the AU and other international entities also need enhancement.

The following recommendations are proposed for peace and security:

23. The Member States are encouraged to ensure signature, ratification and implementation of all relevant instruments for peace, security and stability.

24. The AU should operationalize the African Standby Force, and increase efforts to secure sustainable funding of peace and security activities.

25. The 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).

CHAPTER 6: THE NEXUS OF DEVELOPMENT AND GOVERNANCE

6.1   Introduction

Development is a process associated with growth or change to become more advanced, more recent, or new. The definition of development, its measures, and the strategies for its attainment have evolved.

The 2000s saw development debates arguing that identity and culture were crucial to allow people to choose what they want to be. People should be free to utilise their ethnicity, religion, language, or culture to realise their futures. The implication here being that there must be adopted multicultural policies that recognise human differences, and that promote diversity and cultural freedom, in addition to democracy and equitable growth.[48]

Attempts 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 SDGs Sustainable Development Goals (SDGs) serve to reinforce the convergence of the development agenda, by strengthening emphasis on equity, human rights, and non-discrimination.[49]

Therefore, the concept of development is broad, but for the purposes of the AGR, we emphasise the aspects that are focused on by the AU Agenda Aspirations 1, 3, 4 and 6, and the (global) UN 2030 Agenda for SDGs SDG 16.[50]

Annex 1 summarises the transitions in global development thinking over the past 60 years, culminating in the 2015 UN 2030 Agenda for Sustainable Development (SDGs). The table also provides the evolution of Africa's development from the post-independence period up to the launch in 2013 of the (continental) long-term aspirational

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

[49] UN 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.

[50] UN 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 framework, the African Union Agenda 2063: The Africa We Want. The continental framework is widely acknowledged as having had significant influence on the UN's 2030 Agenda SDGs.

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 citizens. NDPs translate these visions into programmes and projects. National development plans detail the strategies, ways and means by which National Visions will be realised. Subsequent national budget allocations specify the resources for implementing NDPs. In a number of instances, National Visions and NDPs are consolidated into a single framework.

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 developments.

The domestication and alignment of the UN SDGs and AU Agenda 2063 entails that each Member State to first decide how Agenda 2063/SDGs should be incorporated into national planning processes, policies and strategies in addition to setting national targets guided by the continental and global level of ambition, but 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 citizens. Country data from UNDP Country Offices and research on various country websites reveals that 88 per cent have a national vision or long-term development strategy/plan while 86 per cent have NDPs. The countries that are not reporting the existence of a National Vision or a national development plan are either in conflict or recovering from it.

There is a positive correlation between growth and national development planning, implying that, at a minimum, countries with clearly articulated NDPs should exhibit some level of growth in real GDP. This may not be so apparent at the regional level, given the

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[51] ECA, 2015, p. 3.

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, a picture 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 is also noteworthy to point out that 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**
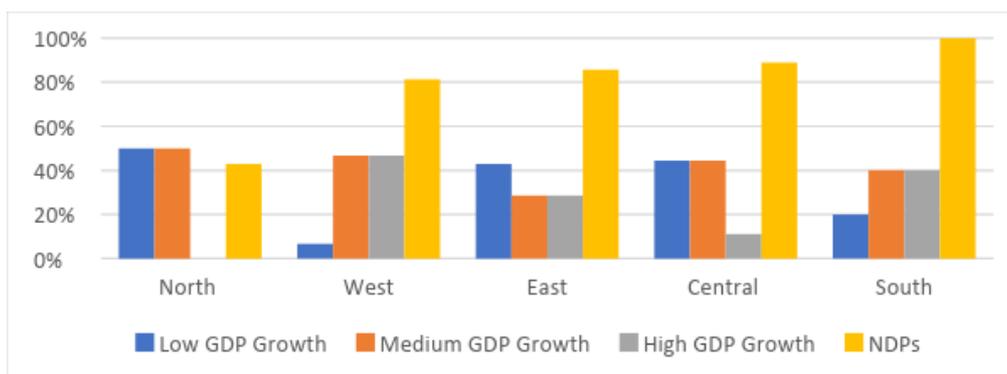
Source: United Nations Development Programme, Human Development Report (2000, 2008, 2016 and 2018 Statistical Update)
World Bank, 2018.

