
DRAFT KEY HIGHLIGHTS

APR Forum of Heads of State and Government
January 2023
African Peer Review Mechanism
As of December 2022, the following 42 African Union Member States had acceded to the APRM:


**PANEL OF EMINENT PERSONS OF THE AFRICAN PEER REVIEW MECHANISM (2022)**

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1. FOREWORD

BY H.E JULIUS MAADA BIO, PRESIDENT OF THE REPUBLIC OF SIERRA LEONE AND CHAIRPERSON OF THE AFRICAN PEER REVIEW FORUM OF HEADS OF STATE AND GOVERNMENT

The Africa Governance Report (AGR) is developed by the African Peer Review Mechanism (APRM) in collaboration with the African Governance Architecture (AGA) Platform Members and is presented to the African Union Assembly of Heads of State and Government (Assembly) for consideration. This report, the Africa Governance Report 2023 (AGR23) is the third report produced by the APRM, in collaboration with AGA.

The AGR23 focuses on unconstitutional change of government (UCG) in Africa. The Assembly at its 35th Ordinary Session held in February 2022, in Addis Ababa, Ethiopia had decided through Decision Assembly/AU/Dec. 818(XXXV) that the APRM, in collaboration with AGA, should develop the Third Africa Governance Report with a focus on the nexus between Governance and the 4th Industrial Revolution (4IR). However, the resurgence of UCG on the continent in which the Assembly at its 35th Ordinary Session through Decision/AU/Dec. 815(XXXV) expressed deep concern necessitated the convening of an AU Extraordinary Summit on Terrorism and Unconstitutional Changes of Government in May 2022.

It was at the AU 16th Extraordinary Summit held in Malabo, Equatorial Guinea on 28 May, 2022 pursuant to Assembly Decision, Assembly/AU/Dec. 828(XXXV), that the Assembly directed that the AGR23 should be remodelled to focus on unconstitutional changes of government on the continent.
The AGR23 is developed by utilising the APRM methodologies of targeted reviews, high-level consultations and validations as well as expert thematic analysis. This report represents a collective effort that highlights rigorous, evidence-based research conducted over eight months.

The AGR23 is divided into five sections. The first section provides the background and mandate for thematic focus of this report and situates the AGR within the context of the African Union multi-agency tripod of governance, development and peace and security.

The second section presents a detailed account of the evolution of the normative framework for unconstitutional change of government in Africa from the establishment of the Organisation of African Unity (OAU) to the African Union, highlighting the various instruments that govern the response of the AU in this regard.

The third section analyses the influences, causes and triggers of UCG in Africa across five (5) identified themes. These are integrity of elections, diversity management and human rights, constitutional order and state legitimacy, economic governance, and public sector accountability, and finally, popular uprising, militarisation and terrorism.

Accordingly, the analysis lays the foundation for the conceptual lens through which the analysis in the subsequent sections is undertaken.

The fourth section provides an overview of the six country case studies derived from country-targeted review reports on UCG. The section presents primary first-hand information, perspectives, and data, from the countries that have experienced unconstitutional change of government for purposes of lessons learned.

The fifth section examines the efficacy and effectiveness of the African Union normative framework for sanctions on unconstitutional changes of government. It presents expert opinions and analysis on the convergence and divergence, and complementarity of the AU’s sanctions regime on UCG, with that of the Regional Economic Communities, the United Nations and other bilateral frameworks, as well as opportunities for enhancement. Sanctions remain a fundamental tool for prevention, deterrence, management, and mitigation of unconstitutional change of government.

The sixth section discusses public perceptions on the causes of UCG and the effectiveness of the AU and the responses of its Member States. The significance of the discussions in this section is premised on the sacrosanct principle of the AU enshrined in Article 4 (c) its Constitutive Act of the participation of the African peoples in the activities of the Union. The other rationale is that all occurrences of unconstitutional change of government concern the social contract between the citizen and the state. It is therefore imperative that the voices of the citizen be central to this report.

Lastly, the AGR23 makes recommendations for consideration by the AU, Regional Economic Communities, and other key actors. The reports calls for its wide dissemination to the public and academia through strategic media campaigns once considered and adopted by the Assembly.

It is therefore my honour to share this important report, and I am confident that it will receive the warm and deserved attention for its invaluable contribution to ensuring respect for democratic principles, human rights, the rule of law, constitutionalism, good governance, and absolute rejection of unconstitutional changes of governments.

H.E Julius Maada Bio
President of the Republic of Sierra Leone and
Chairperson of the Africa Peer Review Forum of Heads of State and Government
January 2023
2. PREFACE


This edition of the Africa Governance Report, AGR23, presents an analysis of the influences, causes, drivers and triggers of UCG in Africa that were identified by AGA Platform Members and verified by thematic experts and an elaborate process of country-targeted reviews. The AGR23 also presents findings on the efficacy and effectiveness of the AU normative framework and instruments that govern, prevent, and manage responses to UCGs. The thematic focus of AGR23 is key and timely considering the recent resurgence of UCGs on the continent. The report contributes to ensuring the speedily realisation of Aspiration 3 and Aspiration 4 of the AU Agenda 2063: “a ‘peaceful and secure Africa’ and An Africa of good governance, democracy, respect for human rights, justice and the rule of law.’

In examining the dynamic of the influences, causes, drivers, and triggers of UCGs as well as the efficacy and effectiveness of the AU policy and legal norms that have been adopted to prevent and manage responses to UCGs five themes have been identified. These are: integrity of democratic elections; diversity management and human rights; constitutional order and state legitimacy; economic governance and public sector accountability; and popular uprisings, militarisation, and terrorism. The development of the AGR23 employed approaches of complementary research methods such as, (a) review of existing literature including published reports, AU Member States’ and REC decisions and declarations on UCGs; (b) data gathered through expert surveys undertaken via targeted review missions (TRMs) in countries that experienced UCGs.

In this regard, the APR Panel would like to express its profound appreciation for the stellar leadership and support provided by the Heads of State and Government of the six (6) countries that underwent targeted reviews. We would also like to express our profound appreciation to the Members of the Panel who provided leadership and ensured credibility and integrity in the conducted of the Targeted Reviews and Assessments on UCG, namely Ambassador Aly Hossam El-Din El Hefny Mahmoud (Lesotho), Ambassador Inonge Mbikusita-Lewanika (Sierra Leone), Dr Ousman Diallo (Comoros), Dr Ousman Diallo (Chad) Ambassador Hamed Araita Ali (Republic of Guinea)  and Ambassador Mona Omar Attia, (Republic of Sudan).

The APR Panel also expresses its deep gratitude the Kingdom of Lesotho national consultant, Mr Tseliso Lesenya. The Republic of Sierra Leone national consultant, Dr Hindowa Momoh. The Union of the Comoros national consultant, Mr Faicoil Mohamed Djitihadi, The Republic of Chad national consultant, Dr Alfred Ramadji. The Republic of Guinea national consultant, Dr Issaka Souaré and the Republic of Sudan Focal Point Chairperson of the National Governing Council, Dr Ismael Wade and Professor Hunud Abia Kadouf respectively. The APR Panel also recognises the exceptional efforts and contributions of the AGA Platform Members, the AU Permanent Representatives Committee Sub-Committee on Human Rights, Democracy and Governance, and the United Nations in the development of this report. We thank the key informant interviewees and all experts within, the United Nations (UN) headquarters in New York, United States Department of State who shared their insights. The APR Panel further recognises the contributions made by the United Nations Development Programme (UNDP) and the African Union Economic, Social and Cultural Council (ECOSOCC) for sharing their reports on citizen’s concerns and perception on the causes, influences, causes, drivers, and triggers of UCGs. The citizen’s perceptions were considered in the articulation of the recommendations.

The APR Panel would like to highlight that whilst substantive normative frameworks and instruments for prevention and management of UCGs exist at the AU and REC level, and significant efforts have been invested at national, regional and continental level to address UCGs in Africa, including the imposition of sanctions and other punitive measures in countries that have experienced UCGs; there remains notable legal, policy, structural and institutional gaps and limitations that may need the attention of AU member states, the AU, RECs and other stakeholders.

Accordingly, the recommendations in the report highlight the need for collective and collaborative efforts (at national, regional and continental levels) to enhance the integrity of democratic elections; improve diversity management and promote human rights; uphold constitutional order and enhance state legitimacy; strengthen
economic governance and public sector accountability; implement security sector reforms to professionalise and depoliticise the military in AU member states; execute counter-terrorism measures to prevent and combat terrorism; tighten and broaden the scope of sanctions to deter member states from engaging in UCGs; adopt solid institutions to promote constitutionalism and prevent amendments or revisions of constitutions in ways that infringe upon the principles of democratic change of governments; expedite the ratification and domestication of UCG-related protocols and conventions at AU and REC levels; and introduce mechanism for inter-agency collaboration and platforms for regular engagements on UCGs, peace and security matters.

The APR panel is confident that the findings and recommendations in the AGR23 will provide a basis for evidence-based engagements and conversations on UCGs, specifically on how AU Member States can invest efforts towards preventing, managing, and responding to UCGs with the ultimate objective of promoting peace, security and stability which are all a sine qua non for effective regional integration and continental development.

Dr Ali Abdel-Rhamane HAGGAR from the Republic of Chad
(Chairperson of the APR Panel of Eminent Persons)

3. INTRODUCTION

1. The Africa Governance Report (AGR) is a biennial publication of the AU on the state of governance in Africa. It is produced by the APRM Continental Secretariat in collaboration with the African Governance Architecture (AGA) Platform Members pursuant to Article 6 (c) of the APRM Statute and AU Assembly Decision Assembly/AU/Dec.720 (XXXII) which provide that the APRM shall prepare the African Governance Report in collaboration with AGA, and present it to the Assembly for consideration at its Ordinary Session every two (2) years.

