Chapter 22

Governance, Contested Legitimacy, and the Resurgence of Military Coups in Africa: The Role of the African Union

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Introduction

Over the decades, African countries have experienced governance crises and what others have tagged governance deficit. The potential for African countries to draw lessons from their histories of inadequate governance and alter the trajectory of development in both politics and the economy appears to be a subject open to debate. Personal rule and personalisation of politics have created a situation whereby democratic institutions are impaired the most at the expense of the collective good. Indeed, there has been an emergence of big personalities who have occupied the political spaces of their societies – legitimately or illegitimately. The narrower the political space, the heavier the toll of misgovernance on the citizens who suffer most of the brunt of leadership failure, caused by a lack of political legitimacy. These tendencies manifest themselves more in the continent's history of state formation and political processes.

One of the legacies of colonial rule, which has exposed the barrenness of the continent, is the inability of postcolonial states to allow democracy to nurture and blossom as a veritable system of peaceful transfer of power. This is the outcome of the politics of identity, social group alienation, neopatrimonial relationships,

and the promotion of a rentier economy. These have deepened the culture of primitive capitalist accumulation to the exclusion of citizens. These have inhibited attempts at building peaceful and stable political organisations and institutions even in countries with the most promising foundations.

Recently, the resurgence of military coups on the continent has created fresh debates about the ability of African states to sustain democracy. Of particular interest has been the interrogation of the commitment and capacity of the continental body, the African Union (AU), to combat the coups and restore constitutionalism to the affected countries. While it is true that the organisation cannot prevent the occurrence of military interventions, nevertheless, it can condemn the forceful takeover of power and ensure the return to constitutional order. The legitimacy of the AU to carry out this role has been clearly stated in its legal frameworks, such as the Lomé Declaration of July 2000 on the framework for an OAU response to unconstitutional changes of government (AHG/Decl.5, XXXVI). Despite this, the performance of the organisation in addressing the trend of coups leaves much to be desired.

Therefore, this chapter examines the phenomenon of military intervention in African politics from the context of governance conundrum, which has invariably created a contested legitimacy and further ruins the continent's prospects of establishing strong democratic institutions. As used in this chapter, governance relates to the process of overseeing the direction of government policies through the institutional mechanisms of a given state. It includes the patterns of rule or practices such as public accountability, responsive and responsible leadership, the expansion of democratic space for public participation in decisionmaking and electoral process, the flourishing of the rule of law, and transparency in the conduct of public affairs. Governance may be good or bad, depending on the conduct of governments. It is good when it yields compromise and accommodation, peace and security, unity, and economic development, as well as the sustenance of democracy based on its noble tenets. Governance is said to be bad when it falls short of providing the attributes of its flip side.

Contested legitimacy arises when leadership falls out of favour with citizens due to a history of poor governance or weak institutional capacity to stem the tide of insecurity, economic hardships, or sliding into a state collapse. In some cases, contested legitimacy becomes evident when a government comes into power through a flawed election. Usually, civil society challenges the government's legitimacy through protests and, in response, the government represses the society to secure obedience. Put differently, the severe crisis of confidence in leadership, or disputes over the legitimacy of leaders to govern, often results in contested authority and challenges to their mandate to steer governmental affairs. Thus, the governance crisis in Africa is the consequence of a weak performance in the conduct of public policy, which puts a question mark on the authority of a leader and eventually results in social tensions and insecurity that sometimes prompt the military to take over power. The officer corps usually hides under the pretence of salvaging the eroding government legitimacy and breakdown of order.

This chapter argues that the AU has not been performing efficiently as the umbrella organisation to stem the tide of military putsches on the continent. Instead of taking a hard posture on defaulting members, the organisation's responses have been contradictory and not always principally governed by its legislative frameworks. This chapter tries to respond to important questions such as: What are the reasons for the resurgence of military interventions on the continent? What has been the role of the AU in addressing the spate of military coups among its member countries? And what can be done to strengthen the capacity of the organisation to effectively respond to military takeovers and restore civilian rule in the affected countries?

To address these issues, the chapter is divided into six sections. Section one contains the introduction, followed by Section two, which discusses the framework of analysing unconstitutional changes of government in Africa. Section three examines the trends of military interventions in Africa, while the subsequent section (four) highlights the factors that influenced the resurgence of military coups on the continent. In Section five, the chapter examines the role of the AU, and the challenges it

faces in addressing the question of military coups in Africa, and Section six concludes.

