Pan-Africanism, the African Peer Review Mechanism and the African Charter on Democracy, Elections and Governance: What Does the Future Hold?

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ABSTRACT

Since Africa's independence 50 years ago, its democratisation momentum has been marked by both progress and reversals. With Africa's independence in the late 1950s/ early 1960s and up to the late 1980s/early 1990s, the democracy project was not at the top of the national, regional or continental agendas of nation-building, or regional and continental integration. The democracy project became a cornerstone of nation formation, state-building and continental integration agendas much more so in the period late 1980s/early 1990s to date, especially with the transformation of the Organisation for African Unity (OAU) into the African Union (AU). Significantly, it was during the AU era that both the African Peer Review Mechanism (APRM) and the African Charter on Democracy, Elections and Governance (ACDEG) became key aspects of African integration anchored to the twin doctrines of pan-Africanism and African Renaissance. As the APRM enters its second decade, the way forward for its effective implementation and stronger interface with ACDEG should be informed by five main strategic imperatives. First, more effort and energy need to be invested in ensuring that all 54 member states of the AU accede to the mechanism and undergo governance reviews. Second, concerted efforts need to be made to implore all APRM countries to sign, ratify and implement ACDEG, while also lobbying and advocating for the universal ratification of the charter by all AU member states. Third, given their significance in entrenching a culture of domestic accountability, the implementation of both the APRM and ACDEG must ensure a balanced role for both state and non-state actors in order to guard against state-centrism, and promote broader citizen engagement with these continental governance initiatives. Fourth, the sustainability of the APRM and ACDEG, in the long run, should be predicated upon stronger institutional and operational synergies between the AU's African Governance Architecture (AGA) and the African Peace and Security Architecture (APSA) because sustainable human development is unattainable without democracy and peace. Fifth, AU member states should mobilise domestic resources for the effective implementation of National Programmes of Action (NPoAs) and domestication or implementation of ACDEG rather than depending on external donor contributions, as this may have deleterious consequences for national ownership of these initiatives.

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ABBREVIATIONS AND ACRONYMS

ACDEG	African Charter on Democracy, Elections and Governance
ACHPR	African Commission on Human and People's Rights
AGA	African Governance Architecture
APRM	African Peer Review Mechanism
APSA	African Peace and Security Architecture
AU	African Union
AUC	African Union Commission
CRM	country review mission
CSM	country support mission
CSO	civil society organisation
EISA	Electoral Institute for Sustainable Democracy in Africa
MDG	Millennium Development Goal
NEPAD	New Partnership for Africa's Development
NGC	National Governing Council
NPoA	National Programme of Action
OAU	Organisation of African Unity
REC	regional economic community
PRSP	Poverty Reduction Strategy Paper
PSC	Peace and Security Council
SAP	structural adjustment programme
SDGEA	Solemn Declaration on Gender Equality in Africa
UNDP	UN Development Programme
UNECA	UN Economic Commission for Africa
UPR	[UN] Universal Peer Review

INTRODUCTION

The year 2013 was epochal for Africa's efforts towards attaining continental integration. It marked 50 years since the founding of the Organisation for African Unity (OAU) and 11 years since its transformation into the African Union (AU). It also marked the 10th Anniversary of the African Peer Review Mechanism (APRM). The 19th Ordinary Summit of the AU held in Addis Ababa, Ethiopia in July 2012 adopted the theme for 2013 as 'Pan-Africanism and the African Renaissance'. The 20th Ordinary Summit of the Heads of State and Government of the AU, held in Addis Ababa in January 2013, urged the AU Commission (AUC) to expedite preparations for the 50th anniversary of the OAU/AU, including a special celebration Summit of Heads of State and Government slated for Addis Ababa on 25 May 2013. The celebration of the 50th anniversary of the OAU/AU coincides with the anniversary of the 11 years of the transformation of the OAU into the AU, which was celebrated in Durban, South Africa in July 2002. The vision of the AU is to promote 'an integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena'.[1]

What is the place of the democratisation process in these celebrations? Over the past 50 years, has Africa made any demonstrable progress in institutionalising democratic governance? What does the future hold in terms of nurturing and deepening democratic governance on the continent? As its focus, this paper addresses these key questions by providing a critical reflection on the APRM and the African Charter on Democracy, Elections and Governance (ACDEG) within the ideals of pan-Africanism and the African Renaissance (ie, a new ideology of African renewal and rebirth). The APRM has been in existence for a decade and is thus worth reviewing with the aim of considering how best it can be improved. As for ACDEG, it is still fairly new and in its embryonic stage. Since early 2012, when the requisite 15 ratifications were secured for ACDEG and its coming into force, questions have been asked about the normative, operational and institutional relations between the APRM and ACDEG: Does ACDEG mandate the AUC to undertake democracy and governance assessments in member states, when the APRM is undertaking these reviews in those countries that have acceded to the mechanism? Does the AU recognise the APRM as its own Africa-driven and Africa-owned democracy and governance self-monitoring instrument? Does the AU accept the synergies between the APRM and ACDEG where the former is its governance self-assessment programme, which is voluntary, while the latter is its key legal instrument for realising sustainable democratic governance on the continent, which is mandatory and legally binding on states parties?

In tackling these vexing questions, this paper adopts a historical approach in order to review Africa's record of democratisation over the past 50 years, with special attention given to the APRM and ACDEG. The paper also tackles contemporary trends of democracy and governance in Africa as currently propelled and shaped by the APRM and ACDEG. It also looks to the future as it suggests how best the APRM and ACDEG could be better implemented in a more complementary fashion, with more synergies between the two, rather than in a fragmented, disjointed and duplicative manner.

This paper explores three main ideas. First, with Africa's independence in the late 1950s/early 1960s and up to the late 1980s/early 1990s, the democracy project was not at the top of national, regional or continental agendas of nation-building, or regional and continental integration. Second, the democracy project became a cornerstone of

nation formation, state-building, and efforts towards regional and continental integration agendas, much more so in the period late 1980s/early 1990s to date. Much of this period coincided with the transformation of the OAU into the AU which, while continuing the noble principles and strategic objectives of the OAU, took up the democracy project with zeal and zest. Third, it was during the AU era that the APRM and ACDEG were established, thereby placing democratic governance firmly on the agenda of contemporary pan-Africanism and the African Renaissance. However, exactly how the two governance initiatives of the AU relate to each other normatively, operationally and institutionally still remains a matter for debate.

This paper is divided into six sections. Following the introduction, the second section sets the context by introducing the twin doctrines of pan-Africanism and the African Renaissance, and enquires into the place of democracy on the continent during the OAU and AU eras. This section shows that while the OAU did not prioritise democratisation as part of its integration agenda, for the most part, it was, in fact, the AU that brought democratic governance to centre stage. Section three introduces the APRM and lessons learnt over the past 10 years of its existence. There is no doubt that the APRM is one of the most innovative governance programmes that is not only home-grown, but also Africa-driven and Africa-owned.[2] Section four focuses on ACDEG and highlights its substantive importance to democratic governance in Africa. This section provides a detailed analysis of the substantive aspects of the charter as it is still less known compared to the APRM. This should not come as a surprise, given that the former has been in existence over the past 10 years, while the latter only came into force one year ago. Section five unravels the interrelationships between the APRM and ACDEG. It highlights both similarities (commonalities) and dissimilarities (distinctiveness) of these two initiatives. Although they are distinct, the APRM and ACDEG have much more in common in terms of the collective pursuit of inclusive democratic governance premised on domestic accountability in Africa. To this extent they are mutually reinforcing and compatible. On the one hand, the APRM questionnaire lists ACDEG among its abundance of Standards and Codes. ACDEG, on the other hand, has a specific article (Article 36) that encourages states parties to implement the New Partnership for Africa's Development (NEPAD) Declaration on Democracy, Political, Economic and Corporate Governance, and the APRM. These two points call for a deeper reflection on how these two initiatives should relate to each other normatively, operationally and institutionally. The sixth and last section proposes some strategic imperatives for reinforcing synergy and compatibility between the two initiatives over the second decade of the APRM and the first decade of ACDEG.