2. The AGR focuses on themes related to governance in Africa and aims to highlight best practices in governance for peer sharing; identify governance constraints and challenges; and make recommendations to enhance governance in AU Member States.

3. The AGR provides relevant, accurate and informative assessments of key governance areas across all 55 Member states of the AU, based on expert research and analysis and evidence-based, objective and balanced reviews of the contribution of African governance to long-term political, social and economic stability and development. The report also enumerates commendable practices in selected governance themes, identifies challenges and submits recommendations for action by the AU, Regional Economic Communities (RECs) and AU Member States.

4. The current report – AGR23 – consolidates the findings, analysis and recommendations of 13 reports: six country-targeted review reports on lessons learnt from unconstitutional change of government (UCG), five thematic analysis reports on catalysts, causes and triggers of UCG, and two consultative reports on the efficacy and effectiveness of normative frameworks for sanctions regimes on UCG.

The structure of the Key Highlights document

5. This Key Highlights document summarises the salient points of the full report as follows:


7. Section 2: Mandate and background explains the rationale behind the decision to compile a report on UCG in Africa.

8. Section 3: The Incidence of UCG in Africa includes a trend analysis of UCG events, and the instruments of, actors in, and AU institutional responses to recent UCG events in Africa.

9. Section 4: Overview of the AGR23 Development Process explains the approach taken in developing the report.
10. **Section 5: Analysis of influences, causes and triggers** analyses the trends, causes, and dynamics of UCG in response to the AU Assembly Decisions and interrogates the dynamics of UCG in Africa according to themes derived from the outcomes of the African Union Reflection Forum on Unconstitutional Changes of Government in Africa held in Accra, Ghana in March, 2022 and the 16th AU Extraordinary Summit on Terrorism and Unconstitutional Changes of Government held in Malabo, Equatorial Guinea May, 2022. The five themes are as follows: integrity of democratic elections; diversity management and human rights; constitutional order and state legitimacy; economic governance and public sector accountability; and popular uprising, militarisation and terrorism. The chapter gives an account of the roles of these aspects in influencing, causing, and exacerbating or mitigating the effects of UCG on governance and peace and security, and concludes with recommendations on measures that the AU, RECs and Member States can institute and apply to prevent, manage, and mitigate the implications of UCGs.

11. **Section 6: Lessons from UCG targeted review missions.** The conclusions of the report are grounded in the experiences of the countries concerned. To obtain these perspectives, the APRM conducted country-targeted reviews on UCG in six countries and engaged national official (state) and country public (citizens) on what they perceive to be the causes, dynamics, and implications of UCG. The primary purpose of the targeted reviews was to obtain lessons from the countries that had experienced UCG. The report presents a consolidated and definitive account of citizens’ perceptions of the root causes of UCG in their countries, opportunities to address these and relevant, policy-actionable recommendations on measures to prevent, manage and mitigate UCG for governments.

12. **Section 7: Efficacy and effectiveness of sanctions regimes.** Proposals on how the AU, RECs and Member States can better prevent and respond to UCG necessitated a review of the efficacy and effectiveness of the AU sanctions regime on UCG by experts of the United Nations Security Council Secretariat Branch (SCSB), the Africa Group of the UN (A3) and US Government Departments of State and Treasury. A comparative analysis of AU and UN sanctions regimes includes assessments of provisions in the institutional procedures for implementation of sanctions outlined in the Protocol on the Establishment of the Peace and Security Council of the African Union.

13. **Section 8: Citizen’s voices on UCG** tables the results of consultations and reviews of reports to understand the impact of UCG on citizens.

14. **Section 9: Conclusions and way forward.** The main report concludes with cross-cutting recommendations for action at national, regional, and continental levels that consider the prevailing political economy contexts.

4. **Mandate and Background**

15. The Assembly at its 35th Ordinary Session through Decision Assembly/AU/Dec. 818(XXXV), had decided that the APRM, in collaboration with AGA, should develop the Third Africa Governance Report with a focus on the nexus between Governance and he 4th Industrial Revolution (4IR). However, the AGR23 to focus on Unconstitutional Changes of Government was pursuant to the following AU Decisions:

- **The 35th Ordinary Session of the Assembly held in February 2022 through Decision, Assembly/AU/Dec. 815(XXXV),** which expressed concern about the resurgence of UCG in Africa. The assembly called on Member States to uphold constitutionalism and fully respect all AU shared values, normative instruments and legal instruments, particularly the AU Constitutive Act and the African Charter on Democracy, Election and Governance (ACDEG).

- **The Assembly Decision of the 16th Extraordinary Session of the African Union Assembly of Heads of State and Government on Terrorism and Unconstitutional Changes of Government held on 28 May 2022 in Malabo, Equatorial Guinea, as well as other AU Meetings and Forums, which directed that the AGR23 should be remodelled to focus on UCG.**
In line with Assembly Decision, Assembly/AU/Dec. 815(XXXV), the APRM proposed to AGA Platform Members that the AGR23 focus on UCG on the continent. The AGA Platform Statutory Political Meeting, held virtually on 10 March 2022, welcomed the proposal and requested that the theme be considered and adopted by AU Policy Organs. The AGA Political Meeting requested that the APRM incorporate the outcomes of the African Union Reflection Forum on Unconstitutional Changes of Government scheduled to be held in Accra, Republic of Ghana from 15 to 17 March 2022 and Decisions of the Extraordinary Session of the African Union Assembly of Heads of State and Government on Terrorism and Unconstitutional Changes of Government which was held on 28 May 2022 in Malabo, Equatorial Guinea, as well as other AU Meetings and Forums on the matter.

The AGA Platform Consultative Meeting held in Cape-Town from 25-26 March, 2022, adopted the proposals by the APRM Secretariat on the methodology for the development of AGR23.

16. The AU Reflection Forum on Unconstitutional Changes of Government held in Accra, Ghana from 15 to 17 March 2022 recommended that Member States be encouraged to:

i. Explore the full ratification, implementation, and domestication of the instruments that embody the AU Shared Values in the African Charter on Democracy, Elections and Governance (ACDEG).

ii. Promote intergenerational and inter-stakeholder communication and dialogue on UCG.

iii. Renew and sharpen AU, REC, RM and Member State mechanisms and methods to address UCG.

iv. Ensure consistency and timeliness in the response to UCG and other security challenges.

v. Prioritise, support, and help manage political transitions in Africa to prevent UCG.

vi. Support the development of AU guidelines and standards on the judicious amendment of national constitutions within the framework of the ACDEG to ensure that no constitutional amendments to prolong tenure of office are permissible, and that no amendments infringe the charter’s principles on democratic change of government and the integrity of democratic elections.

17. The Reflection Forum also recommended that the AGR23 focus on the topic of UCG in Africa.

18. On 28 May 2022, in Malabo, Republic of Equatorial Guinea, at the 16th Extraordinary Summit on Terrorism and Unconstitutional Changes of Government, H.E. Julius Maada Bio, President of the Republic of Sierra Leone and Chairperson of the APR Forum of Heads of State and Government, with the support of other Heads of State and Government of APRM Participating States, submitted a proposal for AGR23 to focus on UCG. The proposal was accepted and ultimately adopted.
5. THE INCIDENCE OF UCG IN AFRICA

19. The preamble of the Constitutive Act of the AU (2000) states that the AU is ‘determined to promote and protect human and peoples’ rights, consolidate democratic institutions and culture’ and ‘[…] ensure good governance and the rule of law’. Amongst the objectives of the African Union stipulated in its Constitutive Act (Article 3 (g) is “the promotion democratic principles and institutions, popular participation and good governance’. Article 4 (m) and Article 4 (p) provide that the AU also functions in accordance with the following principles:

- respect for democratic principles, human rights, the rule of law and good governance.
- condemnation and rejection of unconstitutional changes of governments.

20. Thus, it is in this context that AGR23 presents an operational definition of democracy as a system of governance founded on the principle of popular sovereignty1 with the following elements:

i. A system for choosing and replacing the government in free and fair elections.

ii. Active participation of all people as citizens in economic, political and civic life.


iv. The rule of law in which laws and procedures apply equally to all citizens.

21. The Lomé Declaration Framework for the Organisation of African Unity (OAU) response to Unconstitutional Changes of Government (UCG) adopted in July 2000 regards UCG as an unacceptable act that goes against the commitment of the OAU to the promotion of democratic principles and conditions. The declaration defines the following as situations of UCG:

i. Military coup d’état against a democratically elected government.

ii. Intervention by mercenaries to replace a democratically elected government.

iii. Replacement of a democratically elected government by armed dissident groups and rebel movements.

iv. Refusal of an incumbent government to relinquish power to the winning party after free, fair, and regular elections.

22. The definition of UCG has been expanded through the African Charter on Democracy, Elections and Governance to include ‘any amendment or revision of the constitution or legal instrument, which is an infringement on the principles of democratic change of government.’

23. The AU has declared a total of fourteen (14) instances of UCG since 9 July 2002 when it was established: three in North Africa, seven in West Africa, one in East Africa, one in Southern Africa and two in Central Africa. The following table summarises the instances of UCG declared by the AU between 2002 and 2022.

<table>
<thead>
<tr>
<th>SUMMARY OF INSTANCES OF UCG DECLARED BY THE AFRICAN UNION 2002 – 2022</th>
<th>TOTAL</th>
</tr>
</thead>
</table>

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1 Popular sovereignty refers to the principle that the authority of a state and its government are created and sustained by the consent of its people.