Tracing the pattern of growth of real GDP over time shows how countries have managed to cope given the various developmental challenges the continent has faced since the dawn of independence. Each period in the evolution of development over time has yielded varying degrees of economic performance.

Recent economic performance on the continent shows mixed results. The global financial and economic crisis of 2008/2009 affected growth negatively for countries that were exposed to external shocks. Africa rebounded from the 2009 slowdown to regain a high growth rate of 5.4 per cent in 2010. Recent movements in commodity prices have had mixed fortunes, with non-oil exporting countries recording increases in GDP growth rates while the reduced commodity prices have negatively impacted the economy of oil-exporters.

6.2.2   National Development Planning and Poverty

The World Bank and the United Nations define people living in poverty as those whose daily expenditure equivalence is less than USD 1.25. In this report however, the poverty headcount measure is derived from national poverty lines.

On this basis, regional aggregate data reveals that north 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 region has a high prevalence of poverty, although this is commensurate with low to medium GDP growth rates. The distribution of poverty incidence 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
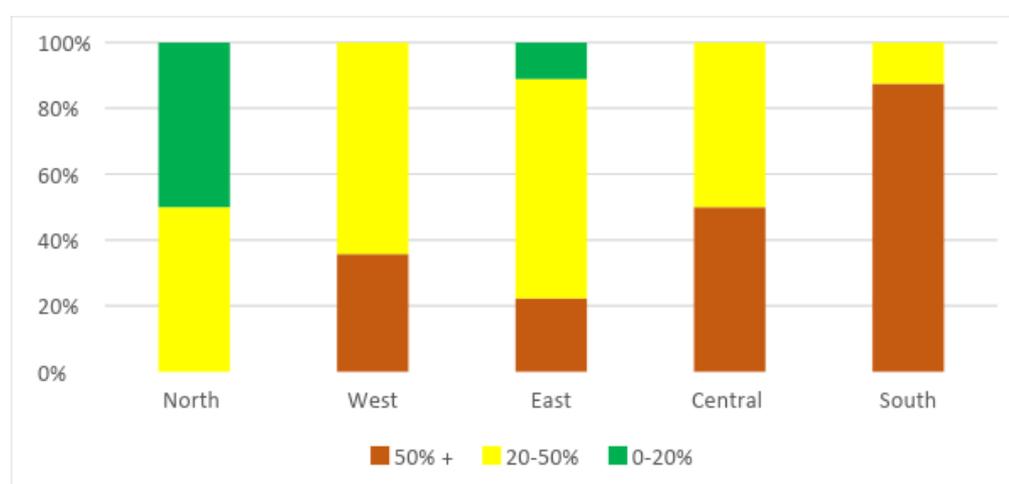
The Africa Union Agenda 2063 explicitly expresses development in two of its seven aspirations: Aspiration 1: A prosperous Africa based on inclusive growth and sustainable development, and Aspiration 6: An Africa whose development is people-driven, relying on the potential of African people, especially 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
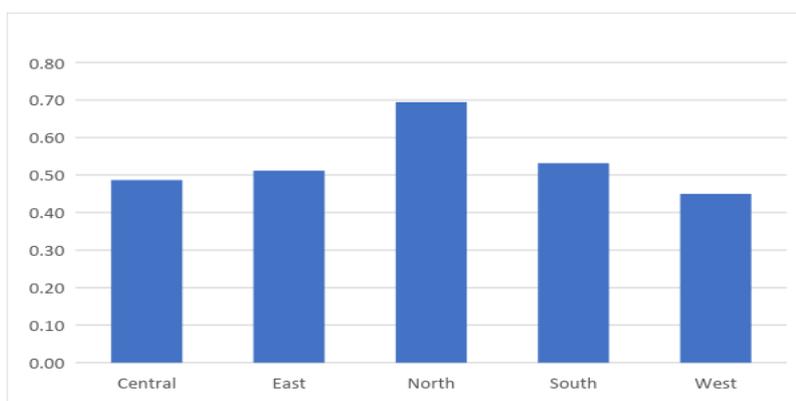
Source: UNDP Human Development Reports (Various years)