PAN-AFRICANISM AND THE DEMOCRATISATION PROCESS IN AFRICA: FROM THE ORGANISATION OF AFRICAN UNITY TO THE AFRICAN UNION

Pan-Africanism (ie, the ideology of African unity and liberation) inspired the establishment of the OAU in 1963 to drive Africa's continental integration and unity, and to support its liberation from colonialism. Among many African political leaders who promoted pan-Africanism, the two most vociferous proponents were Ghana's Kwame Nkrumah and Tanzania's Julius Nyerere. Despite its various challenges, one of the major achievements

of the OAU was the total decolonisation of the African continent, beginning with Ghana in 1957. The last African country to be liberated was South Africa in 1994. The pan-Africanist spirit was further reinforced and reinvigorated by the ideals of the African Renaissance in the late 1990s, leading to the transformation of the OAU into the AU in 2002. The four pioneers of the African Renaissance were South Africa's Thabo Mbeki, Nigeria's Olusegun Obasanjo, Senegal's Abdoulaye Wade and Algeria's Abdelaziz Bouteflika who, unsurprisingly, became champions of both NEPAD and the APRM. These leaders also invested enormous political capital in the development of ACDEG until its adoption in 2007. While South Africa and Nigeria have ratified ACDEG, Algeria and Senegal have only signed and not yet ratified the charter. It is no wonder, therefore, that South Africa and Nigeria have undergone APRM reviews and have also ratified ACDEG.

It is worth noting that while issues of peace, security and economic integration loomed large over the past 50 years of the OAU/AU, democracy and governance issues took a back seat until the late 1990s. Many African countries prioritised nation formation and state-building over and above democracy issues, emphasising the need for community and social solidarity.[3] Multi-party democracy was perceived as divisive and considered inimical to the communalist social solidarity needed for nation formation and state-building. It is not surprising, therefore, that Nkrumah's Ghana and Nyerere's Tanzania both institutionalised a *de jure* one-party system during their heyday, arguing that this system would ensure the national unity needed for development. Thus, during the 1960s to late 1980s, the majority of African countries experienced authoritarian governance of various types, including military, one-party, one-person and dynastic. Military regimes dominated mostly in West, Central and North Africa. Nkrumah himself was ousted from power through a military coup in 1966 and Ghana experienced three more coups thereafter (see Table 1). One-party regimes dominated the political scene in East and Southern Africa. In East Africa, the most powerful and politically stable one-party system was found in Nyerere's Tanzania. When the so-called third global wave of democratisation arrived in the early 1990s, Nyerere instituted a commission to seek public views on his desire to open up the Tanzanian political landscape to multi-partyism. Ironically, the Nyalala Commission reported a negative verdict, indicating that Tanzanians preferred the continuation of the one-party system. However, Nyerere ruled that Tanzania must adapt to the new global realities and introduced the multi-party system that prevails in the country today. In Southern Africa, one-party regimes (both *de jure* and *de facto*) were pervasive.[4] Over and above the one-party phenomenon, democratic governance in Southern Africa was further eroded by the apartheid system in South Africa and Namibia, with its devastating regional ramifications through wars of destabilisation that had indelible Cold War fingerprints. Namibia (1990) and South Africa (1994) became the last countries to be liberated, completing the decolonisation agenda of the OAU Liberation Committee.

The OAU was less bothered about military coups d'état, as its focus was on the decolonisation and liberation of the continent; respect for colonial boundaries, national sovereignty and territorial integrity of African states; and non-interference in the internal affairs of member states. However, it is important to emphasise that the problem of not prioritising democracy and instead bolstering national sovereignty was not only an expression of internal constraints that newly created African countries faced, but was also a manifestation of the character of the global system. Geldenhuys observes aptly that,[5]

> [e]stablished by newly independent African states determined to protect their statehood in a turbulent Cold War world and complete the decolonisation of the continent, the OAU embodied a conception of sovereignty that sanctified state rights. This traditional notion of sovereignty, with its corollary of non-intervention in states' domestic affairs, provided a setting in which African leaders could rule with virtual impunity.

Within the context of the ideological bipolarity of the Cold War era whereby the two superpowers (the Soviet Union and the US) locked horns globally for control and expansion of their spheres of influence, their concern was less about promoting democracy than winning the hearts and minds of allies, and ensuring stability within their spheres of control and influence. Political stability thus loomed larger in the ideological calculus of Cold War superpowers and, to a large measure, acted as an external stimulus for African leaders not to prioritise democracy, aware that even if they pursued authoritarian policies, these policies would not tarnish their international legitimacy within the Cold War context. In any case, post-independence Africa inherited from colonial administrations political systems that were far from democratic in both form and content, given that colonialism was an autocratic, repressive and militaristic system. So, besides the Cold War dimension, newly liberated African states were constrained in pursuing democracy, in part because the institutional architecture bequeathed to them by colonisers was authoritarian.

One of the most ruthlessly repressive and autocratic regimes in Africa was Idi Amin's Uganda, which subjected its citizens to horrendous human rights abuses, arbitrary killings, and extreme ill-treatment of the Indian community between 1971 and 1979. However, the OAU, adhering to the principles of sovereignty and non-interference, could not intervene, thereby letting impunity rein in Uganda. As if to rub salt into the open wound, Amin became the Chairperson of the OAU between 28 July 1975 and 2 July 1976. This was the most vivid demonstration of the OAU's disregard for human rights abuses by its member states, shielded by the veneer of non-interference in internal affairs. When the Amin regime collapsed in 1979, it was due to the decisive military invasion of Uganda by Tanzania, rather than through pressure from the OAU itself. Ironically, this happened in direct violation of the OAU norm of non-interference. This incident presented one of the contradictions of African international relations and diplomacy at that point in time. McMahon and Baker remind us that 'while criticised by some for violating the norm of national sovereignty, given the hideous nature of the Amin regime most public opinion in international community – and even the OAU – expressed at least tacit support for the intervention'.[6]

Most of the dictatorial regimes in Africa during the OAU era assumed power through military coups. It is no exaggeration to suggest that between the 1960s and late 1980s military coups in Africa were even more frequent than today's regular elections as a means for change of government.[7] In essence, therefore, bullets were more important for alternating power in state than ballots. More men in uniform held state power in the majority of countries than is now the case with men in suits. Indeed, these were all men, as women did not feature as coup leaders. Even today, there is still greater male representation in the legislative and executive branches of African countries, with only two recent female heads of state, in Malawi and Liberia respectively. Over the past five decades of Africa's post-independence existence (between the 1960s and 2012), the continent has experienced approximately 90 military coups.[8] The sub-regional comparative analysis of incidences

of successful military coups between 1958 and 2010 reveals interesting insights, as Table 1 depicts.

Table 1: Successful coups d'état in Africa, 1958–2010

Region	Country	Year	Total
West Africa	Benin	1963, 1965 (x2), 1967, 1969, 1972	6
	Burkina Faso	1980, 1982, 1983, 1987	4
	Côte d'Ivoire	1999	1
	Gambia (The)	1994	1
	Ghana	1966, 1972, 1978, 1979, 1981	5
	Guinea	1984, 2008	2
	Guinea-Bissau	1980, 2003	2
	Liberia	1980	1
	Mali	1968, 1991	2
	Niger	1974, 1996, 1999, 2010	4
	Nigeria	1966 (x2), 1975, 1983, 1985, 1993	6
	Sierra Leone	1967, 1968, 1992, 1997	4
	Togo	1963, 1967, 2005	3
Central Africa	Burundi	1966 (x2), 1976, 1987, 1996	5
	Central African Republic	1966, 1979, 1981, 2003	4
	Chad	1975, 1979, 1990	3
	Congo-Brazzaville	1968, 1999	2
	Democratic Republic of Congo	1965, 1994	2
	Equatorial Guinea	1979	1
	Rwanda	1973	1
East Africa	Somalia	1969	1
	Sudan	1958, 1969, 1985, 1989	4
	Uganda	1966, 1971, 1979, 1980, 1985, 1986	6
Southern Africa	Lesotho	1986, 1991	2
	Madagascar	1975, 2009	2
North Africa	Algeria	1965	1
	Libya	1969	1
	Mauritania	1978, 1984, 2005, 2009	4
	Tunisia	1987	1
TOTAL			**81**

Source: Matlosa K & D Zounmenou, 'The tension between militarisation and democratisation in West Africa: A Comparative Analysis of Niger and Guinea', *Journal of African Elections*, 10, 2, October 2011, 96

This table shows that Benin (6), Nigeria (6) and Uganda (6), followed closely by Burundi (5), Ghana (5), Sudan (4) and Mauritania (4), experienced the most coups during this period. As argued earlier, Tanzania's unilateral military intervention in Uganda, which toppled Amin, turned the OAU's doctrine of non-interference on its head, prompting the continental body to rethink its inter-state diplomacy. It is no wonder then that some two years after Tanzania's military intervention, the OAU adopted the African Charter on Human and Peoples' Rights (ACHPR) in 1981, aimed at inculcating a culture of promoting and protecting human rights. Subsequently, the ACHPR was established to oversee the implementation of this charter with its headquarters based in Banjul, the Gambia.