## Key Highlights of the African Governance Report 2023: Unconstitutional Change of Government in Africa

<table>
<thead>
<tr>
<th>AU REGION</th>
<th>Member States</th>
<th>ACDEG Ratified/Signed</th>
<th>UCG Incidence</th>
<th>All States</th>
</tr>
</thead>
<tbody>
<tr>
<td>North Africa (7)</td>
<td>Algeria, Egypt, Libya, Mauritania, Morocco, Saharawi, Tunisia</td>
<td>3 (75%)</td>
<td>1 (14.2%)</td>
<td>3</td>
</tr>
<tr>
<td>West Africa (12)</td>
<td>Ghana, Nigeria, Benin, Burkina Faso, Mali, Sierra Leone, Senegal, Côte d’Ivoire, Liberia, Niger, Togo, The Gambia</td>
<td>12 (100%)</td>
<td>5 (71%)</td>
<td>7 (50%)</td>
</tr>
<tr>
<td>Southern Africa (9)</td>
<td>Angola, Botswana, Eswatini, Malawi, Lesotho, Mozambique, Namibia, South Africa, Zimbabwe, and Zimbabwe,</td>
<td>8 (88%)</td>
<td>0</td>
<td>1</td>
</tr>
<tr>
<td>East Africa (9)</td>
<td>Kenya, Uganda, Rwanda, Djibouti, Ethiopia, Mauritius, Tanzania, Sudan, Seychelles, Burundi, Madagascar</td>
<td>8 (88%)</td>
<td>1 (14.2%)</td>
<td>1</td>
</tr>
<tr>
<td>Central Africa (6)</td>
<td>Chad, Cameroon, Congo Republic, Gabon, Equatorial Guinea, São Tomé and Príncipe, DRC</td>
<td>6 (100%)</td>
<td>0</td>
<td>2</td>
</tr>
</tbody>
</table>

### Total APRM States (42)
25 countries completed first generation peer reviews 37 (88%) 6 14


### 6. OVERVIEW OF THE AGR23 DEVELOPMENT PROCESS

24. The development of AGR23 was expert led and evidence based and combined complementary research methods implemented using a four-pronged approach:

a. **Thematic analysis** - involving an examination and critical analysis of five themes through a literature review from published reports, decisions, statements, and other official pronouncements on UCGs. The theme were identified in prior AU and APR

b. **Targeted Reviews** – involving country assessments in six UCG countries using the APRM-tested approach of targeted reviews conducted in Republic of Sierra Leone, the Kingdom of Lesotho, the Republic of Mali, the Republic of Chad, the Union of Comoros Islands, and the Republic of Guinea. The AGR23 incorporated the outcomes of The Governance Gap Analysis of the Republic of Sudan undertaken in December 2020.4

c. **Technical Review Meetings and Key Informant Interviews** - involving high-level consultations with experts and officials from the UN Headquarters, Security Council Secretariat Branch, and the State Department, and the Department of Treasury of the USA Government. The process sought to review the AU normative framework for sanctions regime on UCG

d. **Public Opinion Surveys** – involving assessments of citizen’s perceptions on UCG undertaken by ECOSOCC, Afro-Barometer and the UNDP.

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7. ANALYSIS OF INFLUENCES, CAUSES AND TRIGGERS

25. This chapter summarises the dynamics and phenomena identified as catalysts, causes and triggers of UCG in Africa. The following analyses align with the five themes identified during consultations held by the AU. The themes are as follows:

   i. Integrity of democratic elections.
   ii. Diversity management and human rights.
   iii. Constitutional order and state legitimacy.
   iv. Economic governance and public sector accountability.
   v. Popular uprising, militarisation, and terrorism.

7.1 Integrity of democratic elections

Key findings

26. In most AU member states constitutional and legal frameworks for elections align with regional, continental, and international norms for the conduct of democratic elections. There is a general acceptance and institutionalisation of the principles of electoral integrity and democratic transition of power through free and fair elections.

27. Departure from constitutional and legal frameworks. This may occur if the rule of law and popular participation in electoral processes are absent, when electoral processes are irregular, or in the absence of human rights and fundamental freedoms. When the rules governing elections are not strictly adhered to it may compromise the principles and benchmarks for electoral integrity.

28. Instability may result if elections are not considered credible or if the will of the people is subverted by the incumbent administration as was the case in Nigeria (1993), Ivory Coast (2012), Kenya (2017) and Malawi (2019).

29. Political party and campaign financing can affect electoral integrity and may result in UCG.

30. Provisions of the African Charter. The AU’s normative framework on UCG and electoral integrity is robust and meets universal standards. The following provisions are intended to prevent UCG:

   i. Article 23(4) on refusal by incumbents to relinquish power after losing a free and fair election.
   ii. Article 23(5) on self-serving constitutional amendments.
   iii. Article 25(4) proscribing auto-legitimation of UCG perpetrators.
   iv. Article 23(5) providing for trial of UCG perpetrators.
   v. Article 23(6) on sanctioning of states participating in UCG.
   vi. Annex to the Malabo Protocol, which criminalises UCG.

Recommendations

31. Integrate electoral integrity guidelines into the UCG framework. The AU is strongly encouraged to develop guidelines within the normative framework of UCG to monitor the implementation of electoral
integrity principles. The African Charter provides a robust foundation for the AU to oversee and guarantee free, fair and credible elections. The AU is one of the world’s most sophisticated regional organisations in terms of its purpose and the mechanisms it has adopted to develop, preserve and promote democracy among its member states, and thus prevent UCG. Article 44(2)(A)(a) of the African Charter, which emphasises this issue, states: ‘The [AU] Commission shall create benchmarks for implementation of the commitments and principles of this Charter and review conformity by State Parties.’

32. Define parameters for political party financing. Comprehensive political party funding laws and regulations will help to level the electoral playing field and avoid commoditisation of votes. The AU is encouraged to consider establishing public funding of political parties as a norm and standard in its instruments and consider linking the standard to the voting rights of member states. Stringent legal standards for registration of political parties will also ensure that only qualified individuals and political parties will be eligible to register and access public funding.

7.2 Constitutional order and state legitimacy

The Lomé Declaration stipulation on UCG includes amendments to the constitution that have implications for presidential term limits. The AGR23 considered the following in its analysis:

Key findings

33. Constitutional amendments. In the period under review, several countries amended their constitutions with respect to presidential term limits.

i. In June 2005, Uganda’s parliament backed the removal of the presidential term limit.

ii. In April 2008, the Cameroonian parliament adopted a constitutional bill removing the provision for a one-time renewable term limit and replaced it with a seven-year open term.

iii. In November 2015, the senate of the Rwandan legislature approved a constitutional amendment to allow the president to seek a third term and in December 2015 it reduced the seven-year presidential term to a five-year term.

iv. In April 2018, Chad’s parliament approved a new constitution that expanded the president’s powers and re-introduced the two-term limit that was removed in 2005.

v. In May 2018 in Burundi, a new constitution that extends the presidential term from a limit of two five-year terms (10 years) to two seven-year terms (14 years) was approved by referendum. The constitution was adopted by the legislature in June 2018 increased the presidential term from five to seven years. No change to the limit of two terms in office was proposed.

vi. In July 2018, the Comoros approved a constitutional referendum decision that allows for a third presidential term of office.

vii. In April 2019, the Egyptian parliament approved a constitutional amendment increasing the presidential term limit from two four-year terms to two six-year terms.

viii. In May 2019, Togo’s parliament approved a constitutional change to remove the term limit.

The case of the Republic of Guinea. Of the six countries reviewed in the report, the Republic of Guinea demonstrated significant challenges with regard to constitutional order and state legitimacy; evidence suggests that the public did not oppose the coup and that effective separation of powers and checks and balances were lacking. Power was politically concentrated in the executive arm of government, which rendered the constitutional

5 https://www.achpr.org/legalinstruments/detail?id=29
roles of parliament and the judiciary ineffective in placing checks on the executive authority. The Constitutional Court certified the highly contested constitutional referendum that paved the way for President Alpha Condé’s third term. Concerns about the marginalisation of women in the judiciary were also raised.

34. Foreign interference in electoral and security matters. In accordance with Article 3(b) of the AU Constitutive Act of 2000 – to defend the sovereignty, territorial integrity and independence of its member states – and Article 3(f) of the Constitutive Act – to promote peace, security, and stability on the continent – the report notes concerns regarding foreign interference in electoral and security matters as a trigger for UCG. In decision Assembly/AU/5(XXXIII),\(^6\) Clause 25 strongly condemns ‘all forms of foreign interference in the internal affairs of the AU Member States, which undermines the efforts of the Continent to silence the guns and aggravate crises with devastating effects on Africa’s development and stability. The Assembly REQUESTS the PSC to remain seized with the matter and make its policy of “naming and shaming” the peace spoilers’.\(^7\) In Clause 89 of the Report of the Peace and Security Council on its Activities and the State of Peace and Security in Africa, for the Period February 2019 – February 2020, the PSC notes: ‘The situation in Libya has largely been marked by recurring violations of the ceasefire by the forces allied to Government of National Accord and those of the Libyan National Army (LNA) led by General Haftar. The situation is further compounded by the increasing foreign political and military interference in the country.’

Recommendations

35. Regulate constitutional reforms. Frequent making, unmaking and remaking of constitutions, whether by revision or crafting of new constitutions should be avoided. Member states are encouraged to undertake all constitutional amendments on presidential term limits through a permanent constitution review mechanism in which no political party dominates or has exclusive powers to review and recommend amendments to the constitution.

36. Legislate presidential term limits. Member states are encouraged to put in place or restore definitive provisions for presidential term limits and limit presidential appointment powers with strict criteria for appointment and promotion of public officials.

37. Guarantee judicial independence and credibility. To depoliticise judicial appointments, less than half of the members of appointment committees should have direct or indirect links to the executive and the legislature. Member states should broadcast and televise judicial appointment hearings by public representatives. To enhance the credibility of judicial rulings from the perspective of equity and perception of fairness, member states are encouraged to ensure proportional representation of women in the judiciary.