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   Selected Developmental Challenges

The key to the successful implementation of a national development agenda as articulated through the development plans is the availability of adequate resources, governance structures and institutional capacities requires to realise the objectives stated therein. Although there are various 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 vast amounts of natural resources. However, that does not adequately translate into improved prosperity, broad-based development, resource-based industrialization and decent development outcomes.

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 forests. 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 the gross domestic product.

Recent discoveries of oil, gas and minerals in some countries could significantly boost government revenues in future.

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 natural resource endowments, social statistics lag. Evidence from several institutions and studies point out poor governance as being a major obstacle preventing Africa from realising its development potential. In other words, the proper management of Africa's natural resource endowments could provide a unique opportunity to foster human and economic development.

The lack of adequate implementation of natural resource governance across the continent, due to weak institutions and policies in this sector, results in short-term gains rather than at long-term development.[52]

Additionally, a further problem that impedes development benefits from natural resource wealth is the status and structure of Africa's extractive industries. Most countries on the continent remain exporters of unprocessed or lightly processed commodities[53], which is reflective of the lack of natural resources management and the inadequate prioritisation of environmental policies and implementation.

In searching for a solution, Africa's own response to tackling the paradox of great mineral wealth existing side by side with pervasive poverty has been articulated in the AMV, which was adopted at an AU Summit of Heads of State in February 2009. The mining vision called for "Transparent, equitable and optimal exploitation of mineral resources to underpin broad-based sustainable growth and socio-economic

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[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.

development".[54] If implemented, the potential for African countries to finance the AU Agenda 2063 and UN Sustainable Development Goals could be significantly boosted. If managed prudently, extractive industry investments can catalyse economic development and diversification, skills development and technology transfer. In these cases, extractive industries have emerged as a powerful engine of economic growth and means financing development.

Apart from building manufacturing industries, the exploitation of natural resources could provide the revenues needed for investment in social service provision, including health and education If on the other hand extractives are mishandled, they have the potential to generate enormous risks, including, but not limited to: volatile economic growth; violent conflicts; corruption; environmental degradation and linked social harms; human rights violations; and gender-based violence. In a conflict/fragile environment, if not managed properly, extractive industries may increase the risk of conflict or deepen existing conflict.

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 in 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. Thus 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

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

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 those is governments' capabilities, which undermine Africa's goals of self-sustainability, and domestically financing 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, provision of social services, infrastructure and investment. In brief, the resource needs of African countries are such that they fail to domestically mobilise domestic resources for the implementation of development goals. Therefore, the requirement to promote development makes tracking, stopping and reversing IFFs an imperative.

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

The panel also noted that corrupt practices in Africa are not necessarily the source of these outflows but rather facilitate them, apart from, and in addition to, the related problem of weak governance capacity. Apart from technical capacity, undermining the struggle to end illicit financial flows is a critical ingredient, the political will of governments.

Estimating the exact level of IFFs from Africa is a challenge to ascertain, due to the absence of clear data and because IFFs are hidden and difficult to track. 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 fact is the IFFs are a growing phenomenon. The table below shows the trends.

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[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".