Africa and Military Coup Epidemics

Africa is the cradle of military intervention. In comparison to other continents, Africa has the highest number of coups d'etat in its immediate postcolonial period and contemporary epoch. The coup drama unfolds periodically and sometimes in quick succession like a wildfire that defies any extinguishing means. Thus, apart from military mutinies that did not mutate as successful coups, the actual military intervention in Africa started in 1963 in Togo, followed by Congo and Dahomey (now called the Republic of Benin). Guttridge (1975) christened the 1960s-1970s a "decade of coups" on the continent and pointed out that between January 1963 and the end of February 1966, Africa had experienced 14 cases of military coups, and by early 1968 there had been about 19 successful military coups. By the end of 1970, the total number of coup incidents in eight years was nearly 30 (Gutteridge 1975:1). As of 1999, Africa had experienced more than 70 successful coups, as well as a significant number of attempted coups (Amadife 1999). Duzor and Williamson (2022) paint a grim picture of military coups in Africa as shown in Table 22.1. They maintain that, of 486 attempted coups carried out around the world, Africa has over 214.

Table 22.1: Success Rates of Coups in Previous Decades

Decade	Total Coup Attempts	Successful	Success Rate
1950-1959	6	3	50%
1960-1969	41	25	61%
1970-1979	42	18	42.9%
1980-1989	39	22	56.4%
1990-1999	39	16	41%
2000-2009	22	8	36.4%
2010-2019	17	8	47.1%
2020-2022	8	6	75%

Source: Powel and Thyne (2022)

The table above shows that, out of 242 successful coups in the world, a total of 106 are from the continent. The apprehension over the spectre of military coups in some parts of the continent has always been a cause for concern. This has been reinforced by the fact that, out of 54 sovereign nations in Africa, 45 have experienced a military coup d'etat, and the occurrence of coups has become a regular phenomenon in 13 African countries (Duzor & Williamson 2022). Furthermore, two other countries – Niger and Gabon – experienced military takeovers in 2023. It is important to note that the coups that took place in Africa between 1950 and 1999 fall under the Cold War dispensation. A period of respite came during the last two decades (2000-2019), when military coups profoundly declined, largely as a result of the democratisation process that swept through Africa at the end of the Cold War.

Until the 2000s, when civil society organisations became strengthened in their agitation for democratisation across African countries, the continent was under the siege of military coups. The third wave of democracy was characterised by the reintroduction of a multiparty system, which replaced the orthodox one-party states. Military regimes also became unpopular largely because of the support of the West for the promotion of democracy and civil rights. These developments gave the impression that military intervention was no longer possible in Africa's political landscape. On the contrary, although the period in question had witnessed a relative decline in the number of military takeovers, only 12 coups were recorded from 2000 to 2012 (Felter 2021); however, military takeovers became rampant at the end of the 2010s and through to 2020s.

The turn of events since 2012 attests to the resurgence of military overthrowing of civilian governments in the following countries: Zimbabwe (November 2017), Mali (August 2020), Chad (April 2021), Guinea (September 2021), Guinea-Bissau (February 2022), Sudan (October 2021), Burkina Faso (January 2022), Niger (July 2023), and Gabon (August 2023). The experience of military coups in Myanmar, Southeast Asia, and in Africa – particularly in Sudan and the West African sub-region, where serial coup plots led to the overthrow of constitutional governments in four

countries within 18 months (two of them in Mali within nine months) – prompted United Nations' Secretary-general Antonio Guterres to criticise what he described as an "epidemic of coups" (Nichols 2021). Nowhere has this epidemic become as dreadful as in Africa. This situation further raises a lot of concerns about the reversal of the little gains some African countries have achieved in the past decades of democratisation. At the core of this concern is the chilling fear that, unless extra caution is taken to reverse the undemocratic trend, the contagious effect of coups could easily lead some countries into the egregious days of military authoritarianism, with its attendant suppression of civil society and denial of human rights and freedoms.

Although in terms of African countries with the most coups, both attempted and unsuccessful, Sudan tops the list with 17 (out of this number, six were successful), while Burkina Faso takes the lead with the highest number of eight successful coups (these were staged in 1966, 1974,1980, 1982, 1983,1987, 2014, and 2022). This was followed by Nigeria, with eight coup attempts, six of which were successful (1966, 1975, 1983,1985, 1993 and 1998). Other countries on the top of the list are presented in the table below.

