

UNIVERSITY OF NAIROBI

INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES

**DEMOCRATISATION CHALLENGES IN AFRICA AND THE ROLE
OF THE AFRICAN UNION**

**A RESEARCH PROJECT SUBMITTED IN PARTIAL FULFILMENT
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IN INTERNATIONAL STUDIES.**

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DECLARATION

This research project is my original work and has not been presented to any institution for the award of any academic certificate.

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This research project has been submitted with my approval as the student supervisor.

.....

Dr. Anita Kiamba

.....

Date

DEDICATION

This project has been dedicated to my family and in particular to my beloved husband and our daughters Samara and Bettina. My profound gratitude and appreciation for their patience and love during the course of this project.

May God Almighty bless them.

ACKNOWLEDGMENT

I would like to take this opportunity to pass my heartfelt gratitude to all the people who played a big role in assisting me complete my study. First of all, I give thanks to the Lord for giving me good health to start and complete this project successfully, without Him, I would not have come this far.

To my supervisor, Dr. Anita Kiamba, thank you for your dedication, time and effort to guide me. Your comments, advice, criticism and suggestions throughout this period of undertaking this project is are highly appreciated.

LIST OF ABBREVIATION

APRM	-	Africa Peer Review Mechanism
AU	-	African Union
CSSDCA	-	Conference on Security, Stability, Development and Cooperation in Africa
ECOWAS	-	Economic Community Of West African States
GDP	-	Gross Domestic Product
IMF	-	International Monetary Fund
NEPAD	-	New Partnership for Africa's Development
NGO	-	Non Governmental Organisation
OAU	-	Organisation of African Unity
RO	-	Regional Organisation
SADC	-	Southern African Development Community
UN	-	United Nations
UNECA	-	United Nations Economic Commission for Africa

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ABSTRACT

Democracy in Africa has not been easily forthcoming despite the existence of a comprehensive democratic framework by the African Union. Arguably, Africa has made progress minimal despite the democratisation challenges witnessed in the region. The African Leaders on whom the responsibility of promoting and implementing democratic principles and norms, have not prioritized it and those who are attempting, do it for the sole purpose of self gratification. The general objective of this study was to establish the democratisation challenges in Africa and determine the role of the African Union as a regional organization. Specific Objectives were; to determine the democratic framework within the African Union by exploring the policies and programmes instituted to promote democracy in Africa. Consequently, establish the role of leaders in democratization in Africa. The study relied on secondary data to conduct an in-depth analysis of already existing scholarly materials, journals, Civil Society reports, media reports, study findings in the fields of Democracy, democratization, Regional Organisation, African Union and Leadership in Africa. The study reviewed existing data on African Union democratic framework, unearthing the role that the different organs of the AU do towards democratisation in Africa, analyse the and collate information on a few African leaders push towards democractization in Africa since the inception of the AU, understanding their role. From this gathered information, the study drawn its own findings and evaluated them against the theoretical framework provided. The study concludes that Africa has made modest progress towards democratisation. Consequently, the African Union and the various instruments and programmes that promote and implement democratic agenda provide a broad framework that if utilized well will steer Africa into a democratic continent. It is imperative to note, from the study that the democratic framework has both functional and structural challenges albeit a tool that can move Africa forward. In addition, the study also has underscored that leaders have a critical role in executing the democratic agenda in Africa. Democratic leaders that represent and act in their citizens' interests are treated with respect and consideration, whereas non democratic leader that use violence and oppression against their own people are regarded with mistrust and suspicion. One of the first problems within AU system is the existence of too many institutions with possibly conflicting functions. Harmonization of roles to avoid conflict in execution of their work should be defined clearly. This will also mitigate against duplication of roles and resources. The study recommends that, it is the African leaders and citizens whose lives and fortunes depend on democracy who must accept and bear the responsibility for its survival. Democratic reform ultimately depends on citizens to make choices, frame options and initiate changes.

CHAPTER ONE

INTRODUCTION

1.0. Background

The word democracy has no universally accepted definition. Nevertheless in the contemporary usage, the term ‘*democracy*’ often refers to a government chosen/elected by the people. The “wave of democratisation” has been a world phenomenon that has seen a states transit from non-democratic to democratic regime within a specified period of time¹. Africans overwhelmingly prefer democracy to dictatorship but approach democratic transitions with a mixture of hope and anxiety.² The wave of democratisation was seen as a beckon of hope to usher in a better life for Africans through democracy to transform the society, reinforce governance, provide better and more efficient public and social services, maintain security, respect civil rights and liberties, and generally provide an enabling environment for citizens to pursue their economic, social and political interests, shorn of unnecessary restraints.³ Therefore, democracy is organising the power question in society, the quality of democratic governance is a reflection of the quality of the citizens being governed.

Following the demise of the Cold War in the late 1980 and early 1990s, post-colonial Africa is still faced with many challenges which make its realisation of democratic promises a distant mirage.⁴ This owes to the fact that the continent is marred by intra-state conflicts mainly due to ethnicity and agrarian question, poverty and HIV/AIDS as well as election related disputes to mention but a few. The African continent was ruled by colonialist whom created an environment of anarchy that ignited the struggle for independency and to break away from the colonial rule. The struggle saw a new wave of liberation in many African

¹ Samuel Huntington, *The Third Wave: Democratisation in the Late Twentieth Century*. Norma OK: University of Oklahoma Press 1991, pp. 15–16

² Jennifer Widner, *Africa’s Democratisation: A Work in Progress*, Current History, May 2005, p216-220.

³ President Lincoln’s July 4th, 1861, message to Congress

⁴ Charles Manga: *The African Union, Democracy and Good Governance*, 2012

countries through self rule. Over the years, the African leaders who reigned to lead the countries into civilization followed the footsteps of their colonial predecessors of greediness', dictatorship and internal conflicts. This era plunged the continent to be under developed and poor. A new dawn emerged when the populace demanded for good governance from its leaders. This pressure saw a new scope of leaders who desired democracy and promoted democratic principles.

At its creation in 1963, the OAU was too preoccupied with protecting the hard-won independence of its member states and devising a strategy to eradicate all forms of colonialism on the African continent to bother about issues of democracy and good governance. The OAU strove to promote unity and solidarity among its member states, and its charter strongly upheld the principle of the territorial sovereignty of member states and strictly prohibited the organization from intervening in the domestic affairs of a member state. This turned out in retrospect and a monumental error, because the organisation was impotent and kept silent on internal disputes and the frequent instances of gross human rights violations by some of the continent's bloodiest dictators.⁵

The transition of OAU to the African Union was a result of the new leadership in Africa that emerged from the year 1990's. The leaders were more enthusiastic and eager to lead development in Africa. They noted that regardless of the existing of OAU, Africa as a continent was plagued in internal conflicts, wars, economic fluctuations, drought and hunger, all this to a dissatisfied population. The leaders also acknowledged that the OAU as it was constituted lacked the mandate to steer Africa into a democratic continent. The OAU was then transformed into the African Union through the Constitutive Act has a mandate to

⁵ Charles Manga F.; *The African Union, Democracy and Good Governance*; pg 18

promote democracy and good governance. fourteen years since its inception, the African Union has come up with a democratic framework within which it's implementing its democratic agenda's. The critical questions that the study will answer is to examine what is the existing democratic framework within the AU, the democratisation challenges and gaps and examine the role of African leadership in implementing the democratic principles. The study will focus on in the period 2002-2014.

1.1 Statement of Study Problem

In many respects, the struggle for democracy, accountability, popular participation in decision-making goes back to the independence period. At independence, hardly any African country was a democracy and the new leaders who appropriated power from the colonisers did not help the situation when they quickly contrived excuses to depoliticise the people, get rid of emerging opposition parties and, in general, perpetuate the dictatorial and oppressive systems they had inherited⁶. Available evidence provides a disturbing hint that Africans are losing confidence in the democratic process.⁷ The opportunities presented by democratic transitions have been squandered by the cocktail of hubris, arrogance, and corruption the trademark of Africa's political elites.⁸

The establishment of the African Union in 2002 therefore gave Africa a new wave of hope of realizing democracy. Enshrined in the Constitutive Act, particularly in Article 3 and 4, the AU provides a democratic agenda and a new and credible framework within which democracy can be entrenched in African political and constitutional theory and practice. It is therefore important to question if it provides an imaginative and innovative regional

⁶ Charles Manga F; *The African Union, Democracy and Good Governance*; pg 10

⁷ Lydia Polgreen, *Africa's Crisis of Democracy*, N.Y. Times, April 23, 2007

⁸ Human Rights Watch; *Criminal Politics Violence, 'Godfathers' and Corruption in Nigeria 2007*.

mechanism for promoting and enforcing democracy and good governance or is it just one ingenious pragmatic devise to blind the international community and remain relevant. It's imperative to note that many of the old dictators are still firmly entrenched, while some of the new leaders in recent years have been devising even more sophisticated ways to perpetuate their rule while using the democracy slogan as a convenient mask to camouflage their dictatorial practices. It is these same rulers who must now implement or support the AU's democracy agenda⁹. This study will therefore seek to find out what are democratisation challenges in Africa and role of the African Union and interrogate the role of the African leaders in realizing democracy.

1.2 General Objective

The overall objective of this study is to establish the democratisation challenges in Africa and the role of the African Union.

1.2.1. Specific Objectives are;

1. To determine the democratic framework within the African Union.
2. To analyse the democratization challenges in Africa
3. To establish the role of leaders in democratisation

⁹ Ian Taylor, "*Why NEPAD and African Politics Don't Mix*," <<http://www.fpif.org/commentary/2004/0402>

1.3. Literature Review

This section presents and discusses the literature relevant to this study. The study will explore what other scholars, journals, non governmental organizations, reports, articles have discussed on areas of democracy, democratisation, principles and tenets of democracy and democratization, Regional Organisations and their role in democracy understanding the leadership in Africa, democracy in Africa, the African Union and their role in democratization.

1.3.1. Democracy

Democracy has been defined differently by different theorists and researcher; hence the variations in their findings. First according to Small and Singer, they defined democracy as a nation that (1) holds periodic elections in which the opposition parties are as free to run as government parties, (2) allows at least 10% of the adult population to vote, and (3) has a parliament that either controls or enjoys parity with the executive branch of the government.¹⁰ Secondly, as stated by Doyle, democracy requires (1) that "liberal regimes" have market or private property economics, (2) they have policies that are internally sovereign, (3) they have citizens with juridical rights, and (4) they have representative governments. Either 30% of the adult males were able to vote or it was possible for every man to acquire voting rights as by attaining enough property.¹¹ Thirdly Ray states that, democracy requires that at least 50% of the adult population is allowed to vote and that there has been at least one peaceful, constitutional transfer of executive power from one independent political party to another by means of an election.¹² Fourthly, Rummel states that "By democracy is meant liberal

¹⁰ Singer, J. David. (1963). "*Inter-Nation Influence: A Formal Model.*" *American Political Science Review*, 57: 420-30; reprinted in J. David Singer (ed) *The Correlates of War I: Research Origins and Rationale*, New York: Free Press, 1979, 48-67.

¹¹ Doyle, Michael W. (1983a). "Kant, Liberal Legacies, and Foreign Affairs". *Philosophy and Public Affairs* Vol. 12, No. 3. 1983 p 205–235

¹²Human Rights Watch; *Criminal Politics Violence, 'Godfathers' and Corruption in Nigeria* 2007.

democracy, where those who hold power are elected in competitive elections with a secret ballot and wide franchise (loosely understood as including at least 2/3 of adult males); where there is freedom of speech, religion, and organization; and a constitutional framework of law to which the government is subordinate and that guarantees equal rights."¹³

1.3.2. Models of Democracies

Deliberative democracy rests on the core view of citizens and their representatives deliberating about public problems and solutions under conditions that are conducive to reasoned reflection and refined public judgment; a mutual willingness to understand the values, perspectives, and interests of others; and the possibility of reframing their interests and perspectives in light of a joint search for common interests and mutually acceptable solutions. It is thus often referred to as an open discovery process, rather than ratification of fixed positions and as potentially transforming interests, rather than simply taking them as given¹⁴.

Deliberative democracy does not assume that citizens have a fixed ordering of preferences when they enter the public sphere. Rather, it assumes that the public sphere can generate opportunities for forming, refining, and revising preferences through discourse that takes multiple perspectives into account and orients itself towards mutual understanding and common action. Therefore, its predominant usage today means expanding the opportunities of citizens themselves to deliberate.

¹³R.J Rummel, *Power Kills: Democracy as a method of non-violence*, New Brunswick, NJ: Transaction Publishers, 1997

¹⁴ Gutmann, Amy, and Thompson: *Why Deliberative Democracy*, 2002

Cohen outlines five main features of deliberative democracy¹⁵, which include: An ongoing independent association with expected continuation; the citizens in the democracy structure their institutions such that deliberation is the deciding factor in the creation of the institutions and the institutions allow deliberation to continue; A commitment to the respect of a pluralism of values and aims within the polity; The citizens consider deliberative procedure as the source of legitimacy, and prefer the causal history of legitimation for each law to be transparent and easily traceable to the deliberative process and each member recognizes and respects other members' deliberative capacity.

Participatory Democracy is spelled out as a conception of democracy based on the premise that citizens participating in collective decision-making on matters that affect their lives should be “an integral moral value of contemporary democratic theory.”¹⁶ For the citizens increasing and extending the scope of participation and Participatory democracy strives to create opportunities for all members of a population to make meaningful contributions to decision-making, and seeks to broaden the range of people who have access to such opportunities. Since so much information must be gathered for the overall decision-making process to succeed, technology may provide important forces leading to the type of development needed for participatory models.

Radical democracy was articulated by Laclau and Mouffe who stated that social movements which attempt to create social and political change need a strategy which challenges neoliberal and neoconservative concepts of democracy.¹⁷ This strategy is to expand the liberal definition of democracy, based on freedom and equality, to include

¹⁵ Joshua Cohen, *‘Deliberation and Democratic Legitimacy’* The Good Polity.1989

¹⁶ Bachrach and Aryeh Botwinick: *Power & Empowerment: A radical theory of participatory democracy* 1975, pg52.

¹⁷ Ernesto Laclau and Chantal Mouffe, *‘Hegemony and Socialist Strategy: Towards a Radical Democratic Politics,’* 1985

difference. "Radical democracy" means "the root of democracy." Laclau and Mouffe claim that liberal democracy and deliberative democracy, in their attempts to build consensus, oppress differing opinions, races, classes, genders, and worldviews. In the world, in a country, and in a social movement there are many differences which resist consensus. Radical democracy is not only accepting these differences but is dependent on it. Laclau and Mouffe argue based on the assumption that there are oppressive power relations that exist in society and that those oppressive relations should be made visible re-negotiated and altered.

E-Democracy is a combination of the words electronic and democracy incorporates 21st century information and communications technology to promote democracy. It means a form of government in which all adult citizens are presumed to be eligible to participate equally in the proposal, development, and creation of laws. E-democracy encompasses social, economic and cultural conditions that enable the free and equal practice of political self-determination. It utilizes information and communication technologies to enhance and in some accounts replace representative democracy. Theorists of e-democracy share the belief that some of the traditional limits to citizenship in contemporary liberal-democratic polities problems of scale, scarcity of time, decline of community, and lack of opportunities for policy deliberation can be overcome by new forms of online communication.

During the 1960s a generation of political theorists, including Barber, Macpherson, and Pateman, all established an agenda for participatory democracy that persisted well into the 21st century.¹⁸ The final theoretical inspiration for e-democracy is Habermas's concept of the public sphere: an idealized autonomous sphere of communication in which citizens can freely engage in reasoned debate away from the controlling influence of the state, large

¹⁸ Andrew Chadwick, *Internet Politics: States, Citizens, and New Communication Technologies*, New York: Oxford University Press, 2006), p84–89

media corporations, and structures of social inequality. The Internet emerges as a communication medium uniquely suited to providing multiple arenas for public debate that are relatively spontaneous, flexible, and, above all, self-governed. E-democracy can be applied within the political processes of local communities, state/ regions, nations and on the global stage.¹⁹ Democratic actors and sectors in this context include, citizens/voters, political organizations, the media, elected officials, and governments. E-democracy, like democracy in its ideal form, is a direct democracy. In practical form it has been an instantiation of more limited forms of democracy.

1.3.3. Democracy and Good Governance

Often the words democracy and good governance have either been used as synonyms or used interchangeably. As Hyden and Joseph perceived and defined a symmetrical linkage between democracy and good governance. For Hyden, good governance refers to; the conscious management of regime structures with a view to enhancing the public realm²⁰. It seeks to reconstitute politics from a high level frequency of zero sum calculation to a middle ground, where politics is a positive sum game characterized by reciprocal behavior and legitimate relations between the governors and the governed. The important phrases or key elements of the governance realm are authority, reciprocity, exchange, trust and accountability, with each of these components emphasizing or reinforcing democratic norms and practices in one way or the other. Consequently he argues that governance realms are elections, political control and responsiveness, freedom of expression and plural politics, which are principles, and nuances of liberal democracy.

¹⁹ Clift, Steven. "E-Democracy, E-Governance and Public Net-Work" www.publicus.net September 2003
<http://www.publicus.net/articles/edempubliwnetwork.html>.

²⁰ Hyden, Goran. (1992). Governance and the study of politics. In Hyden, Goran & Bratton, Michael. Eds. Governance and politics in Africa. Boulder (Colorado): Lynne Rienner Publishers, p1-26.

Stoker, asserts that governance is primarily concerned with ordered rule and collective action, but one in which political power must be seen to be legitimate, there must be autonomous self-governing network of actors, and a balance between state and civil society.²¹ It is when this is achieved in qualitative terms that there may be good governance. Good Governance in this case also parallels liberal democracy. Joseph on his part stated; it is the most fundamental principle of good governance, which is assured through competitive elections in a democratic society. As Joseph puts it “free and fair elections are the bedrock of any democratic society and the most important means of making governments accountable to the citizenry” These ideologies are shared by Nyong'o and Annan who argue that this libertarian position on the linkage between democracy, good governance and development.²²

1.3.4. Democratisation

Democratisation is the process through which a political system becomes democratic.²³ It is also the transition to a more democratic political regime. It may be the transition from an authoritarian regime to a full democracy, a transition from an authoritarian political system to a semi-democracy or transition from a semi-authoritarian political system to a democratic political system. The outcome may be consolidated or may face frequent reversals. Different patterns of democratization are often used to explain other political phenomena, such as whether a country goes to a war or whether its economy grows. Democratization itself is influenced by various factors, including economic development, history, and civil society.

²¹ Stoker, G. (1998). Governance as theory: Five propositions. *International Social Science Journal*, 50(155), pg.17–28.

²² Anyang'Nyong'o, Peter. Ed. (1987). *Popular struggles for democracy in Africa*. London: Zed Press.

²³ Rummel, R.J. *Death By Government*, New Brunswick: Transaction Publishers, 1994

1.3.5. Factors that influence democratisation

A higher GDP/capita correlates with democracy and arguably the wealthiest democracies have never been observed to fall into authoritarianism, Hitler would be an obvious counter-example that would render the claim a truism.²⁴ There is also the general observation that democracy was very rare before the industrial revolution. Empirical research thus lead many to believe that economic development either increases chances for a transition to democracy, or helps newly established democracies consolidate.²⁵ Campaigners for democracy even believe that as economic development progresses, democratization will become inevitable. However, the debate about whether democracy is a consequence of wealth, a cause of it, or both processes are unrelated, is far from conclusion. Wealth also correlates with education, though their effects on democratisation seem to be independent. A poorly educated and illiterate population may elect populist politicians who soon abandon democracy and become dictators even if there have been free elections.

The resource curse theory suggests that countries with abundant natural resources, such as oil, often fail to democratize because the elite can live off the natural resources rather than depend on popular support for tax revenues. On the other hand, elites who invested in the physical capital rather than in land or oil, fear that their investment can be easily damaged in case of a revolution. Consequently, they would rather make concessions and democratize than risk a violent clash with the opposition.²⁶ Also, democracy and market economy are intrinsically linked. This belief generally centers on the idea that democracy and market economy are simply two different aspects of freedom. A widespread market economy culture

²⁴ Przeworski, Adam; et al. (2000). *Democracy and Development: Political Institutions and Well-Being in the World, 1950-1990*. Cambridge: Cambridge University Press

²⁵ Przeworski, Adam; et al. (2000). *Democracy and Development: Political Institutions and Well-Being in the World, 1950-1990*. Cambridge: Cambridge University Press

²⁶ Acemoglu, Daron; James A. Robinson (2006). *Economic Origins of Dictatorship and Democracy*. Cambridge: Cambridge University Press.

may encourage norms such as individualism, negotiations, compromise, respect for the law, and equality before the law.²⁷ These are seen as supportive for democratization.

Acemoglu and Robinson argued that the relationship between social equality and democratic transition is complicated: People have less incentive to revolt in an egalitarian society, so the likelihood of democratization is lower. In a highly unequal society, the redistribution of wealth and power in a democracy would be so harmful to elites that these would do everything to prevent democratization. Democratization is more likely to emerge in the middle, in the countries, whose elites offer concessions because (1) they consider the threat of a revolution credible and (2) the cost of the concessions is not too high. The existence of a substantial body of citizens who are of middle class can exert a stabilizing influence, allowing democracy to flourish. A healthy civil society (NGOs, unions, academia, human rights organizations) are also considered to be important for democratization, as they give people a unity and a common intentions, and a social network through which to organize and challenge the power of the state hierarchy. Involvement in civic associations also prepares citizens for their future political participation in a democratic regime. Consequently, horizontally organized social networks build trust among people and trust is essential for functioning of democratic institutions.²⁸

Democratization is as a result of a broader process of human development,²⁹ which empowers ordinary people in a three-step sequence. First, modernization gives more resources into the hands of people, which empowers capability-wise, enabling people to practice freedom. This

²⁷ Mousseau, Michael. (2000). Market Prosperity, Democratic Consolidation, and Democratic Peace. *Journal of Conflict Resolution* 44(4):pg.472-507

²⁸ Putnam, Robert D.; et al. (1993). *Making Democracy Work: Civic Traditions in Modern Italy*. Princeton: Princeton University Press.

²⁹ Inglehart, Ronald; Klingemann, Hans-Dieter; Welzel, Christian (2003), "The Theory of Human Development: A Cross-Cultural Analysis", *European Journal of Political Research* 42 (3): pg.341–380
Inglehart, Ronald & Welzel, Christian (2005), *Modernization, Cultural Change and Democracy: The Human Development Sequence*, New York: Cambridge University Press

tends to give rise to emancipative values that emphasize freedom of expression and equality of opportunities. These values empower people motivation-wise in making them willing to practice freedom. Democratization occurs as the third stage of empowerment: it empowers people legally in entitling them to practice freedom.³⁰ In this context, the rise of emancipative values has been shown to be the strongest factor of all in both giving rise to new democracies and sustaining old democracies.³¹ Specifically, it has been shown that the effects of modernization and other structural factors on democratization are mediated by these factors tendencies to promote or hinder the rise of emancipative values.³² Emancipative values also motivates people to engage in elite-challenging collective actions that aim at democratic achievements, either to sustain and improve democracy when it is granted or to establish it when it is denied. Homogeneity of the population is believe that a country which is deeply divided, whether by ethnic group, religion, or language, have difficulty establishing a working democracy.³³ The basis of this theory is that the different components of the country will be more interested in advancing their own position than in sharing power with each other. India is one prominent example of a nation being democratic despite its great heterogeneity.

1.3.5. Democratisation in Africa

The late 1980s and early 1990s appeared to mark a new dawn of hope for Africans. By 1990, discontent with the corrupt, inefficient, repressive and dictatorial systems of governance that had plagued Africa since independence in the 1960s and the debilitating effects of the

³⁰ Christian Welzel & Ronald Inglehart (2008): "The Role of Ordinary people in Democratization." *Journal of Democracy* 19: 126-40

³¹ Welzel, Christian (2006), "Democratization as an Emancipative Process", *European Journal of Political Research* 45 (6): 871–896

³² Christian Welzel & Hans-Dieter Klingemann (2008). "Evidencing and Explaining Democratic Congruence: The Perspective of 'Substantive' Democracy." *World Values Research* 1:57-90

³³ Marsha Pripstein Posusney. *Authoritarianism in the Middle East: Regimes and Resistance*. ed. by Marsha Pripstein Posusney and Michele Penner Angrist (Lynne Rienner Publishers Inc., USA, 2005)

economic recession coalesced into a strong wave of pro-democracy demonstrations that swept through the continent. Additionally, the pressure from foreign donors, forced most African leaders to introduce political reforms and some form of multi-partyism. In villages and towns, election boxes sprouted, bringing with them the hope that democratic and accountable governments in which the people would have a say would spring up and grow. This so-called third wave of democratisation³⁴ was supposed to close African dark chapter of tyrannical rule that had left in its wake collapsed economies, poverty, disease, famine, wars and dispirited people. However, after more than a decade of democratisation, the results are rather diverse. The problems of the continent have been aggravated by the HIV/AIDS pandemic, the increase in the number of internal and regional conflicts and growing marginalisation in the face of globalisation.³⁵

In the 1980s, countries like Botswana, Gambia, Mauritius, Senegal and Zimbabwe, were ruled mainly by military or civilian tyrants who tolerated no opposition parties. Some leaders, such as Kamuzu Banda of Malawi, Paul Biya of Cameroon, Daniel arap Moi of Kenya, and Mobutu Sese Seko of former Zaire argued that democracy and multi-partyism would only breed violence, ethnic parochialism and national disintegration³⁶. The continent earned the reputation for repression and human rights violations, economic mismanagement and administrative incompetence. This was aggravated by civil wars, famine, hunger and disease. By the close of 1980s, when the economic crisis on the continent deepened, sustained internal pressure for change combined with external factors such as the collapse of the Soviet union and the end of the Cold War and pressure from foreign donor nations and financial

³⁴ Samuel Huntington, *The Third Wave: Democratisation in the Late Twentieth Century*. Norma OK: University of Oklahoma Press 1991, pp. 15–16.