Figure 5: Illicit Financial Flow Trends, 2004 to 2013 (USD)
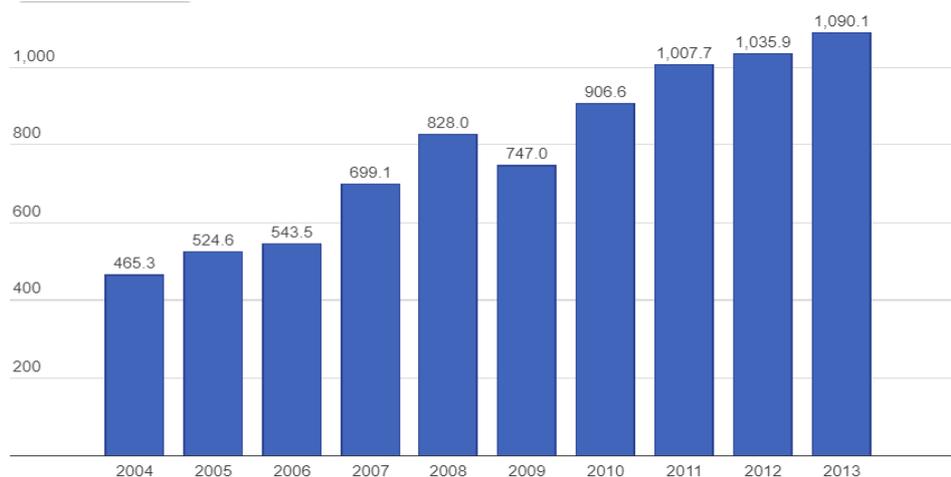
Source: Global Financial Integrity, 2017, Illicit Financial Flows to and from Developing Countries: 2005-2014

The development impacts of illicit financial flows from Africa are numerous. They erode the tax base for public investment and social spending, hence weakening governance and its capabilities. They curb domestic savings and perpetuate dependence on official development assistance, thus deepening reliance on donors. Significantly, 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 address IFFs in order to maximise their tax revenues, keep investible resources within their countries, and impede criminal and corrupting activities. At the continental level, the recommendations of the panel that the AUC, UNECA, AfDB and RECs follow up the development and implementation of a systematic and coherent implementation 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, and more importantly, some countries that have reasonably high levels of domestic resources from economic activity remain highly dependent on resources from outside their borders. 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 previous conflicts

display a higher proportion of ODA to total government expenditures, pointing to the prevalence of resource mobilisation and institutional challenges at the country level.

Figure 6: Net ODA as a percentage of government expenditure by region
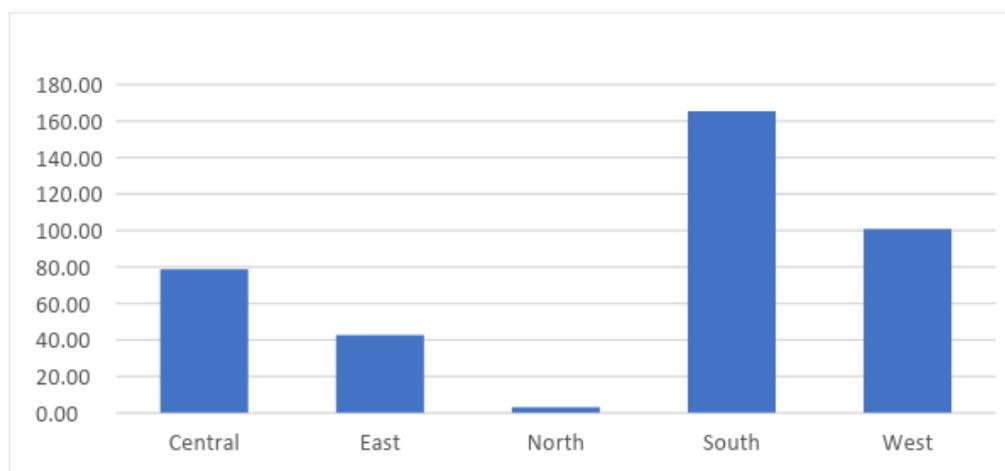
Source: World Bank Group

At the regional level, the contribution of ODA to total government expenditure is insignificant in north Africa. However, the South has a high dependency ratio on ODA, followed by the west and Central regions. Strengthening domestic resource mobilisation efforts, as well as resource use efficiencies in these regions, could yield lower rates of dependency on ODA, with attendant gains in sovereign policy decision-making and implementation.