Table 22.2: Countries and Number of Coups

Countries	**Coups**
Sudan	21
Nigeria	8
Chad	7
Ghana	6
Burundi	6
Comoros	6
Mauritania	6
Ethiopia	5
Libya	5
Sierra Leone	5
Central African Republic	5
Benin	5

Mali, Guinea, and Guinea Bissau have also experienced coups, ranging from four to five times (Kazeem 2017; Duzor & Williamson 2022). In Africa, the balance sheet of military putsches shows that very few countries are fortunate not to have experienced military coups in their polity. Except for Lesotho (which has had two coups) and recently Zimbabwe, Southern African states are immune from the spillover or contagion of coups. Clearly, this shows that, of all the African countries, only Botswana, South Africa, South Sudan, Cape Verde, Malawi, Namibia, Eritrea, Senegal, Sao Tome and Principe, Seychelles, and Mauritius have not experienced a military coup d'etat. A few other countries have only experienced one military coup (Morocco and Mozambique) or two coups (Angola, Kenya, Cameroon, and Djibouti). These countries have since enjoyed political stability.

The AU and the Military Coup Hullabaloo

The most appropriate entry point to understanding the AU's commitment to regional peace, sustainable democracy, and political legitimacy for its member countries, is the Lome Declaration of 2000. This declaration, which was enacted by the organisation's predecessor, the Organisation of African Unity (OAU), against the background of the urgent need to retreat from the much-criticised policy of non-interference in the affairs of member states, aimed to foster democracy on the continent. Its central target was to outlaw unconstitutional governments and confer legitimacy to governments that come into power through a credible and competitive electoral process. The declaration was also augmented by more elaborate provisions in the AU's Constitutive Act, which not only emphasises the need to overcome Africa's incessant conflicts through peacebuilding, but also identifies unconstitutional changes of government as the chief source of instability and insecurity on the continent.

More than any other AU document, the Constitutive Act has also committed the organisation to the promotion of the rule of law, democratic governance, and culture (Phakathi 2018). As elaborated in Article 30, it provides that "government which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union" (Phakathi

2018:131). Similarly, of all the ten legal instruments of the AU, the African Charter on Democracy, Elections and Governance (ACDEG), which was adopted on 30 January 2007, is the most lucid in defining what constitutes the unconstitutionality of government. Article 23 of the charter has unequivocally operationalised what the AU considers as unconstitutional change of government in the following terms:

1. any putsch or coup d'etat against a democratically elected government;
2. any intervention by mercenaries to replace a democratically elected government;
3. any replacement of a democratically elected government by armed dissidents or rebels;
4. any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair, and regular elections; or
5. any amendments, which infringe on the principles of democratic change of government (AU ACDEG 2007:9-10).

Despite these provisions, the AU is arbitrary in its condemnation of coups and calls for sanctions against the forceful overthrow of constitutional governments. It suspended Mali, Guinea, and Sudan on grounds of military interventions, but did not act similarly when the military 'covertly' overthrew President Robert Mugabe's administration in Zimbabwe in 2017 and also in Chad after the death of President Deby in 2021. As argued by Omorogbe, in some cases, the responses of the AU were not only indecisive but overly inconsistent and contradictory, as evidenced by the experience of Togo (2005), Mauritania (2005-2008), Guinea (2008), Madagascar (2009), and Niger (2010) (see Phakathi 2018:134). Generally, the AU's responses to unconstitutional change of government produce five scenarios. These are tough stance (Mali, Guinea, Burkina Faso); tough stance at first glance, but receptive afterwards (Egypt, Togo, Mauritania); instant denial but acceptance afterwards (Zimbabwe); divided perception about coups and balancing act afterwards (Chad); and finally, receptive to constitutional coups (Cote d'Ivoire). The following sub-sections conceptualise these five stances.

Tough Stance

The military coup in Mali was prompted by rising public anger against President Boubacar Keita's civilian government, over his inability to combat the jihadist reign of terror in the country, and due to accusations of corruption. The military capitalised on the state of insecurity in Mali and staged a coup in August 2020. The military government that seized power made it clear that it would work with the regional bloc, the AU, and even the UN on its proposed transition timetable, which implies extending its rule until 2025. This plan was rejected by the regional body. The AU was non-tolerant of the military, and decided to immediately suspend the country from participation in all its activities until normal constitutional order had been restored in the country. The AU's effort to showcase its stance on military regimes culminated in the draft and publication of the 'Africa Governance Report 2023 – Unconstitutional Change of Government in Africa'[1] by its agency, Africa-Peer Review Mechanism (APRM). Besides Mali's suspension from the AU, sanctions against the country include border closures and restrictions on financial transactions. At the peak of the AU and Economic Community of West African States (ECOWAS) sanctions, a second military coup occurred in May 2021, when Colonel Assimi Goita (who orchestrated the first coup) toppled the interim civilian government and took over power. The coup leaders arrested Interim President Bah Ndaw and Prime Minister Moctar Quane. They pressured them to resign, thereby derailing a transition to democratic election that was underway after the August military takeover.