³⁵ Charles Manga: *The African union, Democracy and Good Governance*, 2012, p1

³⁶ Larry Diamond: *Developing Democracy in Africa; African & International Imperatives*, Stanford University

institutions forced many African governments to reluctantly jump on board the democracy bandwagon.

In Africa, the whole idea of democracy so far seems to have been equated with the holding of elections at regular intervals, irrespective of how these are organised or their outcome. As Schedler points out, elections have historically been an instrument of authoritarian control as well as a means of democratic governance.³⁷ Most post-1990 elections in Africa appear to have been organised merely to give some semblance of democratic legitimacy to satisfy internal and external public opinion and reap the fruits of electoral legitimacy without actually running the risks of democratic uncertainty. While elections are clearly linked to democracy and are in fact an important condition for it, elections on their own do not qualify a country to be classified as a democracy. Therefore a democratic regime must satisfy certain minimum requirements, i) universal adult suffrage ii) recurring, free, competitive and fair elections iii) the existence of more than one serious party, and iv) the existence of alternative and accessible sources of information.

1.3.6 .Political Regimes in Africa

In democracy, there exist democratic and non-democratic regimes. In a democratic regime, there are institutions and procedures through which citizens can express themselves about alternative policies at the national level. The right of participation in selecting national leaders and policies. In Africa political regimes have varied among and within nations at different periods. Nevertheless, majority are the peak of political misrule and bad

³⁷ In "The Menu of Manipulation," *Journal of Democracy* 13 (2002), p. 36.

governance. The orgy of bad leadership looms large in Africa and afflicts a broad spectrum of political regimes – “parliamentary”, “military”, “one party” regimes.³⁸

The new regime types that appeared to be emerging in Africa from the democratisation process do not fit easily into any categories of one-party personal military or civilian dictatorships but are rather a diverse characteristics that defy easy categorisation. A new era of “democracy with adjectives,” emerged that captured the actual texture of multiparty politics that is now being practised in Africa under the pretext of democratisation. Some writers have categorised these regimes into democratisers, resisters, hesitators and procrastinators.³⁹ There is a strong linkage between the absence of good governance in the colonial era and that of the post-colonial period. The political structures and values, economic base and social orientation promoted in the colonial era were adversative to the evolution of good governance and democracy.⁴⁰ The structures and processes, firmly entrenched, took new manifestations, both internal and external in the neo-colonial era. Additionally, the emphasis by the political rulers was on national integration, unity and development, thus the dominant doctrine was one of a “dictatorship of development”, rather than the “democracy of development”. Therefore, the autonomy of the state, the scarcity of resources the result was that governance degenerated significantly, as the state became an arena of struggles for primeval accumulation and power control. Governance in this context oscillated between what Weber described as the phenomenon of sultanism⁴¹, to military dictatorships and

³⁸ Andreas Schedler, “The Menu of Manipulation,” *Journal of Democracy* 13 (2002), p. 37.

³⁹ Mwesiga Baregu and Norman Mlambo, “*Democratisation, Peace and Security: The African Experience*,” paper presented at the 18th General IPRA Conference, Tampere, Finland, 5–9 August 2000

⁴⁰ Patrick Chabal: *Comparative Politics: Power in Africa*, 1992

⁴¹ Max Weber, *The Theory of Social and Economic Organization*, translated by A M Henderson and Talcott Parsons, 1947, The Free Press and the Falcon's Bring Press

Garrison socialism⁴². The ultimate effect was that of political alienation; no participation and increasing material poverty became the norm of political governance in Africa.

Post-1990 elections in Africa appeared to have been organised merely to give some semblance of democratic legitimacy to satisfy internal and external public opinion and reap the fruits of electoral legitimacy without actually running the risks of democratic uncertainty. Unfortunately this trend, gained momentum until the year 2000 when the new emerging leaders took cognisance of the fact that democracy is not only equated with ‘free and fair’ election. Through this realisation, there was a push by the leaders to establish an institution that will guide the institutionalisation of democracy in Africa, thus the transition of the OAU to African Union. The African leaders envisioned that through the continental institution that has enshrined the principles of democracy and consequently created a democratic framework.

1.3.7. Leadership in Africa

Politics in a very real sense is about leadership therefore, leaders must have the charisma to provide their people with a national vision and purpose, as well as the ability to stimulate the efforts of their people and to sustain their enthusiasm in, the pursuit of those stated objectives.⁴³ Strong, dedicated, self-confident, skilful, visionary and capable leadership is the key to the reforms Africa needs and the policy actions that are required for the development of the continent.⁴⁴ A true leader must have the courage and ability to communicate these realities to his or her followers. The role and function of leadership is always of vital importance and never marginal. Nonetheless, not all leaders are concerned with democracy

⁴² Luckham, Anne Marie Goetz and Mary Kaldor (2003) “Democratic Institutions and Democratic Politics” in Bastian and Luckham, pp.14-59

⁴³ Aire, J. U.. Thoughts on African leadership. In Obasanjo, Olusegun & d’Orville, Hans. Eds. *Challenges of leadership in African development*. 1990, New York: Crane Russak, 209-215.

⁴⁴ Babangida, Ibrahim B.: *The challenge of leadership*. In Obasanjo, Olusegun & d’Orville, Hans. Eds. *Challenges of leadership in African development*. 1990, New York: Crane Russak, 20-22.

and development some are purely focused on survival. Furthermore, political leadership in Africa operates in a context where direct leadership interaction with the people is crucial not only for garnering immediate support, but also for keeping track with the temper, tone, spirit and pulse of dominant sentiments in a fragmented society sentiments subject to, unpredictable change. Therefore, political leadership can instil hope by excellent performance, or propagate despair and precipitate more hardship by ineptness, corruption, and brutality. for that reason good leadership can unite societies and move peoples to positive action, or it can engender apathy and tension, hinder the pursuit of development and change, and trigger further crises.

In Africa, only drastic measures and radical changes in leadership can arrest the deteriorating economic and social conditions. further, the political economy in most African countries has come to be increasingly characterised by high levels of Fighting Corruption: It is, therefore, more often than not marked by an absence of legitimacy, stability, the rule of law, and social conduct enshrined in venerated institutional arrangements and practices.⁴⁵ The African leaders consequently need to interact with people: to set, pursue, and achieve goals, and to offer committed performance, yielding clear benefits. Also, external events do not determine what happens in individual countries; it is how political leaders respond to those events that matters. The conduct of leaders is crucial: how they receive, process, and respond to outside pressure can make a difference in both the pace and outcome of democratisation.⁴⁶

⁴⁵ Mbaku, John M: *Foreword Leadership for the twenty-first century: Learning from the past*, 1998. Assensoh, A. B. Ed. *African political leadership: Jomo Kenyatta, Kwame Nkrumah and Julius K Nyerere*. Malabar : Krieger Publishing Company, vii-xiii. p. 115

⁴⁶ Gros, Jean-Germain: *Leadership and democratisation: The case of Tanzania*, 1998. In Gros, Jean-Germain. Ed. *Democratisation in late twentieth-century Africa: Coping with uncertainty*. Westport (Connecticut): Greenwood Press. P 104

The role of a progressive leader is to steer his country to democracy and not anarchy. For example, the late Tanzanian President Julius Nyerere's talent as a leader was that he anticipated events and sought to stay one step ahead of them, even if that put him at odds with members of his own party. This did not make him a master opportunist in the form of the late Omar Bongo of Gabon, late Léopold Senghor of Senegal and former President Nelson Mandela of South Africa who showed selfless leadership. These leaders of late twentieth century African politics owed their success not to charisma but by nature of their strength and intellect and the clarity with which they expressed their views. In Africa few leaders were cordial and wise enough to leave office under conditions that would have allowed them to play a constructive role in the affairs of their countries and of the African continent.

In Africa, these leaders initially seemed harmless, but have later led to great heartbreak and destruction: the likes of Idi Amin Dada of Uganda, Francisco Macías Nguema of Equatorial Guinea, Sani Abacha of Nigeria, Gnassingbé Eyadéma of Togo, Mobutu Sese Seko of Zaire, Mengistu Haile Mariam of Ethiopia, Siyad Barre of Somalia, Daniel arap Moi of Kenya, Kamuzu Banda of Malawi, P.W. Botha of South Africa, Robert Mugabe of Zimbabwe, Laurent Kabila of the Democratic Republic of Congo (DRC), Omar Bongo of Gabon, Paul Biya of Cameroon, Samuel Doe of Liberia, self-proclaimed Emperor Jean-Bédél Bokassa of the Central African Republic (Empire), Zine al-Abidine Ben Ali of Tunisia, Hosni Mubarak of Egypt, and the Great Brother Leader Muammar Gaddafi of Libya have all given African leadership a bad name⁴⁷. Collectively, they and others became the laughing stock of corruption: and were lampooned unmercifully for their dictatorial leadership-style tactics and behaviour.

⁴⁷ Assensoh, A. B. Ed. *African political leadership: Jomo Kenyatta, Kwame Nkrumah and Julius K Nyerere*. Malabar : Krieger Publishing Company, vii-xiii. p. 115

With self-centred leaders such as Zimbabwe's Robert Mugabe, to name but one, Africa is challenged in making steady progress towards greater democracy and better governance. He represents the embodiment of just about everything that African leaders have committed themselves to move away from: blatant disregard for human rights, lack of respect for the rule of law, and harassment of political opponents. The problem with leadership in Africa is the emergence of leaders who are determined to undermine the rule of law and override the Constitution. Behind the façade of democracy, reconciliation, accountability, and transparency lurk the ugly gremlins of authoritarianism and centralist control, political intolerance and retribution, patronage, cronyism, nepotism, and corruption. The only optimism is for the rest of the continent to comply with the well-formulated principles, codes and standards of democracy and good governance enunciated in the AU Declaration on Democracy, Political, Economic and Corporate Governance and the African Charter on Election, democracy and governance.

1.3.8. Regional organizations

Regional Organizations (ROs) are geopolitical entities whose operations transcend a single nation or state. Their membership is characterized by boundaries and demarcations characteristic to a defined and unique geography, such as continents, or geopolitics, such as economic blocks. They are established by member states to foster cooperation and political and economic integration or dialogue amongst themselves or entities within a restrictive geographical or geopolitical boundary. They reflect common patterns of development and history. Consequently, they tend to work alongside well established multilateral organizations

such as the United Nations.⁴⁸ Regional organizations are often referred as international organizations, but with an emphasis of the limited scope of membership and geographical boundaries.

1.3.9. Review of Regional organization and democracy

Globally, many of the traditional domains of state activity and responsibility cannot be fulfilled without resorting to international forms of collaboration. As demands of the state increase, the state visages policy problems that cannot be resolved without cooperating with other state and non-state actors.⁴⁹ In the 1990s a wave of regionalism rolled over the world: new Regional Organizations were created and existing ones revived and enlarged. In this context, Regional Organizations became prominent actors in international relations for solving issues of transnational nature such as global warming, international trade and world security.⁵⁰

At present, nearly every Regional Organization is engaged in some form of democracy building or support going beyond the principle of non interference and non-intervention⁵¹ Pevehouse argues that Regional organisations can have an important role in both the transition to, and the longevity of, democracy. Therefore, they can influence first the transition to and second the consolidation of democracy. He further argues that another possible way of addressing the issue is to separate the different means of action into ‘carrot

⁴⁸ United Nations. "Cooperation with regional organizations", in Annual Report of the Secretary-General on the work of the Organization 1995, ch.4

⁴⁹ Keohane, R. O. and Nye, Jr., J. S. (eds) (1972), *Transnational Relations and World Politics*, Cambridge: Harvard University Press.

⁵⁰ Van der Vleuten, Anna and Ribeiro-Hoffmann, Andrea (2010) Explaining the enforcement of democracy by regional organisations: comparing EU, Mercosur and SADC. *Journal of common market studies*, 48 (3). pp. 737-758

⁵¹ Raul Cordenillo, Eleonora Mura; *Policy Diffusion, Regional Organizations and Democracy Building*

and stick' incentives. Thus, regional organisation can dangle four types of carrots to encourage and support a transition to democracy.⁵²

First, involvement by or joining a regional organisation can provide some degree of legitimisation to the elites of the interim regime. They not only have an impact on the domestic elites but can also influence the whole population by legitimising the interim regime. Association to a democratic regional organisation, be it through membership or through another status, Pevehouse argues, 'can serve as a visible commitment to continue reform, helping convince the public to invest in the new regime. Secondly, they can help assuage the fear of democracy many business and military leaders entertain by helping to lock in economic policies decided upon by domestic elites.⁵³ Consequently, they can also slowly accustom leaders to the transition to democracy by socialising the military, who are afraid of losing their hold on power, to their role in a democracy. Regional organisations such as NATO conduct joint training operations helping to socialise military leaders as to the role of the military in a democratic state.⁵⁴ Thirdly, direct financial assistance from the regional organisation to the country undergoing a transition to democracy is another additional mechanism. He asserts that regional organisation can also elect to 'pay-off' – in the form of subsidies for instance – disaffected groups. Finally, in a more interventionist manner, a regional organisation can ask for institutional reform to ascertain the longevity of the new democratic institutions. On the other hand, the 'stick' policies are designed to punish any that will backslide to autocracy. The main approach consists in pressure by member-states of the regional organisation on an offending country. Therefore in order to influence or pressure for

⁵² Pevehouse Jon: *Democracy from Above: Regional Organisations and Democratization*: Cambridge: Cambridge University Press, 2005

⁵³ Edward D. Mansfield, Helen V. Milner, and B. Peter Rosendorff, 'Why Democracies Cooperate More: Electoral Control and International Trade Agreements,' *International Organization* 56, no. 3 (2000).

⁵⁴ Pevehouse, *Democracy from Above: Regional Organizations and Democratization*, p 20-24

change, members of regional organisations can, as a first step, openly and publicly condemn their neighbours' action following a military coup or a gross violation of human rights. They can also push the issue further by imposing sanctions or other types of punishments such as the suspension of membership.⁵⁵ From another point of view, regional organisations can increase the cost of backsliding to autocracy. By imposing conditions on membership, regional organisations manage to bind both the losers and the winners of the democratisation process by making any attempt to go back to autocracy very costly.

Despite Pevehouse arguments, its important to note that the applicability of his premise to African regional organisations is limited because he focuses mainly on democratic regional organisations, i.e. on regional organisations where a significant proportion of members are democracies. This is overall not the case in Africa, be it in the African Union, ECOWAS, or SADC. He concentrates on the advantages accruing to states that join a democratic regional organisation, for instance the impact of joining the European Union. It is imperative to note that many African states are all already members of a significant number of regional organisations and they have little prospect of creating a new regional organisation or joining a new one. Consequently, Pevehouse provides us with useful insights into the relationship between regional organisations and democratisation, which can be assessed and debated in the light of the African experience. Generally, it is also worth acknowledging that a regional organisation have a role and can have an impact on the process of democratisation.

1.3.8. The African Union and Democracy

For many years OAU had proven to be too weak, unresponsive and incapable of addressing contemporary African problems, especially the abuses inflicted by the continent's dictators

⁵⁵ Ibid., 19. See African Union, 'Declaration on the Framework for an OAU Response to unconstitutional Changes of Government,' (Lomé, Togo: 12 July 2000)

on their people.⁵⁶ The transition of OAU into the African Union in 2002, marked a new era and new phase that revived optimism of democratic transitions on the continent. One of the AU's main mandates therefore has been to promote democracy and good governance in Africa. The basic framework for promoting democracy and good governance among member states of the AU is laid down in the Constitutive Act (or AU Act for short) setting up the union and a number of treaties, declarations and other instruments. As an international treaty, the AU Act is binding on member states and governed by the rules of the 1969 Vienna convention on the law of treaties as well as the 1986 Vienna Convention on the law of Treaties between states and international organisations or between international organisations, which are expressly stated to apply to any treaty which is the instrument constituting an international organisation and to any treaty adopted within an international organisation without prejudice to any relevant rules of the organisation.

The AU as an Regional organization, possesses the capacity to make legal instruments and other acts that are necessary for the fulfilment of its purposes, nevertheless, not all these are legally binding on member states.⁵⁷ A distinction needs to be made between acts adopted such as treaties and protocols, which are binding on those member states that have signed and ratified them, and other acts, such as declarations, decisions, recommendations and resolutions, which, although aimed at influencing the conduct of member states, are not necessarily legally binding. In this regard, there are major instruments that contain the basic democratic principles on the AU democracy agenda viz., the AU Act itself, the declaration on the framework for an AU response to unconstitutional changes of government; the

⁵⁶ The OAU had come to be seen as a “trade union of dictators” or as the Nobel Prize laureate Wole Soyinka puts it, a “collaborative club of perpetual self-preservation.”

⁵⁷ Jan Klabbers, *An Introduction to International Institutional Law*. Cambridge: Cambridge University Press ,2002, pp. 278–99

declaration governing democratic elections in Africa and the declaration on observing and monitoring elections.

The AU is charged with the mandate of formulating, laws, policies and develops programmes that not only ensure democracy but also ensure that the African people live dignified lives. This is made possible through the General Assembly where all heads of states of the African Countries seat to discuss and come up with these very laws in the spirit of solidarity and mutual agreements. The very fascinating outcome is that despite the fact that these are mutually agreed laws, policies and programmes its not all governments/ leaders that ascend to them by signing, ratification and domestication in their own countries⁵⁸. Hence the critical question of lack of respect of the African leaders to the commitments they have mutually agreed to move Africa forward or the lack of good will to do the same. More importantly, the AU has also adopted two processes that have at their core the promotion of democracy, through more efficient, more responsive and more accountable government, so as to hold African governments accountable for their actions, and for their declarations. One of these processes is the NEPAD African Peer Review Mechanism⁵⁹, (APRM) in terms of which participating governments are assessed against a set of universal principles. The other process is the CSSDCA Monitoring and Evaluation Mechanism, in which member states' implementation of the decisions they have voluntarily entered into, is monitored⁶⁰. Together, these two processes mark a shift from the practice of the defunct OAU, in which member states routinely adopted many decisions, declarations and other commitments, but their political will to implement them was never put to test.

⁵⁸ Charles Manga: *The African union, Democracy and Good Governance*, 2012

⁵⁹ New Partnership for Africa's Development, Declaration on Democracy, Political, Economic and Corporate Governance, NEPAD Doc. AHG/235 (XXXVIII), Annex 1 (2002).

⁶⁰ Constitutive Act of the African Union, July. 2000

It is therefore imperative to uphold constitutional order and by ensuring that the rule of law and democracy prevail at all times, so that principles of good governance, transparency, accountability, popular participation in the management of public affairs, are effectively promoted. To ensure that through regular and credible elections, the people of Africa choose freely their leaders without intimidation and constitutional and/or electoral manipulation by incumbent regimes. The African Union is also committed to assist its member states to build their capacity to realize its core principles and to fulfill their duty of effectively and timely accounting to their constituencies through the setting-up and enforcement of monitoring mechanisms and core operational values. More importantly, the search for effective popular participation leads the AU to capitalize on the promotion of adherence to principles of good governance, gender equality, and the rule of law and the involvement of civil society organizations.

The AU has made a number of commitments in the area of governance. This include among others: *the Durban Declaration on Elections, Governance and Democracy; the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance; the Convention on the Prevention and Combating of Corruption; and the Protocol to the African Charter on Human and Peoples' Rights Relating to the Rights of Women.*⁶¹ It is worth noting that these decisions and commitments actually build on the legacy of the predecessor OAU that had adopted valuable instruments and decisions relating to human rights, democracy and governance. Ironically, the establishments of the AU come from the very leaders who individually and collectively have in many respects been responsible for wrecking their

⁶¹ Nepad : Declaration on Democracy, Political, Economic and Corporate Governance ; African Peer Review Mechanism; and Resource flows. In *Nepad at work: Summary of Nepad action plans*. Ed. Pretoria: Nepad Secretariat. July2002.

countries' economies and suppressing the people for so many years⁶². This provides reasons for skepticism⁶³.

1.4. Justification of the Study Problem

The wave of democratisation brought optimism across Africa that finally a continent plunged in conflict, economic collapse, poverty, famine and conflict could be liberated through democratisation. Leadership in Africa was an indicative of authoritarian and dictatorial regimes while the leadership styles were oppressive to their people. Therefore the culmination of the new leadership that took cognizance of the need for democracy in Africa by establishing the AU with a clear agenda of institutionalizing and promoting democracy and good governance in Africa was a beacon of optimism. The findings of this study will therefore inform the policy makers on the democratisation challenges and recommendations in drafting policies and laws to steer Africa towards a democratic continental. The findings will also re-emphasize and expound with other scholarly findings that the African Union, its democratic framework and the critical role that African leaders have in democratisation. Consequently the study findings will contribute and add knowledge in the field of International Relations. Finally, the study findings also will form a reference material for research in subject matters related to democracy, democratisation, governance, African Leadership and the African Union.

⁶² Charles Manga Fombad, *The African Union, Democracy and Good Governance*: pg 18

⁶³ Ian Taylor, "Why NEPAD and African Politics Don't Mix," <[http://www. fpif.org/commentary /2004/0402](http://www.fpif.org/commentary/2004/0402).

1.5. Theoretical framework

1.5.1 The Democratic Peace Theory

According to Jack Levy, the democratic peace theory is “the closest thing we have to an empirical law in the study of international relations.”⁶⁴ This theory refers to the idea that democracies by nature do not go to war with one another, a fact which historically has guaranteed peace between democratic states, arguably without exception. Democratic peace is rooted theoretically in the writings of Immanuel Kant and in particular his work “Perpetual Peace”. Kant claims that peace is a reasonable outcome of the interaction of states with a republican form of government. He believes that the republican constitution “gives a favorable prospect for the desired consequence, i.e., perpetual peace. He argues that: if the consent of the citizens is required in order to decide that war should be declared, then they cannot decree calamities of war on themselves. Contrasting republicanism with other forms of governments, Kant states, “On the other hand, in a constitution which is not republican, and under which the subjects are not citizens, a declaration of war is the easiest thing in the world to decide upon, because war does not require of the ruler, who is the proprietor and not a member of the state, the least sacrifice of the pleasure of his table, the chase, his country houses, his court functions, and the like⁶⁵ .

Democratisation as a process towards attaining democracy has difficulties that might undermine international peace. Studies show that democratic transitions which occur when a country’s political institutions are particularly weak (often at the outset of the transition from autocracy to democracy), or when the elites within that country are threatened by the

⁶⁴ Jack S. Levy, “*Domestic Politics in War*,” in Robert I. Rotberg and Theodore K. Rabb, eds., *The Origin and Prevention of Major Wars* (New York: Cambridge University Press, 1989), p. 88

⁶⁵ Immanuel Kant, “Perpetual Peace.” *On History*, trans L.W. Beck, R.E. Anchor, & E. Fackenheim (New York: The Liberal Arts Press, 1957, p. 94-95

democratisation process itself have a greater likelihood that this process will trigger aggressive nationalist sentiment and/or the outbreak of civil or inter-state war.⁶⁶ If political institutions are weak at the early stages of a transition, the rising demand for mass participation can provide an incentive for elites to adopt nationalist, ethno-religious, or populist policies, yet, crucially, before these elites can be held sufficiently accountable to the wider electorate.⁶⁷ This also extends to the observation that the vast majority of civil wars over the past century have occurred within transitional or mixed regimes, as opposed to either democratic or authoritarian regimes, which are more able to effectively contain repression by democratic or violent means, respectively.⁶⁸ In lieu of this therefore, it is far more likely that a country will be able to successfully consolidate its transition if democratisation occurs according to a particular historical sequence: the emergence of a national identity, followed by the institutionalisation of the central government, and then mass electoral and political participation.⁶⁹

Most countries undergoing a transition to democracy will not necessarily be in a position to follow this particular sequence, yet even if they are it is not guaranteed that liberal democratic states will be able or willing to help. It is, therefore, important to be aware of the obvious limits of external military intervention. Even if liberal states adopt a cautious cost-benefit analysis in which they only intervene or assist states when they are certain that there is substantial and legitimate internal support present and when they have the consent of international bodies such as the UN act of helping overthrow an authoritarian regime may undermine those very liberal norms and values underpinning the democratic peace.⁷⁰ That the

⁶⁶ Christian Davenport and David A. Armstrong II, "Democracy and the Violation of Human Rights: A Statistical Analysis from 1976 to 1996," *American Journal of Political Science* 48, no. 3 (July 2004): 551-53; Mansfield and Snyder, *Electing To Fight: Why Emerging Democracies Go To War*, 265-66

⁶⁷ Mansfield and Snyder, *Electing To Fight: Why Emerging Democracies Go To War*, 39-40.