6.3.4   Corporate Governance and Development

Both the AU Agenda 2063 and the 2030 Agenda for Sustainable Development emphasize the importance of rapid economic growth that is inclusive and underpinned by structural economic transformation. To achieve this, the private sector should be the key driver.

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, better socio-economic conditions, and contribution to the fiscus. 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 ensure effective regulatory frameworks to achieve the objectives of the AU Agenda 2063 and the UN SDGs.

The goal of inclusive growth implies that the benefits of growth generated within African economies is distributed more equitably to prevent rising inequality or reduce inequalities in economies where it is high. To this end, economic diversification remains an important priority given Africa's continued reliance on the primary sector and could be achieved through industrialization and greater diversity in economic endeavors which exploit the potential for increasing cross-frontier value chains as well as forward and backward linkages.

The Member States are encouraged to establish regulatory and legal frameworks that seek 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 that aims to enhance the institutional capacity of Member States towards the sustainable development of public and private owned corporations.

6.3.5 Gender Equality, Gender Mainstreaming and Development

Gender equality has long been recognised as a key element to unlocking and unleashing the development potential of the continent. While significant progress has been made across numerous fronts in most countries, gender equality for African women and girls is still far from satisfactory. 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.

At the global level, gender inequality has assumed a central position in development discourse, as demonstrated by having gender-specific goals and targets in both the MDGs (MDG 3) and the SDGs (SDG 5) that both promulgate women's empowerment and the promotion of gender equality as a cross-cutting component in NDPs, 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

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[56] UNDP, 2016.

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 achieving gender equality has been slower than hoped and is inconsistent in many African countries. The 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 not been successfully accomplished in various countries, attributable to lack of structural policies, political will, and cultural inclusiveness to promote women's rights and empowerment.

A recent evaluation of the MDG's implementation demonstrates that some countries are still struggling to enhance gender equality. A further conclusion infers that ending the gender gap may need up to 100 years in some countries in Africa.[57] Nevertheless, 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 progressing gradually towards gender equality and gender mainstreaming in NDPs. Forty-nine countries have signed and 40 have ratified the protocol.

Sub-Saharan Africa registered the most impressive progress in Women's access to paid employment in the non-Agriculture sector from 24 to 34 per cent from 1994 to 2015.[58] At the regional fora, the adoption of the African Women Decade (AWD) (2010-2020) in 2009, with the overall 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) lay down the baseline for governmental obligations on women's rights and, most importantly, reporting on progress towards the implementation of various instruments that make provisions for the rights of young women.

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[57] WEF, 2017.
[58] UNDP, 2016.