The AU's reaction was swift and its decision to condemn and continue with the suspension of Mali following a second coup in nine months was contained in a statement which called the military "to urgently and unconditionally return to the barracks and to refrain from further interference in the political process in Mali" (Africanews 2021). It also warned that, in the event of not handing over power to civilian transitional leaders, "the Council will not hesitate to impose targeted sanctions and other punitive

1 For more information, see https://aprm.au.int/en/documents/2023-07-12/africa-governance-report-2023-unconstitutional-change-government-africa.

measures" against the country (Africanews 2021). Although Goita bowed to pressure and assured that the planned election dates set out by the previous transitional authorities in February and March 2022 for presidential and legislative elections would remain sacrosanct, he subsequently reneged on his pledge.

Despite defying AU measures, Mali's experience indicates that, if the organisation were equally bold and proactive, confronting situations as it did in the West African state, the prevalence of what is commonly referred to as contagious coups could be significantly diminished. Apart from the sanctions imposed on the country, the AU's communique for Mali demanded that none of the current leaders be allowed to run in the upcoming elections. It also called for the lifting of restrictions on all political actors, including the leaders of the interim government under house arrest. Similarly, the AU also planned to carry out an assessment mission to Mali to review the situation in the country and its measures (Africanews 2021).

It is important to highlight that ECOWAS lifted the sanctions imposed on Mali as a response to the military junta's commitment to establish a definitive February 2024 election deadline. Earlier, tough measures were also imposed on Burkina Faso when the presidential guard of the ousted president Compaore overthrew a transitional government and arrested President Kafando and Prime Minster Zida, alongside other ministers, in December 2015. This was also the case in Guinea in September 2020, when Colonel Mamady Doumbouya overthrew President Alpha Conde. In the case of Burkina Faso, the coup leaders had to eventually bow to the pressure from the AU and ECOWAS and restore the deposed interim leaders. Roch Marc Kabore's victory in the election made him the country's first president to rule through a democratic process (Phakathi 2018). President Roch Marc Kabore was later deposed by the military in 2022.

Tough Stance at First Move, But Receptive Afterwards

The case of Egypt was worrisome as it illustrated a particular case of the AU's double standards. No sooner than the democratically elected government of Mohamed Morsi was overthrown, a

year after it was elected to power in 2012, than the coup leader, General Abdel Fattah El-Sisi set in motion a marathon transition which saw him transmuted to a civilian president. Following the coup and in the spirit of the AU's Constitutive Act, Egypt was immediately suspended from the continental body, but it was later readmitted after the sham elections that brought the general into power. That was not all. The fact that El-Sisi ascended to the position of chairmanship of the AU from 2019 through 2020 testifies to the point made by Maluleke & Bennette (2022) that the organisation prioritises power over justice.

The metamorphosis from military to civilian leaders has been a concern in Africa. Furthermore, the inability of many African leaders to surrender themselves to constitutional process and order, as well as steer the mantle of leadership with legitimacy, has become more worrisome. Egypt, under El-Sisi, has remained a military state despite his civilian garb after he was elected civilian president in March 2018. To cap it all, a 2019 constitutional change has allowed El-Sisi to extend his reign of power from 2022 to 2030. This is a serious blow to democracy and serves as a motivation for other military heads of government to use the same trick and engage in power consolidation.

The experience of Egypt also shows that the election of military officers as civilian presidents does not guarantee good governance in Africa. On average, as Rose and Peiffer (2019:v) observe, "more societies are subject to bad governance than to good governance" and the major cause for this is corruption. Conversely, in an African context, political corruption begets odious proclivities that bequeath bad legacies of neopatrimonial rule. The situation makes democracy on the continent akin to personal rule in countries where leaders have refused to adhere to its tenets, particularly in the face of weak democratic institutions. Military takeovers are principally informed by the dialectic of social forces that are mainly ingrained in the political economy of societies. Although there is no clear-cut explanation for military interventions, it is evident from the recent coups that weak institutions engender poor governance and political instability. When such a condition has heightened the abuse of the democratic process and insurrection, it blossoms into a dangerous climate

for military takeovers. This also calls for assertive actions by the continental and regional bodies, including heavier penalties to punish military governments to avoid frequent incidences of coups and their spillover to other countries.