⁶⁸ Russett and Oneal, *Triangulating Peace: Democracy, Interdependence, and International Organizations*, 70

⁶⁹ Mansfield and Snyder, *Electing To Fight: Why Emerging Democracies Go To War*, 16-19

⁷⁰ Bruce Russett, "Can A Democratic Peace Be Built?," *International Interactions* 18, no. 3 (1993): 279-80.

costs associated with such interventions are often quite considerable and can be difficult to justify domestically also means that even if there is a clear moral argument for helping authoritarian states democratise, political and economic considerations may still prevail. Similarly, although it is often states undergoing democratic transitions that initiate wars, their military weaknesses and political and social instability can also make them attractive targets for attack.⁷¹ Thus, even though there is a very clear normative benefit to increasing the number of democracies within the international system, there is a real risk of instability and conflict *if* the transition does not establish the institutional preconditions for effective and accountable governance prior to mass political participation and elections, and if it takes place within an unstable regional/international environment.⁷²

Equally, liberal states conduct their foreign policy on an individual basis and collectively at the international level will largely determine whether the democracy can be successfully expanded. The very political institutions and patterns of behaviour that characterise liberal democracies also allow these states to best defend themselves and adopt a more cautious and effective approach to the use of force, thereby achieving the ‘best, securest, and safest outcomes for the most people.’ Therefore, this not only challenges the key assumptions underlying realism – that normative goals preclude a clear and accurate analysis of international affairs – but the idea that relative military capabilities and the distribution of power among great powers alone should dictate foreign policy strategy.⁷³ Rather, democracies can best guarantee their own security by empowering their citizens and

⁷¹ Mansfield and Snyder, *Electing To Fight: Why Emerging Democracies Go To War*, 33-34

⁷² Russett and Oneal, *Triangulating Peace: Democracy, Interdependence, and International Organizations*, 116-22; Mansfield and Snyder, *Electing To Fight: Why Emerging Democracies Go To War*, 273-74

⁷³ Layne, “Kant or Cant: The Myth of the Democratic Peace,” 49; Reiter and Stam, *Democracies at War*, 195-97.

strengthening institutional checks and balances because these very factors have been shown to uphold the democratic peace *and* facilitate a more prudent foreign policy.⁷⁴

At the international and regional level, the recent increase in the number of democratic states provides a unique opportunity to reconstruct the norms and values underpinning the international system to more accurately reflect the peaceful interactions of democracies.⁷⁵ This would ideally mean strengthening the two other aspects of the Kantian system: international organisations and economic interdependence. Although the democratic peace represents the possibility of ‘uncoerced peace without central authority,’⁷⁶ it is also the case that this liberal order has been best served when there has been a liberal that is both able and prepared to sustain the economic and political foundations of the wider liberal society beyond its own borders.⁷⁷

Strengthening a dense network of inter-governmental organisations that extend this responsibility to a larger number of democratic states and encourages greater cooperation among members through greater consultation and coordination, such as WTO, IMF, World Bank, UN, and Regional Organization such as AU, would arguably provide a stronger foundation for extending this perpetual peace outwards.⁷⁸ Focusing efforts to more proactively include the largest non democracies into this liberal international order, and to strengthen those elements of constitutional liberalism (rule of law, institutional checks on

⁷⁴ Reiter and Stam, *Democracies at War*, 202-05; Choi, “The Power of Democratic Competition,” 153

⁷⁵ Russett, “Can A Democratic Peace Be Built?,” 280-81; Ray, *Democracy and International Conflict: An Evaluation of the Democratic Peace Proposition*, 204-06

⁷⁶ Robert Jervis, “Theories of War in an Era of Leading-Power Peace,” *The American Political Science Review* 96, no. 1 (March 2002): 11

⁷⁷ Doyle, “Kant, Liberal Legacies, and Foreign Affairs, Part 1,” 232-33

⁷⁸ Russett and Oneal, *Triangulating Peace: Democracy, Interdependence, and International Organizations*, 280-81; Doyle, “Liberalism and World Politics,” 1157-58.

power, individual freedoms) lacking in illiberal democracies would arguably help consolidate the democratic peace most effectively.⁷⁹

This is also the case for economic cooperation and interdependence. The observation that the likelihood of conflict between any two states with high levels of bilateral trade will be 33% lower than if those states only had an average level of economic interdependence suggests that democratic states will greatly benefit from upholding a liberal international economic system free of protectionism and mercantilist policies.⁸⁰ Because maintaining free and open trade relations rests on the assumption that market-based forces, rather than violence or coercion, will determine future economic transactions, the accompanying sense of mutual dependence will often act as a restraint on the use of military force. Any accompanying increase in the quantity or quality of interstate communication is also likely to make it easier for democracies to understand the intentions and preferences of non democracies as well as their willingness to adhere to mutual agreements and commitments.⁸¹

This theory is the most relevant for this study because it derives that democratic norms and principles that democracies by nature do not go to war with one another, this re emphasizes the spread of democracy in Africa. The theory also emphasis that citizens and elected representatives are liberal-minded, but simply that democratic structures that give citizens leverage over government decisions will make it less likely that a democratic leader will be able to initiate a war with another liberal democracy. Thus, even with an illiberal leader in place, institutions such as free speech, political pluralism, and competitive elections will make it difficult for these leaders to convince or persuade the public to go to war. The real

⁷⁹ Zakaria, "The Rise of Illiberal Democracy," 25-26

⁸⁰ Michael W. Doyle, "Kant, Liberal Legacies, and Foreign Affairs, Part 2," *Philosophy & Public Affairs* 12, no. 4 (Autumn 1983): 347-48; Russett and Oneal, *Triangulating Peace: Democracy, Interdependence, and International Organizations*, 277-80

⁸¹ Doyle, "Kant, Liberal Legacies, and Foreign Affairs, Part 1," 231

democratisation challenges in Africa are diverse, thus the relevance of the theory in explaining the democracy.

1.6. Hypotheses

The hypotheses of this study are:

1. Democratisation challenges hinders achievement of democracy in Africa
2. Implementation of Democratic principles leads to good governance in Africa.
3. Lack of good leaders poses a challenge of democracy in Africa.

1.7. Methodology

For the purpose of this study, the study will rely on secondary data to conduct an in-depth analysis of already existing scholarly materials, journals, Civil Society reports, media reports, study findings in the fields of Democracy, democratization, Regional Organisation, African Union and Leadership in Africa. The study will review existing data on African Union democratic framework, unearthing the role that the different organs of the AU do towards democratisation in Africa, analyse the and collate information on a few sampled African leaders push towards democratization in Africa since the inception of the AU, understanding their role. From this gathered information, the researcher will draw own findings and evaluate them against the theoretical framework provided.

1.8. Chapter Outlines

Chapter One : Introduction

This chapter will give an introduction to the study. The research problem will be conceptualized and provided justification for this study. The chapter also presented literature

review, theoretical framework, the hypotheses and the research methodology that was used by the study.

Chapter Two : Theoretical Debates on Democracy

This chapter will define democracy at length and presented the theories of democracy. The chapter also provided debates for and against democracy and the African debates on democracy

Chapter Three: Critical Analysis of Democratic Framework in Africa

This chapter will present an in-depth analysis of the organs and programmes of the African Union and their role in promoting and implements democratic agenda. The chapter also provides the role played by African leaders in implementing democracy in Africa.

Chapter Four: Challenges of Democratisation in Africa

These chapters will review the challenges that Africa is facing in actualizing democracy in Africa.

Chapter Five : Conclusion and Recommendations

This chapter will constitute the conclusion and recommendation

CHAPTER TWO

THEORETICAL DEBATES ON DEMOCRACY

2.0. Introduction

Dahl's observed that there is no single theory of democracy; only theories⁸². Beyond the broad commitment to rule by the majority, democracy involves a set of contentious debates concerning the proper function and scope of power, equality, freedom, justice and interests. This chapter brings together the works of classical, modern and contemporary writers to show the deep and diverse roots of the democratic ideal, as well as to provide materials for thinking about the way some contemporary theories build on different traditions of democratic theorizing. The arguments addressed here appear in the voices of authors who have championed influential theories concerning the opportunities and dangers associated with democratic politics. The goal of this study is to draw debates together and not to promote a particular way of looking at democracy, but rather to assemble key materials which will enable the researcher to carry on an informed discourse on the meaning and purposes of democratic theories, principles and practices.

2.1. Theories of Democracy

2.1.1. Traditional Theory of Democracy

According to Dahl, traditional theory espouses that majority rule without violating minority rights, maintaining the willingness to compromise, and recognizing the worth and dignity of all people. Under the Traditional Theory, everyone has the right to participate in government either directly or through representative vote⁸³. This participation can occur either by direct or representative vote. In a direct vote, the people approve public policy themselves. This

⁸² Dahl R: *Preface to Democratic Theory Chicago*: University of Chicago Press, 1965, p1.

situation works well on a small scale, as in a town meeting. In a representative vote, a group of elected officials acts on behalf of their constituents. This type of vote is used at the state and national levels to determine public policy. For voting to be effective at any level, people need access to information, so they can make informed decisions. Citizens have the power to decide on policy proposals and politicians assume the role of policy implementers. Consequently, it builds on the model of pure direct democracy.⁸⁴ There, the members of a society decide independently whether to attend a meeting, at a cost, where the policy decision taken will be a compromise among the attendee's ideal positions. Attendance is based on a cost benefit calculation: Citizens compare the cost of participation with the impact that their presence will have on the compromise.

2.1.2. Pluralist Theory of Democracy

It holds that people with common interests form organized groups to promote their causes and influence the political agenda. This theory maintains that no single group, industry, or government agency dominates politics. It also asserts that a healthy competition exists in the development of the policy agenda and in the selection of the policy makers. The main features of the pluralist democracy are: - wide dispersal of political power amongst competing groups; high degree of responsiveness with group leaders being accountable to members; neutral government machine that is sufficiently fragmented to offer groups a number of points of access. According to Dahl, a noted pluralist highlighted in one of his early writings that in societies like ours "*politics is a sideshow in the great circus of life.*"⁸⁵ Consequently, Dunleavy and O'Leary identified the three main pluralist views of the state. First, the Weathervane model; the states direction reflects public opinion and the demands of

⁸⁴ Osborne et al. 2000

⁸⁵ Dahl, R.: *A Preface to Democratic Theory*, Chicago: University of Chicago Press. 1959, p69

pressure groups. This means that state policy is based on the concerns and interests of society. Secondly, the neutral state model: The state is seen as the neutral or impartial arbiter who acts in the public interests. This arbiter compromises between the demands of different pressure groups and makes sure that even the weakest groups are heard. Lastly, the broker state model: this view sees groups within the state as having their own interests and concerns. Most policies tend to reflect the concerns of the state officials themselves.⁸⁶

Dahl's early statement of the view is very powerful. "In a rough sense, the essence of all competitive politics is bribery of the electorate by politician. The farmer supports a candidate committed to high price supports, the businessman, supports an advocate of low corporation taxes, the consume, votes for candidates opposed to a sale tax"⁸⁷ In this conception of the democratic process, each citizen is a member of an interest group with narrowly defined interests that are closely connected to their everyday lives. It asserts that citizens are supposed to be quite well informed and interested in having an influence. Or at least, elites from each of the interest groups that are relatively close in perspective to the ordinary members are the principal agents in the process. Therefore, democracy is not rule by the majority but rather rule by coalitions of minorities. Policy and law in a democratic society are decided by means of bargaining among the different groups.

2.1.3. Elite Theory of Democracy

Elites maintain that the majority of political power and influence is held by a small number of individuals, groups, and industries. According to Schumpeter, the incapacity of the common man to make intelligent decisions in areas of politics makes it necessary to limit the role of the general populace to the voting process: leaving actual rule to an elite minority. In many

⁸⁶ Dunleavy P & O'Leary B: *Theories of the state: The politics of Liberal democracy*, 1987

⁸⁷ Robert Dahl 195; *A preface to Democratic Theory*, Chicago: University of Chicago Press, p. 69.

ways, Schumpeter's argument is sound. He makes a valid point that there is "no such thing as a uniquely determined common good that all. He points out that in many situations the support of the people may be present despite a notable lack of democracy. Decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote"⁸⁸ still stands as a concise statement of the elitist view. In this view, the emphasis is placed on responsible political leadership. Political leaders are to avoid divisive and emotionally charged issues and make policy and law with little regard for the erratic and diverse demands made by ordinary citizens. Citizens participate in the process of competition by voting but since they know very little they are not effectively the ruling part of the society. The process of election is usually just a fairly peaceful way of maintaining or changing those who rule.

On Schumpeter's view, however, citizens do have a role to play in avoiding serious disasters. When politicians act in ways that nearly anyone can see is problematic, the citizens can throw the politicians out. So democracy, even on this stripped down version, plays some role in protecting society from the worst politicians. So the elite theory of democracy does seem compatible with some of the scholar's arguments given above but it is strongly opposed to the intrinsic arguments from liberty, public justification and equality. Against the liberty and equality arguments, the elite theory simply rejects the possibility that citizens can participate as equals. The society must be ruled by elites and the role of citizens is merely to ensure smooth and peaceful circulation of elites. Against the public justification view, ordinary citizens cannot be expected to participate in public deliberation and the views of elites ought not to be fundamentally transformed by general public deliberation.

⁸⁸ Schumpeter, J.: *Capitalism, Socialism and Democracy*, New York: Harper and Row. 1956, p269

2.1.4. Hyperpluralism Theory of Democracy

Similar to the Pluralist Theory, Hyperpluralism argue that people who share interests form groups to advance their causes. Like the Elite Theory, it suggests that some groups exercise too much power and influence on the government. For example, when a group does not like a policy passed by parliament, it can take its case to court, thus several important court decisions have been reached in civil rights and environmental cases thanks to the efforts of strong special interest groups. However, hyperpluralists argue that taking cases to court can undermine the political system by undermining the judicial process against the legislative process. Ultimately, the result of Hyperpluralism would be the total stalemate of government; that is, too many groups vying for power but lacking the cohesion necessary to force compromise. Critics of Hyperpluralism argue that, so many competing groups emerge with different interests that put a stalemate on government performance; politicians try to make everyone happy thus they do not deliver on their mandates, and if the groups don't get their way- they Leads to policy gridlock. Hyperpluralism therefore is basically the same theory with different perspective. While the people who believe in pluralism are optimistic, hyperpluralism is a pessimistic and extreme lot. They believe that these groups are too strong and they suppress the power of the government.

2.3. Debates for Democratisation

Two kinds of instrumental benefits are commonly attributed to democracy: relatively good laws and policies and improvements in the characters of the participants. Mill argued that a democratic method of making legislation is better than non-democratic methods in three ways: strategically, epistemically and via the improvement of the characters of democratic citizens.⁸⁹ Democracy has an advantage because it forces decision-makers to take into

⁸⁹ Mill, S: *Consideration Representative Government*, 1861, Chapter 3.

account the interests, rights and opinions of most people in society. In democracy political power is given to each individual, thus more people are taken into account than under aristocracy or monarchy. The most forceful modern statement of this argument is provided by Sen, who argues, for example, that “*no substantial famine has ever occurred in any independent country with a democratic form of government and a relatively free press*”⁹⁰ The basis of this argument is that politicians in a multiparty democracy with free elections and a free press have incentives to respond to the expressions of needs of the poor.

Agreeably, democracy is thought to be the best decision-making method on the premise that it is generally more reliable in helping citizens discover the right decisions. Democracy brings a lot of people into the process of decision making; it can take advantage of many sources of information and critical assessment of laws and policies. Democratic decision-making processes tends to be more informed than other forms about the interests of citizens and the causal mechanisms necessary to advance those interests. Furthermore, the broad based discussion typical of democracy enhances the critical assessment of the different moral ideas that guide decision-makers.

Many have endorsed democracy on the basis of the proposition that democracy has beneficial effects on character. According to Mill and Rousseau, democracy tends to make people stand up for themselves more than other forms of rule do because it makes collective decisions depend on them more than monarchy or aristocracy do.⁹¹ Therefore, in democratic societies individuals are encouraged to be more autonomous; tends to get people to think carefully and rationally more than other forms of rule because it makes a difference whether they do or not.

⁹⁰ Sen A: *Development as Freedom*, New York: 1999, p 152.

⁹¹ Rousseau, J.-J., 1762, *The Social Contract*, trans. Charles Frankel, New York: Hafner Publishing Co., 194. & Mill, J. S., 1861, *Considerations on Representative Government*, Buffalo, NY: Prometheus Books, 1991

Democracy tends to enhance the moral qualities of citizens. When they participate in making decisions, they have to listen to others, they are called upon to justify themselves to others and they are forced to think in part in terms of the interests of others. It's argued that when people find themselves in this kind of circumstance, they come genuinely to think in terms of the common good and justice. For this reason, some have argued that democratic processes tend to enhance the autonomy, rationality and morality of participants. Since these beneficial effects are thought to be worthwhile in themselves, they count in favor of democracy and against other forms of rule.

A society of autonomous, rational, and moral decision-makers is more likely to produce good legislation than a society ruled by a self-centered person or small group of persons who rule for self satisfactions. More detailed knowledge of the effects of political institutions can be used to discriminate in favor of particular kinds of democratic institutions or modifications of them. For instance in the United States, James Madison argued in favor of a fairly strong federal government on the grounds that local governments are more likely to be oppressive to minorities⁹² Of course the soundness of any of the above arguments depends on the truth or validity of the associated substantive views about justice and the common good as well as the causal theories of the consequences of different institutions.

2.4. Debates against Democracy

Despite that many scholars have written in favour of democracy, it imperative to note that not all arguments favor democracy. Plato argues that democracy is inferior to various forms of monarchy, aristocracy and even oligarchy on the grounds that democracy tends to undermine

⁹² Hamilton.A & Madison.J & Jay.J :*The Federalist*: A Collection of Essays, Written in Favour of the New Constitution, As Agreed Upon By the Federal Convention, September 17, 1787, New York 1788

the expertise necessary to properly govern societies.⁹³ In a democracy, he argues, those who are specialist at winning elections and nothing else will eventually dominate democratic politics. Democracy tends to emphasize this capability at the expense of the expertise that is necessary to properly governed societies. This is so because most people do not have the kinds of talents that enable them to think well about the difficult issues that politics involves. But in order to win office or get a piece of legislation passed, politicians must appeal to these people's sense of what is right or not right. Hence, the state will be guided by very poorly worked out ideas that experts in manipulation and mass appeal use to help themselves win office.

Hobbes argues that democracy is inferior to monarchy because democracy fosters destabilizing dissension among subjects⁹⁴. But his skepticism is not based in a conception that most people are not intellectually fit for politics. On his view, individual citizens and even politicians are apt not to have a sense of responsibility for the quality of legislation because no one makes a significant difference to the outcomes of decision making. Therefore, citizens' worries are not focused on politics and politicians succeed only by making loud and manipulative appeals to citizens in order to gain more power, but all lack incentives to consider views that are genuinely for the common good. For this reason, the sense of lack of responsibility for outcomes undermines politicians' concern for the common good and inclines them to make sectarian and divisive appeals to citizens. For Hobbes, then, democracy has deleterious effects on subjects and politicians and consequently on the quality of the outcomes of collective decision making.

⁹³ Plato; Republic, Book VI

⁹⁴ Hobbes, T: *Leviathan*: 1651, chap. XIX

Many public choice theorists argue that citizens are not informed about politics and that they are often uninterested, which makes room for special interests to control the behavior of politicians and use the state for their own selfish purposes while spreading the costs to everyone else. Some of them argue, that giving complete control over society to the market, on the grounds that more extensive democracy tends to produce serious economic inefficiencies. More modest versions of these arguments have been used to justify modification of democratic institutions.

The neo-liberal account of democracy must therefore answer to two large worries. First, citizens in modern societies have more ambitious conceptions of social justice and the common good than are realizable by the minimal state. This then implies a very serious limitation of democracy of its own therefore more evidence is needed to support the contention that these objectives cannot be achieved by the modern state. Second, the neo-liberal approach ignores the problem of large private concentrations of wealth and power that are capable of pushing small states around for their own benefit and imposing their wills on populations without their consent. The assumptions that lead neo-liberals to be skeptical about the large modern state imply equally disturbing problems for the large private concentrations of wealth in a neo-liberal society.

Chicago economist Wittman has written numerous works attempting to counter these common views of his colleagues. He argues democracy is efficient based on the premise of rational voters, competitive elections, and relatively low political transactions costs.⁹⁵ Economist Bryan Caplan argues, while Wittman makes strong arguments for the latter two points, he cannot overcome the insurmountable evidence in favor of voter irrationality. It still

⁹⁵ Danoff, Brian; Hebert, Louie Joseph . *Alexis de Tocqueville and the Art of Democratic Statesmanship*. Lexington Books. 2011, p. 88

remains the Achilles heel of democratic government. The problem is not mere lack of information; it is that voters badly interpret and judge the information they do have. Unfortunately, according to Caplan, the problem lies in the fact that the relative cost of learning about a particular issue is very high compared to the cost of not knowing that information. This really becomes an issue when those ignorant people vote, which they will do because of the good feeling it gives them.⁹⁶ Other economists, such as Meltzer and Richard, have added that as industrial activity in a democracy increases, so too do the people's demands for welfare. However, because of the median voter theorem, only a few people actually make the decisions in the country, and many may be unhappy with those decisions. In this way, they argue, democracies are inefficient.⁹⁷

Economists have strongly criticised the efficiency of democracy. They base this on their premise of the irrational voter. Their argument is that voters are highly uninformed about many political issues, especially relating to economics, and have a strong bias about the few issues on which they are fairly knowledgeable.⁹⁸ The 20th-century Italian thinkers Pareto and Mosca argued that democracy was illusory, and served only to mask the reality of elite rule. Indeed, they argued that elite oligarchy is the unbendable law of human nature, due largely to the apathy and division of the masses (as opposed to the drive, initiative and unity of the elites), and that democratic institutions would do no more than shift the exercise of power from oppression to manipulation.⁹⁹ As Brandeis once professed, "We may

⁹⁶ Caplan, Bryan. "From Friedman to Wittman: The Transformation of Chicago Political Economy", *Econ Journal Watch*, April 2005

⁹⁷ Meltzer, Allan H.; Richard, Scott F.). "A Rational Theory of the Size of Government". *Journal of Political Economy* :The University of Chicago Press, 1981, p89

⁹⁸ Friedman, Milton; Friedman, Rose (1990). *Free to Choose: A Personal Statement*. Harvest Books. p. 34

⁹⁹ Femia, Joseph V. "Against the Masses", Oxford 2001

have democracy, or we may have wealth concentrated in the hands of a few, but we can't have both."¹⁰⁰

Plato's *The Republic* presents a critical view of democracy through the narration of Socrates: "Democracy, which is a charming form of government, full of variety and disorder, and dispensing a sort of equality to equals and unequaled alike."¹⁰¹ In his work, Plato lists 5 forms of government from best to worst. Assuming that *the Republic* was intended to be a serious critique of the political thought in Athens, Plato argues that only Kallipolis, an aristocracy led by the unwilling philosopher-kings (the wisest men), is a just form of government. James Madison critiqued direct democracy (which he referred to simply as "democracy") in *Federalist*, arguing that representative democracy—which he described using the term "republic"—is a preferable form of government, saying: "... democracies have ever been spectacles of turbulence and contention; have ever been found incompatible with personal security or the rights of property; and have in general been as short in their lives as they have been violent in their deaths." Madison offered that republics were superior to democracies because republics safeguarded against tyranny of the majority, stating in *Federalist*: "the same advantage which a republic has over a democracy, in controlling the effects of faction, is enjoyed by a large over a small republic".

More recently, democracy is criticised for not offering enough political stability. As governments are frequently elected on and off there tends to be frequent changes in the policies of democratic countries both domestically and internationally. Even if a political party maintains power, vociferous, headline grabbing protests and harsh criticism from the mass media are often enough to force sudden, unexpected political change. Frequent policy

¹⁰⁰ Dilliard, Irving. "Mr. Justice Brandeis, Great American", Modern View Press 1941, p. 42. Quoting Raymond Lonergan. <http://babel.hathitrust.org/cgi/pt?id=mdp.39015009170443;seq=56;view=1up;num=42>

¹⁰¹ Plato, *the Republic of Plato* (London: J.M Dent & Sons LTD.; New York: E.P. Dutton & Co. Inc.), 558-C

changes with regard to business and immigration are likely to deter investment and so hinder economic growth. For this reason, many people have put forward the idea that democracy is undesirable for a developing country in which economic growth and the reduction of poverty are top priorities.¹⁰²

In representative democracies, it may not benefit incumbents to conduct fair elections. A study showed that incumbents who rig elections stay in office 2.5 times as long as those who permit fair elections.¹⁰³ In countries with income above per capita, democracies have been found to be less prone to violence, but below that threshold, more prone violence. Election misconduct is more likely in countries with low per capita incomes, small populations, rich in natural resources, and a lack of institutional checks and balances.

Democracy in modern times has almost always faced opposition from the previously existing government, and many times it has faced opposition from social elites. The implementation of a democratic government within a non-democratic state is typically brought about by democratic revolution. Monarchy had traditionally been opposed to democracy, and to this day remains opposed to the abolition of its privileges, although often political compromise has been reached in the form of shared government. Consequently, post-Enlightenment ideologies such as fascism, Nazism and neo-fundamentalism oppose democracy on different grounds, generally citing that the concept development.