Increasingly, the OAU began to adopt a stance that governments that were brought about through unconstitutional means would no longer be tolerated. According to McMahon and Baker,[9]

> an early test case of this policy was Côte d'Ivoire, when that country's military leader, General Robert Guei, who had come to power through a military coup d'état in December 1999, found his search for legitimacy complicated by both continental and sub-regional contexts that did not provide him with his sought-after approval. The OAU refused to seat him at the 2000 OAU summit in Lomé, Togo … a fate that also befell President Assoumani Azali of the Comoros, who had recently seized power. This lack of international legitimacy clearly contributed to Guei's subsequent, fatal failure to impose his own election as president.

From now on, the notion of sovereignty as a veil to shield human rights abuses and military take-over of power began to recede. A culture of non-interference was being replaced with the doctrine of non-indifference. Slowly but surely, the notion of sovereignty as impunity was replaced with that of sovereignty as responsibility. It was in the late 1990s that the OAU, for the first time, took a firm stance against unconstitutional changes of government. The adoption of the 2000 Lomé Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government was a historic development. The Lomé Declaration affirmed the OAU's condemnation and rejection of unconstitutional changes of government that were clearly defined to include military coups, mercenary interventions, rebellions and armed dissidence.

This culture was further embedded with the adoption of the 2000 Constitutive Act of the AU, the 2003 Protocol Relating to the Establishment of the Peace and Security Council, the 2001 NEPAD and its governance framework, the APRM of 2003, and the 2007 ACDEG. It is on the basis of the adoption of the above instruments that Geldenhuys remarks that[10]

> the architects of the AU evidently believed the continent should take primary responsibility for dealing with African conflicts and humanitarian emergencies, instead of depending on external actors whose motives may be suspect. African states would supposedly have greater legitimacy than non-African states to intervene in such situations and could be trusted to act out of genuine humanitarian concern for the plight of fellow Africans. Self-interest too would encourage African states to intervene in humanitarian crises: they need to contain the spill-over effects of such tragedies. By finding and administering African solutions for African problems, Africans could hopefully prevent 'future Rwandas'.

Among its four thematic areas, the APRM focuses specifically on democracy and political governance, which includes the promotion and protection of human rights; responsive and accountable governance institutions; and constructive conflict management – all of which are meant to assist African states in treating sovereignty as responsibility, with the AU reserving its responsibility to protect citizens against harm from states, should such a situation arise. ACDEG has a specific section (Chapter 8) that focuses on unconstitutional changes of government. In fact, one of the primary drivers for the development and adoption of ACDEG was the concerted condemnation and rejection of unconstitutional changes of government in Africa. In its Article 23, ACDEG expands the definition of 'unconstitutional change' of government from a somewhat narrow definition provided for in the 2000 Lomé Declaration. Within ACDEG, 'unconstitutional change' of government now has a five-pronged meaning, as follows:[11]

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

The significance of points 4 and 5 above should not be lost. With the declining trend of military coups in Africa in the late 1990s, a new threat to democratic governance came to the surface in the form of constitutional amendments to prolong tenure of incumbents beyond the constitutionally mandated two terms, as Table 2 demonstrates.

Table 2: Outcome of third-term agenda, 2000–2010

Country	President then	Mechanism	Date	Outcome
Algeria	Abdelaziz Bouteflika	National Assembly	12 November 2008	Successful
Cameroon	Paul Biya	National Assembly	10 April 2008	Successful
Chad	Iddris Deby	National Assembly		Successful
Djibouti	Ismael Omar Guelleh	National Assembly	19 April 2010	Successful
Gabon	Omar Bongo	National Assembly		Successful
Guinea	Lasana Conte	National Assembly		Successful
Malawi	Bakili Muluzi	National Assembly	July 2002	Failed
Nigeria	Olusegun Obasanjo	National Assembly	2006	Failed
Togo	Gnassingbe Eyadema	National Assembly		Successful
Tunisia	Zeni el-Abedine Ben Ali	National Assembly	2002	Successful
Uganda	Yoweri Museveni	National Assembly		Successful
Zambia	Frederick Chiluba	National Assembly	April 2001	Failed

Source: Omotola S, 'Unconstitutional Changes of Government in Africa: What Implications for Democratic Consolidation?', Discussion Paper, 70. Uppsala: Nordiska Afrikainstitutet, 2011, p. 129

The above trend has been taking place even within the context of an emerging AU normative framework aimed at inculcating a culture of democracy on the continent. In Article 4 of its Constitutive Act, the AU commits its member states to the following democratic principles, among others:[12]

- respect for democratic principles, human rights, the rule of law and good governance;
- promotion of gender equality;
- promotion of social justice to ensure balanced economic development;
- respect for the sanctity of human life, condemnation and rejection of impunity and political assassinations, acts of terrorism and subversive activities; and
- condemnation and rejection of unconstitutional changes of governments.

McMahon and Baker aptly capture the point that 'the AU founders were concerned with identifying the organisation fully with principles of democratic and transparent governance. As such, they sought to build upon the democracy initiatives that had begun late in the OAU's life'.[13] Thus, since the inception of the AU, the momentum for democratisation throughout the continent has been accelerated. More countries have since embraced multiparty political systems. Politics of the bullet, which marked the era of military coups on the continent between the mid-1960s and late 1980s, has been replaced with politics of the ballot, with almost all AU member states holding regular multiparty elections. Increasingly, the mono-party and military regimes of yesteryear are becoming obsolete and have been jettisoned through either constitutional engineering or popular protests or uprisings, as witnessed in North Africa since 2011.[14] Today, many African countries have adopted presidential term limits as part of their constitutional culture, as shown in Table 3.

Table 3: Countries with presidential term limits in Africa

No.	Country	Term limit	Number of years	Comments
1	Algeria	Two terms	Five years each	
2	Angola	Three terms	Five years each (ie, two further terms of five years each provided for incumbent after first term)	
3	Benin Republic	Two terms	Five years each	
4	Botswana	Two terms	Five years each	
5	Burkina Faso	Two terms	Seven years each	Constitutional amendment to term limit attempted with success by President Blaise Compaoré in 1997 and 2000
6	Burundi	Two terms	Five years each	

No.	Country	Term limit	Number of years	Comments
7	Cameroon	Two terms	Seven years each	Constitutional amendment to term limit attempted with success by President Paul Biya in 1997 and 2008
8	Cape Verde	Two terms	Five years each	
9	Central African Republic	Two terms	Six years each	
10	Comoros	Unlimited, non-consecutive five years		
11	Djibouti	Two terms	Six years each	
12	Democratic Republic of Congo	Two terms	Five years each	
13	Congo-Brazzaville	Two terms	Seven years each	
14	Egypt	Two terms (beginning from 2011 presidential elections)	Four years each	
15	Ethiopia	Two terms	Six years each	
16	Ghana	Two terms	Four years each	
17	Guinea	Two terms	Five years each	Constitutional amendment to term limit attempted with success by President Lansana Conte in 2001
18	Kenya	Two terms	Five years each	
19	Liberia	Two terms	Six years each	
20	Madagascar	Three terms	Five years each	
21	Malawi	Two terms	Five years each	Constitutional amendment to term limit attempted without success by President Bakili Muluzi in 2001
22	Mali	Two terms	Five years each	
23	Mauritania	Two terms	Five years each	
24	Mauritius	Three terms		
25	Mozambique	Two terms		
26	Namibia	Two terms	Five years each	Constitutional amendment to term limit attempted with success by President Sam Nujoma in 1998
27	Niger	Two terms	Five years each	
28	Nigeria	Two terms	Four years each	Constitutional amendment to term limit attempted without success, allegedly sponsored by President Olusegun Obasanjo in 2006

No.	Country	Term limit	Number of years	Comments
29	Rwanda	Two terms	Seven years each	
30	São Tomé and Príncipe	Two terms	Five years each	
31	Seychelles	Three terms	Five years each	
32	Sierra Leone	Two terms	Five years each	
33	South Africa	Two terms	Five years each	
34	Tanzania	Two terms	Five years each	
35	Zambia	Two terms	Five years each	Constitutional amendment to term limit attempted without success by President Frederick Chiluba in 2002

Source: Jinadu A, 'Building effective democratic institutions in Africa', paper presented at the APRM 10th Anniversary Colloquium on African Peer Review Mechanism, 'Working for the People of Africa: A Decade of Self-Assessment', Addis Ababa, Ethiopia, 21–22 May 2013, p. 9

Military coups and other forms of unconstitutional changes of government are no longer a pervasive trend in the African political landscape, despite such isolated cases as the military coups in Mauritania and Madagascar (in 2009) and Mali and Guinea-Bissau (in 2012), and the armed rebellion that dislodged the government of the Central African Republic (CAR, in March 2013).