Indeed, Togo's experience of military incursion into politics in 2005 betrayed the country's constitutional provisions. In case of any vacuum created either because of ill health or death, the president of a country is generally expected to be succeeded by his vice-president or the president of the national assembly in a parliamentary system of government. But in Togo, the death of President Gnassingbe Eyadema in February 2005 did not see the country's President of the National Assembly Fabrice Quattara succeeding the deceased president in line with the Togolese Constitution. Instead, what transpired was the intervention of the Togolese army, which capitalised on the situation and imposed the son of the deceased, Faure Gnassingbe, as president. Although Togo's suspension from the activities of the AU paid off when Faure Gnassingbe bowed to pressure and stepped down as president, he later contested and won the country's presidential election in April of the same year. Like the AU's response to Egypt on the elections that brought El-Sisi as civilian president, Togo was treated in the same way by the AU's Peace and Security Council (PSC). The council felt that a constitutional order had been restored, and it thereby lifted the ban on Togo.

Even in the case of Mali, where the AU's response was tough, a window for military intervention was still left open. ECOWAS had succeeded in pushing for the dissolution of the transitional military council and replacing it with a civilian-led transitional government. However, the action did not fundamentally change the political narrative in the country, as Assimi Goita, who led the coup, became the country's interim president, and other military men occupied the positions of cabinet ministers. This lapse gave the military the leverage to manipulate the transitional government at will, and offered the junta a breathing space to the extent of reneging on its earlier pledge to return power to civilians by February 2023 (France24 2021). In an announcement made by Colonel Goita, the regime signed a decree which extended the duration of the transition to 24 months from 26 March 2022.

Instant Denial of Coups and Acceptance of Unconstitutional Government

In what can be described as a total breach of its legislative framework, Phakathi (2018) has amply discussed the complicit responses of the AU to coups in Zimbabwe. The response was not only appalling, but also a major obstacle to the credibility of the organisation in its onerous task of instituting democracy through a credible leadership selection process in Africa. The coup in the country was essentially prompted by the conflict between President Robert Mugabe and Vice-president Emmerson Mnangagwa after the July 2013 election, which the former won. Mugabe's victory was widely acclaimed as free, fair, and credible, regardless of Morgan Tsvangirai's petition to the Constitutional Court of Zimbabwe, which subsequently affirmed that the election "was a true reflection of the will of the people of Zimbabwe" (see Phakathi 2018:136). By this verdict, Mugabe's ruling Zimbabwean National Union-Patriotic Front (ZANU-PF) claimed to have defeated Tsvangirai's Movement for Democratic Change (MDC), which quit the election in protest. Despite the dispute over the election, the incumbent, Mugabe, was declared winner and sworn in. Subsequently, an internal political impasse reared its ugly head between President Mugabe and his vicepresident, Emmerson Mnangagwa, which led to the firing of the latter on the grounds of disloyalty and neglect of duties, among others (Phakathi 2018).

Thus, what started as a political feud between the two leaders turned out to be heavily politicised, and brought the country's military into the equation. General Constantino Chiwenga, a spokesperson of the military, not only criticised Mugabe's decision to expel Tsvangirai, but also castigated him for betraying party comrades. However, whatever reasons the Zimbabwean military gave for detaining Mugabe and putting him under house arrest, and his eventual forceful resignation were flimsy because the power to remove the vice-president by the president of Zimbabwe was constitutional. The response of the AU to the situation was bizarre. The organisation's chairperson, President Alpha Conde, refused to categorise the occurrence as a coup; rather he said, "It seems like a coup" (BBC News 2017). Thus, as Phakathi (2018:136) aptly observed, "By refusing to call

a coup a coup, the AU lost an opportunity to assert its position on constitutional changes of government in Africa".

Furthermore, the Southern African regional body, SADC, did not consider the Zimbabwean case a coup, and neither did the national political leaders in the region. They accepted the deceit by the Zimbabwean military through its army officer, Major General Sibusiso Moyo, who announced that the military did not stage a coup and only acted against "criminals" around President Mugabe (BBC News 2017). The only loud voice of the AU on the Zimbabwean unconstitutional takeover was its call for the parties in conflict to sheathe their swords and embrace peace through the country's constitution and the African Charter on Democracy, Elections and Governance. This position was contradictory to Chapter 8, Article 23(1&2) of the ACDEG, which provides for "sanctions in cases of unconstitutional changes of government" (ACDEG 2007:9). It was highly unbecoming for a continental body that is the custodian of regional order, and a continental instrument expected to restore and sustain democracy wherever it is eroded to play such ostrich when at a critical point where a collective voice is much more needed.