38. Mitigate foreign influences on security and UCG. The AU and RECs are encouraged to implement the recommendations included in the PSC report\(^8\) on the State of Foreign Military Presence in Africa: Implications on the Implementation of the Common African Defence and Security Policy.

7.3 Diversity management and human rights

39. One of the most potent motivating forces for actuating and mobilising political and economic resources for development is national cohesion. Lack of diversity may exacerbate governance problems and

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challenges and result in UCG. National cohesion is a product of improved relations between genders, ethnicities, classes, faiths, and different regional populations. Challenges in managing diversity and respect for human rights may render countries vulnerable to exploitation by self-interested military officers and/or external powers, who may pursue UCG.

Key findings

40. **Human rights violations** increase vulnerability to UCG and are manifest as denial of political space to political opponents, limited access to information, restriction of internet access, police brutality in the form of arbitrary arrest and illegal detention, extrajudicial execution, torture and forced confessions, kidnapping, rape, and the use of child soldiers. These violations occur in spite of constitutional and legal provisions, institutional mechanisms and policies for respect, protection, and promotion of human rights.

41. The legacy of pre-colonial empires and colonialism in Africa, as well as the nature of the post-colonial state in Africa and the effects of intensifying globalisation have left the continent with a plurality of identity groups in different countries.

42. **Internally displaced people and migrant populations.** The growing number of people displaced by UCG and the impact of immigrants on political stability are a challenge for many countries. Examples can be seen in the mercenary groups recruited from internally displaced populations, such as those in the Sahel region and Chad. Internally displaced persons and immigrants have limited rights because they are often undocumented and not recognised as citizens which makes them targets for recruitment as mercenaries and human trafficking.

Recommendations

43. **Promote and institutionalise inclusive political participation.** Member states are encouraged to adopt more inclusive political systems that allow participation of all registered political parties and encourage a culture of power sharing.

44. **Domesticate human rights instruments into law.** The normative instruments for managing diversity and ensuring respect for human rights need to be strengthened and given domestic force of law in the AU, EU, UN and RECs. Member states are encouraged to strengthen those laws and regulations such as freedom of information, assembly and association, and asset disclosure by public officials that empower citizens to hold public officials to account.

45. **Operationalise the responsibility to protect.** Article 4(h) of the African Union Constitutive Act of 2000, establishes the right of the Union to intervene in a member state to prevent grave violations of human rights, namely: war crimes, genocide and crimes against humanity. The AU is encouraged to consider integrating provisions for military intervention into the escalation ladder of sanctions for countries where UCG has taken place and where there is evidence of gross and severe threats to civilian life, particularly that of women and children.

46. **Introduce political education.** AU organs and member states are encouraged to legally recognise human rights as a tool and product of the dignity of Africans, at home and globally. Member states are encouraged to introduce political education across all levels of education, beginning in primary school. The AU is encouraged to introduce a continental programme that champions police reforms and retraining throughout Africa, based on a protocol and agreed guidelines.

47. **Protocol on free movement of persons, right of residence and right of establishment.** Domestication of the protocol will ensure protection of human rights of displaced populations and prevent socioeconomic and political disenfranchisement that may compel such populations to join mercenary groups and become destabilising elements.
7.4 Economic governance and public sector accountability

48. AU member states recognise the need for effective measures to reform their macro-economic policies to support sustainable development by stimulating inclusive economic growth, and improved access to economic goods for better living standards. This includes strengthening transparency in public finance management systems, improving access to regional markets, and strengthening the role of central banks in monetary policy.

Key findings

49. Illicit financial flows and weak economic governance. Evidence from the UCG targeted-review countries demonstrates a link between UCG, illicit financial flows, and weak economic governance, reflected in high inflation, growing budget deficit and debt, poverty, inequality, and unemployment, as well as low growth rates and pervasive corruption and lack of transparency and accountability. From a procyclical perspective, growing fragility, conflict, violence and sustained political instability resulting from UCG also contribute to weak economic performance, which adversely affects government finances, basic service delivery and infrastructure, and further hampers development.

Recommendations

50. Reconcile economic governance instruments with the sanctions regime. The AU is encouraged to consider the different aspects of economic governance when reformulating the framework on UCG. The AU should also consider targeted economic sanctions to ensure that the cost of sanctions outweighs the benefits of maintaining the UCG status quo.

51. Improve policy transparency and efficacy. Member states are encouraged to strengthen transparency in policy making and institutions and build their capacity to enhance economic governance policies by promoting debate and establishing a broad and inclusive economic policy community that includes national entrepreneurs and industrialists within and beyond the respective states. Technical assistance and foreign aid will be rendered more effective by improving public administration, revisiting terms of grants and loans and paying greater attention to implementation of policy measures that enhance sound public finance management, inclusive growth, competitiveness, export trade and diversification of the economy.

52. Strengthen the capacity and autonomy of public accountability institutions. Member states are encouraged to strengthen legislation and institutions responsible for combatting illicit financial flows used to fund UCG. Bold natural resource governance measures in accordance with the relevant Continental Framework, such as Africa Mining Vision (AMV) and the AUDA-NEPAD Regional Energy Infrastructure Programme, will facilitate prudent exploitation of African natural resources. This will improves people’s lives and fosters inclusive community development through value addition, beneficiation, and industrialisation.

53. Review national legislation on control of illicit financial flows. Member states are encouraged to strengthen legislation and institutions responsible for combatting illicit financial flows used to fund UCG. This includes legislation governing central banks, public financial management, financial intelligence services, revenue authorities, commercial banks, and mineral commodities exchange authorities.

54. Increase public investment in social services. By increasing their public social investment member states can improve per capita expenditure in health, education, public security, and other social protections for the improvement of welfare, particularly of women and children and vulnerable groups.

7.5 Popular uprising, militarisation and terrorism

55. Governance deficiencies, failure to uphold the rule of law, the abuse of human rights, and other socioeconomic and political factors are at the centre of popular uprisings in Africa. Recent waves of popular uprisings in which citizens took to the streets to express their dissatisfaction about how they were
being governed, resulted in the overthrow of governments. There have been a variety of responses at national, regional, and continental levels as to this should be dealt with, specifically at AU level.\textsuperscript{9}

56. The AGR23 responds to the suggestion to clarify ‘popular uprising’ within the context of the AU normative framework on UCG and offers a conceptual and operational definition to be considered in classifying the phenomenon.

57. Fundamental features in most countries that have experienced UCG has been the relation between the military and the constitutionally and democratically elected civilian governments. Rather than the military being under the control of civilian as constitutionally required, the military often control of the entire machinery of State. This is often a result of a direct outcome of prolonged military rules in many of States. The military which was supposed to be subject to civilian control became master of not only its own destiny, but also the destiny of the entire nation. This reversal of roles has had disastrous consequences such as UCGs\textsuperscript{10}.

58. It is observed that in some cases, UCG prevail as a result of the incapacity of the State to fight terrorism. In such situations, the military justify their actions as a response to the social demand for more security and more stability. Also, UCG can be seen like a cause of aggravation of terrorism in context where the constraints related to transitional processes might lead to situation where the military lack the necessary means to fight terrorism.

59. In many cases, UCG have been presented like a direct result of external influence into Member States internal affairs.

Key findings

60. \textbf{The principle of sovereignty and election-based democracy.} The AU response to popular uprisings is a challenge because of the principle of sovereignty and the focus on election-based democracy. There are thus few standards to guide the response during political transitions arising from mass movements. There is also limited scope on the role of the army during a popular uprising.

61. \textbf{Nation-building challenges.} The trend of popular uprisings in Africa suggests that there are profound state- or nation-building challenges in the countries concerned. In some cases, nation-building has been derailed and interrupted by coups d’état, while in those where no coups have taken place since decolonisation, uprisings are the result of discontent with diversity mismanagement and human rights abuses, such as sexual violence against women and children, the child soldier phenomenon, destruction of family structure and society, economic exclusion, poor public sector accountability or questionable credibility of elections.

62. \textbf{Intervention in popular uprisings.} There are challenges with respect to the role of the African Union Peace and Security Council (AUPSC) under Article 5(2) of the Constitutive Act of the African Union, on the one hand, and the terms of reference of the AUPSC on membership and modalities for intervening with respect to popular uprising to restore peace and security on the other. Similarly, the jurisdiction and capacity of the African Standby Force and the monitoring and intervention missions under the specified circumstances are yet to be revisited.

63. \textbf{Overlapping mandates.} There is a strong suggestion of an overlap of mandates between the AU and ECOWAS in responding to military coups. The two institutions must thus coordinate their efforts, especially in matters of defence and security considering the spread of coups in the continent in recent months, as well as the constant security threats.


64. **Civil–military relations.** It is important to manage civil–military relations not only in the context of UCG and member states in transition but also with respect to broader governance issues. On 18 May 2022, the African Union (AU) Peace and Security Council (PSC) was briefed on civil–military relations as a factor for peace and security in Africa, an item on the agenda of its 1,085th session. The briefing preceded the Extraordinary Summit on Unconstitutional Changes of Government (UCG) on 28 May 2022. At the PSC’s 996th session, which addressed the power grab by the military in Chad following the death of President Idriss Deby Itno the council emphasised the imperative of clear separation of roles of a state’s military body which ensures defence and security and the transitional government, which concentrates on political and other public policy issues.

65. At the 1,000th session convened after the coup in Mali on 24 May 2021 and the 1,030th session addressing the 5 September 2021 coup in Guinea, the PSC urged the militaries of each of these member states to refrain from interfering in political processes, and stressed that political affairs fall outside the scope of military powers. At its 1,041st session the council requested that the Sudanese military respect their constitutional mandate following the military takeover of power on 25 October 2021, and further requested at its 1,016th session on the situation in Chad and 1,064th session on the situation in Guinea that the military abstain from taking part in elections at the end of the transition periods.