It was, therefore, during the AU era that an expansive normative framework and a more concerted effort began to show in the promotion of democratic governance on the continent. A vivid demonstration of this is the establishment of the APRM, which is the main subject of discussion in the next section.

THE AFRICAN PEER REVIEW MECHANISM

NEPAD was launched in 2001 in Lusaka, Zambia, as a continental development blueprint of the OAU. It was not the first such continental development vision. Others had been in development before, ranging from the 1980 Lagos Plan of Action and Final Act of Lagos, and the 1990 Treaty Establishing the African Economic Community (popularly known as the 'Abuja Treaty').[15] The Abuja Treaty as the current blueprint for African integration recognises that its vision requires peace and democracy for its full realisation. Three of its various principles are (1) peaceful settlement of disputes among member states, active co-operation between neighbouring countries, and the promotion of a peaceful environment as a prerequisite for economic development; (2) recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the ACHPR; and (3) accountability, economic justice and popular participation in development.[16]

NEPAD came about against the backdrop of the Lagos Plan and within the context of the Abuja Treaty as one of the programmes that strives towards the realisation of the continental integration envisaged in the treaty. NEPAD was pioneered by five African states, namely Algeria, Egypt, Nigeria, Senegal and South Africa. Just like the Abuja Treaty,

the NEPAD base document rightly states that conditions for Africa's development include peace, security, stability and democracy. The NEPAD programming, therefore, involved the following:[17]

- Peace and Security Initiatives;
- Democracy and Political Governance Initiative;
- Economic and Corporate Governance Initiative; and
- Sub-Regional and Regional Approaches to Development.

During the inaugural AU Summit in Durban, South Africa in 2002, the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance was adopted. The declaration proclaims that 'Africa faces challenges and the most urgent of these are the eradication of poverty and the fostering of socio-economic development, in particular, through democracy and good governance. It is to the achievement of these twin objectives that the NEPAD process is directed'.[18] The declaration further commits AU member states to work together in policy and action in pursuit of the following objectives: (1) democracy and good political governance; (2) economic and corporate governance; (3) socio-economic development; and (4) the APRM. The following year the APRM was established in Abuja, Nigeria. The APRM is a voluntary self-assessment mechanism for African states aimed at institutionalising and consolidating democratic governance.[19] It is acceded to by AU member states with a view to[20]

> foster[ing] the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable development and accelerated sub-regional and continental economic integration through sharing of experiences and enforcement of successful and best practice, including identification of deficiencies and assessing the needs for capacity building.

A country that accedes to the APRM commits itself to being reviewed periodically in terms of its policy frameworks, institutional architecture, systemic set-up and practices around four clusters of governance (known as 'thematic areas'), namely (1) Democracy and Political Governance; (2) Economic Governance and Management; (3) Corporate Governance; and (4) Socio-economic Development. Upon acceding to the APRM, a state commits itself to periodic reviews that are meant to take place every two to four years (although, in practice, this timetable has not been met and no countries have yet completed a second review). Conversely, in some instances, participating NEPAD heads of state and government could be driven by signs of an impending socio-economic and/or political crisis or turmoil to call for a review in a given country 'in a spirit of helpfulness to the government concerned'.[21]

So far, 34 African countries have acceded to the APRM by signing the memorandum of understanding.[22] So, 11 years into its existence, what has been learnt from the APRM and its application at national level?

Firstly, the fact that not all of the 54 AU member states have acceded to the APRM may be a demonstration of low commitment to democratic governance in Africa. Transformative and visionary leadership is required to accelerate accession to the APRM and reviews, and to the effective implementation of National Programmes of Action (NPoAs).

Secondly, the APRM implementation process is painstakingly slow, for instance, compared to the UN Universal Peer Review (UPR). The former started in 2003 and after 11 years only 17 countries have completed the reviews. The latter started in 2008 and within its first four-year cycle in 2011, all 192 UN member states had been reviewed.[23] Jerome aptly notes that[24]

> the slow pace in completing the review cycle, from developing the country self-assessment report to the peer review by the Heads of State and Government, has been particularly problematic. For example, Ghana and Rwanda each took ten months between the country support mission (CSM) and the [country review mission] CRM while Kenya took 14 months and South Africa eight months. These are countries that have succeeded in putting themselves on the fast track. However, that of Burkina Faso was 21 months, while Uganda and Nigeria took 24 months each between the CSM and CRM. There are also eight countries that have received CSMs, some as far back as 2004, but have not reached the review stage to date.

Thirdly, another major lesson revolves around the implementation of NPoAs. The lesson here is two-pronged. Reviewed countries have generally done poorly in ensuring effective implementation of NPoAs and the APRM Secretariat, in turn, has not yet developed effective monitoring and evaluation instruments to assess how countries are doing in respect of the implementation of NPoAs. A related lesson is that part of the slow pace in implementing NPoAs has to do with resource availability. In the majority of cases governments do not allocate resources for NPoA implementation in their national budgets, assuming that external donors will provide the requisite resources. These NPoAs require large amounts of money to implement, as Table 4 demonstrates.

Table 4: Costing of NPoAs in peer-reviewed countries ($)

Country	Democracy and political governance	Economic governance and management	Corporate governance	Socio-economic development	Total ($)
Ghana	118 982 083 (2.4%)	235 305 000 (4.7%)	2 684 361 693 (54.7%)	1 867 150 000 (37.3%)	5 000 000 000
Rwanda	2 235 000 (1.4%)	20 484 000 (13%)	107 750 000 (67%)	31 269 000 (19%)	161 738 000
Kenya	8 829 000 (0.2%)	45 772 000 (0.8%)	4 946 658 000 (91.8%)	387 145 000 (7.2%)	5 388 404 000
South Africa*	142 000 000 (7.2%)	218 000 000 (11%)	28 950 000 (1.5%)	1 584 000 000 (83.5%)	1 972 000 000
Algeria	2 378 000 000 (40.5%)	936 000 000 (16%)	751 000 000 (12.8%)	1 800 000 000 (30.7%)	5 865 000 000
Benin	586 370 000 (24.8%)	7 340 000 (0.3%)	1 004 260 000 (42.6%)	758 120 000 (32.7%)	2 356 090 000

Country	Democracy and political governance	Economic governance and management	Corporate governance	Socio-economic development	Total ($)
Uganda	101 930 205 (2.1%)	388 506 686 (8%)	324 369 895 (6.7%)	4 035 295 788 (83.1%)	4 857 102 574
Nigeria	5 billion (40%)	4 billion (25%)	3 billion (20%)	8 billion (15%)	20 billion
Burkina Faso	413 705 000 (10.5%)	160 060 000 (3.3%)	2 750 390 000 (56%)	1 583 060 000 (32.3%)	4 907 215 000

Note: * South African rand amounts in the original were converted to US dollars at a rate of R7,047 to the dollar, an average for 2007 when the NPoA was finalised.

Source: Adapted from Jerome A, 'Odyssey and Introspection' in Masterson G, Busia K & A Jinadu (eds), *Peering the Peers: Civil Society and the African Peer Review Mechanism*. Johannesburg: EISA [Electoral Institute for Sustainable Democracy in Africa] Books, 2010, p. 25

It is imperative that African countries depend solely on their own national budgets for the implementation of NPoAs. This strategy not only protects their national sovereignty and reduces their external dependence but also helps ensure national ownership of the APRM. In this regard, other countries could learn important lessons from South Africa and Ghana, where a considerable chunk of funds from the treasury is earmarked for NPoA implementation.

Four years after the establishment of the APRM, the AU adopted ACDEG, which came into force in February 2012.