Figure 7: Status of Ratification of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa
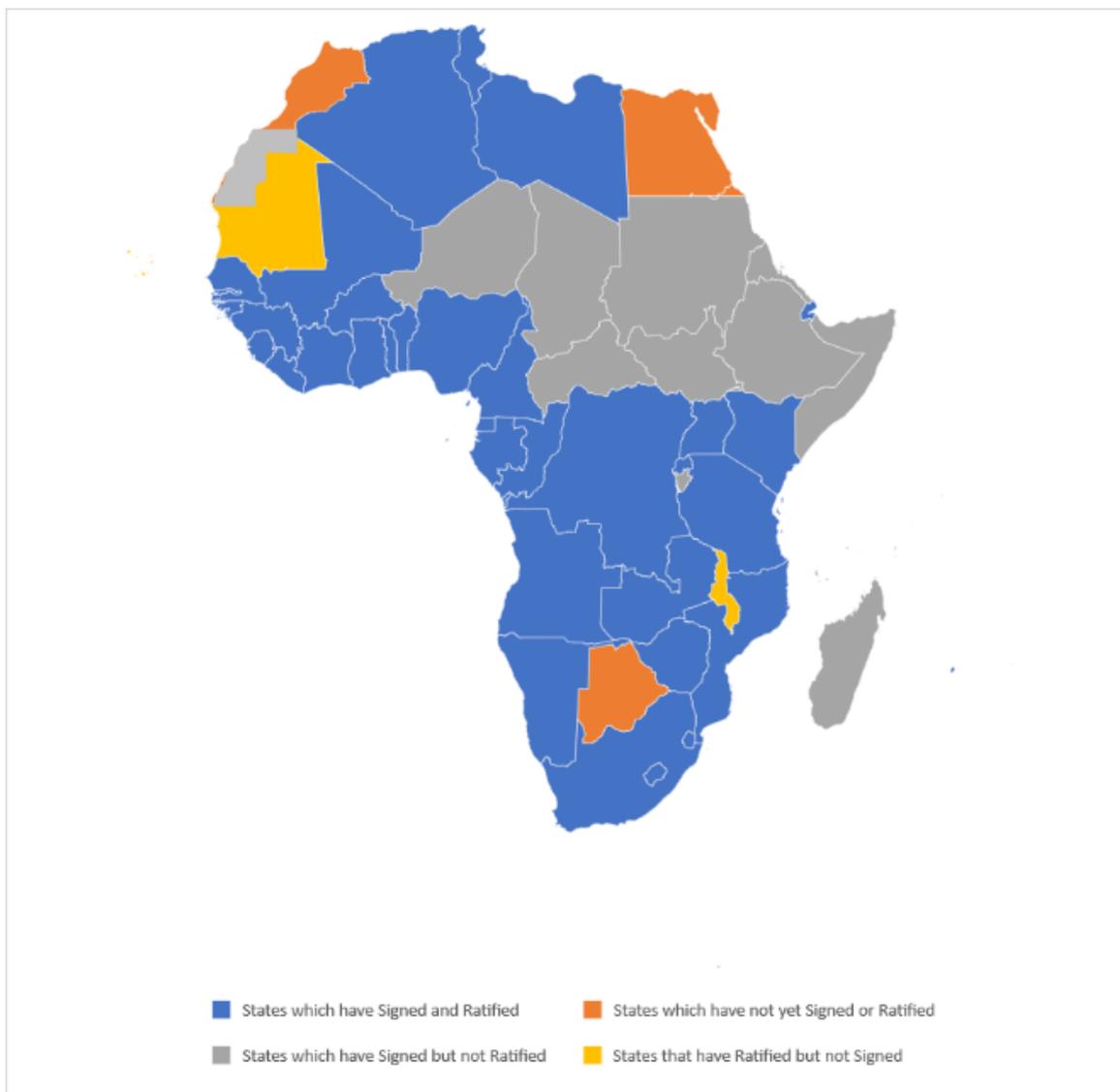
Source: African Union, 2018, List of countries which have signed; ratified/acceded to the Protocol to the African charter on Human and people's Rights on the Rights of Women in Africa (https://au.int/sites/default/files/treaties/7783-sl-rotocol_to_the_african_charter_on_human_and_peoples_rights_on_the_rights_of_women_in_africa_7.pdfSource: African Union, 2018.

6.4   Proposed Recommendations for Development and Governance

The major issues in development and governance revolve around inclusive development, management of natural resources and combating threats to implementation of development agendas, such as illicit financial flows and corruption. Therefore, the following are proposed recommendations:

26. The Member States are encouraged to formulate development plans and programmes that aim at inclusive human development.

27. The Member States are encouraged to align their national development plans with AU Agenda 2063 and UN SDGs.

28. The Member States are encouraged 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.

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

7.1   Introduction

The chapter considers the role of the Regional Economic Communities (RECs) in African governance, specifically, 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 the RECs

The quest for African continental 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 continental 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 sought to establish an African Economic Community (AEC). The treaty emphasised the desirability of solidarity and collective self-reliance, a self-sustained and endogenous development strategy, and a policy of self-sufficiency in basic needs.[60] The RECs are regarded as the building blocks of the AEC.