66. **Criminalisation of UCG.** The extension of jurisdiction of the yet to be operationalized African Court of Justice and Human Rights over crimes under international law and transnational crimes, including unconstitutional changes of government through the adoption of the Protocol on Amendments on the Protocol on the Statute of the African Court of Justice and Human Rights by the AU is a laudable initiative. The criminalisation of unconstitutional changes of government by the AU will certainly deter perpetrators of UCG once the Court is operationalized. This is due to the fact that it is almost impossible to bring to justice leaders that have come to power through UCG in national Courts.

67. **The necessity to address the fight against terrorism and unconstitutional changes of government in a holistic approach.**

68. **The link between terrorism and unconstitutional changes of government in undeniable in the African context.** Addressing these two threats to peace, security, stability, sovereignty, and territorial integrity of Members State, in a holistic approach was the sense of the organization of the 16th Extraordinary Session of the Assembly of the Union held in Malabo on 28 May 2022. In its Declaration, the Assembly recognised that there is an imperative for greater collective action to address the challenges of terrorism, violent extremism, and unconstitutional changes of government.

69. **The relation between external influences and threats to peace and security**

There is a strong conviction within the African context that, in some cases, some threats to peace and security are the consequences of external influences and that some Countries outside Africa instrumentalize the military in the benefit of their interest. The African Union has taken a firm position on this matter. In the Malabo Declaration on terrorism and unconstitutional changes of government in Africa of May 2022, the Assembly declares Strong rejection of external interference in Africa’s domestic affairs.

**Recommendations**

70. **An institutional definition of popular uprising.** The existing normative framework should be reviewed to remove ambiguity about when action is needed. Such ambiguity arise usually in situations of “popular uprisings” that lead to unconstitutional changes of government. The PSC at its at its 871st meeting held on 22 August 2019, stressed that the notion of ‘popular uprising’ is complex, contested and controversial and emphasized the absence of a universally accepted and applicable definition of what constitutes a ‘popular uprising’. The PSC highlighted that the concept in not provided in any of the existing AU normative frameworks, in this regard, it is an invention that needs to be interrogated and reflected upon.
before it is embraced by the Union. It is therefore recommended that the definition of popular uprisings be developed within the context of the OAU/AU 50th Anniversary Solemn Declaration (May,2013) and The Final Report of the AU High Level Panel for Egypt.

Para. F (ii) of OAU/AU 50th Anniversary Solemn Declaration (May,2013); Reiterate our rejection of unconstitutional changes of government including any attempts to seize power by force but recognize the right of our people to peacefully express their will against oppressive regimes.

Para. 83 of the Final AU High Level Panel Report on the Situation in Egypt: In light of the difficulties encountered in applying the AU norms on unconstitutional changes of Government, particularly in the context of popular uprisings, the Panel recommends elaboration of a guideline for determining the compatibility of popular uprisings with AU norms on unconstitutional changes of Government. Taking into account recent experiences in North Africa, including in Egypt, the Panel recommends the following elements for such a guideline: (a) the descent of the government into total authoritarianism to the point of forfeiting its legitimacy; (b) the absence or total ineffectiveness of constitutional processes for effecting change of government; (c) popularity of the uprisings in the sense of attracting significant portion of the population and involving people from all walks of life and ideological persuasions; (d) the absence of involvement of the military in removing the government; (e) peacefulness of the popular protests.

71. The African Union could define ‘popular uprising’ as ‘the collective actions of a variety of non-collective actors from a broad section of society, which embody shared concerns of large numbers of ordinary people, whose fragmented but concerted activities trigger socio-political change, irrespective of whether the concerns are guided by an ideology or recognizable leadership.’ The definition will also include ‘popular military coup’ which refers to a situation in which large numbers of ordinary people publicly support a UCG undertaken by the military.12

72. It is further proposed that ‘popular uprising’ be defined based on the AU’s responses to different contexts. Four scenarios are considered here:

   a. Popular civilian uprisings result in the resignation of an incumbent president. In this scenario, the AU determines the event an internal affair of the member state and may issue statements stressing the need for a peaceful transition based on the provisions of the Constitution of the country. In this instance, the situation is not that of UCG and any decision by the AU Policy Organs is being warranted.

   b. The military steps into the vacuum created by the resignation of the incumbent president. In these instances, the AU provides the military with a deadline to hand over power to a civilian government. Failure to do so results in the country’s suspension from AU activities.

   c. The military takes over a civilian mass movement’s demand for regime change which leads to removal of a sitting leader by resignation. The AU categorises such actions as a military takeover and demands a return to civilian rule. Failure to restore civilian rule within the agreed period and terms leads to suspension.

   d. A popular uprising evolves into armed conflict or civil war. The AU may treat this as civil war and launch conflict resolution initiatives from the onset. Thus, the AU may treat such direct military removal of a government differently from cases where popular uprisings trigger military-led change of government.13


12 The broadened definition of popular uprising, which includes popular coup d’etat, derives from the experience of the 5 September 2021 military coup in the Republic of Guinea which was widely supported by citizens.

13 Marks, Z., Chenoweth, E. and Okeke, J., 2019. People Power is Rising in Africa. Foreign Affairs, 14
73. **Integrate popular uprising into normative frameworks.** The report found that existing AU frameworks do not sufficiently and effectively provide for the response of the AU to popular uprising. Although the ACDEG framework was meant to be the comprehensive and enforceable component of the AU on issues of political transition it is not clear on situations where change of government results from citizen unrest that results from the deterioration of a peaceful protest.

74. **Enhance AU–REC cooperation.** The report encourages full coordination between the AU and RECs to avoid conflict in the process of imposing sanctions. The sanctions regime of ECOWAS has proven to be more effective against member states that have experienced military coups compared with those proposed by the AU which may be attributed to a lack of coordination between the AU and RECs. Efforts should be made to harmonise the frameworks of respective institutions.

75. **Domestication of key AU instruments.** The AU must make domestication of a selected key international and regional instruments and conventions and adherence to agreed standards that guarantee the rights of peoples and prevent any violations against peaceful citizens a priority.

76. **Legislate and implement measures to professionalise the military.** AU to develop codes of conduct to support member states align military mandates and protocols with constitutional obligations and with international human rights and humanitarian law standards. Professional standards must be updated regularly; technical competence of the military is critical. The military must also be retooled and reskilled. The crisis in civil–military relations should be included in the AU's framework for early warning and conflict prevention.

77. **Sanction non-compliance with court rulings.** The AU should institutionalise mechanisms to require immediate commitment and compliance with the decisions of the ACHPR, and sanctions in cases of non-compliance. AU Member States are encouraged to ratify and domesticate the Protocol on Amendments to the Protocol on Statute of the African Court of Justice and Human Rights.

78. **Foster the implementation of Article 14 of the African Charter on Democracy, Election and Governance which aims at strengthening and institutionalizing constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order.** In order to ensure the full realization of Article 14 of ACDEG, the Members States are encouraged to adopt the draft Code of Conduct for Armed and Security Forces in Africa by AU Members States. This instrument was developed and validated at the expert level on May 2002 under the guidance of the United Nations Regional Centre for Peace and Disarmament in Africa (UNREC) as a relevant instrument for the fight against UCGs in Africa.

8. **LESSONS FROM UCG TARGETED REVIEW MISSIONS**

8.1 **Kingdom of Lesotho**

79. The Kingdom of Lesotho is a mountainous, landlocked country in an enclave within the Republic of South Africa. It was a British protectorate from 1886 until its independence in 1966 when it faced enormous challenges as different groups fought for control. The Basotho National Party (BNP) won the general election in 1965 and formed the first democratic government that governed between 1966 and 1970.

80. Lesotho became a de facto one-party state in 1970 when the BNP annulled the results of the general election and declared itself the legitimate government. The prime minister suspended the constitution, exiled the king, and suspended the judiciary. He also declared a five-year moratorium on political activity. The BNP's subsequent 16-year rule was marked by conflict between the armed forces and the Lesotho Liberation Army (a military wing of the BCP).

81. In 1986, the military overthrew the government with the backing of South Africa's apartheid regime. Although the king was reinstated the military ran the country until multipartyism was reintroduced in 1993.
when a new constitution was enacted. The constitution was suspended again after a second military coup in 1994. Diplomatic pressures by the newly democratic Republic of South Africa and the governments of Botswana and Zimbabwe eventually restored the government of the Basotho Congress Party (BCP) later that year.

82. An intervention by the Southern African Development Community (SADC) helped to subdue an attempted coup in 1998. An interim political authority was established and facilitated new elections in 2002.

83. In a second coup attempt in August 2014 Prime Minister Thomas Thabane fled the country and sought refuge in South Africa. The attempt followed Thabane’s decision to replace the head of the army, who refused to step down and instead sought to topple the government, with the tacit support of the previous prime minister who had appointed him. Following this incident, the SADC intervened, and the prime minister returned. Elections scheduled for 2017 were brought forward and held in February 2015, in a bid to stabilise the country. The SADC made a number of recommendations to ensure political stability, including constitutional, public and security sector reforms. A multi-stakeholder reform process in 2016 was put on hold when a vote of no-confidence deposed the prime minister and parliament was dissolved. The reform process was restarted in 2018 with the support of SADC.