It's important to note that, despite the debate of or against democracy, this study will utilise both the analogies to analyse the findings of this project. In this modern age of Globalization and internet, democracy trends and waves are inevitable as the masses are more empowered thus exert alot of pressure on their leaders to be democratic. The information and technology

¹⁰² Richburg, Keith : "*Head to head: African democracy*". 2008

¹⁰³ Paul Collier : "*5 myths about the beauty of the ballot box*". *Washington Post*(Washington Post). pp. B2. 2009

platform created a new wave in democratisation called e-democracy. Evidently in Africa, the many uprisings and demands from the population since the year 2000 will inform this study.

2.5. Debates on African Democracy

2.5.1. Democracy and Development

These are the original formulations by Nyong'o and it is worth being faithful to them because they are as controversial as they are bold. Initially, his assertions did not provoke a debate on democracy as such in Africa but rather on the relationship between "democracy" and "development"¹⁰⁴. It is obvious that in the spirit of the independence movement he was less interested in elaborating a formal definition of "democracy" but more in determining the extent to which the general populace was *free to participate* in national reconstruction and thus guarantee development. While having no tract with African dictators, by treating democracy as serviceable to "development" he perhaps unwittingly detracted from his own sense of democracy. In fact, he was accused of "instrumentalism" by Mkandawire who argued that "democracy" was a right and a value in itself whether it brought about development or not¹⁰⁵. Furthermore, Mkandawire succeeded in undermining Nyong'o's postulate by citing historical cases such as Germany, Japan, and, more recently, the South East Asian countries where development occurred, without any real democracy – meaning albeit vaguely liberal democracy. In response Anyang' stretched his argument to a breaking point by offering Kenya and Cote d'Ivoire as two countries in sub-Saharan Africa which achieved development precisely because they maintained a certain modicum of democracy.

In their least malign forms one-party states represented an attempt to reconcile African social relations with the ethnic, tribal and nationalist legacies of colonialism. Nevertheless,

¹⁰⁴ Anyang' Nyong'o, P. (ed.), *Popular Struggles for Democracy in Africa*. Zed Books, London, 1988

¹⁰⁵ Mkandawire, T., "Comments on Democracy and Political Instability" CODESRIA Bulletin, 1, 1989

grassroots activity was circumscribed or prescribed, the dead hand of bureaucracy thrived, while capitalist development strategies deepened dependence on foreign markets and foreign capital, and exacerbated inequalities. Such was the economic incompetence, corruption and mismanagement that by the end of the 1980s the Western powers and their financial institutions became the source of economic support on terms that gave them political powers almost on a par with those of colonialism. Similarly, with the collapse of the Soviet Union those countries that had followed a socialist path were left with no alternative but to embrace Western conditions in return for economic rescue¹⁰⁶. By the 1980s Africa was a continent in crisis, with underdevelopment, maladministration, conflict and corruption endemic. Deprived of its own history but unwilling or unable to come to terms with exogenous state forms, Africa was ripe for the new orthodoxy. Economically weakened and politically unstable, African states were summarily informed that their continued participation in the global economy was contingent upon the acceptance of forms of political economy that met the West's collective conception of liberal democracy and free markets.

2.5.2. Democracy and Constitutionalism

The significance of external influences on actual or putative processes of democratisation and constitution-making in Africa cannot be overemphasised. The confluence of neo-conservative ideology and enormous levels of indebtedness throughout the South during the 1980s laid the foundations for the imposition of a new that is asserted to be the basis for democracy in Western eyes but merely perpetuates the history of top down control instituted by the colonial powers. Those powers corrupted and destroyed local customs and traditions while reinforcing cleavages between rural and urban Africans, leaving vacuums that their predecessors sought to fill by transferring the contradictions of liberal democracy or the illusions of Marxism-

¹⁰⁶ Denis Venter, *Fighting Corruption: The Imperatives of Democracy, Governance and Leadership*, 2011

Leninism into infertile soil. They violently disrupted prevailing social relations and reconstructed them as a customary law that bore little relation to African history. The plight of dependency was emphasised by the resort to socialism, itself an ideology of Western origin that was very different to the communalism of African societies.

After decolonisation African states followed one of three basic paths. Some worked within the liberal constitutional framework inherited from their colonial masters. Others adopted the Soviet-inspired non-capitalist path to development¹⁰⁷, which reinforced the tendency to developmentalism. In between were those, like Tanzania under ujamaa, which adopted a socialist/statist position ostensibly rooted in African authenticity.¹⁰⁸ The liberal conception of democracy rests on two main pillars, namely limited government and individual rights. But the colonial state has been widely characterised as repressive and its legacy lived on beyond the liberal form that was apparently bequeath. In either case, the deeper structures of the colonial legal and political order were inherited or, in some cases, reorganised, to reinforce despotism. This reflects the existence of a culture of constitutionalism that is greater than the sum of its parts and is a crucial determinant in how power will be exercised in any particular state. In the post-independence period. The independence constitutional order was therefore, as it were, an excrescence. It was regularly argued - by Julius Nyerere for example - that Western constitutionalism represented a foreign element which had no place in African history, tradition or practice and those notions of individual rights or the separation of powers were incomprehensible to the African masses. Certainly those countries that adopted Marxism-Leninism as state ideology argued that liberalism was incompatible with their developmental needs, for which a strong state was required.

¹⁰⁷ Issa Shivji: 1991 'State and constitutionalism: a new democratic perspective.', *State and Constitutionalism: An African Debate on Democracy*. Harare, SAPES Trust.

¹⁰⁸ Anyang' Nyong'o : *Popular Struggles for Democracy in Africa*: 1987

As a political system, democracy is marked not only by “free and fair”, multiparty elections (which is a rather mechanistic conception, so prevalent in the pseudo-democracies in Africa, and fuelled by the fad of event-focused election monitoring and observation) but, extremely important, also by what might be called *constitutional liberalism*: by the rule of law, by a separation of powers (between the executive, the legislature, and the judiciary), and by protection of the basic civil liberties of freedom of speech, freedom of assembly, and freedom of religion, as well as the right to property.¹⁰⁹ Indeed, there is far more to a free society than multiparty elections.¹¹⁰ But, more often than not, the arduous task of inculcating and internalising democratic values in society is widely being Fighting Corruption: neglected. And today, the two strands of liberal democracy are coming apart: democracy, seen in the context of multiparty elections and rule by the majority, is flourishing, while constitutional liberalism is not. It is, perhaps, valuable to note that constitutional liberalism is about the *limitation of power* democracy, in its over-simplified form, about the *accumulation and use, or misuse (even abuse) of power*.” Therefore, democracy stripped of constitutional liberalism is not simply inadequate, but dangerous. To paraphrase Woodrow Wilson in a different context: the challenge for the twenty-first century is not “to make the world safe for democracy”, but “to make democracy safe for the world”.

2.5.3. Democracy and Multi-partism

History shows that Africa has undergone a massive transformation, from a massive ousting of tyrants, who had adopted the one-party state as a form of leadership and governance. *Party pluralism had first emerged in sub-Saharan during the final stages of the colonial period, on the eve of independence, in the late 1950s and early 1960s. The transplant of this arrangement however was quickly rejected by virtually all African societies, much to like*

¹⁰⁹ Zakaria, Fareed.: The rise of illiberal democracy. *Foreign Affairs*, 1997, p76, 6, 22-43.

¹¹⁰ Hawkins, Tony. *Black Africa: From aid dependence to self-sustaining growth*. The World Today, 1990, p46, 11, 205-208.

*what happened to other political dispensations originating from Europe, such as liberal state, liberal constitutionalism or representative government*¹¹¹.

It was only in the early 1990s, that new attempts were made to establish multiparty states in Africa. The revolution of change was faced with several upheavals from the governments of the day, and it led to detention of several activists in countries like Kenya, Cameroun, Ethiopia, Angola, etc. In the Kenya case for example, the de-facto party was KANU, with the leader at the time Daniel Arap Moi¹¹². The revolution led to several reforms in the African political arena, and marked the formation of hundreds of political parties across the continent. Opposition political parties are considered to be an essential structural characteristic of modern liberal democracy. They are supposed to challenge the ruling parties on all issues of governance and provide a clear and credible alternative to existing policies. The stronger the opposition, the brighter the prospects for democracy are likely to be. The nature, quality and conduct of opposition parties in the last decade have done little to promote the course of democracy on the continent.

This is not only true of countries that have long experience with opposition politics, such as Botswana, but also of countries such as Cameroon, Gabon, Tunisia, Algeria, Ethiopia, Mauritania, Guinea, Gambia and Zambia, where opposition parties are barely tolerated. There has also been a proliferation of opposition parties with hardly any ideological content, no clearly constructed alternative programmes and no agenda to cultivate and nurture. The mushrooming of political parties has never on its own produced democracy.

¹¹¹ Giovanni M. Carbone, *Political Parties and Party Systems in Africa: Themes and Research Perspectives*, vol 3, issue 3, 2007

¹¹² He came to power, just immediately after the death of Jomo Kenyatta in 1978.

In most countries, the opposition parties have simply been nothing more than fractious assemblies of diverse interest groups that are hastily constituted before elections and dissolved or go into a slumber immediately afterwards.¹¹³ Although a good number of opposition parties have been deliberately planted by the ruling parties and are funded by them with the sole objective of sowing discord, most of them are either narrow ethnic alliances or opportunistic alliances set up by disgruntled members of the former one-party regime, sharing the traits of the former era: corruption, personalisation of politics, excessive ambition and focus on grabbing power but with no alternative programme of government. For example, Algeria had more than 112 political parties, Guinea more than 46 and Mali more than 57. At one stage in the Nigerian democratic transition, there were about 120 presidential candidates. Even in the Democratic Republic there were already 240 political parties vying to unseat President Joseph Kabila. It is no surprise that in all the 2004 elections in Botswana, Namibia, Malawi, South Africa and Cameroon, the ruling parties won comfortably, largely due to the weak, disorganised and divided opposition. It is only on rare occasions that the opposition has managed to overcome the personal ambitions of party leaders and combined to unseat a ruling party. This happened when the Movement for Multiparty Democracy (MMD) was constituted in Zambia and it succeeded in unseating Kenneth Kaunda in 1991, and, more recently, in 2002, the fragmented opposition in Kenya came together under the National Rainbow Coalition and succeeded in toppling the Kenya African National Union (KANU) that had been in power since 1963. Another rarity is Ghana, where politics revolves around two parties, which ensures that there is little polarisation and the parties can focus on the real issues that concern the people. The growing evidence of a lack of accommodation, consensus, dialogue and a willingness to trust each other and put aside personal ambition and greed for the common good is a worrying sign for the future of political opposition in Africa. Most

¹¹³ Ed. Mbaku J & Omozuanvbo J. :*Multiparty Democracy and Political Change: Constraints in Democratisation in Africa*: Africa World Press, 2006

dismissed ministers and other elites that have fallen from favour with the ruling cliques in Zambia, Cameroon, Kenya, Nigeria and other countries see the formation of a new party led by them and their nomination as presidential candidate over every other person as the only way out.

Another reality that has emerged over the past decade is that opposition politics in Africa is a dangerous game.¹¹⁴ Besides regularly facing biased election rules that place opposition parties in a lose-lose situation, the personal life, property and welfare of members of opposition parties have always been at risk in many countries, such as Nigeria, Cameroon, Zimbabwe and Mauritania. Morgan Tsvangirai, the leader of the Zimbabwean opposition MDC has spent the last few years defending himself against trumped-up treason charges. In most African countries today, many senior administrators, prominent academics and other professionals have had to go into exile to escape persecution at home because of their association with opposition parties. The ruling parties have used a variety of strategies, involving a mixture of carrots and sticks, to thwart the emergence of genuine and effective opposition parties. Few African democrats have fully come to terms with the fact that genuine multiparty democracy entails as a necessary concomitant the existence of an active, effective and vibrant opposition.¹¹⁵ For example, Cameroon's Paul Biya, who has never disguised or qualified his contempt for the opposition, especially the leader of the main opposition party, John Fru Ndi, has since 1990 refused to meet the latter. For example Even South African President, Thabo Mbeki, during the April 2004 elections branded some of the opposition parties as "Mickey Mouse." Can there be democracy if there is no respect for your opponent and you treat him instead as an enemy

¹¹⁴ Bratton, M., Van De Walle, N., *Democratic Experiments in Africa*, p 77-80

¹¹⁵ Joseph, R., *Democratisation in Africa after 1989*,

Bayart's in "politics of the belly"¹¹⁶ accurately reflects the tactics that the dominant parties that have replaced the former sole parties are practising to perpetuate their dominance of the political scene. The Machiavellian tactic that enemies must either be caressed by being co-opted into sharing the spoils of power or be annihilated has progressively been used to very good effect in most African countries seeking to cope with multi-partyism. Many of the ideologically redundant and ethnic or opportunistic parties that were strategically formed have been regularly wooed away from the opposition by offers of lucrative and prestigious jobs in return for indulging in a charade of opposition politics. This has happened regularly in many countries such as Senegal, Burkina Faso, Cameroon and Gabon. As more and more opposition politicians become ensnared and co-opted into the spoils system, a trend that appears to have gathered momentum with the onset of the democratic transition, political opposition is reduced to political cooperation or participation. Many people now feel that elections merely serve the purpose of enabling self-seeking and greedy politicians to get jobs. It is small wonder that voters are increasingly disenchanted with elections, leaving incumbents to inflate participation figures, sometimes so absurdly that more voters are reported to have voted at some polling stations than were actually registered.

2.5.4. Democracy and Leadership

The new leaders that replaced some of the old guard in the last decade have done little to show that democracy can change the status quo. In fact, the old monolithic one party dictator appear to have simply made way for multiparty "democratic" dictators, who have maintained the inherited exploitive, abusive and inefficient structures installed by their predecessors. Many of the new democrats have turned out to be as unreliable, corrupt, violent, power-hungry, manipulative and inefficient as the regimes they replaced. Regrettably, the two

¹¹⁶Jean-Francois Bayart's: In *The State in Africa: The Politics of the Belly*. New York: Longman 1993.

African flag bearers of the third wave, Nicéphore Soglo of Benin and Frederick Chiluba of Zambia, whose elections in 1990 and 1991 respectively raised high hopes that at long last African leaders could be replaced at the polls, quickly turned out to be disillusionment.¹¹⁷ The fall of Soglo was due not only to incompetence but also his abuse of office, marked by the unusually high profile of his spouse and family members in state structures. In Zambia, Chiluba openly sabotaged all the political ideas that had led him to victory against Kenneth Kaunda, and he reached his lowest ebb when he initiated a law that excluded the latter from contesting the 1996 presidential elections on the absurd grounds that he (Kaunda) was not a Zambian¹¹⁸. He was forced to retire when his second term ended in 2001 owing to strong opposition from within and outside his party that stopped him from amending the two-term limit in the constitution to enable him serve a third term. Since he left power, he has been facing charges for embezzlement of millions of dollars of state funds during his tenure.

Perhaps no crisis illustrates the absurdity of Africa's new class of leaders better than the situation in Kenya today. Popular clamour for political change finally brought Mwai Kibaki and his National Rainbow Coalition to power in 2002 with promises to write a new constitution within months and eradicate corruption that had led many foreign donors to suspend aid to Kenya. In spite of pressure, there was little progress in the drafting of the new constitution because of resistance by the government to the reduction of the powers of the president. In one of his cabinet reshuffles, Kibaki broke another election promise to reduce the size of his cabinet. He had compared a large cabinet to "an overweight man who cannot perform," yet in June 2004, he had no compunction in creating five more ministries and appointing five ministers and 14 assistant ministers from the main opposition KANU. The

¹¹⁷ Venter, Denis: *Democracy and multiparty politics in Africa: Recent elections in Zambia, Zimbabwe and Lesotho*. 2003, *Eastern Africa Social Science Research Review*, 19, 1, p1-39.

¹¹⁸ Szeftel, Morris. (2000). "Eat with us": Managing corruption and patronage under Zambia's three republics, 1964-99. *Journal of Contemporary African Studies*, 18, 2, 207-224.

decision to include KANU in government barely 18 months after they were decisively rejected by the electorate was one of the most controversial changes.¹¹⁹

To compound the emerging crisis in Kenya, the head of the anti-corruption agency, John Githongo, resigned and indicated his growing frustration at his inability to investigate past corruption cases and the threats to his life that had come from powerful figures within the Rainbow Coalition. International donors estimate that up to US \$ 1 billion has disappeared since Kibaki came to power in 2002.¹²⁰ The US, Britain, the E.U and several other foreign donors have recently decided to suspend certain assistance programmes in Kenya. Another big disappointment is Nigeria's leader, Olusegun Obasanjo, whom everybody thought was going to take a leaf from Nelson Mandela by leaving greed and personal ambition aside and laying the foundations for a modern democracy.

2.5.5. Democracy and Governance

Certainly, "governance" is a more useful concept than "government" or "leadership" mainly because it does not prejudge the locus or character of real decision-making.¹²¹ For example, governance does not mean, as government does, that real political authority is vested somewhere within the formal-legal institutions of the state. Nor does governance imply, as the term leadership does, that political control necessarily rests with the head of state and government, or official political elites. As Hyden asserts, "a governance realm is grounded in an effective, rules-based leadership, which is perceived to be legitimate, and from which authority or power is derived". In addition, it is a concept which, through the prerequisite

¹¹⁹ Zachary Ochieng, "Opposition Joins Government in Controversial Reshuffle," <http://www.newsfromafrica.org/newsfromafrica/articles/art_6079.html>

¹²⁰ Emily Wax, "Kenya is Buffeted by Graft Scandals." <<http://www.washingtonpost.com/wp-dyn/articles/A19790-2005Feb12.html>>.

¹²¹ Lofchie, Michael. (1989). Perestroika without glasnost: Reflections on structural adjustment. In *Beyond autocracy in Africa*. Ed. Atlanta (Georgia): Carter Center, 121-125.

condition of mutual trust or compliance, is based on reciprocity or the voluntary acceptance of an asymmetrical relationship between the rulers and the ruled.¹²²

Of particular significance is that African governments, for budgetary reasons, have been forced to contract their activities: the state simply does not reach out into society as it used to do. Some believe that this vacuum creates opportunities for civil society to grow,¹²³ and state contraction may, therefore, pave the way for stronger governance structures. So, ultimately, better governance requires political reform and renewal, and a concerted attack on corruption. This can be done only by strengthening the transparency and accountability of representative bodies, by free elections in a multiparty system, by encouraging public debate, by nurturing press freedom, by developing civil society organisations (CSOs), and by maintaining the rule of law and an independent judiciary.¹²⁴ In the African context, however, more often than not good governance has proved to be an *elusive commodity*.¹²⁵

¹²² Hyden, Goran. (1992). Governance and the study of politics. In Hyden, Goran & Bratton, Michael. Eds. *Governance and politics in Africa*. Boulder (Colorado): Lynne Rienner Publishers, 1-26.

¹²³ Diamond, Larry. (1988). *Class, ethnicity and democracy in Nigeria: The failure of the First Republic*. Syracuse (New York): Syracuse University Press.

¹²⁴ Herbst, Jeffrey. (1990). The structural adjustment of politics in Africa. *World Development*, 18, 7, 949-958.

¹²⁵ Denis Venter: 2012: The Imperatives of Democracy, Governance and Leadership in the Fight against Corruption in Africa: A South African Perspective

CHAPTER THREE

CRITICAL ANALYSIS OF DEMOCRATIC FRAMEWORK IN AFRICA

3.0. Introduction

This chapter has analyzed the democratic framework within the African Union and breaks it down in regard to the different roles played by each organs and the existing programmes that support democracy. The chapter has also analysed the role of African Leader in Democracy.

3.1. The African Union Democratic Framework

3.1.1 Constitutive Act

The Constitutive Act of the AU lays down the basic framework for promoting democracy and good governance among member states, setting up the union and a number of treaties, declarations and other instruments. As an international treaty, the AU Act is binding on member states and governed by the rules of the 1969 Vienna convention on the law of treaties as well as the 1986 Vienna Convention on the law of Treaties between states and international organisations or between international organisations, which are expressly stated to apply to any treaty which is the instrument constituting an international organisation and to any treaty adopted within an international organisation without prejudice to any relevant rules of the organisation. Although the AU, as an international organisation, possesses the capacity to make legal instruments and other acts that are necessary for the fulfilment of its purposes, not all these are legally binding on member states.¹²⁶ For the purpose of this study, it is therefore important to differentiate between acts adopted such as treaties and protocols, which are binding on those member states that have signed and ratified them, and other acts,

¹²⁶ Jan Klabbbers, *An Introduction to International Institutional Law*. Cambridge: Cambridge University Press 2002, pp. 278–99

such as declarations, decisions, recommendations and resolutions, which, although aimed at influencing the conduct of member states, are not necessarily legally binding.

In this regard, there are four major instruments that contain the basic democratic principles on the AU democracy agenda viz., the AU Act itself, the declaration on the framework for an AU response to unconstitutional changes of government, the declaration governing democratic elections in Africa and the declaration on observing and monitoring elections.

3.1.2. Principles contained in the AU Act

The preamble of the AU Act emphasises the important place accorded to democracy when it affirms the determination of member states to “promote and protect human and peoples’ rights, consolidate democratic institutions and culture and to ensure good governance and the rule of law.” The basic democratic tenets of the AU Act are carefully developed in the objectives and principles, which are far more elaborate and more radical. In so far as democracy and good governance are concerned, Article 3 dealing with the objectives of the AU states that it shall, *inter alia*: (g) Promote democratic principles and institutions, popular participation and good governance;¹²⁷ (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.

These objectives define the goals and are directly linked to the principles contained in Article 4, which indicate what shall inform the attainment of these goals. For our purposes, the most relevant guiding principles contained in Article 4 include: (g) Non-interference by any member state in the internal affairs of another; (h) The right of the union to intervene in a member state pursuant to a decision of the Assembly in respect of grave circumstances,

¹²⁷ AU Constitutive Act, supra note 5, art. 3(g); see generally Thomas Kwasi Tiekou, Multilateralization of Democracy Promotion and Defense in Africa, 56 AFR. TODAY 75 (2009) (discussing the promotion of democratic ideals in the reformed AU).

namely war crimes, genocide and crimes against humanity *as well as a serious threat to legitimate order to restore peace and stability in the member state of the union upon the recommendation of the Peace and Security Council*; (j) The right of member states to request intervention from the union in order to restore peace and security;¹²⁸ (m) Respect for democratic principles, human rights, the rule of law and good governance; (o) Respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities; (p) Condemnation and rejection of unconstitutional changes of governments. These two provisions can be considered to be the legal basis of the AU's present democracy agenda. Their significance will emerge as we proceed, but a number of preliminary observations are in order.

First, it is important to note that the democracy and good governance clauses in the AU Act are not a novelty. Similar clauses had begun to appear in the constituent instruments of international organisations such as the Organization of the American States (OAS), the European Union and the Commonwealth. Sanctions are often provided against member states that violate these commitments¹²⁹. Secondly, the AU can now intervene under the circumstances defined in Article 4(h) in respect of grave circumstances, specifically defined as amounting to “war crimes, genocide and crimes against humanity,” and a little controversially, where there is a serious “threat to legitimate order.”¹³⁰ The AU Act therefore does nothing more than provide a broad framework of objectives and principles to guide more concrete action that is expected to be taken by the different organs and institutions created under it to promote and realise democracy. Action has now been taken to put some of

¹²⁸ African Union Act, Article 4

¹²⁹ Konstantinos D. Magliveras and Ginos J. Naldi, “The African Union – A New Dawn for Africa?” *International and Comparative Law Quarterly* 51 (2002), pp. 417–18.

¹³⁰ Charles Manga Fombad, *The African Union, Democracy and Good Governance*; 2012

these objectives and principles into operation through a number of declarations as well as protocols, which bestow specific powers on some AU organs and institutions.

3.1.2. The Declaration on the framework for an AU response to unconstitutional changes of government

This declaration was actually adopted by the OAU during its Lomé summit in 2000¹³¹ but has been taken over by the AU. It provides an interpretation for the vague wording of Article 4(p), which condemns and rejects unconstitutional changes of government. The presence of this provision, as well as the amendments made to Article 4(h) and the Lomé declaration underscore the concern of African leaders with the security of their hold on power at a time of momentous and sometimes violent change. However, the declaration, although ostensibly dealing with “unconstitutional changes of government,”¹³² an obvious euphemism for *coup d'état*, covers four important issues, viz.: i) a set of common values and principles for democratic governance; ii) a definition of what constitutes an unconstitutional change of government; iii) progressive measures and actions that the AU would take to respond to an unconstitutional change of government; and iv) an implementation mechanism.

In defining the common values and principles for democratic governance, the declaration makes it clear that the objective is to elaborate a “set of principles on democratic governance to be adhered to by all member states.” The belief is that “strict adherence to these principles and the strengthening of democratic institutions will considerably reduce the risks of unconstitutional change on the continent.” Without trying to be exhaustive, the declaration recognises the following as a basis for the articulation of common values and principles for democratic governance: i) Adoption of a democratic constitution: its preparation, content and

¹³¹ Lomé Declaration, supra note 28.