THE AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

ACDEG is the expression of the commitment of the AU and its member states to nurture and consolidate democratic and participatory governance on the continent. The driving impetus for the development and adoption of ACDEG is traceable to various instruments on democratic governance, constitutionalism, rule of law, human rights and elections that have evolved within the framework of the 1963 Charter Establishing the OAU and the 2000 Constitutive Act of the AU. The charter was adopted by the 8th Ordinary Session of the Assembly of the AU held in Addis Ababa, Ethiopia on 30 January 2007. Among others, the charter has been developed in line with Decision EX.CL/ DEC.3 (III) adopted in Maputo, Mozambique in July 2003 and Decision EX.CL/124 (V) adopted in Addis Ababa in May 2004 respectively, both of which reaffirmed the need for the development and subsequent adoption of the Charter on Democracy, Elections and Governance. In order for the charter to come into effect, it required 15 ratifications. So far, 41 AU member states have signed it, yet only 19 of these have ratified it.

The rationale behind, and justification for, ACDEG is not difficult to understand. First, for Africa to achieve the AU vision of unity, integration and prosperity, three important

pillars for such success are (1) peace, (2) democracy and (3) development. ACDEG proposes a framework that assists the AU in achieving these three goals simultaneously. Secondly, ACDEG brings various previous OAU/AU commitments together in a consolidated and legally binding document, through which member states will build solid institutional and cultural foundations for sustainable democracy and durable peace. Thirdly, ACDEG was developed and adopted at a time when the scourge of military coups was threatening democratic gains, and peace and security on the continent. It is a much more robust response to unconstitutional changes of government in Africa. While the incidences of military coups d'état have receded substantially, they remain a lingering democratic deficit in Africa as witnessed by the 2012 experiences of Mali (March) and Guinea-Bissau (May). Fourthly, a new challenge that has come to confront progress on the democratisation front in Africa is the manipulation of constitutions by incumbents to prolong their tenure in power, without recourse to their constitutionally defined popular mandates. ACDEG warns against this trend which, if not reversed, can become toxic for the nurturing and consolidation of democracy on the continent. Fifthly, ACDEG has emboldened the hand of the AU, through the Peace and Security Council (PSC), in dealing with all forms of unconstitutional change of government, including rebellions, such as the recent one that toppled the government in the CAR in March 2013.

The charter is written in a concise and accessible manner. ACDEG is a 40-page document now available in all official languages of the AU (ie, English, French, Portuguese and Arabic). The Preamble of ACDEG focuses on the foundational basis of the charter. Following the Preamble, the charter is divided into 11 chapters containing 53 articles.

The Preamble sets the stage by establishing the foundations of ACDEG. It reiterates the linkage between ACDEG and previous OAU/AU commitments, with deliberate emphasis on the rejection and condemnation of unconstitutional changes of government. Chapter 1 (Definitions) simplifies understanding of key expressions used in the text. Chapter 2 (Objectives) highlights the main objectives of the charter, which are clearly stated, with a focus on the need to promote democracy, the rule of law, human rights and constitutionalism, among others. Chapter 3 (Principles) presents the key principles that the charter upholds, including (1) the promotion of democratic and participatory democracy; (2) separation of powers; (3) holding of regular, credible and transparent elections; (4) gender equality; (5) rejection of acts of corruption; and (6) related offences and impunity.

Chapter 4 (Democracy, Rule of Law and Human Rights) commits AU member states to (1) upholding the supremacy of constitutions; (2) imbuing a culture of constitutionalism and the rule of law; (3) protecting fundamental freedoms, human security and human and people's rights; (4) inculcating a culture of popular participation; and (5) eliminating all forms of discrimination and intolerance and, in the process, respecting all forms of diversity.

Chapter 5 (Democracy and Peace) exhorts AU member states to establish, promote and consolidate a culture of democracy and peace. This, the charter suggests, should be done through, among other things, (1) ensuring transparent and accountable public administration; (2) strengthening governance institutions; (3) civic and voter education and formal educational curricula; and (4) multi-stakeholder political and social dialogue within member states.

Chapter 6 (Democratic Institutions) emphasises the importance of robust and effective institutions for democracy to prevail and endure. The chapter, therefore, encourages AU member states to institutionalise democratic governance continually through, among other things, (1) constitutional civil control over the security forces; (2) the establishment and capacitating of democracy protection institutions such as the Ombudsman, human rights commissions and electoral commissions; and (3) co-operation at both regional and continental levels among AU member states through the exchange of best practices and lesson-learning in governance.

Chapter 7 (Democratic Elections) underscores the centrality of democratic, credible and transparent elections for governance, peace and development. The chapter commits AU member states to living up to the AU's Declaration on the Principles Governing Democratic Elections in Africa through, among others, (1) the establishment of independent and impartial national electoral bodies; (2) ensuring fair and equitable access to public resources by parties and candidates contesting elections; (3) the establishment of national mechanisms for constructive management of electoral disputes; (4) ensuring respect and enforcement of a binding code of conduct for electoral stakeholders; (5) provision of technical assistance to AU member states by the AUC; and (6) election observation and monitoring by the AU in member states holding elections.

Chapter 8 (Unconstitutional Changes of Government) is the anchor chapter of ACDEG. If all the other chapters form the body of ACDEG, Chapter 8 is its very heart. Its primary focus is on sanctions in cases of unconstitutional changes of government. The chapter starts off with a five-pronged definition of what exactly constitutes unconstitutional changes of government (outlined earlier in this paper).

The chapter goes on to articulate steps that the AUC, through the PSC, ought to take in case of unconstitutional change of government in any of the member states. These are wide-ranging measures that apply to (1) the perpetrators of unconstitutional change themselves, (2) the government of the country concerned and (3) any AU member states supporting unconstitutional change of government in another member state. The chapter ends by encouraging AU member states to conclude bilateral extradition treaties so as to be able to co-operate fully in cases of unconstitutional changes of government where perpetrators flee to neighbouring states.

Chapter 9 (Political, Economic and Social Governance) is unique and innovative in that it establishes the importance of the role of states parties in advancing governance in its broad sense. It emphasises that governance has political, economic, social and cultural dimensions. It also provides for engagements with traditional authorities and the decentralisation of governance. NEPAD and the APRM are seen as important milestones in Africa's democratisation path thus far. The pursuit of the developmental vision of NEPAD and achievement of the Millennium Development Goals (MDGs) are considered crucial if Africa's socio-economic governance is to complement its political governance in a mutually reinforcing fashion. This chapter is particularly innovative, as it creatively establishes the important linkages between governance, development and peace. It is in this chapter that the issue of gender equality as a key pillar for the deepening of democratic governance features prominently.

Chapter 10 (Application Mechanisms) details the measures required for the application of the charter. It identifies three layers for the application and monitoring of adherence of

AU member states to the provisions of the charter as provided for in pages 16–17 of the charter as follows:

1 Member States Level – Governments
   • Governments to act as central co-ordinating structures at national level
   • Initiate appropriate measures (legislative, executive and administrative) to bring national laws in conformity with ACDEG
   • Ensure wider dissemination of ACDEG in-country
   • Promote political will
   • Incorporate provisions of ACDEG into national policies and strategies
2 Continental Level – AUC
   • AUC to act as the central co-ordinating structure at continental level
   • AUC to co-ordinate monitoring and evaluation of compliance with charter provisions jointly with other key organs of AU including the Pan-African Parliament, Peace and Security Council, the African Commission on Human and People's Rights [ACHPR], the African Court of Justice and Human Rights, the Economic, Social and Cultural Council etc.
   • Develop benchmarks for implementation of provisions of ACDEG and monitor and evaluate compliance
   • Facilitate harmonisation of policies and laws among AU member states
   • Ensure that the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund provide the needed assistance and resources to AU member states in support of electoral processes
   • Give effect to AU decisions in regard to unconstitutional change of government in member states
3 Regional Level – Regional Economic Communities (RECs)
   • RECs to act as central co-ordinating structures in all five the regions of the continent
   • Encourage member states to ratify and adhere to ACDEG
   • Designate focal points for co-ordination, evaluation and monitoring of compliance

Chapter 11 (Final Clauses) provides that the charter is open for signature, ratification and accession by all member states of the AU. The instruments of ratification and accession are to be deposited with the Chairperson of the AUC. Following ratification and application of the charter, AU member states are expected to submit a report on measures taken towards its domestication and implementation every two years. The AUC consolidates these reports and submits them to the AU Assembly of Heads of State and Government through the Executive Council. The Assembly then takes appropriate action on the reports. In line with the Constitutive Act and the Protocol Relating to the Establishment of the PSC, the Assembly and the PSC will determine the appropriate measures to be imposed on any member state in cases of violations of the charter. What then is the nature of the interrelationships between the APRM and ACDEG?