84. A historiography of militarisation events in Lesotho and their impact on state stability:

i. 1970: the Prime Minister with the support of the military refuses to accept the outcome of a free and fair elections. He suspends the constitution and rules by decree.

ii. 1986: Military overthrows civilian government that was ruling by decree with its support.

iii. 1991: Elements in the military overthrow the leadership of the Military Government.

iv. 1994: Military arrests ministers and assassimates deputy prime minister. There is no change of government.

v. 1994: The King with the support of the military unilaterally dissolves a democratically elected government, parliament and suspends the constitution. The democratically elected government is restored after two weeks as a result of regional diplomatic interventions.

vi. 1998: In an attempted UCG the military supports opposition parties that dispute the outcome of elections and arrests its command.

vii. 2014: Military bombs the residences of the Commissioner of Police and former first lady (then partner to PM) but no change of government results.

viii. 2014: In a failed coup the military attacks the residence of the prime minister, some ministers, senior government officials, the newly appointed commander of the Lesotho Defence Force and the police headquarters.

ix. 2015: Military arrests senior and junior officers, and assassimates the commander. Some opposition leaders flee the country.

x. 2017: Senior officers assassinate the commander of the Lesotho Defence Force. The former commander of the Lesotho Defence Force and some senior army officials are arrested on charges of high treason, murder and attempted murder but no UCG takes place.

Key findings

Vulnerability to UCG is due to four factors, which render the Kingdom of Lesotho’s politics and governance fragile and volatile.
i. The country’s **poor economic performance** has led to high levels of poverty, unemployment, inequality, and a private sector that is very weak because manufacturing is in its infancy.

ii. **Lesotho’s Mixed Member Proportional Representation (MMPR) electoral system** was introduced in 2002 to resolve the political crisis following the 1998 elections. In those elections, which were conducted under a first-past-the-post model, the Lesotho Congress of Democracy (LCD) party won 79 out of 80 parliamentary seats. The other political parties contested this outcome, which they deemed fraudulent. Violent protests ensued in the capital, Maseru, leading to weeks of political instability stemmed only when the SADC intervened. The MMPR system contributes to party factionalism. Under the system, a party that had not won a single constituency could gain a substantial number of Proportional Representation (PR) seats; conversely, a party that had won more constituencies automatically received fewer PR seats. The political parties turned the MMPR system into a de facto parallel system, thereby undermining the spirit of proportionality in the allocation of parliamentary seats and the inclusivity of parliament.

iii. **Concentration of executive power in the office of the prime minister** gives political leaders an incentive to engage in cutthroat power struggles. For example, the prime minister has the sole power to make appointments to key positions in government and remove officeholders, and act without the consent of the king. However, the prime minister can be removed from office through a motion of no confidence. In practice, disaffections in the coalition governments have led to the National Assembly passing votes of no confidence against the prime minister, thereby occasioning frequent elections.

iv. **Radicalisation of politics.** Alliances between political leaders, the army and the police destabilise the political system, create insecurity and radicalise politics, which fosters a culture of violence and impunity. Political leaders leverage the security forces, which participates in politics. A key challenge affecting national security agencies is the overlapping of mandates and functions. For example, because the Lesotho Defence Force Act of 1996 empowers the military to maintain law and order, the mandates of the military and the police overlap. Instability has resulted from the constant interference of the military in democratic rule.

**Recommendations**

85. **Conclude and adopt a new constitution.** The government of the Kingdom of Lesotho is strongly encouraged to conclude the process of reviewing its 1991 Constitution initiated by the Multi-Stakeholder National Dialogue (MSND) and implement the resulting constitutional amendments through appropriate policies, laws, and institutional mechanisms.

86. **Legislate tenure for coalition governments.** Government is encouraged to explore the feasibility of establishing a minimum tenure of office to address the challenge of volatility and instability brought about by the unregulated formation and dissolution of coalition governments. It appears that the constitution does not have sufficient provisions to safeguard the tenure of office for a coalition government. The government is encouraged to introduce mechanisms that facilitate and enable all citizens, including those in the diaspora, to exercise their democratic right to vote.

87. **Implement recommendations from the National Dialogue.** Implementation of security sector reforms should be expedited to ensure non-interference of the military in political affairs. Government is further encouraged to ensure the consistent application of the principle of equitable representation of women in all its sectoral reforms.

88. **Establish a natural resources concession commission** to address economic inequality led by business, industry, and technical experts, with the mandate to ensure national wealth creation through public shareholding, efficient exploitation of natural resources, taxation, and judicious use of government revenues for the benefit of all Basotho.
8.2 Republic of Sierra Leone

89. Sierra Leone attained independence from Britain on 27 April 1961 by transforming into a republic with an executive presidency under a constitution that embraced governance principles such as the separation of powers, judicial independence, and judicial review. The 1961 Constitution granted citizenship to all British subjects born in Sierra Leone on the eve of independence. However, this changed in 1962 when the ruling Sierra Leone People’s Party (SLPP) amended the constitution by introducing Negro–African origin as a precondition for citizenship, and reserved membership in parliament for citizens of Negro–African origin. Persons of non-Negro–African descent were thereby deprived of Sierra Leonean citizenship by birth. This remains the state of affairs.

90. In the lead-up to independence, severe ethnic differences emerged between the Krios and the ‘countrymen’ – inhabitants of the inland protectorate. Krios, who inhabited the western area of the country, were regarded as having a stronger relationship with the British due to their superior standard of living and education. Ethnicity and regionalism were thus the bedrock for UCG from the inception of the republic. Ethnic tensions grew when Milton Margai, Sierra Leone’s first head of government from 1954 to 1964, passed away in 1964 and was controversially succeeded by his brother, Sir Albert Margai, whose persecution of the opposition and desire to turn the country into a one-party state contributed to the unpopularity of his administration.

91. When the SLPP lost the 1967 elections to the All People’s Congress (APC), the government of Prime Minister Stevens curtailed fundamental freedoms. It enacted the Public Order Act 1965 which criminalised libel, allowed paramount chiefs to control public meetings, and mandated the governor-general to proclaim emergency regulations, and the police to disperse crowds and arrest uncooperative persons. Sierra Leone began experiencing instability, particularly after the 1967 general elections, which led to a series of military takeovers.

92. From 1967 to 1968, there were three military coups.14 In 1971, a republican constitution transformed Sierra Leone into a republic, provided for fundamental human rights and freedoms of the individual, created an electoral commission, and established the supreme court as the final appellate court. In 1974, one of the amendments to the constitution empowered the president to appoint three persons to parliament, whereupon the president appointed the force commander and the commissioner of police as members of parliament. Sierra Leone became a one-party state in 1978 when, following a referendum, the APC government promulgated a one-party constitution that required all candidates for the office of president or members of parliament to be members of the APC.

93. The decade following promulgation of the one-party constitution was characterised by instability; the government declared states of emergency in 1981, 1987 and 1988 and suppressed a military rebellion in March 1987. Prior to the outbreak of the war in 1991, Sierra Leone promulgated yet another constitution that sought to enhance governance in various ways. The new constitution reintroduced multipartyism and lifted the ban on opposition political parties but civil war broke out before it was enacted. Sierra Leone experienced civil war from 1991 to 2002, following a rebellion by Foday Sankoh’s Revolutionary United Front (RUF) against the government of President Joseph Saidu Momoh.

94. In the two decades since the conclusion of the civil war, Sierra Leone has experienced stability and witnessed relatively peaceful elections in 2007, 2012 and 2017. An election is scheduled for 2023.

Key findings

95. **A peaceful power transfer.** Sierra Leone has enjoyed a peaceful transfer of power over the past twenty years. The transition from the All People’s Congress (APC) to the Sierra Leone People’s Party (SLPP) administration indicates democratic maturity, constitutionalism, and the rule of law. Although the electoral management system successfully delivered the 2018 elections, the second party-to-party change in Sierra Leone after the war, the system still presents significant challenges. For instance, the electoral system is based on first-past-the-post. Consequently, the three elections held in 1997, 2007 and 2018 were determined by two rounds of voting. This poses a challenge to the integrity of elections and the constitutional transition of government in Sierra Leone.

96. **Limited electoral budget.** The target review team learnt of the government’s budgetary limits in funding the full voting procedure. This approach does not align with AU election principles, which specify that all election processes in African nations must be funded by the national budget. This may and can affect the efficiency of elections.

97. **Integrity of elections and constitutional transitions of power.** When Sierra Leone emerged from civil war it established the crucial function of the Office of National Security (ONS) to preserve the integrity of elections and constitutional transitions of power. All security institutions have a responsibility to aid the Sierra Leone Police (SLP) to overcome potential barriers. The Integrated Elections Security Planning Committee (IESPC) chaired by the ONS has established a framework for security sector organisations to adequately prepare for their election security commitments.

98. **Voting rights for the diaspora.** Sierra Leone has no constitutional provision for Sierra Leoneans in the diaspora to vote. The diaspora could have a great influence on national politics and security. The World Bank estimated that in 2016 the number of Sierra Leoneans in the diaspora was 336,000, 5.5 per cent of the population.

99. **Constitutional order, the judiciary and the legislature.** A critical deficit in entrenching constitutional order with regard to the independence, and therefore, credibility of the judiciary and legislature, neither of which have adequate institutional or financial autonomy has arisen because resource allocation to parliament and the appointment of judges are controlled by the executive. This significantly threatens the independence of these two arms of government in discharging their respective mandates and neither have appropriate institutional or budgetary autonomy.

100. **The removal and elimination of the death penalty and the libel legislation** are significant accomplishments in fostering the rule of law in Sierra Leone. On 28 October 2020, President Julius Maada Bio officially assented to a new law that repealed the criminal libel law, three months after the Parliament of Sierra Leone unanimously approved the Independent Media Commission (IMC) Act 2020 and repealed the 1965 Public Order Act (POA) that criminalised libel and sedition. The libel law had been used as a tool to muzzle and persecute the media and political opponents, a phenomenon associated with public discontent and anti-government protests globally.