¹³² AU Constitutive Act, supra note 5, arts. 4(m), 4(o)–(p)

method of revision should be in conformity with generally acceptable principles of democracy. ii) Respect for the constitution and adherence to the provisions of the law and other legislative enactments adopted by Parliament. iii) Separation of powers and independence of the judiciary. iv) Promotion of political pluralism or any other form of participatory democracy and the role of the African civil society, including enhancing and ensuring gender balance in the political process. v) The principle of democratic change and recognition of a role for the opposition. vi) Organisation of free and regular elections, in conformity with existing texts. vii) Guarantee of freedom of expression and freedom of the press, including guaranteeing access to the media for all political stake-holders. viii) Constitutional recognition of fundamental rights and freedoms in conformity principles enshrined of Human Right.¹³³. ix) Guarantee and promotion of human rights. To give practical effect to the principles enumerated, the declaration defines an unconstitutional change of government as consisting of any of the following situations: i). Military *coup d' état* against a democratically elected government. ii). Intervention by mercenaries to replace a democratically elected government. iii). Replacement of democratically elected governments by armed dissident groups and rebel movements. iv). The refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.¹³⁴

It is significant that the declaration repeatedly refers only to action taken against a non democratically elected government,” or one that refuses to relinquish power after losing elections. Although it provides a series of measures that the AU can take progressively to respond to the constitutional change of government as well as an implementation mechanism, the interpretation of these defined and specified types of unconstitutional changes of government may give rise to difficulties in some situations. Since the declaration specifically

¹³³ Universal Declaration of Human Rights of (1948) and the African Charter on Human and Peoples' Rights of (1981)

¹³⁴ AU Constitutive Act, supra note 5, art. 4

prohibits coups against a democratically elected government, it is therefore inapplicable to a coup conducted against a military regime¹³⁵. The declaration also attempts in a rather timid and unrealistic manner to deal with incumbents refusing to concede defeat in elections. A simple way to pre-empt the application of this provision is for the incumbent to declare himself the winner, as Paul Biya of Cameroon did after the 11 October 1992 presidential elections, and then use the full coercive powers of the state to intimidate and silence the actual winner.

One of the most positive developments reflected in the declaration is what it refers to as the “common values and principles of democratic governance” that all African governments are now expected to adhere to. It is clear that these principles go beyond the minimum requirements for the existence of a genuine democracy. It is particularly significant in that these amount to unreserved acceptance by all African countries of Western liberal democracy as the only legitimate form of governance. There is no attempt anywhere in these principles to give democracy an African flavour, if there is any such thing.

3.1.4. The AU Declaration on the principles governing democratic elections in Africa

This declaration was adopted in Durban in July 2002 during the final summit of the OAU and the inaugural assembly of the AU.¹³⁶ It was based essentially on a report of the secretary general of the OAU on strengthening the role of the organisation in election observation and monitoring and the advancement of the democratisation process. The declaration is quite innovative and the main thrust of it centres on five points: i) An agreed set of principles of democratic elections. ii) A definition of the responsibilities of member states. iii) A definition

¹³⁵ Charles Manga Fombad, *The African Union, Democracy and Good Governance*; 2012

¹³⁶ AHG/Declarations 1–2 (XXXVIII) of 8 July 2002

of the rights and obligations under which democratic elections are conducted. iv).The role of the AU in election observation and monitoring; and v) The role and mandate of the AU commission.

In dealing with the principles of democratic elections, the declaration views regular elections as the basis of the authority of any representative government, as a key element of the democratisation process and hence of good governance, the rule of law, the maintenance and promotion of peace, security, stability and development, as well as an important dimension in conflict prevention, management and resolution. It then states that democratic elections should be conducted: i) freely and fairly; ii) under democratic constitutions and in compliance with supportive legal instruments; iii) under a system of separation of powers that ensures, in particular, the independence of the judiciary; iv) at regular intervals, as provided for in national constitutions; v) by impartial, all-inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics.

The responsibilities to which member states commit themselves make very interesting reading and there is no doubt that if most of these were implemented, one of the major sources of electoral problems in Africa would be eliminated. Member states commit themselves to, *inter alia*;i) Scrupulously implement the above principles, establish institutions to deal with issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc. ii) Establish impartial all-inclusive, competent and accountable national electoral bodies and competent courts to deal with electoral disputes; iii) Safeguard all fundamental human rights, especially freedom of assembly, association and speech during the electoral process as well as the promotion of civic and voter education; iv) Taking all necessary measures and precautions to prevent the perpetration of fraud, vote rigging or any other illegal practices throughout the electoral

process; and v) Ensuring security to all participating parties and ensuring transparency and integrity of the entire electoral process. The declaration also contains elaborate provisions that define the rights and obligations that will guide these democratic elections, as well as the guidelines for observing and monitoring elections by the AU and the role that the AU commission will play.

3.1.5. The AU guidelines on election observation and monitoring

These guidelines are premised on the fact that observing and monitoring elections has become an integral part of the democratic and electoral processes in Africa. It also recognises the fact that observer and monitoring missions can play a role in diminishing conflicts before, during and after elections. The guidelines define the criteria for determining the nature and scope of AU electoral observation and monitoring, the mandates, rights and responsibilities of observer and monitoring missions, the codes of conduct for election observers and monitors and virtually reproduce the declaration on principles governing democratic elections in Africa. The involvement of the AU depends initially on a formal invitation by the country organising the elections in accordance with what it refers to as its “democratic legal framework.”¹³⁷ But even where the AU receives an invitation, the guidelines provide that it should only respond where it is satisfied that it has: i) adequate lead-time for preparations; ii) available essential planning information; iii) available professional expertise; and iv) financial and other resources.

The guidelines require that an election assessment team be sent to the country two to three months in advance of the date of the elections to make an on the-spot evaluation of the conditions so as to establish that there is a “level playing field.” In determining whether or

¹³⁷ 3.2 of the draft Guidelines for AU Electoral Observation and Monitoring Missions of 20 February 2002. <www.africa-union.org>

not the conditions exist for organising credible, legitimate, free and fair elections are met. The team is required to consider whether the member state has fulfilled its commitments under the declaration of principles governing democratic elections in Africa, by providing, for example, constitutional guarantees of fundamental rights and freedoms, an independent electoral commission, the necessary measures to prevent fraud and those to ensure transparency. The team will then advise the AU election unit on whether or not to undertake an AU mission.

The guidelines make it clear that the AU reserves the right not to send or to withdraw observers in certain circumstances where the conditions in the country do not meet the AU guiding principles for organising free and fair elections. It is uncertain whether adopting the latter option is really an effective way to monitor or to place pressure on a country to comply with AU standards. It is submitted that strict application of these rules may defeat the overall objective of putting peer pressure on countries to conform to universally agreed standards and practices for conducting elections. A better approach, which it is submitted is consistent with the spirit of the AU democracy and good governance agenda, is for the AU to observe and monitor such elections and issue a frank report outlining the different instances where the state concerned has fallen short of the common standards. There is, however, a need to ensure that the guidelines eventually adopted are not liable to be interpreted and applied in a manner that might defeat the fundamental objective of encouraging more and more African countries to conduct their elections in accordance with the agreed principles. This is where pressure through the different organs of the AU at different levels are useful.

3.1.6. The African Charter on Democracy, Elections and Good Governance (2007)

On January 30, 2007, the AU Assembly adopted the African Charter on Democracy, Elections and Good Governance (the Charter).¹³⁸ The Charter will come into effect when the instruments of ratification are deposited by fifteen member states.¹³⁹ By July 2010, only three states (Ethiopia, Mauritania, and Sierra Leone) had done so. Despite this low level of ratification, the Charter is significant because it demonstrates the desire within the AU to strengthen the legal framework applicable to unconstitutional changes of government. If adopted, it would give treaty effect to the Lomé Declaration while expanding it in several respects.

In particular, Article 23(5) of the Charter provides a new definition of circumstances that are “illegal means of accessing or maintaining power.” It includes all of the unconstitutional scenarios listed in the Lomé Declaration definition and adds a new scenario: “Any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government.”¹⁴⁰ The Charter also would give the PSC two new powers to act to maintain constitutional order. First, Article 24 gives the PSC the power to act where a situation arises that might affect a state’s democratic political institutional arrangements or its legitimate exercise of power.¹⁴¹ Although the coverage of this article is somewhat uncertain, it appears to enable AU military intervention to protect democratic political institutions or legitimate governments. Second, where an unconstitutional change has occurred and “diplomatic initiatives have failed, Article 25(1) states that the PSC “shall” immediately suspend the state in question from participation in AU activities, in accordance with Article 30 of the AU Constitutive Act, and initiate sanctions, in accordance with Article 7(g) of the PSC Protocol.⁸⁵ The Charter’s measures for

¹³⁸ African Charter on Democracy, *supra* note 7, at 19.

¹³⁹ .Article 47–48.

¹⁴⁰ Article. 23(5).

¹⁴¹ Article. 25(1); PSC Protocol, *supra* note 44, art. 7(g).

dealing with unconstitutional change are broader than those in the Lomé Declaration, the AU Constitutive Act, and the PSC Protocol. Under Article 25 of the Charter on Democracy, “perpetrators of unconstitutional change of government shall not be allowed to participate in elections held to restore the democratic order or hold any position of responsibility in political institutions of their State.”¹⁴² Article 25 also provides that the perpetrators of unconstitutional change “may . . . be tried before the competent court” of the AU itself.⁸⁷ Although the Charter fails to specify the offense that perpetrators of unconstitutional change would be charged with, it appears that unconstitutional change is classed as a “crime against democracy.” At present, the “competent court” would presumably be the African Court of Justice (ACJ), which, to date, has not heard any cases.¹⁴³ If a proposed merger between the ACJ and the African Court of Human and People’s Rights proceeds, the court in question would be the African Court of Justice and Human Rights (ACJHR).¹⁴⁴ The Charter also bars states from providing sanctuary to perpetrators of unconstitutional change. Under the Charter on Democracy, the AU Assembly would have the power to impose additional sanctions, including punitive economic measures against the perpetrators of unconstitutional change.¹⁴⁵ The AU Assembly could impose sanctions on “any Member State that is proved to have instigated or supported unconstitutional change of government in another state.” Although the Charter does not specify the types of sanctions that could be imposed, the allowable sanctions would presumably be limited to those provided for under Article 23(2) of the Constitutive Act. As discussed earlier, these include the denial of “transport and communications links with other Member States, and other measures of a political and economic nature.” The PSC

¹⁴² African Charter on Democracy, *supra* note 7, art. 25(4).

¹⁴³ AU Constitutive Act, *supra* note 5, arts. 5, 18 (establishing the Court of Justice); Protocol of the Court of Justice of the African Union, July 11, 2003, <http://www.africa-union.org/root/au/Documents/Treaties/Text/Protocol%20to%20the%20African%20Court%20of%20Justice%20-%20Maputo.pdf>

¹⁴⁴ Protocol on the Statute of the African Court of Justice and Human Rights, art. 2, July 1, 2008,

¹⁴⁵ Article 25(7).

would have the power to lift sanctions, but only after the situation had been resolved.¹⁴⁶ If it comes into force, the Charter on Democracy will enhance the AU's ability to combat unconstitutional change. Although it is unclear why states have so far proved unwilling to ratify the Charter, the member states of the AU continue to reiterate their commitment to an enhanced response to unconstitutional change.¹⁴⁷ In particular, the AU Assembly issued a decision on February 2, 2010, stating that: [I]n cases of unconstitutional changes of Government, in addition to the suspension of the country concerned, the following measures shall apply: a). non-participation of the perpetrators of the unconstitutional change in the elections held to restore constitutional order; b). implementation of sanctions against any Member State that is proved to have instigated or supported an unconstitutional change in another State; c). implementation by the Assembly of other sanctions, including punitive economic sanctions.¹⁴⁸ The decision also stated that AU member states should not recognize unconstitutional regimes and called on international organizations not to accredit them. Unless and until the Charter on Democracy comes into effect, however, the legal foundation for this approach will continue to lie in Article 23(2) of the AU Constitutive Act.

¹⁴⁶ African Charter on Democracy, *supra* note 7, art. 26.

¹⁴⁷ Union on the Consideration & Resolution of Conflicts in Afr. Ass., Tripoli Declaration on the Elimination of Conflicts in Africa and the Promotion of Sustainable Peace, Special Sess., Doc. No. SP/Assembly/PS/Decl. (I), 8, 11–12 (Aug. 3, 2009), http://www.africa-union.org/root/ua/Conferences/2009_Eng.pdf.

¹⁴⁸ AU Ass., Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union to Manage Such Situations, 14th Sess., Doc. No. Assembly/AU/Dec.269 (XIV) Rev.1, 6(i)(b) (Feb. 2, 2010), <http://www.africa-union.org/root/AR/index/Assembly%20Dec.268-288,%20Decl.1-3,%20Res%20E.pdf>.

3.2. The organs of the AU and their role in the implementation of the agenda for democracy and good governance

The AU Act provides nine organs, which could a role in promoting democracy and good governance on the continent. Article 5(1) provides for the assembly of the union, the executive council, the pan-African parliament, the court of justice, the commission, the permanent representatives council, the specialised technical committees, the economic, social and cultural council and the financial institutions. As a result of the powers given to the assembly under Article 5(2) to establish other organs as necessary, several further organs have been established. The most relevant for our purposes is the peace and Security Council (PSC) and the New Partnership for African Development (NEPAD), which operates as a special programme of the AU. Below I outline the role that these organs play in promoting democracy and good governance in Africa.

3.2.1. The Assembly

Composed of heads of states and government of the AU or their accredited representatives, this is the supreme organ of the AU and meets in ordinary session at least once a year¹⁴⁹. As the political organ of the AU, the assembly is vested with diverse and very important powers. The Assembly, determines the common policies of the union; receives, considers and takes decisions on reports and recommendations from other organs of the union; monitors implementation of the union's policies and decisions; ensures compliance by all member states and has the power to establish any organ of the union¹⁵⁰. With the power to act on reports and recommendations from other organs, the assembly is therefore able to exert pressure on errant states, for example, by authorising that the report be made public. The decisions are made by consensus, or decisions can be reached by a two-thirds majority of

¹⁴⁹ Articles 6–9 of the AU Act.

¹⁵⁰ Article 9 (1), i

member states, although procedural matters, including questions on whether a matter is procedural or not, are decided by simple majority. The nature and legal effect of the assembly's decisions impact on its ability to promote democracy and good governance.

The decisions of the assembly, according to its rules of procedure, may take one of three forms. They may take the form of “regulations,” which member individuals.” These “behind member states to the objectives to be achieved while leaving national authorities with power to determine the form and the means to be used for their implementation.”¹⁵¹ Finally, they may take the form of “recommendations, declarations, resolutions, opinions etc,” which are “not binding and are intended to guide and harmonise the viewpoints of member states.” Only the non-implementation of regulations and directives can result in the sanctions provided for in Article 23 of the AU Act. Generally, although resolutions, declarations, recommendations and opinions are not legally binding under international law, they are, nevertheless, of potentially great political. No state will want to be seen by its peers to be going against a common position agreed by most other states. They may also constitute “soft law,” in that they may raise a presumption of legality in favour of conduct which is in accordance with its tenets or may reflect evidence of emerging principles of customary international law. Hans Kelsen has even gone further, when he says:

*... if the norm is adopted by a majority-vote decision of an organ, composed of representatives of all parties to the treaty establishing the organ, and especially by the majority-vote decision of an organ composed only of representatives of some of the parties to the treaty, the creation of the norm assumes the character of legislation.*¹⁵²

¹⁵¹ Rule 33 (1)(a) of the Rules of Procedure of the Assembly of the union

¹⁵² Holt, Rinehart and Winston *Principles of International Law*. 2nd ed. New York: 1966, at p. 507

Both the AU Act and the rules provide for sanctions against member states that fail to comply with the decisions and policies of the assembly¹⁵³ or that undergo an unconstitutional change of power. Sanctions for non-compliance with assembly decisions or policies can take the form of denial of transport and communication links with other member states and other measures of a political and economic nature.¹⁵⁴ To impose sanctions for non-compliance with a “decision” in accordance with the definition of that term in rule is understandable; what is incomprehensible is how a member state can be sanctioned for not complying with an assembly “policy,” especially since this term is not defined. The organisation is required to ensure consistency of action at the bilateral, interstate, sub-regional and international level, and the peace and Security Council (PSC) is to be convened to discuss the matter and immediately suspend the member state from the AU.

3.2.2. The Executive Council

The executive council of the AU functions both as a political and an economic organ of the union.¹⁵⁵ It is composed of ministers of foreign affairs or such other ministers or authorities designated by the governments of member states. Its sessions and mode of reaching decision are similar to those of the assembly, with the exception that it meets twice a year in ordinary session. Because of its political nature, its members usually decide matters on the basis of instructions received from their governments. The main functions of the executive council are to coordinate and monitor the implementation of the union’s policies as formulated by the assembly. Although the functions of this body are essentially technical, it may occasionally have to coordinate or monitor assembly decisions on matters of democracy and good governance. Like the assembly, the executive council may delegate its powers and functions

¹⁵³ Article 23 of the AU Act

¹⁵⁴ Rules 36–37 of the Rules of the Assembly of the AU

¹⁵⁵ Articles 10–13, *ibid*

to one or more of the seven specialised technical committees established under Article 14 of the AU Act.

3.2.3. The Pan-African Parliament

To emphasize the democratic focus of the AU, the Act provides for the establishment of a pan-African parliament (PAP), which according to Article 17(1) is designed to “ensure the full participation of African peoples in the development and economic integration of the continent.” The composition, powers, functions and organisation of PAP is contained in a PAP protocol. According to this protocol, PAP is established to “represent all the peoples of Africa,” and although it is at present vested with only consultative and advisory powers, the ultimate goal is for it to become an “institution with full legislative powers, whose members are elected by universal suffrage.”¹⁵⁶ PAP is composed of five representatives from each member state, one of whom must be a woman. Each member is supposed to be elected or designated by his or her respective national parliaments or any other deliberative organs of the member state. One of the objectives of PAP is to facilitate the effective implementation of the policies and objectives of the AU, and in particular to “facilitate cooperation and development in Africa; promote the principles of human rights and democracy in Africa,” and “encourage good governance, transparency and accountability in member states.”¹⁵⁷ To attain its objectives, PAP can either on its own initiative or at the request of the assembly or other policy organs, examine, discuss or express an opinion on any matter and make such recommendations as it may deem fit. This will obviously include matters such as the consolidation of democratic institutions and the promotion of democracy in member states. Although PAP is clearly a political organ, the protocol states that parliamentarians “shall vote in their personal and independent capacity”: they are not subject to instructions from the state

¹⁵⁶ Articles 2(2) and 2(3) of PAP protocol

¹⁵⁷ Article 3, *ibid.*

they represent. To ensure their independence, the protocol provides that PAP members shall not perform executive or judicial functions in their countries that are incompatible with their functions as parliamentarians. The protocol allows PAP to work in close cooperation with parliamentarians of the regional economic communities (RECs), national parliaments or other deliberative organs of member states. In this way, it could influence the process of democratic consolidation in member states.

3.2.4. The Commission

The commission serves as the secretariat of the union and is composed of a chairperson, deputy chairperson and eight other commissioners.¹⁵⁸ The first two are elected by the assembly while the other commissioners are elected by the executive council and appointed by the assembly. Each of Africa's five regions is entitled to two commissioners. The chairperson and deputy chairperson may not be from the same region and at least one commissioner from each region must be a woman.¹⁵⁹ The commission is really the engine of the AU and plays a crucial role in the implementation of the AU's democracy and good governance agenda. Many of the 32 functions vested on the commission deal directly or indirectly with this, but the main ones include: i) initiating proposals for consideration by other organs; ii) implementing the decisions taken by other organs; iii) establishing, on the basis of approved programmes, such operational units as it may deem necessary; iv) coordinating and monitoring the implementation of the decisions of the other organs of the union in close collaboration with the PRC and reporting regularly to the executive council; v) assisting member states in implementing the union programmes and policies, including the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) and

¹⁵⁸ Article 20 of the AU Act and Article 1 of the Statutes of the Commission of the African Union. ASS/AU/2(1)-d.

¹⁵⁹ Article 6 of the Statutes of the Commission and Rule 39 of the Rules of Procedure of the Assembly

NEPAD; vi) preparing strategic plans and studies for the consideration of the executive council; vii) strengthening cooperation and coordination of activities between member states in fields of common interest; viii) ensuring the promotion of peace, democracy, security and stability; ix) striving for the promotion and popularisation of the objectives of the union.¹⁶⁰

Each of the eight commissioners has a specific portfolio and there is one for political affairs, whose mandate covers, *inter alia*, human rights, democracy, good governance, electoral institutions, civil society organisations and humanitarian affairs. It is inevitable that one of the main functions of the commissioner for political affairs will be to monitor the extent to which member states comply with their commitment to democracy and good governance within the AU framework. During the launching of the AU in Durban in 2002, African leaders adopted a memorandum of understanding that set out a framework and process for a CSSDCA/AU peer review process. One of the most important outcomes was, as we have seen, the declaration governing democratic elections in Africa, which strengthens the role of the commission in observing and monitoring elections. The Durban summit also mandated the commission to study the possibility of establishing a democratisation and electoral assistance fund, a democratisation and election monitoring unit and the drawing up of a roster of African election experts.

3.2.5. The Economic, Social and Cultural Council (ECOSOCC)

The failure to closely involve civil society in the establishment of both the AU and NEPAD aroused great suspicion and many civil society actors criticised them as opaque top-down initiatives lacking a popular mandate¹⁶¹. Nevertheless, the AU provides unparalleled opportunities for civil society involvement in its activities, especially in implementing its

¹⁶⁰ Article 3 (2) of the Statutes of the Commission

¹⁶¹ Jakkie Cilliers, "From Durban to Maputo: A Review of 2003 Summit of the African Union," *ISS Paper* 2003, p. 11.

democracy and good governance agenda. Article 22 of the AU Act provided for the establishment of ECOSOCC to act as an “advisory organ,” and left the assembly to define details on its functions, powers, composition and organisation¹⁶². Unlike PAP and other organs, ECOSOCC has been established not through a legally binding protocol or convention but through a statute that became effective when the assembly approved it.

ECOSOCC as an advisory body of the union is composed of 150 civil society organisations (CSOs) constituted of two CSOs from each member state, ten CSOs operating at regional level and eight at continental level, 20 from the African Diaspora and six in an *ex-officio* capacity nominated by the commission. The election of members at all levels is required to be conducted in such a manner as to ensure 50% gender equality and that 50% of representatives of the members consist of youths between 18 and 35. The statutes of the ECOSOCC confer on its wide ranging objectives and functions that can impact the development of democracy and good governance on the continent. Among these objectives are: i) the promotion of continuous dialogue between all segments of the African people on issues concerning Africa and its future; ii) forging strong partnerships between governments and all segments of civil society; iii) promoting the participation of African civil society in the implementation of the policies and programmes of the union; iv) supporting programmes and policies that will promote peace, security and stability in Africa; and v) promoting and defending a culture of good governance, democratic principles and institutions, popular participation, human rights and freedoms as well as social justice.

Among its wide-ranging functions are those of undertaking studies recommended or deemed necessary by any other organ of the union and submitting recommendations, contributing to the popularisation of, popular participation in, and sharing of best practices and expertise

¹⁶² Statutes of the Economic, Social and Cultural Council of the union. <http://www.transafricaforum.org/documents/ECOSOCCSTATUTES-AU.pdf>.

regarding human rights, the rule of law, good governance, democratic principles, gender equality and child rights. ECOSOCC operates mainly through ten sectoral cluster committees, which formulate opinions and provide inputs into the policies and programmes of the AU.

One of these, the sectoral cluster committee on political affairs, has a mandate to deal with issues such as human rights, rule of law, democratic and constitutional rule, good governance, power sharing, electoral institutions, humanitarian affairs and assistance. These sectoral cluster committees are required to prepare and submit advisory opinions and reports which take effect as “advisory opinions and reports of ECOSOCC.” The greatest strength of ECOSOCC is the ability to influence the way the AU uses its considerable influence to put pressure on African countries to comply with their commitments as members of the AU. Although its role is essentially advisory, it potentially provides another layer of peer pressure that could be exerted on states stumbling in their democratic commitment. The success of such initiatives will depend on whether civil society is able to unite forces, cooperate and to speak as well as act with one voice.

3.2.6. The Peace and Security Council (PSC)

One of the pivotal organs for implementing the AU’s democracy and good governance agenda is PSC, which, ironically, was never contemplated by the AU Act, but was established by the assembly in terms of Article 5(2) of the act, which authorises the establishment of other organs. It is rather surprising that the AU Act did not initially provide any mechanism for conflict prevention, etc., although this is one of the primary goals of the organisation. The protocol establishing PSC remedies this probably inadvertent defect. PSC is now a standing decision-making organ. It acts as a collective security and early-warning arrangement to facilitate the timely and efficient response to conflict and crisis situations on the continent.

This is done with the support of the union's commission, a panel of the wise, a continental early warning system, an African standby force and a special fund.¹⁶³ One objective is to “promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of efforts for preventing conflicts.”¹⁶⁴

PSC comprises 15 members, ten elected for two years and five for three years. Elections are conducted in a manner aimed at ensuring equitable representation of all the five regions.¹⁶⁵ All members have equal voting rights and there is no provision for veto rights or permanent seats. An interesting novelty is the introduction of a number of criteria that reflect the desire to ensure that only states willing and able to respect the AU's values become PSC members. Thus, the prospective member state of PSC must *inter alia*, be committed to upholding the principles of the union and respect the rule of law and human rights as well as constitutional governance in accordance with the Lomé declaration on the framework for an AU response to unconstitutional changes of government.¹⁶⁶ Although the protocol does not say so, it could be inferred from the other declarations that a member of PSC will automatically be excluded if a *coup d' état* occurs in that member state until democratic legitimacy is restored. Apart from this, it is not likely that a member state can lose its membership of PSC just because it is no longer able to meet certain criteria, although Article 5(4) of the protocol calls for periodic review by the assembly of the extent to which members continue to meet the relevant requirements. The functions and powers of PSC also underline the focus on promoting peace, security and stability in Africa. In conjunction with the chairperson of the commission, PSC is given wide-ranging powers that require it to anticipate

¹⁶³ Article 2 of the Protocol relating to PSC.