The AU acknowledges the significant roles of the RECs in bolstering the efforts of continental integration, and officially recognises eight. These are the Arab Maghreb Union (AMU); Community of Sahel-Saharan States (CEN-SAD); Common Market for

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[59] The 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; Africa's Place in the World (AU Agenda 2063: The Africa We Want).
[60] Organization of African Unity (OAU), 1991. Treaty Establishing the African Economic Community, 3 June 1991, Abuja, Nigeria

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 the RECs

In addition to regional cooperation and integration, and contributing to the establishment of the AEC, the RECs perform additional functions, including coordination of the Member States' interests in peace and security, governance, and development. The relationship of the AU and RECs is mandated by the Abuja Treaty and the Constitutive Act of the African Union. The functional relationship between the AU and the RECs is 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 the RECs and Governance

The RECs bring together Member States of the African Union. The RECs are considered to have various 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 the 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 the RECs to intervene in Member States where there are "serious and massive" violations of human rights and the rule of law. The 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 establish mechanisms, such as courts, that are making a significant contribution to the protection of human rights in the continent. [61] These

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[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).

courts are applying 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, which bring the courts closer to their potential users, thereby enhancing access to justice. Some courts also move their sessions to different parts of the REC to enable easier 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, it is unhelpful that only a few states permit domestic courts to enforce the decisions of international or regional courts. Overlapping memberships also means that there will be instances where the jurisdictions of the regional courts conflict.

Another challenge is that the regional courts suffer from resources constraints that result in shortages of personnel, which hinders their efforts in being accessible to users. Therefore, the courts have depended on foreign donors, which makes it difficult for them to demonstrate their independence and neutrality. Resource constraints (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. These constraints serve to limit the capacity of these courts to influence human rights outcomes on the ground. There is also a need to clarify the relationship between the African Court of Human and Peoples' Rights and these regional courts. [64]

The 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. A need

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[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*.
[64] Nwauche 2009; Abebe 2016; Ruppel 2009.

therefore arises for these institutions to establish a framework for cooperation in this important area of governance.[65]

7.5 The key issue for assessing the role of RECs in governance

The main areas of examination are: (i) is there alignment of the 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 and do the 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 RECs' peace and security activities; what are the harmonization mechanisms and how are they coordinated? (v) what are the approaches of the RECs to the realization of the AU Agenda 2063? (vi) are there mechanisms for monitoring the 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 of the AU with the 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

The 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 they 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 the RECs and regional mechanisms to operationalise their objectives. However, operational harmonization and coordination are constrained by various factors, including limited capacities and financial resources. Some RECs or countries within RECs have made own arrangements that have by-passed the official structures.

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. The "RECs are not well integrated into the policy and decision-making processes of the Union", in

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

which they therefore play only a marginal role. It is also acknowledged that "there is no coherence in the decisions and activities of the AU as they relate to the RECs".[66]

The RECs have played an important role in facilitating the enforcement of the AU's shared values, particularly in situations involving unconstitutional changes of government. However, the AU and the RECs have taken differing approaches and actions in such situations in a number of cases, 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, the RECs face considerable challenges that hinder their effectiveness. For example, they are characterised by 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, a key priority of the AU Assembly is 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, the RECs endorse the vision and aspirations in the Agenda 2063. Although the RECs intend to harmonise their strategies and implementation plans with the First Ten-Year Implementation Plan of the AU Agenda 2063, this is not entirely successful at this stage as they are in the process of reconciling existing frameworks with the Agenda.

7.6.4 Mechanism for monitoring implementation of shared value instruments

There areno systematic attempts in each REC to monitor the RECs' and REC Member States' implementation of AU shared values instruments.

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[66] African Union, 2018. *Ibid*, Annex 1.
[67] *Ibid*.

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.