101. **The governance of natural resources** remains a predominant and persistent source of public discontent and conflict. Sierra Leone is known for its vast endowment of minerals, which includes diamonds, rutile, bauxite, gold, iron ore, limonite, platinum, chromite, coltan, tantalite, columbite and zircon, as well as petroleum potential. The targeted review expressed concern over the lack of capacity at the National Mineral Agency (NMA) which has resulted in its failure to hold mining companies to satisfactory safety measures for their workers, increase employment for local people in the operations and offer reasonable compensation and relocation packages for people impacted by mining operations, not to mention the absence of inclusive business arrangements.

102. **Popular uprisings are anchored in youth discontent and lack of agency.** It is therefore logical to assume, in precaution, that the incomplete demobilisation and disarmament process in Sierra Leone may be a source of unrest and a potential catalyst for UCG. Sierra Leone has witnessed several uprisings;
nationwide student demonstrations in 1977; the 1985 student uprising and riot at the University of Sierra Leone; an uprising in April 1992 of young, junior officers and disgruntled soldiers from the war front that led to the attack and overthrow of President Momoh’s government; and recent mass demonstrations on 10 August 2022.

103. The proliferation of small arms and light weapons since the civil war are a key challenge in Sierra Leone, and pose a threat to peace, security, and development. These weapons are a key contributor to the expansion of organised crime in the country and a potential catalyst for UCG.

Recommendations

104. Finalise the constitutional review process to address the weaknesses of the 1991 Constitution promulgated under the one-party regime by considering the recommendations of Justice Cowan’s Constitutional Review Commission (2017). Adopting these recommendations will address gaps and ambiguities in the law and ensure that critical issues relating to electoral violence, human rights, the rule of law, and women and youth issues are resolved comprehensively. The review must reflect the will of the people.

105. Resource independent arms of state to enhance autonomy. The judiciary and parliament should be capacitated to discharge their mandates effectively. This will allow the judiciary to deal expeditiously with matters brought before the courts. Democratic institutions like the National Commission for Democracy, the Peace Commission, Human Rights Commission and the Anti-Corruption Commission should be given the legal power and financial resources to promote human rights in all spheres of society in Sierra Leone.

106. Strengthen the Political Parties Registration Commission (PPRC) by giving it the power to hold any political party accountable to democratic rules of behaviour. The institutional mandate and independence of the PPRC are enshrined in Sections 34 and 35 of the 1991 Constitution of Sierra Leone. The government is also urged to implement the Gender Empowerment Act to ensure inclusive political representation.

107. Ensure adequate financing of electoral processes. Increase government investment in election architecture and avoid external support election funding and management that might lead to interference.

108. Strengthen Integrity of the concessions process. Eliminate any opportunity for discretion in the awarding of mineral rights to ensure transparent and fair processes are followed. This would also address the economic drivers of UCG.

109. Complete the decentralisation process. To buttress gains from the above recommendations, it is recommended that the government complete the decentralisation process that was started in 2004, to ensure sufficient finances and human resources at local government and to address regional development imbalances and unequal distribution of resources and mismanagement of natural resources.

8.3 The Republic of Chad

110. The Republic of Chad shares extensive borders with Libya to the north, Nigeria, Cameroon and Niger to the west, Sudan to the east, and the Central African Republic to the south. The integrity and security of these borders is important to Chad and its neighbours.

111. Chad’s history is punctuated with political and community conflicts, armed rebellions and UCG as well as social divisions dating back to the colonial period, that are marked by the emergence of the Rassemblement Démocratique Africain (RDA) and the Chadian Progressive Party. Interference of the administration in political activities from 1947 to 1949, nurtured hatred between the North and the South and fuelled permanent political instability in the public space and the organisation of elections.
112. Under the Tombalbaye regime, deep differences between the administration and the opposition resulted in a massacre in the town of Fort-Lamy. From 1964 to 1965, a succession of popular uprisings against established authority led to the creation of FROLINAT in Nyala (Sudan).

113. A military coup on 13 April 1975 ended the reign of Tombalbaye and paved the way for a succession of military regimes and politico-military movements. Chad has since witnessed repeated military coups.

114. On 1 December 1990, when Idriss Déby Itno took power, he published the National Charter of the Republic by Decree No. 001/PR/1991 of 1 March 1991, which was adopted by the National Salvation Council on 28 February 1991 and was considered as a text with constitutional value. Two years later, the Sovereign National Conference (CNS) adopted the Transition Charter as the fundamental law to govern the Chadian Nation during the transition period which included Act No. 002/CNS/93 of April 5, 1993, adopting the Transition Charter, published by Decree No. 282/PR/93. President Idriss Déby won presidential elections in 1996 and 2001, and after term limits were eliminated, won again in 2006, 2011, 2016, and in April 2021 when he was re-elected for a sixth term, after 30 years in power.

115. According to the constitution, in the event of a power vacuum the President of the Assembly must exercise his constitutional prerogatives and assume the powers of the Presidency. When President Idriss Déby died in the line of duty on 21 April 2021, however, the President of the Assembly renounced his constitutional prerogative due to, among other things, an imminent rebel attack on the capital, Ndjamen. A transitional military council (TMC) of 15 generals was set up led by Lieutenant-General Mahamat Idriss Déby Itno. A transition charter was approved and promulgated, which, with the constitution suspended, gave the TMC the functions of a body in charge of 'defining and guiding issues of peace, stability and national security.' The president of the TMC holds the functions of President of the Republic, Head of State and Supreme Commander of the Armed Forces.

116. Another pertinent and potential catalyst of UCG in Chad has been the boycotting of elections by the opposition from 2006 to 2021 (2006, 2011, 2016, 2021). This trend suggests a persistent deadlock in dialogue between the opposition, civil society, and the ruling party, who fail to agree on the format and conditions for dialogue.

117. Following a national dialogue, on 24 September 2022 Chad extended the transition period to democratic elections, while keeping the head of the military administration on as head of state in the interim. AFP reported that the forum adopted by 'consensus' a measure to 'extend the transition for a maximum of 24 months' and that hundreds of delegates also decided that the military leader, Mahamat Idriss Déby Itno would not only continue as transitional president but would also be eligible to run for the presidency when elections are held.

Key findings

118. The factors associated with UCG in Chad are multidimensional. The report found that there is divided public opinion on the probability and significance of the interference of foreign states and actors in the internal affairs of Chad which may have implications for stability. Structural factors include an unskilled youth population, poverty, climate change and external shocks. Other factors are more immediate and derive from poor governance such as faults in the constitutional order, lack of reliability and inclusiveness of elections, nepotism, corruption and instrumentalisation of justice.

Recommendations

119. Strengthen cooperation on trans-border security. The government of Chad is encouraged to cooperate with other regional governments to take all necessary measures to disarm civilians and combat 15 Synthese General des recommendations et des Resolutions Des Assises du Dialogue National Inclusif et Souverain (DNIS). 6th October 2020
the proliferation and illegal possession of weapons. In October 2022, the United Nations Peace Keeping and Office for Disarmament\textsuperscript{16} reported that illicit arms trafficking and civilian possession in the Lake Chad Basin (LCB), and the illicit circulation of weapons and ammunition, are the primary drivers of conflict in the LCB (UNDP). This proliferation of arms places the military at the centre of political and economic life.

120. Re-establish civilian rule. Chad is urged to cautiously accelerate the process of re-establishing civilian rule in a measured manner. This will require, among other actions, redefining of the role of the military in national affairs and security sector reforms.

121. Rebuild the army to make it truly republican. The presence of the army in the public space, military coups and armed and rebel groups are identified as having almost permanently favoured the breakdown of the constitutional order in the country.

122. Deepen national reconciliation process. Chad is encouraged to continue strengthening social cohesion by investing in programmes on social cohesion in schools, religious, and public institutions. Other mechanisms it is encouraged to set up include a Truth and Reconciliation Commission involving all stakeholders (government, civil opposition, armed opposition, civil society, traditional and religious legitimacies, and the private sector) with Chad’s partners as observers. Similarly, Chad is encouraged to resume dialogue with the political and armed opposition and to implement the resolutions of the Dialogue Nationale Inclusif et Souverain (DNIS). Additionally, all reconciliation efforts should include matters affecting all social groups affected by UCG, particularly women, children, and youth.

8.4 The Republic of Guinea

123. The Republic of Guinea in West Africa covers an area of 245,857 km\(^2\). A decree on 10 March 1893 declared Guinea a French colony independent of Senegal, to which it was previously attached. Integrated into French West Africa (AOF) in 1904, it became an overseas territory in accordance with the provisions of the French Constitution of 27 October 1946.

124. On 28 September 1958, France initiated a referendum for the adoption of a new constitution. In the overseas territories, this referendum was aimed at the creation of a Franco-African community. By voting ‘no’, under the leadership of the Democratic Party of Guinea (PDG) led by Ahmed Sékou Touré, Guinean voters rejected the 1958 French Constitution and immediately opted for full independence. With a 95.2 per cent ‘no’ vote, Guinea declared its independence on 2 October 1958 and was admitted to the UN.

125. In its political evolution, Guinea has undergone the following five constitutional texts: 10 November 1958, 4 May 1982, 23 December 1990, 10 May 2010, and 6 April 2020, and the Transition Charter of 27 September 2021. To date, Guinea has had three UCGs – the coup d’état of 3 April 1984 (following the death of Sékou Touré); the coup d’état of 23 December 2008 (following the death of Lansana Conté); and the coup d’état of 5 September 2021 (following an electoral hold-up by Alpha Condé) – which have exacerbated an already deep sociopolitical crisis.

126. In addition, two instances of constitutional amendments have allowed end-of-term presidents to remain in power. On 11 November 2011, a constitutional review by President Lansana Conté led to the removal of the term-limiting clause. This allowed him to be re-elected and remain in power until his death in 2008. President Alpha Condé used the same procedure in 2020 to overcome the limitation on the number of presidential terms prescribed by the Constitution of 7 May 2010. During the exchanges, the transitional authorities maintained that they considered these various constitutional manipulations to be civil or constitutional coups d’état.