¹⁶⁴ Article 3 (f), *ibid.*

¹⁶⁵ PSC Protocol, *supra* note 44, article 5 (2)

¹⁶⁶ Lomé Declaration, *supra* note 28.

and prevent disputes and conflicts as well as policies that could lead to genocide and crimes against humanity.

It is also required to institute sanctions whenever an unconstitutional change of government takes place and significantly, to “follow-up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by member states.”¹⁶⁷ The protocol repeats the provisions in the AU Act on intervention in respect of certain defined grave circumstances or when requested by a member state to restore peace and security under Articles 4(h) and 4(j) respectively.¹⁶⁸ PSC must meet at least twice a month but can meet as often as required and is organised in such a way that it can function continuously.¹⁶⁹ The PSC through this three provisions in Article 7 and by signing and ratifying the Protocol, a member state automatically agrees: i) that in carrying out its duties under the protocol, PSC acts on its behalf. ii) to accept and implement the decisions of PSC in accordance with the AU Act. iii) to extend full cooperation to, and facilitate action by PSC for preventing, managing and resolving crises and conflicts, pursuant to the duties entrusted it under the protocol.

This is very similar to Articles 24(3) and 25 of the UN Charter, according to which members of the UN agree that the Security Council, when it acts under the powers conferred on it with respect to the maintenance of international peace and security, “acts on their behalf” and they “agree to carry out the decisions”¹⁷⁰ taken by it in this regard. Two important consequences follow from Article 7 of the protocol. First, PSC acts as the agent of all AU member states

¹⁶⁷ Article 7 (1) (m), *ibid*.

¹⁶⁸ Article 7 (1) (e) and (f), *ibid*

¹⁶⁹ Article 8 (1), *ibid*.

¹⁷⁰ Draft rules of procedure of the Peace and Security Council of the African Union. <http://www.iss.co.za/AF/RegOrg/unity_to_union/pdfs/centorg/PSC/rop/pdf>.

and not independently of their wishes. Second, provided it acts *intra vires*, all member states are bound by its actions and agree to “accept and implement” its decisions. Strangely, neither the protocol nor the draft PSC rules of procedure indicate what is meant by “decisions.” In fact, the draft rules, in Rule 32, state that “at the end of each meeting, the Council may issue a communiqué relating to the deliberations of the Council.” Looking at the broad scope of functions it has to discharge, it is unrealistic to expect all deliberations to result only in communiqués. Taking Rule 33 of the rules of procedure of the AU assembly as a guide, “decisions” most probably refer only to binding decisions and may include “regulations” and “directives,” but exclude non-binding decisions such as “recommendations,” “declarations,” “resolutions” and “opinions.” It may be necessary for this to be clarified in PSC’s own final rules of procedure.

This is particularly so since AU act oddly provides for sanctions against a member state that fails to comply with the “policies” of the union¹⁷¹. As Article 7 makes clear, since the decisions of PSC must be taken as decisions of the AU, any failure to comply with them will invite the sanctions contemplated.¹⁷² There are other structures provided to support PSC that could play a crucial role in promoting democracy and good governance. Such is the case with the panel of the wise, which is supposed to be composed of five highly respected African personalities from various segments of society who have made an outstanding contribution to the cause of peace, security and development on the continent.¹⁷³ Its primary function is in the area of conflict prevention and the panel is required to advise the chairperson of the commission and PSC on all issues pertaining to the promotion, and maintenance of peace, security and stability in Africa.

¹⁷¹ Article 23(2) of the AU Act

¹⁷² Article 23 of the AU Act

¹⁷³ Article 11 of the Protocol establishing PSC.

Another body established for, the continental early warning system (CEWS), is required to anticipate and prevent conflicts continent wide. The early warning system consists of an observation and monitoring centre, “the situation room” located in the AU’s conflict management directorate, and is required to collect and analyse data. It is also linked to the observation and monitoring units of sub-regional bodies,¹⁷⁴ from which data is transmitted to the situation room. The commission’s chairperson is supposed to use the gathered data to advise PSC on potential conflicts and threats to peace and security in Africa, and member states are required to commit themselves to facilitating early action on the basis of this information. A third support structure is the African standby force.¹⁷⁵ Its functions include observation and monitoring missions and intervention under the circumstances specified in Article 4(h) and (j) of the AU Act. To facilitate the operation of the standby force, PSC is required to establish a military staff committee to advise and assist in all questions relating to military and security initiatives to promote and maintain peace and security in Africa. Finally, Article 21 provides for the establishment of a peace fund to provide the necessary financial resources for peace support missions and other operational activities related to peace and security.

PSC certainly has the powers not only to prevent, manage and resolve disputes but also to advance democracy and good governance. Therefore, the early warning system could play a very significant role. There are often many early warning signs on governance issues, such as systemic corruption, the suppression of freedom of speech, the violation of human rights and the manipulation of elections before problems arise. The AU Act and the protocol provide PSC with the legal basis for more robust engagement and great scope for action..

¹⁷⁴ Article 16. *ibid.*, which points out that Regional Mechanisms, operating within regional bodies such as ECOWAS, are an important part of the AU security architecture.

¹⁷⁵ Article 13, *ibid*

3.2.7. The New Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM)

NEPAD is a vision and strategic framework for Africa's renewal that was developed from a mandate given by the OAU to the five initiating heads of state, namely those of Algeria, Egypt, Nigeria, Senegal and South Africa. During the July 2001 OAU summit in Lusaka, African leaders adopted the initiative.¹⁷⁶ NEPAD provides a comprehensive, integrated development plan that addresses key social, economic and political principles for Africa, and is designed to address the major challenges facing the continent. The primary objective is to eradicate poverty, place African countries both individually and collectively on the path to sustainable growth and development, halt the marginalisation of Africa in the globalisation process and enhance its full and beneficial integration into the global economy. Among NEPAD's key principles is good governance as a basic requirement for peace, security and sustainable political and socioeconomic development and African ownership and leadership, as well as broad and deep participation by all sectors of society.

Along with other the top priorities, it is to establish the conditions for sustainable development and ensuring peace and security as well as democracy, and good political, economic and corporate governance. The immediate goal is to ensure that all African countries adopt and implement principles of democracy and good political economic and corporate governance and also entrench the protection of human rights. The overall objective is to attract more resources to the continent through foreign direct investment, increased capital flows through further debt reduction or cancellation and increased ODA flows.

¹⁷⁶ NEPAD website, <<http://www.nepad.org/2005/files/home.php>>.

NEPAD is considered as a programme of the AU designed to meet its development objectives. Its implementing authority is the heads of state and government implementation committee (HSGIC) and comprises 3 states per region. Its steering committee comprises the personal representatives of NEPAD heads of state and government, and oversees projects and programme development, while the NEPAD secretariat, based in South, Africa co-ordinates the implementation of approved projects and programmes. In an effort to enhance the quality of governance in Africa, HSGIC on adopted the memorandum of understanding of the African Peer Review Mechanism (APRM) and the Declaration on Democracy, Political, economic and Corporate Governance. The latter document contains prioritised and approved codes and standards in four focus areas: democracy and good political governance, economic governance and management, socioeconomic development, and corporate governance. HSGIC also adopted documents that outline the core principles, processes and objectives of the APRM including the APRM base document, the APRM organisation and processes document, the document on objectives, standards, criteria and indicators of the APRM.

APRM lies at the heart of the AU drive for a broad vision of African rejuvenation and renewal that seeks to generate more goodwill from foreign trade partners and donors by proving good political and economic governance and accountability. It is, however, a self-monitoring mechanism that member states of the AU can voluntarily accede to and aims, according to its designers, to foster the adoption of policies, standards and practices that will lead to political stability, high economic growth, sustainable development and accelerated regional and economic integration. During the Durban summit, the AU assembly urged member states to adopt the Declaration on Democracy, Political, Economic and Corporate Governance and to accede to APRM. To ensure that the primary purpose of APRM is realised, participating states have committed themselves to adopting appropriate laws, policies and

standards, as well as building the necessary human and institutional capacity. They have also committed themselves to adopting specific objectives, standards, criteria and indicators for assessing and monitoring progress in key areas on a regular basis in accordance with the APRM base document and the Declaration on Democracy, Political, Economic and Corporate Governance. This entails an undertaking to submit to periodic peer reviews, as well as to facilitate such reviews and be guided by agreed parameters for good political governance and good economic and corporate governance.

CHAPTER FOUR

CHALLENGES OF DEMOCRATISATION IN AFRICA

In this chapter the study has done an in-depth review of the democratisation challenges that Africa. The challenges will be discussed in lieu of chapter three review and provide opportunities that Africa can tap into towards democratizing Africa.

4.0. Introduction

The history of Africa is littered with failed institutions and initiatives and numerous broken promises. The AU democracy agenda is today one of the boldest and most daring initiatives that the leaders of the continent have ever embarked on. While the instruments and institutions that are designed to implement it appear to underscore the individual and collective determination to succeed, there still exist challenges. Africans overwhelmingly prefer democracy to dictatorship but approach democratic transitions with a mixture of hope and anxiety.¹⁷⁷ Hope is inspired by the prospects of a better life under a democratic government, while anxiety is fueled by fears that the new leaders may, like their predecessors, both civilian and military, lead the country down the often traveled road to perdition.¹⁷⁸ The prevailing emotion ultimately will depend upon how democracy is practiced. Optimism that democracy will usher in a better life for Africans will attest well founded if leaders seize the prospect presented by democracy to transform the society, regenerate governance, present better and more competent public and social services, maintain security,

¹⁷⁷ Jennifer Widner, *Africa's Democratisation: A Work in Progress*, current history, May 2005, p 216- 220 & Tawah Mentan: *held together by pins: Liberal Democracy under siege in Africa*. 2007, p113

¹⁷⁸ Nsongurua J. Udombana, *Articulating The Right to Democratic Governance in Africa*, 2003.

respect civil rights and liberties, and generally provide an enabling environment for citizens to pursue their economic, social and political interests, shorn of unnecessary restraints.¹⁷⁹

4.1. Democratisation challenges within the AU

One of the first problems within AU system is the existence of too many institutions with possibly conflicting functions. For example, the AU Act created many more institutions than the OAU ever had and the relationship between the AU and NEPAD, which appears to be its flagship for the continent's economic recovery, is not clearly defined. There are overlapping roles and functions between PSC and the NEPAD APRM, both of which play crucial roles in overseeing the implementation of the democracy and good governance agenda. Although Nepad is founded on a business-like assessment of the political and socio-economic realities in Africa today, it does not underestimate the challenges involved in achieving its objectives.¹⁸⁰ An extremely important challenge is combating the scourge of corruption.

The post-independence state in Africa is important not only for what it can do but also for what can be done with it as a system for ensuring upward mobility or patronage, and private access to public resources or corruption.¹⁸¹ In circumstances like these, the apparatus of the state becomes the means for an elite to acquire wealth, rather than serving as a corrective mechanism to fighting corruption: promote social justice and economic development.¹⁸² Politics in Africa has always been fretful to quite a significant degree with the management of spoils. Liberalisation may have had the "unintended consequence" of increasing rather

¹⁷⁹ President Abraham Lincoln's statement about democracy and its capacity to elevate the well being of citizens resonates powerfully in Africa: President Lincoln's July 4th, 1861,

¹⁸⁰ New Partnership for Africa's Development. Declaration on Democracy, Political, Economic and Corporate Governance --- Preamble; Democracy and good political governance; Socio-economic development; African Peer Review Mechanism; and Resource flows. In *Nepad at work: Summary of Nepad action plans*. Ed. Pretoria: Nepad Secretariat. July. 2002

¹⁸¹ Szeftel, Morris. "Eat with us": Managing corruption and patronage under Zambia's three republics, 1964-99. *Journal of Contemporary African Studies*, 2000, p208-209.

¹⁸² Jafferji, Ghaffar. The problems of corruption and good governance. *Africa Analysis*, 2000, p 8, 15.

than decreasing the scope of corruption: patronism has proved difficult to eradicate, the regulatory capacity of the state has been weakened, privatisation has offered opportunities for the political elite to acquire public assets cheaply or fraudulently. Development policy remains, too often, contingent upon how government plans overlap with personal enrichment projects and in such circumstances, clientelism, factional competition, and corruption flourish. There is therefore a need to develop strategies that uncouple private accumulation through corruption from access to public office through politics.

The voluntary nature of accession to the APRM and the weak enforcement regime suggested by the wording that the heads of state and government “may wish to put [an offending] government on notice”, has led to the emasculation of the peer review system almost from inception. Clearly, the peer review mechanism should be about African leaders telling each other where one of them is in breach of mutually agreed standards and principles.¹⁸³ But the word ‘peer’ already gives any wayward leader an advantage: it raises him or her to the same level as his or her presumed accusers. Likewise, ‘review’ places any action firmly in the aftermath of a hypothetical abuse of power. Besides, most politicians prefer that their own kind with similar ambitions, worldviews and Machiavellian desires judge their actions.¹⁸⁴ As a result, African leaders shunned away from independent review of their political performance record almost immediately. This despite former South African President Thabo Mbeki believing that there is “definite progress towards democratic systems” in Africa, and arguing that the AU’s Constitutive Act already “binds all member states of the matters relating to political governance ... [to the promotion of] democratic principles and institutions, popular participation, and good governance”.¹⁸⁵

¹⁸³ Tsedu, Mathatha. Don’t turn AU into old boys’ club. *Pretoria News*. 2002, 8 July.

¹⁸⁴ Pienaar, Hans. A review mechanism without peer. *Pretoria News*. 2002, 18 June.

¹⁸⁵ Mbeki, Thabo. Critics ill-informed about Nepad peer review. *ANC Today*, 2, 45, 2002b, 8-14 November.

There is also an increase of regional organisations, some of which may have potentially conflicting roles and functions. For example, in Southern and Eastern Africa, there are three regional organisations, the Southern African Economic Development Community (SADC), the East African Economic Community (EAC) and the Common Market for Eastern and Southern Africa (COMESA). These regional bodies come with regional parliaments, which add to the national parliaments and the pan-African parliament. Tanzania, for example, is a member of SADC, EAC and also the AU. There is also a need to avoid the duplication of functions such as between the NEPAD APRM and PSC and between the NEPAD APRM and the CSSDCA/ AU peer review mechanism.

Directly related to the problem of the proliferation of institutions and organs financial constraints. It is difficult for the AU, with its many ambitious structures and programmes, to squeeze money from many of the member states that are in dire financial support. For instance, by the end of 2004, only 13 of 53 member states had paid their share towards PAP. The commission presented a budget of US \$571.2 million in 2004 and was able to obtain only US \$158.¹⁸⁶ Dependence of donations and foreign aid to execute many of its programmes, such as observing and monitoring elections and peace keeping from countries such as the US, China, EU member states and the EU itself, as well as the generosity of some of the big powers on the continent. For example, South Africa has set aside US \$ 10 million just for hosting PAP and is also currently hosting the NEPAD secretariat. Notwithstanding donor assistance, finding the money to manage all the new organs, institutions and programmes remains a major challenge that could have an impact on how the AU implements the democracy and good governance agenda.

¹⁸⁶ Archie Mafeje:1999; *Democracy, Civil Society and Governance in Africa*

Although some of the fairly serious commitments undertaken under the democracy agenda are contained in binding instruments while others are in non-binding declarations and decisions. The organs that will determine whether or not there has been a violation by a state of its commitments, such as the assembly, PSC and the HSGIC of NEPAD, are political bodies that decide issues not on their legal merits but on the instructions received from the member state. Peer solidarity will militate against the finding of a violation of an obligation in anything but blatant cases, such as a *coup d' état*. The fact that a majority of members of key bodies such as PSC come from states like Cameroon, Libya, Sudan, Congo, Algeria and Gabon, which have in many respects made a mockery of democracy and good governance and regularly violate the human rights of their citizens, makes it doubtful that these states can support action against or condemnation of another state for its undemocratic behaviour. Arguably, Sudan's membership in PSC could have contributed to this body's relatively tame response to and its unwillingness to consider Sudanese government actions in Darfur as a violation of Article 4(h) of the AU Act. Leaders such as Biya of Cameroon, Bongo of Gabon, Mugabe of Zimbabwe, Ghadaffi of Libya, Mswati III of Swaziland and Hosni Mubarak of Egypt are a facade to democracy.

Implementation of the laws, policies that many African leaders have committed to is negative burden over the democracy and good governance agenda's viability.¹⁸⁷ The burden of making this agenda for Africa work depends as much on Africans themselves as on their leaders. For example the actions of President Mugabe are a typical example of the danger that the people sometimes face when they exercise their democratic rights. Having driven Zimbabwe to the brink of starvation since 2002, he and his supporters have, after the recent March elections,

¹⁸⁷ Francis Fukuyama, *Building Democracy After Conflict: "Stateness First"* 16 J. 84, 85-6 (2005)

sought not only to deprive areas that voted for the MDC of shipments of food relief, but since June have undertaken “Operation Murambatsvina” in opposition strongholds in the major towns, in the course of which more than a quarter of a million people have been left homeless and their sources of livelihood destroyed.

The AU’s records of election monitoring are not encouraging. While most international observers and monitors have generally been critical of the recent elections in Cameroon, Malawi, Nigeria, Kenya and Zimbabwe, the AU has been happy to declare them free and fair, thereby raising doubts about the interpretation of what actually constitutes a “free and fair” election. Solidarity alliances and bonds based on regional, racial, linguistic and other forms of mutual self-interest. For example, the Arab countries have been instrumental in blocking any decisive action against the Sudanese government for its activities in Darfur. Thabo Mbeki has gone to absurd lengths to block the issue of democracy and human rights abuses in Zimbabwe from being discussed either within the AU or SADC. Nigeria’s Obasanjo’s commitment to democracy and good governance within the AU framework has clearly been called into serious question by the decision to continue to offer political asylum to the former Liberian dictator, Charles Taylor, who has been indicted for war crimes by the UN-backed special court in Sierra Leone.

Even where the AU has appeared to be decisive, as it was in Togo, the outcome is apparently inconsistent with its democracy agenda. The attempts by Faure Eyadema to assume power unconstitutionally after his father’s death were thwarted by the combined intervention of the AU and ECOWAS, but the negotiated deal which allowed elections to be organised hastily under circumstances that preserved the massive advantages enjoyed by the ruling party and Faure, made their victory easy and predictable. What may be seen as a victory for the AU and

ECOWAS is hollow. As usual, while many foreign observers refused to recognise the victory, the AU was quite happy with the outcome. This was, however, a marked improvement on the confusion in the organisation over the earlier coups in Guinea- Bissau, Central African Republic and Madagascar.

NEPAD APRM attractive to foreign donors, who have consistently argued that lack of political accountability and bad governance were the root cause of Africa's problems, was the fact that the political and governance review of African states was to be carried out by the United Nations Economic Commission for Africa (UNECA), which was considered independent, experienced and credible. Africa's development partners, especially the G8, were disappointed when the political and governance review was lodged within the heavily politicised structures of the AU. The failure to base the NEPAD APRM on a legally binding document, such as a protocol that all African countries are obliged to sign, undermines attempts to project this review mechanism as part of the implementation of the commitment to democracy and good governance under the AU Act. In the final analysis, the NEPAD APRM will remain a closed state-to-state process with no room for non-state, independent critical voices who could contribute constructively to making the process more productive, effective and credible.

4.1.2. Internal Challenges

Though Africa counts on the international community, democratic consolidation ultimately rests with Africans.¹⁸⁸ The international community, however well-intentioned, can only do so much.¹⁸⁹ Citizens whose lives and fortunes depend on democracy must accept and bear the responsibility for its survival. Democratic reform ultimately depends on citizens to make

¹⁸⁸ Mandela, *supra* note 36

¹⁸⁹ Paul Collier, Five Steps to Sustainable Governance in Africa, Interviewed by Stephanie Henson, June 27, 2008 available at www.cfr.org

choices, frame options and initiate changes. Only Africa citizens who live with the painful realities of failing democracy “can break the cycle of terror, poverty and mediocrity that keeps them subdued.”¹⁹⁰ The international community can only support the citizens to realize their stated goals.¹⁹¹ Africans must undertake a genuine, good faith and objective assessment of the problems that thwart their democratic aspirations. Africa must confront five major challenges: organizing fair and credible elections, improving the condition of government, revamping public institutions, improving security and counteracting anti democratic sentiments in the society.

4.1.3. Organizing Credible Elections

The first challenge for Africa in its struggles to consolidate democracy is to conduct credible elections. Conducting credible election in Africa has always been a big challenge, given the unsatisfactory state of public institutions. Ensuring that the elections are free, fair and credible represents an even bigger challenge.¹⁹² Nephrologists and scholars are unanimous in their condemnation of elections in Africa.¹⁹³ It is evident that African leaders often allow elections not with any sincerity or hope to deepen democracy. Rather, they conduct elections to poutice international concerns by creating the impression of democracy while they manipulate and rig such elections to maintain power. No one has been fooled. Citizens, international observers and scholars see through the scheme and have written a blizzard of papers and reports disapproving of the conduct of elections in Africa.

Africa’s bold democratic aspirations are often marred by electoral fraud and other irregularities that deny citizens the right to choose and control their leaders. Electoral fraud

¹⁹⁰ Calderisi, *Trouble in Africa* supra note 14 at 230

¹⁹¹ Thomas Carothers, *The Sequencing Fallacy*, 18 J. DEM. 12, 22 (2007)

¹⁹² taffan Lindberg: *Democracy and Elections in Africa*, 2006

¹⁹³ Robert Dahl, *A Preface to Democratic Theory* 3, 1956

erodes public trust and support for the government and leads to citizens' disinterest in the democratic process.¹⁹⁴ To sustain the hopes of consolidating democracy, African countries must conduct credible and fair elections in which citizens' choices of leaders are not disturbed by electoral fraud or manipulation. Fair and free elections provide opportunities for citizens to reject and eject corrupt governments and send a clear message to prospective leaders that corruption, incompetence and hubris should find no sanctuary in a democratic society. The power to reject an underperforming government remains one of the most potent accountability mechanisms in a democracy.¹⁹⁵ Fear of losing elections will keep governments honest, responsive and more attentive to the needs and opinions of the citizens. Prospects of rejection at the polls will force leaders to expurgate themselves of despotic tendencies, hubris and arrogance that all too often constitute the defining traits of leadership in Africa.¹⁹⁶

Ultimately, the powers of the electorate to reject candidates for elective offices compellingly reinforce the notion that powers in a democracy lie, not with the government, but with the people.¹⁹⁷ Credible, fair and free elections will enable the citizens to reassert their power and influence over the government.¹⁹⁸ Political elites fearful of rejection at the next poll will operate with a heightened sense of their limitations and vulnerabilities, and hopefully, display greater sensitivity to the needs and welfare of the citizens.¹⁹⁹ The main drive for electoral fraud is that the electoral process has turned into a consequence free zone where perpetrators of electoral fraud are rarely investigated and punished. Citizens waiting for comeuppance for electoral fraud have been dismally disappointed. When electoral fraud is ineffectively

¹⁹⁴ Bruce Fein, *Nigeria's Rule of Law Challenges*, Wash Times, July 15 2008, p A22

¹⁹⁵ Molly Bentz, *Functional Democracy: Responding to Failures or Accountability*, 44 Harv. Int'l L.J S p387, 402. 2003

¹⁹⁶ Jennifer Widner, *Africa's Democratisation: Work in Progress*, May 2005, p. 216

¹⁹⁷ Staffan I. Lindberg, *The Surprising Significance of African Elections*, 17 J. DEM. 139, 150 (2006)

¹⁹⁸ Robert Dahl: A preface to Democratic Theory, 1956, p 3

¹⁹⁹ G. Shabbir Cheema: *Building Democratic Intuitions: Governance Reform in Developing Countries*, p25, 2005

investigated and sufficiently punished, electoral fraud proliferates as emboldened candidates and their cohorts at the Independent electoral commission and the Police ply their fraud without fear of reprisals.