INTERRELATIONSHIPS BETWEEN THE AFRICAN PEER REVIEW MECHANISM AND THE AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

There are a number of similarities between the APRM and ACDEG. While both promote home-grown systems of democratic governance in Africa, especially by inculcating a culture of domestic accountability of states to their own citizens,[25] one common feature of both is that they are of limited (rather than universal) application. Of the 34 AU member states that have acceded, only the 17 that have undertaken the reviews are expected to conform to APRM norms and standards, particularly through the implementation of the NPoAs.

In a similar manner, since 15 February 2012 when ACDEG came into force, its implementation has applied only to the 19 states parties that have ratified the charter to date. It does not apply to the remaining 35 AU member states until such time as all 54 members have ratified it. Given this reality, it is imperative that expectations are moderated regarding the pace and depth at which these initiatives can entrench democratic governance on the continent. The pace of implementation of both the APRM and ACDEG is bound to be slow, given both endogenous factors (eg, weak institutions) and exogenous factors (eg, external resource flows). The depth of their impact is likely to take a long time to show. For instance, after its 10 years of existence, one of the distinctive values of the APRM is that it can act as an early warning mechanism, as it did in Kenya before the 2007/08 election-related political crisis and in South Africa before the xenophobic violence of 2008. However, it is also known that political elites are capable of ignoring these warnings, as happened in both countries until disaster struck.

A number of questions are worth posing here: (1) Why has it proved difficult for all 54 member states of the AU to accede to and undergo APRM review? (2) Why have they also not been able to all sign and ratify ACDEG? (3) Why is it that not all African countries that have acceded to the APRM have signed and ratified ACDEG and vice versa? It is not the intention of this paper to dwell on these questions, as they require separate treatment. Clearly, putting continental governance norms and standards in place is easier than implementing them at national level.

The fact that a total of 17 AU member states have undergone the APRM review and 19 have ratified ACDEG does not, in and of itself, demonstrate the success of these initiatives. The fact that fewer than 50% of the AU's 54 member states have undergone APRM and ratified ACDEG respectively is a grave indictment of the seemingly low political will for democratisation by African states. It may be argued, and justifiably so, that the real impact of the APRM begins with the implementation of NPoAs, so it may be an exercise in futility to over-celebrate the accession of AU member states to the mechanism *per se*. The same logic applies to ACDEG; the mere signing and ratification of the charter by AU member states, commendable and encouraging as they may be, do not, in and of themselves, lead to substantive democratic advancement until and unless the provisions of the charter are domesticated and applied within the national context of states parties. So, one needs to be careful in assessing the democratic value of the APRM and ACDEG: it only begins to show qualitatively when the NPoAs are effectively implemented and when provisions of ACDEG are translated into legislation, institutional norms and political culture of African states at national level.

One major difference between the APRM and ACDEG is that while the former is voluntary and does not apply sanctions for non-compliance, the latter is compulsory for, and binding on, those AU member states that have ratified it, and it has legal provision for the application of sanctions for non-compliance. Given the APRM's voluntary nature and its emphasis on peer-learning and exchange of both commendable and avoidable governance practices, African leaders reckoned that it was not necessary to inject punitive measures for non-compliance. Besides, the mechanism had to be seen to be a home-grown governance formula and distinct from the political conditionalities imposed on Africa by industrialised countries of the North such as structural adjustment programmes (SAPs) and Poverty Reduction Strategic Papers (PRSPs). Be that as it may, this character of the APRM has earned it the criticism of some analysts that it is a toothless bulldog.[26] However, exactly how fair this critique is remains a moot point because even the UPR, which began in 2008 covering all 192 UN member states, is voluntary, non-punitive and non-coercive in both form and substance.[27] ACDEG, in turn, is a compulsory and binding treaty of the AU. Once AU member states sign and ratify the charter, it is binding on them, as states parties. If states parties do not comply with the charter, appropriate punitive measures are clearly articulated in the charter (eg, in cases of unconstitutional change of government). To this extent, therefore, it could be argued that ACDEG has legal teeth for enforcement of state compliance, which the APRM does not have.

Beyond the issue of enforcement, the APRM and ACDEG exhibit more convergence rather than divergence in both form and substance. First, the APRM is anchored in a variety of standards and codes (about 80 of them for the Democracy and Political Governance pillar alone), including ACDEG. For its part, ACDEG, in its Article 36, exhorts states parties to implement the principles and core values of the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance, and the APRM.

One plausible meaning of this cross-fertilisation here is that the APRM and ACDEG are mutually reinforcing. It is recognised that the APRM may not be implemented in a more sustainable manner if countries do not domesticate and implement ACDEG. Conversely, it is also an expression of the belief that, to a large extent, the domestication and implementation of ACDEG stands a much better chance under conditions where countries undergo the APRM reviews and implement their NPoAs effectively. Given this reality, it is more prudent to implement both the APRM and ACDEG in a mutually complementary manner rather than in a duplicative and/or contradictory and disjointed fashion. They can coexist, and be used as part of the collective effort of African states to advance democratic governance, peace and sustainable human development.

Second, the actual implementation of the APRM NPoAs and the provisions of ACDEG is the sole responsibility of member states at national level. For the APRM, this is guided by the NPoAs. For ACDEG, all its provisions have to be domesticated and implemented through, where necessary, appropriate legal or institutional reform measures. Thus, in both cases, the APRM member states and ACDEG states parties are central to how successfully or otherwise democratic governance is embedded in African political systems. While both the APRM and ACDEG have designated central co-ordinating agencies, these agencies do not have power and authority beyond co-ordination, monitoring and evaluation. The APRM Secretariat, based in Midrand, South Africa, does not undertake the self-assessments and country reviews. It simply co-ordinates and provides administrative and technical support for the reviews. In respect of ACDEG, the AUC is expected to

co-ordinate, review, monitor and evaluate implementation of its provisions by AU member states. As with the APRM Secretariat, the AUC is not mandated to implement ACDEG, but merely to assist member states in implementing it at national level. The APRM base documents are abundantly explicit that the Secretariat supports self-assessments and co-ordinates review missions. While the charter mandates the AUC to act as a central co-ordinating mechanism, it does not prescribe governance assessments similar to the ones undertaken by the APRM as part of its mandate to review, monitor and evaluate compliance of member states with its provisions. Reference in the charter to development of benchmarks for monitoring compliance should not be mistaken for assessment. This means that the AUC is tasked to develop guidelines for state party reporting and for criteria for ascertaining that all key elements of the charter are implemented on the basis (not of assessments) of two-yearly reports submitted by states parties. The methodology of the AUC monitoring of ACDEG implementation at national level could ideally be similar to the ones used by the ACHPR and the UN Human Rights Council in monitoring implementation of the ACHPR, and the Universal Declaration of Human Rights, especially in respect of state reporting. In simple terms, this methodology includes the following elements: (1) development of guidelines for state reporting; (2) a template for state reports; (3) verification of information contained in the reports through multi-stakeholder consultation and dialogue; (4) a synthesis report to relevant policy organs; and (5) action taken by the AU through the PSC and the Assembly as the case may be.

Third, and closely related, is the decision the AU Assembly of Heads of State and Government arrived at on 'The Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union to Manage such Situations' during its sitting in Addis Ababa, Ethiopia in February 2010. Following a report of the PSC on various challenges facing the continent, including unconstitutional changes of government in countries such as Madagascar, Guinea and Guinea-Bissau, and a comprehensive report of the AUC Chairperson on unconstitutional changes of government, the AU Assembly of Heads of State and Government adopted a decision (Assembly/AU/Dec.269(X1V)) exhorting AU member states to sign, ratify and implement ACDEG as a measure to forestall unconstitutional changes of government. More significantly, the Assembly decided that in order to facilitate the nurturing and consolidation of democratic governance on the African continent, there was a need for the AUC Chairperson to appoint an independent rapporteur whose main task would be to 'examine regularly progress made in the democratisation process'[28] and submit regular reports to the Chairperson and the PSC. Once the rapporteur has been appointed by the Chairperson of AUC, he or she has to work closely with various departments, especially Political Affairs, and Peace and Security, in assessing progress made with democratisation, and proposing measures for effective implementation of AU instruments aimed at combating the scourge of unconstitutional changes of government, including ACDEG and the APRM. In fact, the independent rapporteur stands a much better chance of undertaking credible assessment of progress on democratisation in Africa. However, a point worth emphasising is that he or she should play this role in close collaboration and co-operation with the APRM, especially in relation to those AU member states that have acceded to the mechanism and undergone the review.