In what may be considered the biggest contradiction to the charter, Alpha Conde was quoted to have said, "We demand respect for the constitution, a return to the constitutional order and we will never accept the military coup d'etat" (Oluwagbemi 2017). This statement was an indictment of his earlier stance and pronouncements on the coup. The point is, why is there a need to return to constitutional order if it was not breached? Besides, how could the charter's principles be adopted without enforcement by the organisation? After all, Zimbabwe was not a signatory to the charter; thus, it sounds surprising to expect the country to respect it. Eventually, Mugabe was forced to resign as the president, and the AU Commission chairperson, Moussa Faki Mahamat, applauded Mugabe's action as the best recourse to preserve his political legacy (Phakathi 2018). Mugabe's resignation ended his 37-year rule at the age of 93. The vice-president, Emmerson Dambudzo Mnangagwa, earlier sacked by Mugabe, was immediately sworn in as Zimbabwe's president for the first time in November 2017, and for the second time after winning the July

2018 general elections with nearly 51% as against the 44% votes for his rival, Nelson Chamisa (DW Live TV News 2018).

Similarly, despite the chairman of the AU's statement, the organisation would not accept a military coup in Zimbabwe. Therefore, the country's new president attended, for the first time, the 30th Ordinary Session of Assembly of Heads of States and Government of the AU Summit held in Addis Ababa on 28 January 2018. Meanwhile, a decision on the Zimbabwean coup should be regarded as a catch-22 question on the part of the AU. First, accepting it without condemnation could be seen as a collective perjury against the enabling legal and democratic frameworks of the regional body. Second, its outright rejection was tantamount to endorsing a cruel leader who put his country on the precipice of collapse. Thus, the option left to the African leaders was to accept the coup, and to celebrate in silence what could be regarded as a 'good riddance to bad rubbish'. Mugabe was among the longest-leading African dictators.

Undoubtedly, member countries have had their grudges against Mugabe's authoritarian rule for decades, and internal political opponents, CSOs, the academic community, and the public were in one way or the other victimised by President Mugabe, whose repressive actions were unbearable. Zimbabwe represented the country most associated with brain drain, and its economy was one of the worst in the world. His human rights record was unimaginably negative. He personalised the office to the extreme. The country's misrule had also prompted the AU members to hammer strongly in support of the change of government. For example, in contrast to the role of the AU and the ECOWAS bloc in Mali, where the democratic process was defended through sanctions and deterrent measures, the Zimbabwean coup was indirectly welcomed by the AU and SADC. In particular, SADC did not see the removal of Mugabe as an act of military coup.

Divided Perception about Coups and Balancing Act Afterwards

The case of Chad (2021) provides a unique experience of the AU's reaction to an unconstitutional change of government because members of the union perceived the country's coup from different

lenses. The situation not only exposes the double standards of the AU and the absence of shared values concerning governance in Africa, but it also bastardises the legitimate instruments of the organisation for dealing with a breach of the constitutional process in power succession. The PSC's decision not to sanction Chad for Mahamat Deby's power grab under the canopy of a *de facto* government following the death of his father, President Idriss Deby, in April 2021 was an aberration. However, the AU's response was neither proactive nor predicated on the logical precepts it set for its member countries as contained in the ACDEG. The organisation was divided on Chad's military coup, with some of its members calling for the country's immediate suspension, while others treated Chad's experience as an exceptional case due to the peculiar security situation that required a special response (Handy & Djilo 2021).

Given the two opposing views, the AU's PSC eventually endorsed Chad's military council, but with some caveats. These included the immediate review of the hastily designed transition charter and the rejection of any possible extension of the 18-month transition. Other prescriptions by the PSC include "the establishment of a national transitional council as the interim legislative body, inclusive national dialogue, and respect for human rights and fundamental freedoms" (Handy & Djilo 2021).

Receptive to 'Constitutional Coups'

Article 23(5) of the African Charter states that "any amendment which is an infringement on the principles of democratic change of government" is unconstitutional. Unlike military takeover, which for all intents and purposes employs the threat or actual use of force to change a government, 'constitutional coups' are carried out shrewdly to achieve a sinister objective of power consolidation by a civilian president or manipulation of the constitution to legitimatise tenure elongation (Mbaku 2020). This type of coup is defined by Camara (2016) as, "a way to cement presidential power – and do so with the appearance of legality". A constitutional coup is unconstitutional when a leader hatches its process and influences the relevant political actors to execute it. It

may also be single-handedly orchestrated by incumbents against any significant form of resistance by the citizens.