Democracy is a mirage in most African nations because “they have poor governance, which generates poor policy performance and disillusioned citizens.”²⁰⁰ The chief impediment to democratic consolidation in Africa is the attitude of leaders, especially their conflicting attitudes toward democracy. They laud, and indeed, relish the powers and authority of democracy and revel in its glory but loathe its restraints, especially fidelity to the rule of law, accountability and respect for citizen’s rights. As ²⁰¹Africa moves from dictatorship to democracy, one thing has remained constant: the failure of leadership.²⁰² The most fundamental problem in post independent African states has been authoritarian leaders who distort governance and turn it into an instrument for self extravagant. A cursory survey reveals that, in a disproportionate number of African countries, the democratic process is in tatters, disfigured and lobotomized by the imposture of political elites. The much vaunted democracy in Africa has ushered in leaders who display and espouse the same weaknesses and predilections of dictators that ruled Africa for the better part of the 1990s. They often lack the capacity or willingness to address Africa’s pressing and important problems, are terminally corrupt, increasingly autocratic, unaccountable and often use the instrumentalities of power for self aggrandizement.²⁰³ The enormous concentration of powers in the president has produced what Larry Diamond aptly described as “highly centralized and overpowering

²⁰⁰ Diamond: *The Spirit of Democracy*: Supra note 17 pg 296

²⁰¹ Richard Joseph, *Challenges of a Frontier Region*, 19 J. DEM. 94, 99 2008

²⁰² Chinua Achebe: *The Trouble with Nigeria*, 1983 & George Atithey: *Africa Unchained: The Blue print for Africa’s Future*, 2005 p 2005

²⁰³ Edward Kannyo, *Liberization, Democratisation and Political Leadership in Africa*, in *TOWARDS AFRICA’S RENEWAL* 63-84(Jeggan C. Senghor & Nana K. Poku, eds. 2007)

presidencies” who use the machinery of government to overwhelm accountability mechanisms and exercise virtually unchecked powers.²⁰⁴

Problems of bad governance have been recognized by scholars, politicians and even by African leaders themselves.²⁰⁵ Kofi Annan, the former United Nations Secretary General declared that “good governance is perhaps the single most important factor in eradicating poverty and promoting development.”²⁰⁶ African Union, the umbrella organization for African nations, recognized the problems of bad governance and made the promotion of good governance one of its driving objectives. The African union bolstered its commitment to democracy and good governance through the New Partnership for African Development (NEPAD) launched in 2001,²⁰⁷ where African heads of state led by South African President Thabo Mbeki promised to commit to political reform and economic development.²⁰⁸ One of the innovations initiated by NEPAD to promote good governance and development in Africa is the African peer review mechanism by which African governments would monitor each other’s progress. Some western countries, notably the United States and European countries, have also made commitments to promote good governance in the continent of Africa.²⁰⁹ Similarly, international donor agencies and organizations, including the World Bank, European Union and International Monetary Fund, emphasize good governance as a predicate for cooperation with, or assistance to, African countries.²¹⁰

²⁰⁴ Larry Diamond, *The Rule of Law Versus the Big man*, 19 J. DEM 138 (2008) & Kiai, *The Crisis in Kenya*, 19 P162, 163 (2008).

²⁰⁵ UNDP, *Governance for Sustainable Human Development* (1997) <http://magnet.undp.org/policy/default.htm>

²⁰⁶ Frank Tenente, *Feeding the World One Seed at a Time: A Practical Alternative for Solving World Hunger* 5 P 298

²⁰⁷ www.nepad.org/2005/files/documents/inbrief.pdf

²⁰⁸ Herbert, *supra* note 36 at 136; Okezie Chukwumerije, *Peer Review and the Promotion of Good Governance in Africa*, 32p 49

²⁰⁹ Richard Youngs, *What Has Europe Been Doing?* 19 J. DEM. 160 (2008)

²¹⁰ Rowland Axtmann: *Democracy: Problems and Perspectives* p 79-111, 2007; 89 (2005)

But so far in Africa, good governance is more talked about and celebrated than practiced. African leaders have spent considerable time preaching about the need for and benefits of good governance but virtually no time initiating changes to improve governance. Despite the emollient rhetoric of good governance, African leaders have dismally failed to transform the slogan of good governance into reality.²¹¹ Rather, African leaders remain noisome, unsavory cautionary figures, not exemplars of good governance. Leaders who assume office promising to uplift the citizens quickly degenerated into paradigms of arrogance and hubris. They are unconcerned about their citizens' welfare, insensitive to public opinion, and for the most part, are brazenly and provocatively corrupt.²¹² Political realities in Africa, especially the desire for self preservation, quickly drowned African Union's well-intentioned efforts to promote good governance in Africa. African leaders, most of them with less than stellar records in the area of good governance, refused to press their colleagues to live up to the ideals of good governance. As an international journalist elegantly put it "leaders with glass democracies won't throw stones." NEPAD's legacy, or perhaps tour de force remains the cynical maneuvers and pharisaical declarations by hubristic African leaders who proclaimed desire for good governance and did exactly the opposite.²¹³

The activities of African leaders continue to betray a disheartening lack of commitment to good governance. For example, Nigeria's President Obasanjo, one of the chief architects of NEPAD, soon engaged in devious schemes to secure a third term in clear violation of the constitution.²¹⁴ Recent investigations in Nigeria reveal a troubling level of corruption and

²¹¹Calderisi, *supra* note 14 at 75

²¹²Simon Tisdall, *Leaders with Glass Democracies Won't Throw Stones*, The Sydney Morning Herald, July 2, 2008.

²¹³Richard Joseph, *Witnessing Africa's Woes and Hopes* 15. J. Dem. 173, 175 (2004)

²¹⁴N. Posner & Daniel J. Young, *The Institutionalization of Political Power in Africa*, 18 J. Dem. 126 (2007)

abuse during his tenure as president.²¹⁵ Also, African leaders who promised to review the activities of their peers often lacked the courage or the inclination to condemn or criticize their colleagues.²¹⁶ The proponents of good governance who promised to hold each other accountable conspicuously refuse “to take a stance against the rape of democracy in Zimbabwe.” Criticisms of fellow leaders occur infrequently and when they do, they are often couched in tentative and mild expression of concern instead of a strong denunciation of clear abuse of power.²¹⁷ Professor Ayitteh was painfully correct in his assessment of governance in African Countries:

Repeating endlessly the virtues of good governance does nothing to reassure citizens who bear the consequences of leadership failures. Africans need no further sermons on good governance; they already know its attributes and values. Citizens need leaders to display commitment to good governance through concrete actions, not talk or slogans. Ultimately, governance will be evaluated not by public statements and pious declarations from African leaders but by the actions and activities of leaders. Good governance is no longer an aspirational ideal: it must be displayed and reflected in the policies, programs, and activities of leaders. Democracy demands a better approach to governance than what currently exists in Africa. Good governance entails dramatic and wholesale changes in the way African leaders govern their countries. To entrench democracy, leaders must act and govern in a manner that reflects the noble ideals of constitutional democracy. Leaders must govern

²¹⁵ Sufuyan Ojeifo, *Finance Minister Slams Obasanjo Over Award of Contracts*, 2008 available at <http://allafrica.com.stories/200806240625.htm>

²¹⁶ John K. Akokpari, *The AU, NEPAD and the Promotion of Good Governance in Africa*, 13 *Nordic Journal of African Studies*, p243, 256 (2004).

²¹⁷ Tiseke Kasambala, *An Illegitimate President*, www.hrw.org/english/docs/2008/0707/zimbab19264.htm 2008

responsibly and honestly, respect rights and liberties and allow institutions and processes that strengthen democracy to function as intended.²¹⁸

The antidote to most of Africa's problems is good government that will meaningfully address the three major issues that grate citizens and dampen their zeal about democracy, namely corruption, human rights abuses, and government's lack of sensitivity to the needs and welfare of citizens. Democracy will not deliver its promises without effective leadership that can transmit democratic values to citizens.²¹⁹ Notably, Africans expect their leaders to confront, unequivocally and tenaciously, the evils of dictatorship, human rights abuses, and corruption disinterred by civilian administrations. Political elites must liberate themselves from the thralldom of hubris and provide a more honest, transparent and accountable leadership. Leaders must, by the power of examples, set the template for probity in government. If leaders espouse and demonstrate the virtues of honesty, integrity and probity, it will not only enhance the quality of government, but it will make it easier to persuade the masses to emulate their examples. It will be easier for a government that serves as an exemplar of the democratic spirit to change the attitude of citizens who are dismayed, demoralized and ultimately cynical about constitutional democracy.

Imperatives of good governance demand that leaders release their grip on institutional accountability mechanisms like courts, legislatures and electoral commissions and allow them to function as expected, i.e., independently, fairly, objectively and predictably.²²⁰ These institutions, especially the judiciary, freed from the shackles of the executive will provide

²¹⁸Richard Sandbrook, *Democracy in Africa Can Succeed*, in *Africa Opposing view Points* p37(Laura Egendorf ed. 2005)

²¹⁹Mariane Camerer, *Measuring Public Integrity*, 2006

²²⁰Kaufman et al. *Supra* note 107.

effective counterweights to executive excesses and abuse.²²¹ They would also promote accountability and ensure that the government respects both the rule of law and rights of the citizens.²²² African leaders must squelch their well-known antipathy to constitutional restraints and offer a clear and coherent vision of governance that uplifts the citizens, respects rights and liberties, and generally provides a better enabling environment for citizens to pursue their legitimate goals. Citizens must be allowed to enjoy their fundamental rights, liberties and freedoms without unnecessary restraints or interference by the government. They must enjoy the right to vote, participate and compete for elective offices, exercise their right of free speech and dissent and be able to criticize or question government policies without molestation or harassment.

Good governance requires a fundamental rethinking of the way African governments operate. At present, governments in Africa have neither the interest nor the inclination to open up government to review and scrutiny. The dominant impulse of African leaders has been to run a closed government. They often resort to devious schemes to shield their activities from review by restless citizens, tenacious journalists and international organizations. This mindset infects both their attitude and disposition and leads them to resist attempts and efforts by the public to review their activities. Good governance demands that leaders open government to review and scrutiny by citizens, opposition parties and international organizations. The ultimate goal is to provide the public access to data and information that will help citizens to objectively evaluate their government, raise questions and concerns and to demand answers without artificial obstacles, or fear of coercion. There will always be dissents, complaints and protests against the government; that is an inevitable aspect of constitutional democracy.

²²¹Okechukwu Oko, *Seeking Justice in Transitional Societies: An Analysis of the Problems and Failures of the Judiciary in Nigeria*, 31 BROOK.J , P 9 (2005)

²²² African Governance Report , 2005, p171

Political elites must learn to allow people with different points of view to express them, vociferously, if they so choose. As Professor Hazard stated, albeit in a different context, “in a free country, the voices of protest will continue. Those who cannot stand the complaints should get out of the kitchen.”²²³ An open government is not only essential; it is and should be required of all democratic governments.²²⁴ Opening government to review will compel corrupt governments with a skewed sense of priorities to chart a new course and exercise its powers for the greater good of citizens.

4.1.4. Corruption and Mismanagement

The third challenge is to revamp public institutions that anneal constitutional democracy. As Professor Makinda rightly observed, “democracy is only possible if the structures, processes and institutions through which the peoples will is expected to be addressed accommodate their interests, values and aspirations.”²²⁵ Constitutional democracy continues to falter not only because of the conduct of leaders but also because of inefficient, ineffective and deteriorating public institutions. At present, public institutions are ineffective, inefficient, crippled by corruption and mismanagement, and the legacy of military rule. Problems of public institutions are systemic as well as personal. Public institutions are poorly funded, inadequately equipped and function in circumstances that make efficiency. Corruption and desire for self advantage have overwhelmed the ideal of public service and turned public institutions into crucibles of sloth, avarice and mediocrity.

²²³Geoffrey Hazard, *Seeking Justice, Preserving Liberty*, 54 Hastings L.J. 695, 703 (2003).

²²⁴ Maria Dakolias, *Are We There Yet: Measuring Success of Constitutional Reform*, 39 Vand J. Transnat’ L, (2006)

²²⁵ Maria Dakolias, *Are We There Yet: Measuring Success of Constitutional Reform*, 39 Vand J. Transnat’ L, (2006)

Poor leadership, shaggy government policies and poverty continue to expose public servants to control, manipulation and corrupt practices.²²⁶ Citizens with money or influence politicians from the ruling party, senior government officials, and wealthy private citizens can manipulate and control public institutions to achieve their selfish desires. Public servants who live in a culture dominated by greed succumb to the prevailing orthodoxy and use their public offices to make money. Without a strong and upright leadership to set the right examples and demand accountability from public institutions, civil servants engage in arbitrary, unprincipled and ultimately corrupt and improper exercise of power to advantage themselves.²²⁷ They orchestrate inexplicably circuitous and long drawn out schemes to frustrate their patrons with the ultimate aim of extorting money from them.

Another subtle, but ultimately more dangerous component of corruption in public institutions is that it puts undue and unnecessary pressures on honest public servants who want to diligently discharge their duties. Public servants often operate in environments and circumstances where they cannot easily assert their independence and resist the demands of overbearing and all too powerful politicians, especially members of the ruling party. They are also exposed to pressures that can overpower even the strongest human beings and disable their moral compasses. As they watch their bosses and colleagues luxuriate in ill-gotten wealth while facing straitened and harsh economic circumstances themselves, some public servants succumb to the morals of the marketplace and become participants in schemes to enrich themselves.

As an informed scholar of Africa presciently stated more than four decades ago, “it is difficult to see how Africa’s crisis can be surmounted without... national institutions that

²²⁶ Kwesi Kwaa Prah, *supra* note 42 at 3

²²⁷ Okechukwu Oko, *Subverting the Scourge of Corruption in Nigeria: A Reform Prospectus*, 34 N.Y.U.J. INT’L L. & POL. 397, 415 (2002)

function efficiently and predictably.²²⁸ Professor Joseph poignantly and perceptively observed that “the most daunting frontier still to be crossed in much of post colonial Africa is the creation and maintenance of institutions that will uphold transparency and the rule of law.” Public institutions require vast structural and attitudinal readjustments that will curtail corruption, inefficiency, and expand the frontiers of accountability and transparency.

4.1.5. Insecurity

The next challenge is to reclaim order from the hoodlums who have held the society hostage. Since the return of constitutional democracy in 1999, anti-government sentiments have increased exponentially.²²⁹ The activities of these networks of hoodlums and the seeming inability of the state to stem the tide of violence continue to inflame the fears of an increasingly nervous society. Citizens whose lives have been destroyed by fear of violence have little or no time to devote to other meaningful activities. Inequitable distribution of the nation’s resources, corruption and human rights abuses continue to deepen and multiply negative sentiments against the government. The grudges against the government continue to expand and ultimately explode in violence by those ethnic minority groups who charge the government with neglect, injustice and abuse.

The violent and often brazen and vicious operations of ethnic militias and the network of criminal elements in the society have diminished the quality of life and undermined economic and social activities in the country. Citizens live in fear of violence as the state’s security apparatus has repeatedly shown itself to be incapable of containing the activities of these scofflaw who have no regard for the sanctity and dignity of human life.²³⁰ These hoodlums

²²⁸ Richard Joseph, *Challenges of a Frontier Region*, 19 J. Dem. 94, 102 (2008)

²²⁹ UNDP: Human Development Report 2004: *Cultural Liberty in Today’s Diverse World*, 2004 p 52

²³⁰ Charles Gore & David Pratten, *The Politics of Plunder: The Rhetoric of Order and Disorder in Southern Nigeria*, 102 Afr. Affairs, 211, 212 (2003)

murder, maim rape and kidnap innocent citizens at will and often in broad day light without qualm or fear. Democratic societies crave and adore security. It represents the hallmark of good governance: the platform that enables both the government and the governed to pursue their legitimate goals.²³¹

4.1.6. Anti Democratic sentiments

Africa's experience vividly illustrates that a democratic society can neither be conjured nor imposed by dictate.²³² Ultimately, democracy will thrive if citizens support it and feel vested in the democratic process. Past errors, especially executive hubris, rights violations and corruption have contributed to apathy toward the democratic process. As a result, citizens feel that the government is insensitive, abusive and as a result the general population is less inclined to support the government. The excesses of government disaffect citizens and significantly undercut its legitimacy.²³³ The initial euphoria about democratic transitions has now fizzled; it is now replaced by fear and nagging doubts about the values of democracy. Worse still, the democratic process is beginning to conjure negative images in the minds of citizens. The fear and anguish caused by executive excesses continue to drive citizens away from the democratic process.

In the climate of corruption, abuse and mismanagement, leaders have lost the capacity to serve the people, and more importantly to inspire or galvanize citizens to embrace democracy. The biggest challenge is to arrest the surge of public disenchantment with constitutional democracy and deflated confidence in the ability of African leaders to liberate

²³¹ Rotberg I. Rotberg, *The Challenge of Weak, Failing and Collapsed States, in Leashing the Dogs of War* p 88, 85(Chester A. Crocker et al eds. 2007)

²³² Marina Ottaway: *Democracy in Africa: The Hard Road Ahead*. P5

²³³ Larry Diamond: *Developing Democracy: Toward Consolidation*, 1999 p77

themselves from the thralldom of corruption. Anti-democratic sentiments are pervasive and endure with the failure of leaders to inspire and encourage citizens to embrace constitutional democracy. Democratic consolidation will continue to be threatened by citizens' negative attitudes and excesses of leaders.

4.1.6. Ethnicity

One of democracy's ever present challenges is to nurture and sustain democratic values among the citizens. In the case of Africa, the challenge is even greater because of democracy's checkered history and years of military rule. Two problems continue to dampen citizens' response to constitutional democracy. The first is ethnic loyalty. Members of the various ethnic groups that comprise a nation identify more with their ethnic groups and often feel no loyalty toward the nation.²³⁴ Some citizens, especially those from minority groups, accuse the central government of unfairness and feel less inclined to support the democratic process dominated by the major ethnic groups.²³⁵ Accusations of unfairness, real and invented, resonate with ethnic minorities and lead them to engage in activities inimical to the democratic process. For example, Nigerians consists of three dominant ethnic groups and a clutter of other smaller ethnic groups in identifying with national programs and policies including the democratic process. Ethnic minorities are impulsively distrustful of the dominant ethnic groups and are often unwilling to embrace efforts by the central government to promote national unity. They also believe that the democratic process has not provided an adequate mechanism for addressing their fears and concerns and therefore generally remain unenthusiastic about constitutional democracy.²³⁶ Ethnic minorities believe that the dominant ethnic groups engage in schemes and practices to privilege their kith and kin while denying

²³⁴Robert Mattes: South Africa: *Democracy Without the People*. 13 J. Dem. 22. 29 (2002)

²³⁵ Francis Deng, *Africa and the New World Dis-Order: Rethinking Colonial Borders*, Spring 1993 at 34; Makau Mutua, *Why Redraw the Map of Africa: A Moral and Legal Inquiry*, 16 Mich. J. Int'l L. 1995.

²³⁶Robert Dahl: *Polyarch: Participation and Opposition*, 1972, p114-118

them their fair and equitable share of the nation's resources. Because of the dominance of ethnicity, everything is processed through the lense of ethnicity thus making it difficult to promote unity and advance the interest of the nation.²³⁷

Ethnic sentiments warp and distort the capacity of citizens to approach the democratic process with zeal and open minds. Ethnicity has become a source of fear and disillusionment, neither of which augurs well for democratic consolidation. Citizens fearful of other citizens from different ethnic groups are hardly candidates for good faith concession and compromises necessary to make democracy work.²³⁸ Disillusioned citizens tend to approach their roles in a democracy and the government with distorted views and perceptions that make it difficult, if not impossible to build a consensus on important national issues, including constitutional democracy.²³⁹ Ethnic fervor denigrates the unity of the nation and its capacity to run and maintain an effective government. Far too often, ethnic tensions burgeon into violence as ethnic groups impatient with or distrustful of both the legal and the political process resort to violence with adverse implication for the nation and the democratic process.

The second problem is that some of the citizens who yen for democracy understand neither the ethos nor values that sustain democracy nor their roles in a constitutional democracy.²⁴⁰ Therefore, they have problems appreciating or absorbing democratic values. Those who understand the dynamics of constitutional democracy are growing increasingly passive and cynical because of the excesses of the political elites. Citizens unable to hold their leaders accountable collapse into a mood of indifference. Disaffected citizens care less about the democratic process and are even more disinterested in fulfilling their civic obligations. They

²³⁷Richard L. Sklar et al, Nigeria: Completing Obasanjo's Legacy, 2006

²³⁸Bruce Ledewitz: Book Review: The Promise of Democracy, 2003, p 412

²³⁹Seth Kaplan, The Remarkable Story of Somalinand, 2008, p143 & 155

²⁴⁰Christan Welzel & Ronald Inglehart, *The Role of Ordinary People in Democratisation*, 2008, p126

are also often impervious to pleas by leaders to embrace and support the democratic process. The establishment of constitutional democracy without simultaneously creating and nurturing the culture and attitudes that sustain democracy will lead to unsatisfactory results.²⁴¹ The challenge therefore is to counteract anti-democratic sentiments and help citizens to develop and cultivate attitudes and values that strengthen democracy.

4.1.7 Selfish Political Leaders

Political elites in Africa are beset by self inflicted crippling weaknesses that render them incapable of living by the dictates and precepts of constitutional democracy. Most of them are ruled by insidious political opportunism and are willing to go to any lengths to attain and retain political power.²⁴² Their perspectives are circumscribed by immediate concerns of self projection and wealth acquisition. Mired in this mind set it becomes difficult, if not impossible for them to serve the public and observe the restraints of constitutional democracy. Their obsessive focus on self interest has deadened their sensibilities to the problems and suffering of their citizens. They deal with disaffected and frustrated citizens not by persuasion, dialogue or accommodation, but by force and intimidation.

Therefore they have no democratic framework to model their conduct. Some of their excesses are motivated more by ignorance than arrogance and lack of understanding of the dynamics of the democratic process.

Democracy will not be consolidated unless political elites understand the intricacies and nuances of the relationship between leaders and the citizens in a constitutional democracy. At present the relationship is characterized by arrogance, arrogance and coercion that leave citizens frustrated, angry and resentful of their leaders. Leaders view citizens, not as the

²⁴¹ Carolyn Logan, *Rejecting the Disloyal Opposition: The Trust Gap in Mass Attitudes Toward Ruling and Opposition Parties in Africa*, Barometer Working paper no 94, 2008

²⁴² Howard Wolpe & Steve McDonald, *Training Leader for Peace*, 2006

ultimate source of power in a democracy but as robots who must accept without questions, whatever their leaders decide to do. Leadership deficits continue to emasculate democracy and account for most of the problems in the continent of Africa.²⁴³ As leaders struggle with the difficult choices involved in leadership, they will need broad and systematic education to help them overcome the negative circumstances of their environment and enable them to repair and overcome the errors of their predecessors.

4.1.8. Africa's Tyrants

Africa's democratic aspirations have been thwarted by a collage of factors. The failure of leadership has contributed more than any other factor in frustrating efforts to consolidate democracy. Most of Africa's problems have roots in or are traceable to bad leadership doubled with domineering and underperforming leaders who remain unperturbed by domestic demands for accountability and better governance. They have the resources to negate institutional accountability mechanisms and to suppress agitations for democratic reform.²⁴⁴ They can, and often, rig and manipulate elections, co-opt the legislature and influence the judiciary and subdue, sometimes violently, populist demands for accountability.²⁴⁵ Citizens continue to struggle, often violently and unavailingly, to bring their leaders to account for their actions. It has become tolerably clear that Africans have neither the powers nor the resources to compel their governments to govern according to law. They need help from the international community to constrain the leadership and initiate democratic reforms. Africans wholeheartedly endorse the views of Robert Keohane that "tyrants who murder their own people need to be restrained or removed by outsiders."²⁴⁶

²⁴³ Pages 22–30 of text *supra*.

²⁴⁴ Ayitteh, *Africa Unchained*, *Supra* note 76 at 432

²⁴⁵ Martin Meredith: *The Fate of Africa from Hopes of Freedom to the Heart of Despair*, 2005 p218-248

²⁴⁶ Robert O. Keohane, *Governance in a Partially Globalized World*, 95 *American Political Science Review*, 23 (2001).

Fear of reprisals from the international community has a profound chastening influence on African despots and makes them more respectful of, and sensitive to the needs, rights and welfare of the citizens.²⁴⁷ Concerns of the international community will always affect the calculations of African leaders, most of whom want to avoid the fate that befell the former Liberian President Charles Taylor currently on trial for war crimes at the international criminal court at the Hague.²⁴⁸ Libya's Murr Gaddafi did not relinquish his obsessive bid to develop weapons of mass destruction because of a sudden epiphany or a new found desire to rejoin the comity of nations.²⁴⁹ The removal of Saddam Hussein brought home to him, vividly and decisively, the dangers of confronting a determined world community.²⁵⁰

The recent indictment of Sudanese President Omar al- Bashir remains the most remarkable effort by the international community to hold a sitting African president responsible for abuses.²⁵¹ Such decisive efforts to confront African leaders are essential to reassure citizens whose natural instincts are to accuse the international community of disinterest in Africa. The indictment of a sitting president will reassure African citizens that in their fight for justice and democratic reforms, the international community "will not ignore their oppression or excuse their oppressors."²⁵² Before the indictment, the operative presumption has been that the superpowers, motivated by selfish interests, or real politic limited themselves to criticizing and condemning Africa's tyrants who committed atrocities against their citizens.²⁵³

²⁴⁷Daniel N. Posner & Daniel J. Young, *The Institutionalization of Political Power in Africa*, 2007

²⁴⁸ Marlise Simons, Europe: *The Hague April Trial of Charles Taylor*, N.Y. Times, Sept 26, 2006 at A6

²⁴⁹Peter Slevin & Glenn Frankel, *Libya Vows to Give up Banned Weapons*, 2003 Washington Post at A01.

²⁵⁰Jeremy Brecher, Jill Cutler & Brendan Smith In the Name of Democracy: *American War Crimes in Iraq and Beyond* (eds.. 2005).

²⁵¹Betsy Pisik, *U.N. Braces for Retaliation After Indictment: President Charged With Genocide and War Crimes in Darfur*, WASH. TIMES, July 15, 2008 at A19

²⁵² President Bush's inaugural Address, *supra* note 184.