Fourth, the outcomes and impact of the APRM and ACDEG will take a while to materialise. Far beyond reviews and ratification, the actual success of the APRM and ACDEG lies in structural transformation of society, which fundamentally improves the

livelihood of the African peoples; reversing adverse effects of unemployment, poverty and inequality. Thus, the significance of the political economy of the APRM and ACDEG by far transcends the contemporary mantra of economic growth, which tends to celebrate so-called African growth without recognising continuing and deepening socio-economic inequality. A recent study conducted by the Harare-based African Capacity Building Foundation points in the right direction by questioning critically whether, in fact, the much-vaunted economic growth of seven African countries (part of the 10 fastest-growing economies in recent times) is indeed redressing unemployment, poverty and inequality. This study argues that for Africa to ensure job-creating economic growth, there is a need for, among other things, creative use of the agricultural sector.[29] It is along this new thinking that the APRM and ACDEG in both form and content ought to debunk the neo-liberal mythology that economic growth in Africa can have an automatic trickle-down that combats poverty, unemployment and inequality. This requires the political commitment of AU member states, accompanied by astute, visionary and transformative leadership in the advancement of pan-Africanism and the African Renaissance towards democratic governance and sustainable human development.

Landsberg rightly laments what he terms the 'leadership vacuum' in NEPAD and the APRM (to which ACDEG could also be added).[30] He argues that this leadership vacuum plays itself out continentally, as the AU has not yet assumed full ownership of the APRM as it did in the case of NEPAD and other continental initiatives.[31] By the same token, the AU has not yet explicitly assumed full and unequivocal leadership of ACDEG. The lesson here for ACDEG is that the AU, through the commission, must ensure continental political leadership of its implementation, while leaving room for states parties to implement its provisions at national level.

However, caution must be exercised here in terms of the political leadership of the APRM and ACDEG: political leadership should not compromise the independence and impartiality of the APRM process; it should not be seen as synonymous with heavy state control over the APRM process. In like manner, political leadership of ACDEG should not be taken to mean that its implementation is the sole responsibility of state actors alone, to the exclusion of non-state actors. One possible way of addressing the political leadership of both the APRM and ACDEG is to allow Africa's former heads of state and government, both individually and through institutions such as the African Forum for Former Heads of State and Government, to be designated champions of these initiatives so that they are allowed space to lead and encourage their effective implementation. For instance, South Africa's former president Thabo Mbeki has impeccable credentials and the passion to become the African champion for ACDEG implementation. The former Nigerian president, Olusegun Obasanjo, would arguably make a perfect champion of the effective implementation of the APRM through NPoAs at national level.

Fifth, the reality is that as products of intergovernmental organisations, the APRM and ACDEG tend to be state-centric (driven largely by states, controlled by states and directed by states). The APRM has established an elaborate internal governance structure dominated by states. Although in some countries civil society organisations (CSOs) featured prominently, for example, in National Governing Councils (NGCs) that oversee the internal review process, in others they were not given sufficient resources and NGCs were dissolved after the country review process. States alone cannot drive democratisation and development. Non-state actors, such as civil society, also play an important role

in holding state actors to account. Thus, the future of the APRM and ACDEG lies in transformative and visionary African leadership, and in a vigilant and vibrant civil society. Such leadership ought to ensure more transparency, accountability and national ownership in the implementation of both the APRM and ACDEG. This may translate into effective implementation of the APRM NPoAs, and the effective domestication and application of ACDEG at national levels of AU member states. If a good balance between state and non-state actors is not maintained in the implementation of the APRM and ACDEG, then both risk 'state capture', which may essentially spell their death knell. What a tragic death this would be for democracy and governance on the continent.

Finally, this paper remarked earlier that it is unfathomable why not all 54 AU member states have acceded to and undergone the APRM review and ratified ACDEG. One of the most important indicators of democratisation in Africa today is the holding of regular multi-party elections. However, the effect of elections on democratisation is still mixed; elections can promote democracy much the same way that they can shield autocracy. Thus, if elections do not contribute effectively to democratic transformation of society, they become mere ceremonial rituals used to camouflage illiberal democracies and authoritarian governments. In their recent seminal works, Sørensen and Lindberg remind one that not all elections have led to a transition to democratic governance, as some African countries have tended to vacillate between democratic 'transition' and 'standstill', while others have witnessed democratic 'reversals'. Many African countries have experienced a democratic standstill and, according to Sørensen, 'most of these countries are not on the way to more democracy and will probably remain in the gray zone'.[32] It is these grey zone regimes that are dubbed 'illiberal democracies',[33] that is, those regimes that on the face of it exhibit democratic tendencies, but under that veneer of democracy lies a deep-seated authoritarian mode of governance. Some of the characteristic features of illiberalism include vote-buying, legal fine-tuning, ethnic affirmative action, emergency laws, and restrictions on the right to organise debate and voice opinions. It is no exaggeration to posit that many African states can be classified as illiberal democracies. This factor, among others, may explain the ostensible lack of enthusiasm on the part of some countries to accede to the APRM, and to sign or ratify and domesticate ACDEG. This factor is also a reminder that the long-term results and impact of the APRM and ACDEG will evolve over a long gestation period. Lindberg, in a sense echoing Sørensen above, argues that while elections are central to democratisation, on their own they do not constitute democracy.[34] Box 1 illustrates the somewhat paradoxical and dual role of elections in either promoting or inhibiting democratisation.

Box 1 shows that, in some instances, elections can promote democratisation, while in others they can anchor autocratisation. Given that democratic institutions are often either non-existent or dysfunctional, governance revolves more around individual leaders than institutions. In a situation of big personalities and weak institutions, democracy is bound to become highly conflictual, with the conflict crossing boundaries into violence. The conflict becomes even more intense and violent during elections, as stakes are higher with the contestation for state power and resources, and the politicisation of social identity and cleavages. The fact that democracy and elections are conflictual should not pose a problem leading to political crisis, since conflict during elections is the nature of politics. However, the problem is that such conflicts become violent, claiming peoples' lives, threatening the social fabric of society, adversely affecting the economy and disturbing political stability,

peace and security. Without peace, security and political stability, it is almost impossible to imagine possibilities for sustainable human development in Africa within the framework of the 2000 UN Millennium Declaration and achievement of the eight MDGs.[35]

Box 1: Do elections promote democratisation or autocratisation?

Elections make *democratisation* more likely if ...

... they serve to make *repression* 'expensive' and counterproductive, and spur the opposition to unify and mobilise; *and if* they make a policy of *tolerating* the opposition seem to the rulers as though it will make their rule more legitimate, *but*, in fact, trigger defections of state actors to the opposition and create self-fulfilling expectations about the continuation of competitive politics.

Elections make *autocratisation* more likely if ...

... they serve to make *repression* 'cheap', easy to target at the opposition leaders, or even unnecessary; *and if* they make it possible for the regime to control *toleration* of the opposition, to split the opposition, and to use elections as a vehicle for patronage; *or if* elections simply make *toleration* too costly for the incumbents.

Source: Lindberg S, 'Democratisation by elections: A mixed record', *Journal of Democracy*, 20, 3 July 2009, p. 86

THE WAY FORWARD

Evidently, the OAU and its successor, the AU, have evolved an abundance of normative frameworks for the advancement of democratic governance in Africa, especially since the late 1990s. Adherence to these norms and their effective implementation at national level are perceived to be catalytic to the continental pursuit of pan-Africanism and the African Renaissance. It is worth emphasising that while an impressive record has been achieved by the OAU and AU over the past 50 years in putting together the expansive normative governance framework, the major challenge lies in consolidating and implementing these shared values instruments.

In an effort to close, or at least narrow, the gap between declarations and practice, the AU has embarked on a concerted campaign for ratification and application of all declarations and charters by its member states. In fact, the 14th Session of the Assembly of the AU endorsed a recommendation of the Executive Council (EX.CL/Dec.525 [XVI]) that the Ordinary Session of the 16th Assembly in January 2011 be dedicated to the theme 'Shared Values of the African Union', with particular emphasis on putting in place the AGA. Consequently, the 16th Session of the AU Assembly, which was held on 30–31 January 2011 in Addis Ababa, Ethiopia focused on the theme 'Towards Greater Unity and Integration Through Shared Values'.