Constitutional coups are based on constitutionalism, when it is overwhelmingly backed by a constitutional referendum. Countries amend their constitution to reduce or increase the term limits of the president and parliament, as demonstrated in Burkina Faso (Comapaore in 1997), Burundi (Nkurunziza in 2015), Chad (Deby in 2005), Congo-Brazzaville (Sassou-Nguesso in 2015), Djibouti (Guelleh in 2010), Niger (Tandja in 2009), Senegal (Wade in 2012), Sudan (Al-Bashir in 2005), and Uganda (Museveni in 2005) (Denis & Claudia 2017:86; LeBas 2016:169-171). Posner and Young observe that most of these countries did not opt to violate their constitutional rule, but the incumbents "changed or circumvented constitutions" to satisfy their desire for tenure elongation (cited in Denis & Claudia 2017:3). In some cases, there were well-controlled referendums to legitimatise the attempt to manipulate the constitutions. These referendums are not an antithesis to democracy but a process towards its consolidation to avoid any further opening for sliding to autocratic rule and to ensure good governance (Camara 2016).

Constitutional coups are informed by the ulterior motives of a leader to elongate his power beyond the stipulated terms enshrined in the constitution of a country. It is usually pursued corruptly, by force, or through the inducement of the relevant democratic institutions. This type of unconstitutional means of consolidation of power has become a recurring phenomenon in African politics, which is expected to be addressed by the AU's charter because it infringes on the principle of democratic succession of power. It has been pointed out that, since the 1990s, there have been at least 30 presidents in Sub-Saharan African nations who have attempted to extend office term limits by changing the constitutions of their countries (Camara 2016). Some presidents were met with resistance from civil society and a cross-section of the citizens, while others faced little or no opposition in their attempts to tweak constitutions for power elongations.

For its part, the AU seems to be a mere onlooker with no tacit response other than the conventional calling for the

observance of constitutionalism. Sometimes, the continental body seems to have accepted the strategy of taking over power through unconstitutional means and then holding elections to legitimise the political impostors. This explains why constitutional coups are becoming the norm and leaders that benefit from them do not feel convicted of any wrongdoing on assumption of power. It is not surprising, therefore, that most African countries have rulers that stay in power through what Decalo (1985:220) calls "civilian coups". This is usually achieved through the manipulation of the constitutions to secure tenure elongation and has been one of the motivations for military interventions in politics. Table 22.3 presents many of these leaders and the number of years that have spent in office.

Table 22.3: Authoritarian Presidents in Africa

Names of Presidents	Countries	Years
Teodoro Nguema Mbasogo	Equatorial Guinea	42
Omar Bongo	Gabon	42
Paul Biya	Cameroon	39
Jose Eduardo dos Santos	Angola	38
Robert Mugabe	Zimbabwe	38
Republic of the Congo	Republic of the Congo	37
Yoweri Museveni	Uganda	35
Omar al-Bishir in Sudan	Sudan	30

Source: Felter (2021)

The AU and the Quest to Curtail Military Coups in Africa

The AU's 20-year existence has made it a matured organisation that should be fully committed to peace, security, stability, and development for African states. Most of the countries that have experienced unconstitutional changes of government are, paradoxically, the ones that are plagued with instability and bad governance. The lack of a consistent and all-inclusive response

to unconstitutional change of government and military takeovers is central to the AU's ineffective performance. For it to be taken seriously on the issue of democracy and good governance, the organisation must confront military coups against constitutional governments and illegitimate changes of constitutions with all the seriousness needed to deepen democratisation and restore democratic governance to societies under authoritarian regimes.

As enshrined in the elaborate Constitutive Act of the AU, popularly called 'the Charter', tough measures to sanction infringement of regional frameworks on democracy should commence immediately against any unconstitutional changes of governments. The Charter has covered various areas of interest to good governance, but the main challenge lies in selective response in its implementation. A situation whereby the organisation gives a soft landing to governments that are formed unconstitutionally through the legitimisation of their sham electoral outcomes serve as an impediment to the union's goal of achieving its well-thought-out Agenda 2063. This becomes important because the agenda is primarily expected to fulfil the continent's dream of rejuvenating African values as part of the African Renaissance. These values include changes in attitudes, transparency, focus, honesty, and integrity (Swart 2014).