The RECs are encouraged to adopt AU Agenda 2063 and its First Ten-Year Plan as the basis for developing 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 Proposed Recommendations Regarding the RECs and their Role in African Governance

The following are proposed recommendations:

29. The AU and RECs should improve the coordination and harmonization of their policies, programs and activities.

30. The Member States are encouraged to sign and ratify the Agreement Establishing the African Continental Free Trade Area

31. All RECs are encouraged to align their plans with Agenda 2063 and UN SDGs.

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]	
PURPOSES AND PRINCIPLES *Article 1* The Purposes of the United Nations are: 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.** *Article 2* The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.	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.
Organization of African Unity (OAU) (1963)[69]	**African Union (AU) (2001)[70]**

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[68] Charter of the United Nations (1945). http://www.un.org/en/sections/un-charter/un-charter-full-text/
[69] Organization of African Unity (OAU) Charter (1963). https://au.int/sites/default/files/treaties/7759-file-oau_charter_1963.pdf
[70] Constitutive Act of The African Union (2002). https://au.int/en/constitutive-act

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

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	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.

	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.	
1981 - 1990: The Third United Nations Development Decade	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. *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.*	**Privatisation, liberalisation and fiscal austerity: High levels of debt** 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 the1980s, 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.
1991 – 2000: The Fourth United Nations Development decade	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" Progress mixed, with many challenges remaining. Economic growth no longer a sufficient factor of development. The focus had shifted to institutional	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

	preconditions for development, including good governance, transparency and accountability, decentralization and participation, and social security.	from 1971 up until the end of the 1990s is often referred to as the 'lost decades.
2000 – 2015: Millennium Declaration and the Millennium Development Goals (MDGs)	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. 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.	The return of Development Planning, the MDGs and the AU Agenda 2063. 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 occasion of 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".
2016–2030: Agenda 2030 for Sustainable Development and the Sustainable Development Goals (SDGs)	Address the unfinished business of the MDGs and tackle long-standing issues which had not been achieved as above with five guiding imperatives: (i) Leave no one behind; (ii) 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	Agenda 2063 and the 2030 Agenda for SD/SDGs. This period builds upon the progress made in the era of MDGs, including continuing to tackle the unfinished business of the MDGs. Recognising that the successor global development strategy – the 2030 Agenda for Sustainable Development has a 90 per cent congruence with the AU Agenda 2063. The African 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.

all; and (v) forge a new global partnership. Implementation is underway in tandem with Africa Union Agenda 2063 covering the fifty-year period from 2013 – 2063	

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	Mme Cisse Mariama Mohamed Mr Philippe Sekone Wendyam Mr Ayalew Getachew Asseffa
ACHPR	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
AUABC	Ms Charity Hanene Nchimunya Mr Selemani Kinyunyu
AUC Bureau of the Chairperson	Amb Lindiwe Khumalo Amb Jean Mfasoni Amb Hadiza Mustapha
AUC Conflict Prevention & Early Warning	Mr Charles Mwaura
AUC Department of Political Affairs	Dr Khabele Matlosa Mr Issaka Garba Abdou Mr Ahmed Mokhtar Awed
AUC Economic Affairs	Amb. Fred Ngoga
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 Develolpment Agency / NEPAD	Ms Florence Nazare Mr Bob Kalanzi
PAP	Mr Vipya Harawa Mr Galal Nassir
PAPU	Mr Younouss Djibrine Mr Amadou Mr Mkandawire
Regional Economic Communities	
CEN-SAD	Amb. Youssouf Sangare
COMESA	Mr 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	
ESRF	Dr Bohela Lunogelo
HARDR	Mr Olabise Dare
HSRC	Dr Greg Houston Dr Yule Davids
OECD	Ms Eva Beuselinck Mr Marcos Bonturi
SAIIA	Mr Steven Gruszd
SaSHA	Ms Marie Laberge
University of Cape Town	Prof Shameel Jappie
University of Johannesburg	Prof Chris Landsberg Prof Adekeye Adebajo Prof Shadrack Gutto
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