During this summit, the AU adopted a 12-point declaration which, among other things, committed member states to the following:

- Enhancing efforts aimed at reinforcing a deeper understanding of Shared Values and their promotion and popularisation amongst the African peoples as a means of shaping Africa's common future and mobilising the African peoples towards achieving the shared vision of continental integration and unity.
- Speeding up the ratification and domestication of instruments of Shared Values and calling upon the AUC to put in place measures and modalities to support member states to establish the required capacities and processes for monitoring and review of domestication efforts.
- Consolidating and fully implementing the instruments of Shared Values, including the APRM and relevant national plans, as a catalyst for unity, policy harmonisation, convergence and integration on the continent.
- Ensuring greater synergy between peace and security matters and governance and democracy, thereby ensuring that developments in the terrain of Shared Values feature prominently in the PSC.
- Promoting the role of women in socio-economic life and prioritising the participation of women in governance and democracy and securing their direct involvement in decision-making in line with the Solemn Declaration on Gender Equality in Africa (SDGEA) and the Declaration on the African Women's Decade (2010–2020).
- Urging the youth to participate fully in governance and democracy processes, as per the provisions of the African Youth Charter, and requesting that efforts be put in place to establish an annual Youth Parliament at the continental level.
- Enhancing the participation of African research institutes, universities, civil society and the media in promoting Shared Values as part of wider efforts directed at securing African ownership.
- Establishing African ownership over Shared Values by way of wider communication and information sharing, through direct support to member states, by ensuring the strengthening of institutions and by way of putting in place measures to ensure that success is monitored and that there is ongoing review of progress in the implementation of adopted Shared Values instruments (pp. 3–4).

This declaration has led to ongoing AUC processes to establish AGA. The AU officially adopted AGA at the AU Addis Ababa Summit of January 2011. It is yet to be operationalised through its five main clusters, namely (1) Human Rights and Transitional Justice; (2) Constitutionalism and the Rule of Law; (3) Governance; (4) Democracy and Elections, and (5) Humanitarian Assistance. The African Governance Platform, a key pillar of AGA, was officially launched in Lusaka, Zambia in June 2012. The AGA and its platform will form a critical anchor for the advancement of democracy in Africa, especially in respect of building synergies and complementarities between the APRM and ACDEG.

The declaration above also supports the full implementation of both the APRM and ACDEG. More importantly, the declaration does not make reference to the need for democracy and governance assessment in Africa, other than the APRM. Read together with the AU decision of 2010 on unconstitutional changes of government, an independent rapporteur has to be appointed by the Chairperson to evaluate progress made in democratisation, working in close collaboration and co-operation with the Department

of Political Affairs and the Department of Peace and Security. Evidently, two of the AU's major shared governance values are the APRM and ACDEG. Over the next decade, the implementation of the APRM and ACDEG at national level ought to be premised on complementarity and synergy that reinforce their mutual compatibility. As the APRM enters its second decade, the way forward for its effective implementation and stronger interface with ACDEG should be informed by five main strategic imperatives.

First, more effort and energy need to be invested in ensuring that all 54 member states of the AU accede to the mechanism and undergo governance reviews. This requires an enormous amount of popularisation of the APRM by the AUC, APRM Secretariat, Pan-African Parliament and CSOs. In order to address the political leadership vacuum of the APRM, the AU would do better by identifying a former head of state and government such as, for instance, Obasanjo as the APRM champion.

Second, concerted efforts need to be made to implore all APRM countries to sign, ratify and implement ACDEG, while also lobbying and advocating for the universal ratification of the charter by all AU member states. Beyond ratification, on-going efforts must go into domestication and the effective implementation of the charter. In order to ensure sustainable political leadership of ACDEG at continental level, the AU could consider identifying a former head of state such as Mbeki as ACDEG champion.

Third, by all means possible, the implementation of both the APRM and ACDEG must ensure a balanced role for both state and non-state actors in order to guard against state centrism and promote broader citizen engagement with these continental governance initiatives. Many regional and continental CSOs, such as the Electoral Institute for Sustainable Democracy in Africa (EISDA), the South African Institute of International Affairs and the Africa Governance, Monitoring and Advocacy Project are already playing important lobbying, advocacy and knowledge management roles around the APRM. However, it is critical that CSOs at national level play their rightful role before, during and after the APRM reviews, and in ensuring that ACDEG is signed, ratified, domesticated and implemented.

Fourth, the sustainability of the APRM and ACDEG, in the long run, should be predicated on stronger institutional and operational synergies between the AGA and APSA because sustainable human development is unattainable without democracy and peace. Through the African Governance Platform, the AU organs and institutions should make concerted efforts to ensure effective implementation of the APRM NPoAs and, in the process, ensure that states parties to ACDEG domesticate and apply provisions of the charter. Clearly, the African development and integration vision as contained in the 1990 Treaty Establishing the African Economic Community and NEPAD may not be fully realised without democracy and peace.

Fifth, AU member states should mobilise domestic resources for the effective implementation of NPoAs and domestication or implementation of ACDEG, rather than depending on external donor contributions for these initiatives, as this may have deleterious consequences for their own national sovereignty. NPoAs should, to the extent possible, be funded through regular national budgets with only supplementary resources provided by external development partners.

ENDNOTES

1   AU (African Union), Strategic Plan of the African Union Commission, 2009–2012. Addis Ababa, Ethiopia, p. 11.

2   Jinadu A, 'Comparative analysis of civil society engagement in the APRM: Democracy and political governance' in Masterson G, Busia K & A Jinadu (eds), *Peering the Peers: Civil Society and the African Peer Review Mechanism*. Johannesburg: EISA [Electoral Institute for Sustainable Democracy in Africa] Books, 2010.

3   UNECA (UN Economic Commission for Africa), 'Capturing the 21st Century: African Peer Review Mechanism (APRM) Best Practices and Lessons Learnt'. Addis Ababa, Ethiopia, 2010, p. 11.

4   One-party regimes in the SADC region assumed two distinctive forms, namely (1) the *de facto* one-party rule and (2) *de jure* one-party rule. With the exception of Swaziland, whose dominant political or dynastic elite has imposed the authoritarian absolute monarchy, the majority of independent Southern African Development Community states embraced *de jure* one-party rule between the mid-1960s and early 1990s. These countries included Angola, Malawi, Mozambique, Tanzania, Zaire (present-day Democratic Republic of Congo), Zambia and Zimbabwe. While Mauritius has managed to embrace and uphold a political culture of pluralism and political tolerance anchored to a relatively stable, multiparty political landscape predicated upon liberal democracy, Botswana has achieved the same goal through the dominant party system since independence. Generally, post-independent political development in Lesotho (following brief experimentation with multi-partyism between 1966 and 1970) has been marked by *de facto* one-party rule (1970–1986) that was interrupted by a military dictatorship (1986–1993). Only in the early 1990s did Lesotho experience a democratic transition that has assisted the country in reinstitutionalising multiparty democracy (1993 to date). The dominant party system is a feature of the current governance systems of Angola, Botswana, Mozambique, Namibia and South Africa.

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10 Geldenhuys D, *op. cit.*, p. 60.

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15   Rukato H, 'The New Partnership for Africa's Development: Past, present and future', *Africa Insight*, 42, 3, December 2012, p. 91.

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19   Jerome A, 'Odyssey and Introspection' in Masterson G *et al.*, *op. cit.*; Jinadu A, *op. cit.*; Masterson G *et al.*, *op. cit.*; UNECA, *op. cit.*

20   AU, 'APRM Base Document'. Midrand: AU, 2003, p. 1.

21   NEPAD, 'NEPAD Action Plans'. Midrand: NEPAD, 2002, p. 10.

22   These states are Algeria, Angola, Benin, Burkina Faso, Cameroon, Chad, Djibouti, Egypt, Equatorial Guinea, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Liberia, Malawi, Mali, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Congo-Brazzaville, Rwanda, São Tomé and Príncipe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Tunisia, Uganda and Zambia. Of these, 17 have already undergone self-assessment and peer review. These states are Ghana, Rwanda, Kenya, South Africa, Algeria, Benin, Uganda, Nigeria, Burkina Faso, Mali, Mozambique, Lesotho, Mauritius, Ethiopia, Sierra Leone, Zambia and Tanzania.

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