With shared values, the AU is more positioned to respond to the challenges of governance, but the lack of this key principle could further deepen the frustration of its committed members and citizens. Maluleke and Bennette (2022) perceptively note that the vacuum that the absence of shared values poses to African unity is monumental. Unlike the European Union (EU) and other regional organisations which not only set democratic values as a key precondition for membership but also track the performance of each state, the AU is bereft of such effective performance. While other regional institutions attach criteria for membership, the only criterion for joining the AU is for the nation to belong to continental Africa. However, it is vital to recognise the fact that the AU, an intergovernmental organisation, continues to aspire to become a supranational organisation like the EU, with the required authority to enforce compliance.

There is a need to carry all the members of the organisation along on the issue of a common approach and unified voice to implement the AU's legal frameworks, particularly with the State of the Union (SOTU) Coalition programme to track the performance of African governments. Under this programme, the AU Assembly has been charged with the responsibility "to monitor the implementation of policies and decisions of the Union as well as ensure compliance by all Member States" (Swart 2014:8). The dilemma relates to the reluctance of member states to ratify the AU Charter, which was adopted in 2007 and came in force in 2012 (Maluleke & Bennette 2022). Of the 55 African countries, only 30 member states have ratified it. Obviously, part of the dilemma that the AU faced amidst the complicit role of the AU after the Zimbabwean coup was the fact that the country did not sign the AU Charter. This is a serious blow to a continent that intends to review the progress of its member states regarding their compliance with its policy frameworks and protocols.

Most of the experiences of unconstitutional changes of government in recent times suggest that governance deficit was at the centre of the crises that afflicted the affected countries. This also explains why it is necessary to take a proactive measure to address the issue of poverty, insecurity, underdevelopment, and the crisis of legitimacy on the continent, through collective action. The prospects of galvanising AU members to take proactive measures on the state of the erosion of governance on the continent have started. At its 35th Ordinary Session of the African Union, Kenyan President Uhuru Kenyatta identified political instability and an absence of good governance as the main cause of coups in Africa (Dawt 2022).

To further suggest the readiness of the AU to abhor any unconstitutional change of government, there is a need for the organisation to do some internal reality checks. One wonders why unpopular leaders with track records of human rights violations and other undemocratic credentials at home ascend to the position of the AU's chairperson. It toys with the sensibilities of Africans to know that Alassane Quattara was part of the team that represented ECOWAS to negotiate with the Guinean coup plotters for a return to democratic rule, or that Alpha Conde was the

chairperson of the AU. This explains why President Conde, as the chairperson of the AU, had to outrightly announce that Mugabe's unconstitutional change of government was not a coup. Even in the case of the West African sub-region, cases abound where condemnation of a military coup by some of its leaders could be construed as the pot calling the kettle black.

Conclusion

African leaders must realise that there is no better alternative to democracy and that the system must be safeguarded to ensure good governance and political legitimacy for the attainment of sustainable development and the AU's Agenda 2063. Where the system has failed in Africa, it has not done so in a vacuum, but due to the lack of political actors' readiness to learn the rudiments of democracy and sustain stability based on compromise and accommodation of opposing views and parties. The role of the AU in this regard is very crucial. It should be strengthened to become a supranational organisation with more capacity and authority to enforce its positions for the common good. The continental body has advertently or inadvertently not been fully utilising its frameworks and mechanisms on politics, peace, and security to ensure the required commitment to the basic principles of good governance as stipulated in the documents. As noted by Phakathi (2018:129), the AU "is seen to be lenient in some cases and harsh in others".

Consequently, democratic development in Africa is beset with a myriad of challenges, particularly the phenomenon of incessant unconstitutional changes of government, which has been retarding the process of consolidating democracy. The Agenda 2063 projects are ambitious and a step towards making the continent mutually inclusive with forward and backward economic, social, and policy linkages. Democratic consolidation and good governance are some of the strongest projects in the chain, but their impact will be harnessed if military coups are abolished, and African constitutional governments work together to address the common goals for democratic sustenance. Therefore, ensuring a coup-free Africa requires African leaders to support, sustain, and consolidate good democratic governance,

where the military is loyal to the elected civilian leaders. Similarly, in most cases, there is a mismatch between governance and independence of African countries from external influence. If African leaders encourage the control of their countries by foreign interests, as the experience of most francophone African countries showcases, the situation is often capitalised on by the military officers, who use it as their cheap reason for intervention to liberate their countries. It is in the context of this scenario that the AU needs to strongly and unequivocally sanction members whose misfit in governance endangers good governance and the sovereignty of their state.

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