²⁵³Carothers: The Sequencing Fallacy, *supra* note..at 21

African Presidents buoyed and shielded from international pressures, by complicit super powers engaged in epochal repression and abuse of their citizens.²⁵⁴ Rarely, if ever, did the international community confront or attempt to prevent African leaders from perpetrating atrocities against their citizens. Swift and decisive actions against sitting African tyrants could provide the springboard to launch Africa into a new era of greater respect for citizens' rights, the rule of law, and democracy.

4.1.9. Corruption

As Robert Calderisi, former World Bank official with significant experience in Africa trenchantly observed, “the world’s great gift to Africa’s democrats would be to stop the amassing of illegal fortunes by its politicians and senior officials in foreign banks.”²⁵⁵ Corruption has become an almost ineradicable part of the culture in Nigeria and continues to threaten both constitutional democracy and the nation. Nothing enfeebles democracy more than corruption.²⁵⁶ It distorts governance, provides perverse incentives for dysfunctional behavior, and ultimately diminishes the quality of life by diverting funds for social services in private pockets. Senator Barack Obama perceptively observed during his 2006 visit to Kenya that:

*Corruption erodes the state from the inside out, sickening the justice system until there is no justice to be found, poisoning the police forces until their presence becomes a source of insecurity rather than a source of security.*²⁵⁷

Corruption also sets the wrong example for citizens and undermines public confidence in the democratic process. Most of Africa’s stolen assets ultimately find their way to foreign

²⁵⁴Hellena Cobban: *Amnesty After Atrocity? Healing Nations After Genocide and War Crimes*, 2007 p 5-6

²⁵⁵Calderisi *supra* note 14 at 208

²⁵⁶ Jorge Dominguez & Anthony Jones: *The Construction of Democracy: Lessons from practice and Research* 171, 2007

²⁵⁷Barack Obama “*An Honest Government, A Hopeful Future*, Address delivered at the University of Nairobi, Kenya Aug. 28, 2006 available at http://obama.senate.gov/speech/060828-an_honest_gover.

countries, either stashed in private bank accounts or used to purchase vulgar mansions in choice neighborhoods.²⁵⁸ A country's ability to locate stolen money ultimately depends on the cooperation of the host country which for the most part has been less than satisfactory.²⁵⁹ The international community, especially in this era of war on terror, has the resources and the technology to track movement of funds and the purloiners. What is dismally lacking is the willingness to help Africa locate the funds.²⁶⁰ Corruption will end or at least be significantly reduced if the international community can help Africa locate its stolen funds in foreign banks.²⁶¹ The involvement of the international community in Africa's fight against corruption will dramatically alter the climate of impunity in Africa and hopefully prevent future leaders from copying the shameful examples of their predecessors.

4.2. Prospects towards Democratisation in Africa

4.2.1. Economic Development

There is overwhelming evidence of a positive correlation between economic development and democracy. Recent African experience seem to confirm the finding of Adam Przeworski and his colleagues that the level of economic development does not appear to be associated with the likelihood of a *transition* to democracy, but rather is strongly correlated with the likelihood of democracy enduring once initiated.²⁶² Economic development is not the only factor that influences democracy, and the level of "human development," as measured by factors such as literacy and life expectancy, appears to be more closely correlated with democracy. Second, economic development will improve the existence of democracy

²⁵⁸ Rotberg, *supra* note 133 at 87

²⁵⁹ www.globalintegrity.org/Nigeria/2007/timeline

²⁶⁰ Calderisi *supra* note 14 at 208

²⁶¹ Calderisi, *id.* at 220

²⁶² Adam Przeworski, Michael Alvarez, Jose Antonio Cheibub, and Fernando Limongi, "What Makes Democracies Endure?" *Journal of Democracy* 7, no. 1 (January 1996): 39-55. Bratton and van de Walle find that indicators of economic development, such as per capita income, urbanization, adult literacy, and economic growth rates consistently fail to show a significant statistical relationship to the probability of democratisation in Africa, or to its antecedent processes of political protest and liberalization. *Democratic Experiments in Africa*.

through its impact on several crucial intervening variables and the strength and vigor of civil society. If that happens the prospect for democracy will be considerably greater than would be predicted by the country's poverty.²⁶³ And third, Przeworski et al. show that democracies in poor countries have significantly better prospects if they can maintain economic growth with low to moderate inflation.²⁶⁴ If African countries can stimulate at least modest economic growth while also restraining inflation; and if they can make progress on some of the other factors .e.g. particularly getting the institutional frameworks right, poverty will become much less of an obstacle to democracy. In economic terms, then, the real danger for Africa is the combination of poverty and prolonged economic crisis and decline. This raises the imperative of regenerating economic growth in Africa.

International and domestic policymakers must grasp this fundamental reciprocal linkage between stable, responsible, accountable, democratic politics and economic growth. Democracy, in this sense, can provide the best enabling environment for growth in Africa. Actuality, statistical analyses show that there is no trade-off between development and democracy and that "democracy need not generate slower growth."²⁶⁵ At every level of development, fewer children die in democracies than in dictatorships,²⁶⁶ and in the low developed countries, the level of democracy is also positively correlated with improvements in per capita income and life expectancy as well.²⁶⁷ But if democracy is to facilitate economic development in Africa, it must function democratically. For long-term economic growth, the nature of politics and governance in Africa must changes radically.

²⁶³ Larry Diamond, "Economic Development and Democracy Reconsidered," in Gary Marks and Larry Diamond, *Reexamining Democracy* (Newbury Park, CA: Sage Publications, 1992).

²⁶⁴ Przeworski, et al., "What Makes Democracies Endure?" 42.

²⁶⁵ Adam Przeworski and Fernando Limongi, "Democracy and Development," in Axel Hadenius, ed., *Democracy's Victory and Crisis* (Cambridge: Cambridge University Press, 1997), p. 178.

²⁶⁶ Thomas Zweifel and Patricio Navia, "Democracy, Dictatorship, and Infant Mortality," *Journal of Democracy* 11 (April 2000): 99-114.

²⁶⁷ Partha Dasgupta, *An Inquiry into Well-being and Destitution* (Oxford: Clarendon Press, 1993), pp. 116-121.

4.2.2. State Building and Democracy Building

Corrupt, decadent, authoritarian regimes face three prospects in; a combination of societal opposition congealing into broad coalitions and of major international powers pressuring for change will produce transitions to democracy, as in Benin, Mali, and Malawi. Alternatively, the authoritarian regimes could hang on - through repression, guile, divisions among domestic opposition, and cynicism and inefficacy among the major international powers. But hanging on risks a third option, the collapse into civil war, war lordism, and anarchy, as has happened in Angola, Mozambique, Liberia, Somalia, Sierra Leone, and the Congo (the former Zaire). Where a country falls into civil war, democracy provides the best means for restoring state integrity and societal peace. However, negotiating a democratic transition out of civil war is a complicated, difficult, and costly process, typically requiring a level of international intervention, mediation, monitoring and assistance for which the major Western powers have shown a limited and declining interest. When countries have been brutalized and devastated as horribly as Sierra Leone, Liberia, and Angola, it is conceivable that the electorate will give power to a warlord like Charles Taylor simply to restore peace. Such an election may bring peace, but not likely democracy. After a civil war, the political culture bears traumatic scars of intolerance, distrust, bitterness, and revenge, and rebuilding state authority, economic viability, and political trust become formidable challenges. Except international monitors, advisors, peacekeeping forces are prepared to stay on the ground for many years which, unfortunately, they were not prepared to do. Therefore, the earlier that political decay can be arrested through real democratisation, the more viable will be the state that is left behind, and the better will be the eventual prospect for democracy.²⁶⁸

²⁶⁸ Larry Diamond. 2012: *Developing Democracy in Africa: Africa and International Imperative*, Stanford University, Stanford, CA 94305-6010

As Samuel Huntington argued a generation ago, before there can be democratic order there must first be political order.²⁶⁹ This does not mean that there must be an authoritarian regime to build a strong state before democracy can take hold. On the contrary, the indication from Africa increasingly shows that authoritarian misrule has gravely weakened states, and in turn, “Prolonged state decline and attendant corrosion of the effectiveness and legitimacy of the public realm have exacerbated cleavages of ethnicity, religion, and race.”²⁷⁰ Democracy is much more likely to provide the accountability, transparency, rule of law, and ethnic inclusiveness necessary for broad legitimacy and political stability in Africa. Democratic development in Africa therefore will need to think of state building and democracy building as critical strategies which should be executed simultaneous and complementary tasks.

4.2.3. Capacity Building of Leaders & Professionals

The state in Africa requires a democracy that works to some extent to include all groups, and this in turn requires an appropriate institutional design, for it to enjoy a broad base of legitimacy. Consequently, there are three other elements of a strong state that generate particular problems for Africa: a professional military appropriate to the country's security, an effective police force and judicial system for maintaining law and order, and a competent - or what Linz and Stepan call "useable" - bureaucracy.²⁷¹ Most African countries suffer enormous deficiencies in all three respects with very few exceptions (such as Botswana and South Africa). Each of the above segments of the state are weak in capacity, heavily corrupt, and often undermined in its coherence and professionalism by the pervasive pulls of ethnic, familial, and factional ties.

²⁶⁹ Samuel P. Huntington, *Political Order in Changing Societies* (New Haven: Yale University Press, 1968).

²⁷⁰ Crawford Young, "Africa: An Interim Balance Sheet," *Journal of Democracy* 7, no. 3 (July 1996): 60.

²⁷¹ Juan J. Linz and Alfred Stepan, "Toward Consolidated Democracies," *Journal of Democracy* 7, no. 2 (April 1996): 20-21

A major element of state building and democracy building in Africa would be to train a new generation of economic analysts and policymakers, able to design and manage responsible macroeconomic policies and development strategies without over reliance on international “experts,” who are often unable to adapt sound principles to Africa’s very particular realities. Such competent economists and administrators also need to have economic rewards and institutional milieus that will induce them to make a commitment to their own countries. This in turn requires official salaries high enough to attract and retain talented people, while deterring corruption. How to offer such salaries is a formidable challenge, both politically and fiscally, for poor African states. The dilemma for Africa is that it will require renovated and strengthened state structures to foster both democratic and economic development, and it costs money to build states: to construct honest, competent bureaucracies and judicial systems, for example. Expertise is also needed given the limited prospects for economic growth in Africa.

Training should help leaders to nurture and sustain the perspective which citizens expect of them to always act on the explicit understanding that they are representative, not masters, of the people and that their ultimate loyalty and responsibility lie with the people and not to the deity of self enhancement. It will also help them to expurgate anti democratic attitudes that have held them hostage since the inception of constitutional democracy. Some countries like Burundi address the leadership deficits by providing leadership training for their leaders.¹⁶⁸ Education of the political elites will counter their negative attitudes, invite their attention to the proper attitude and role of leaders in a democratic process and change their perception of the political process. The overarching aim of the education process is to help leaders understand that in a democracy power resides with the people and that their rights, needs and

¹⁶⁸ Howard Wolpe & Steve Mc Donald, *Training Leaders for Peace*, 17 J. DEM. 132 (2006) (describing Burundi’s leadership training institute)

welfare must remain paramount. A well-structured training program can transform the culture that engenders arrogance and hubris in the leaders. It can also help leaders to develop and sharpen their communication and leadership skills. Essentially, such programs will provide valuable opportunities for leaders to “learn or relearn how to hear others’ concern and how to express their own in ways that would encourage a search for solutions rather than endless blame-throwing.”

4.2.4. Eradicating Corruption

The strong state is not necessarily large in the proportion of societal resources it commands, but it is disciplined, transparent, and governed by impersonal rules in utilizing the resources at its disposal.²⁷² States will not function effectively and democracy will not become legitimate in Africa until corruption is substantially reduced. Controlling corruption is crucial for developing democracy and political order in Africa. The endemic nature of corruption in politics, governance, the bureaucracy, the military, the police, the judiciary, and virtually every other institution of authority - has diffuse perverse consequences. Corruption at the most basic level, breeds an "uncivic society," driven by a "culture of self-interest, fragmentation, exploitation, cynicism, dishonesty, and distrust - a striking absence of enduring shared commitments to the formal political community, most of all to the nation but also to lower levels of political authority."²⁷³ The possible way is through establishment of a comprehensive system for individuals to declare their assets upon entering elective office or government service, and to regularly update those declarations.

²⁷² Larry Diamond: *Democracy in Africa: Africa and International Imperatives*: Stanford University, 2012, CA, 94305-6010

²⁷³ Larry Diamond, "Nigeria: *The Uncivic Society and the Descent into Praetorianism*," in Larry Diamond, Juan J. Linz, and Seymour Martin Lipset, eds., *Politics in Developing Countries: Comparing Experiences with Democracy* (Boulder: Lynne Rienner Publishers, 1995), p. 418. This follows on the work of Robert Putnam, *Making Democracy Work: Civic Traditions in Modern Italy* (Princeton: Princeton University Press, 1993).

4.2.5. Collaboration with Civil Societies

The strength and pluralism of civil society, and its ability to unite in a broad front, has been a crucial factor propelling democratic change in Africa. Civil society performs many other crucial functions for democratic development and consolidation: limiting the power of the state and challenging its abuses of authority; monitoring human rights and strengthening the rule of law; monitoring elections and enhancing the overall quality of the democratic process; educating citizens about their rights and responsibilities, and building a culture of tolerance and civic engagement; incorporating marginal groups into the political process and enhancing the latter's responsiveness to societal interests and needs; providing alternative means, outside the state, for communities to develop; opening and pluralizing the flows of information; and building a constituency for economic as well as political reforms.²⁷⁴ The only challenge is civil society organizations in Africa are too often are crippled by the same problems of poverty, corruption, nepotism, parochialism, opportunism, illiberalism, and willingness to be appoint that plague the society in general.²⁷⁵ Where civil society draws together in broad coalitions, it can bring down longstanding authoritarian regimes, as in Zambia, Malawi, Benin, Niger, and most dramatically, South Africa.

4.2.6. Control of Military Powers

Africa's civilian regimes should be helped from the looming military threat as a major risk to democracy. There is a growing and constructive literature that can counsel new democratic regimes and societies on how to reduce military prerogatives and establish civilian supremacy.²⁷⁶ Most militaries interventions in politics are out of some mix of national or

²⁷⁴ Larry Diamond, *Developing Democracy*, chapter 6.

²⁷⁵ Peter Lewis, "Political Transition and the Dilemma of Civil Society in Africa," *Journal of International Affairs* 27 (Summer 1992): 31-54

²⁷⁶ Jennifer L. McCoy, Larry Garber, and Robert Pastor, "Making Peace by Observing and Mediating Elections," *Journal of Democracy* 2, no. 4 (Fall 1991): 102-114;

systemic, corporate, factional, and personal motives. Nonetheless, in Africa the mix is so heavily tilted toward the factional (ethnic) and personal (corrupt) motives that the models of civilian empowerment and control are of limited value. Educating a corps of civilian specialists in national security strategy, as Stepan and others recommend, is not going to help much to establish civilian control over the military in Africa. African militaries do not exist and certainly do not function to defend against external threats. They are there to hold the state together, and increasingly not even to do that, but rather to prey on its citizens whenever the opportunity presents itself. It is important to note that, however valuable mission will not end the military threat to democracy in Africa. There would still be military forces in the country with the capacity to intervene, and they would even be better trained and equipped as a fighting force. At any given time, much if not all of a country's armed forces would remain in the country, and many countries would probably not participate in the joint peacekeeping force. The most effective antidote to military coups in Africa would be for the international community or Regional Communities whether through the UN or AU military usurpers: "This will not stand." Yet, if the demand for military is to be effective, it must be backed up with the credible threat of force.

4.2.7. Political Inclusivity/Participation

Political institutions must be designed to allow for the meaningful representation of distinct interests in society without polarizing the contest between them. Though this is not unique to Africa, it is faced more pervasively in Africa than in any other region of the world. In particular, institutional designs must find ways to manage ethnic conflict and provide incentives for interethnic cooperation and accommodation. Democratic development and stability in Africa require that each significant ethnic or regional group feel some identification in the political system. Democracy is also likely to be more accountable and

responsive when officials exercise real power and must regularly face the voters. Overriding imperative is to avoid broad and indefinite exclusion from power of any significant group.²⁷⁷

4.2.8. Conditioned Aid

Increased aid and political and intellectual engagement is needed from the West if Africa is to develop, democratically and economically. But aid, particularly economic assistance, must not come without conditions. The entire approach to aid needs to be rethought. Western donor agencies view it as a charitable act, a demonstration of their generosity and enlightenment, as well as their self-interest in lifting countries out of acute poverty and in developing new markets. But it is neither charitable nor enlightened to indulge and sustain wasteful, corrupt, abusive governance. Neither will anything be gained for human development by unconditionally relieving the debts of poor countries, as a growing chorus of private groups and European governments is proposing.

For the poorest nations of Africa and other parts of the developing world, there needs to be a new bargain: debt for democracy and development for good governance. Relief of debt and official economic assistance (other than emergency humanitarian aid) must be conditioned on freedom of the press, freedom of association, judicial independence, electoral accountability, and independent means for monitoring the conduct of public official and punishing corruption. Conditionality must lock countries into these institutional conditions for good governance, not offer a one-time reward for political concessions that can quickly be withdrawn or undermined. Instead of canceling the date of qualifying countries, the major creditor states and multilateral banks should suspend debt repayment for qualifying countries

²⁷⁷ Arend Lijphart, *Democracy in Plural Societies* (New Haven: Yale University Press, 1977), *Democracies: Patterns of Majoritarian and Consensus Government*, and "The Power-Sharing Model," in Joseph V. Montville, ed, *Conflict and Peacemaking in Multiethnic Societies* (Lexington, Mass: Lexington Books, 1990); and Donald Horowitz, *Ethnic Groups in Conflict* (Berkeley, CA: University of California Press, 1985), " *Conflict and Peacemaking*, and "Democracy in Divided Societies," *Journal of Democracy* 4, no. 4 (October 1993): 18-38.

and then retire the debt at 10 percent a year for every year the qualifying state adheres to these basic conditions for good governance.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATION

5.0. Introduction

This study has attempted to analyze the democratisation challenges in Africa and determine the role that African Union is playing the democratisation in Africa. The study also collated debates on democracy with more focus on the African scholarly debates. The in depth study was conducted through review of scholarly work, journals, academic papers to support my findings, arguments and analysis. The research was informed by Kant's, democratic peace theory, but simply that 'democratic structures give citizens leverage over government decisions and make it less likely that a democratic leader will be able to initiate a war with another liberal democracy. as a result, even with an illiberal leader in place, institutions such as free speech, political pluralism, and competitive elections will make it difficult for these leaders to convince or persuade the public to go to war. The analysis and findings sought to achieve the following research objectives i). To analyze the democratic framework within the African Union. ii). to determine the gaps and challenges in the implementation of the Democracy in Africa iii).To establish the role of leaders in democracy in Africa.

5.1. Main Findings

The challenges of African democratisation do not primarily lie in the absence of democratic values. Africans overwhelmingly prefer democracy to dictatorship. The wave of democratisation in Africa was received with a lot of optimism that democracy will usher in a better life for Africans by transforming the society, regenerate governance, provide better and more efficient public and social services, maintain security, respect civil rights and liberties,

and generally provide an enabling environment for citizens to pursue their economic, social and political interests, shorn of unnecessary restraints.

From the study it is important to note that Africa has made modest progress towards democratisation. Consequently, the African Union and the various instruments and programmes that promote and implement democratic agenda provide a broad framework that if utilized well will steer Africa into a democratic continent. It is imperative to note, from the study the Framework has both functional and structural challenges albeit a tool that can move Africa forward. AU instruments such as declarations, decisions, recommendations and resolutions which, are aimed at influencing the conduct of member states, are not necessarily legally binding. Therefore the success of realizing democracy in Africa heavily rely on the African leaders.

The study also has underscored that leaders have a critical role in executing the democratic agenda in Africa. According to Kant, democracies that represent and act in their citizens' interests are treated with respect and consideration, whereas non democracies that use violence and oppression against their own people are regarded with mistrust and suspicion. consequently particular democratic practices that make war with other liberal democracies unlikely – free and fair elections, the rule of law, free press, a competitive party system – are driven by both 'converging expectations about what conventional behaviour is likely to be' (institutions) *and* 'standards for what behaviour ought to be' (norms). These two explanations are complimentary and mutually reinforcing: cultural norms influence the creation and evolution of political institutions, and help generate a more peaceful moral culture over time. Therefore, realization of democracy in Africa is not an event rather a process that will take time for the democratic norms and principles to be institutionalized.

The democratic peace theory argues that democratic political culture encourages peaceful means of conflict resolution which are extended beyond the domestic political process to other democratic states because leaders in both countries hold a reasonable expectation that their counterparts will also be able to work out their differences peacefully. Therefore, the African Union through the democratic agenda provides a platform for African countries to nationally domesticate and execute the democratic principles and norms which will hence ripple effects to the rest of the continent.

5.2. Conclusion

Democracy in Africa is flawed and problematic but Africans overwhelmingly and unquestionably prefer democracy to dictatorship.²⁷⁸ The African Union provide a comprehensive democratic framework that if executed will steer Africa into a democratic continent. Nevertheless, effective leadership to galvanize and channel the desires and energies toward democratisation. Fareed Zarakani was resoundingly correct in his explicit remarks that “what Africa needs more urgently than democracy is good governance.”²⁷⁹ Other problems in Africa will easily be addressed once “leaders rise to the responsibility, to the challenge of personal examples which are the hallmarks of true leadership.”²⁸⁰ Effective leadership will salve citizens’ fears, and inspire them to display a greater commitment to democracy. Good leadership in Africa will be necessary to orchestrate fundamental and paradigm shifting changes in the culture and ethos that impede democratic. Therefore, good

²⁷⁸Richard Joseph, Africa: State in Crisis, 14 J. Dem 159, 164 (2003)

²⁷⁹Zakaria, *Fuure of Freedom*, *supra* note 6 at 98

²⁸⁰ Chinua Achebe, ‘*The Trouble with Nigeria*’ (1984)

governance will immeasurably enrich the condition and quality of lives in Africa by transforming and creating a continent so eloquently predicted by Professor Mentah:

*Genuine excitement would be generated worldwide by an Africa in which governments demonstrate respect for the constitution and laws, state officials at all levels responsibly execute the duties of their offices, public institutions make efficient use of funds provided, political violence and corruption are sharply reduced, the people's needs are dutifully addressed by public and private services, elections are fairly conducted, and the state once again becomes the collective property of its citizens. While none of these virtues are new in contemporary African context, they would be revolutionary and promote popular democracy.*²⁸¹

The African Union as a regional organization has a comprehensive democratic framework that seeks to promote democracy in Africa. Nevertheless this study has found out that in its current stage, the democratic framework has structural and internal challenges that unless address will work against its existence. For example, the existence of many programmes with same mandates makes the equation of accountability, monitoring and reporting a problem. Hence they require harmonization or an area of convergency to avoid duplication of activities and resources.

African leaders have not only a crucial role to play in democratization process but a vital role in ensuring Africa continent has been democratized through the African Union democratic framework which most of them are signatories to them. Consequently, as individual leaders in their countries, they have an imperative responsibility of democratically leading their

²⁸¹ Held Together by Pins, *supra* note... at 133

citizens to prosperity and growth. This can only be achieved if they take their mandates and responsibilities to the latter.

5.3. Recommendations

One of the first problems within AU system is the existence of too many institutions with possibly conflicting functions. For example, the AU Act created many more institutions than and the relationship between the AU and NEPAD, which appears to be its flagship for the continent's economic recovery, is not clearly defined. There are overlapping roles and functions between PSC and the NEPAD APRM, both of which play crucial roles in overseeing the implementation of the democracy and good governance agenda. There is also a need to avoid the duplication of functions such as between the NEPAD APRM and PSC and between the NEPAD APRM and the CSSDCA/ AU peer review mechanism. Harmonization of roles to avoid conflict in execution of their work should be defined clearly. This will also mitigate against duplication of roles and resources. The democratic framework is composed of many organs, institutions and programmes which remains a major challenge in financing all their operation thus has an impact on how the AU implements the democracy and good governance agenda. Therefore harmonizing the roles and clearly defining roles will not only mitigate against duplication of work but also establish a cost effective framework, which is manageable within available resources

The African Union is a political institution, therefore is limited in objectivity of implementation of the democratic framework. To be able to have checks and balances, the African Union should open more space for Civil societies. For example if NEPAD APRM remains a closed state-to-state process with no room for non-state, then it lacks the critical

independent voices who could contribute constructively to making the process more productive, effective and credible.

The study recommends that, it is the African citizens and leaders whose lives and fortunes depend on democracy who must accept and bear the responsibility for its survival. Democratic reform ultimately depends on citizens to make choices, frame options and initiate changes. Only Africa citizens who live with the painful realities of failing democracy “can break the cycle of terror, poverty and mediocrity that keeps them subdued.”²⁸² The primary challenges that the African citizen are gabbling have left many hopeless without recognizing that they as citizens have a democratic responsibility to demand their democratic rights. Additionally, many Africans need to be sensitized to bring this awakening in them. E.g. the famous Arab Spring Uprising was as a result of unsatisfied citizens. That the population should use their electoral critical mass to elect leaders whom will steer them towards prosperity. Ultimately, the powers of the electorate to reject candidates for elective offices compellingly reinforce the notion that powers in a democracy lie, not with the government, but with the people.²⁸³

²⁸² Calderisi, *Trouble in Africa* supra note 14 at 230

²⁸³ Staffan I. Lindberg, *The Surprising Significance of African Elections*, 17 J. DEM. 139, 150 (2006)

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