127. Constitutional instability is a source of political instability. In its 64 years of independence, Guinea has, on average, adopted a new constitution every 12 years. Since the constitution has no sociopolitical roots, it cannot serve as a basis for institutions and is thus fragile and liable to collapse at the slightest crisis.

**Key findings**

128. *Ineffectiveness of institutional checks and balances.* The targeted review mission (TRM) notes that the various Guinean constitutions enshrine the principle of the separation of powers and proclaim the attachment of the Guinean people to the democratic republic as a form of organisation of power within the state. In the constitutional texts, in addition to the executive power held by the President of the Republic and the legislative power belonging to the National Assembly, judicial power is entrusted to the courts (i.e., to the courts and tribunals). The TRM notes, however, that in the functioning of the institutions, the separation of powers is not effective. The concentration of power in the President of the Republic coupled with the phenomenon of clientelism, renders the role of institutional checks and balances ineffective.

129. *Interference of the army in politics.* Based on the principle of the submission of military power to civilian rule, the TRM concluded that the role of the army in Guinean society is problematic. In analysing the political evolution of the Republic of Guinea, the TRM noted an interference of the armed forces in the national political life. This situation is a consequence of the instrumentalisation of the army by the political authorities. Successive regimes have relied on the armed forces to suppress the exercising of public freedoms and oppress citizens.

130. *The integrity of elections since 2010 is yet to be underlined by an effective legal and institutional framework.* The 2010 presidential election that followed the seizure of power by Captain Moussa Dadis Camara after the death of General Lansana Conté in 2008, marked a shift towards democracy in the Republic of Guinea. Since then, presidential elections in 2015 and 2020, legislative elections in 2013 and 2020, and municipal elections in 2018 thirteen years after the 2005 election, have been held with minimum use of force. However, the electoral system remains broadly contested and from one election to another seeks ways to mature.

131. *Poor capacity of municipalities is a potential cause of UCG.* The review revealed that the central government, through the tax authorities, either fails to transfer taxes to municipalities, or abolishes taxes. It is also worth noting that the state has abolished the minimum tax for local development. These decisions and facts prevent municipalities from addressing the development challenges of their localities.

132. *Difficulties in controlling regional diversity in the recruitment process in the army.* Internal standards determine the geographical framework for recruitment. The composition of the armed forces, particularly in a conscription system, must reflect the population in its diversity, which the recruitment rules endeavour to achieve by setting quotas by region. The consultations revealed difficulties in controlling and maintaining this diversity in the logic that candidates from some regions manage to recruit on behalf of other regions. This is a potential cause of UCG.

133. *Poor transparency and integrity in public procurement and mining contracts, including tax clauses, infrastructure, and production schedules.* The contracts awarded for the exploitation of public resources do not benefit the Republic of Guinea. Despite mining contract disclosure practices, consultations revealed that there is little visibility on mining contracts, including information on tax clauses, infrastructure and production schedules; citizens are thus not able to understand, monitor or hold government and investors accountable. Public procurement practices are also characterised by a form of favouritism whereby contracts are awarded to the randomly. Even when contracts are disclosed, the annexes granting exemptions are not.
**Recommendations**

134. **Accelerate managed transition to democratic rule.** The Republic of Guinea is urged to implement reforms that protect the institutional independence of all arms of government and guarantee the separation of powers as provided by the constitution. Strategies to reduce the risk of a political crisis and improve the conditions for the smooth transition to a new democratic and sustainable constitutional order should also be implemented. In this regard, the review recommends a focus on the continuation of the inclusive inter-Guinean dialogue through establishment of an appropriate framework to include all stakeholders and which explicitly prohibits the interference of the military in national political affairs.

135. **Implement decentralisation and economic justice measures.** The Republic of Guinea is encouraged to establish a transitional justice mechanism that addresses the consequences of the widespread protests on 28 September 2009 and the old proceedings transferred to the Court for the Repression of Economic and Financial Offences (CRIEF). The continuation and intensification of measures to reduce poverty and redistribute mineral resources equitably among the various populations among others relies on this mechanism. Additionally, the Republic of Guinea is encouraged to implement measures for the effective transfer of administrative and financial powers to municipalities should thus be within a transparent framework of judicial control of local finances.

136. **Improve capacity of the electoral body.** The country is encouraged to strengthen its Independent National Electoral Commission (CENI)\(^\text{17}\) to ensure that it is administratively and technically competent, with appropriately skilled staff to improve its efficiency.

### 8.5 The Union of the Comoros

137. The history of the Union of the Comoros since its independence has been marked by instability. The Comoros has witnessed 20 coups d’état over the past three decades. Much of the political unrest is a consequence of the continuous power struggle between the three islands.\(^\text{18}\)

138. After 134 years of French colonisation, Comoros unilaterally declared its independence on 6 July 1975, under the leadership of Anjouanais Abderamane Ahmed Abdallah. Less than a month later, on 3 August 1975, President Ahmed Abdallah was overthrown in a coup d’état supported by mercenaries led by Bob Denard, whose real name was Gilbert Bourgeaud.

139. A series of coups d’état, coup attempts and separatist agitations prompted the chief-of-staff of the Comorian Army, Colonel Azali Assoumani to seize power on 30 April 1999, citing the need to preserve the territorial integrity of Comoros in the face of the serious threat from the Island of Anjouan. Since this coup, the country has resolutely embarked on the path of democratic and political stability and socioeconomic development, albeit with challenges.

**Key findings**

140. **A profound deregulation of the constitutional order through armed interventions.** The Comorian constitutional movement is quite recent and is thus still marked by its colonial past. The unilateral declaration of the independence of Comoros by President Abdallah in 1975, occurred in a context of dissension between French and Comorian authorities, which made it impossible for the two parties to define an appropriate framework of cooperation in line with the process of decolonisation, notably in defence and security. Decolonisation was thus unilateral and incomplete and resulted in insularity. Although the four islands that make up the Comoros share a common language, their archipelity and insularity lends them social identities that are peculiar to each island. Finally, the excesses of the struggle

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17 CENI is an abbreviation for Commission Électorale Nationale Indépendante

for power between political actors, and competition for the acquisition of state power in Comoros still results in violence, intolerance and radicalisation.

141. **Most UCGs perpetrated in Comoros were initiated from outside the country.** As mentioned above, the mercenary, Bob Denard, was responsible for nearly all the military coups recorded in Comoros. In the view of the *Collège des Sages* constituted by former top government officials and international organisations, this factor is still present. Of the four Islands that make up the Comoros, the island of Mayotte is still under French administrative control and falls outside territorial control of Comoros. There are tensions in the Comoros concerning the sovereignty of Mayotte. The French control of the Island of Mayotte has resulted in security challenges for the Comoros as the Island has allegedly served as a base for mercenaries in the past. Several separatist leaders also resided in Mayotte during the 1997 separatist crisis. On the one hand, important disparities exist between islands and on the other, the latent threat that terrorism poses to the country. With regard to disparities, discussions held on different islands, especially Anjouan and Moheli, touched on social and political marginalisation that have caused resentment and frustration that are likely to provoke irredentist tendencies. This situation is attributed to the weak level of national unity and social cohesion among islands. Civil society organisations and political parties which the review team met in Anjouan and Moheli drew its attention to this aspect.

142. **Challenges with electoral integrity.** During the last general elections in 2019, the international observation missions deployed by the African Union Commission, COMESA, and the East African Standby Force (EASF) noted several irregularities in the voting process. There were profound divisions between the political actors, some of them boycotting elections.

143. Regarding the irregularities observed, the observation missions did not arrive at an objective decision on the transparency and credibility of the election of 24 March 2019. A boycott of the national conference, inter-Comorian national dialogue and the different elections, by an essential component of the opposition, meant that Comoros could not facilitate the building of consensus around the electoral rules and institutions.

144. The 2018 Constitution ushered in a new era of reforms based on the recommendations from the 2017 Conference on socioeconomic life. A change in the management of the presidential rotation introduced three major elements: i) the possibility of a presidential mandate renewable after the 2019 elections, which was motivated by the need to ensure continuity of development programmes; ii) centralisation of resources in a central account of the Treasury to address conflicts of competence and rationalise operating expenditure; and iii) development of the 2030 Comoros Emergent Plan.

145. Some of these reforms have yielded results; others have encountered implementation difficulties and remain incomplete. The economic counter-performance that resulted has created an environment conducive to violent unconstitutional political change.

146. **France’s membership of the Indian Ocean Commission (IOC) is problematic.** Indeed, although accession of Comoros to the IOC in 1986 has been beneficial, and has helped with achievement of peace and stability, and economic and social development, France’s participation as a member state representing the island of Reunion poses challenges. It was alleged that France has made several attempts to get Mayotte to join the IOC as a fully-fledged member state. There were concerns that France pursues this agenda despite international and domestic law’s position on the matter, both of which recognise Mayotte as part of the Union of the Comoros.

**Recommendations**

147. **Institute a nation-building process.** A permanent framework for dialogue between Comorians, at both central and island levels, which includes all the dynamic forces of the nation, with particular focus on the governorates, political parties of the opposition, youth and women should be implemented. A framework for consultation between political actors and other stakeholders will promote harmonious relations with the opposition, create a conducive environment for future electoral competitions, and consolidate a
climate of confidence that will promote peace and stability. The Comoros is also encouraged to develop a policy for enhancing national sentiment among Comorian populations, particularly those of the islands of Mohéli and Anjouan.

148. Observe the supremacy of the constitution. Stringent guidelines to avoid untimely and frequent reviews of the constitution will bolster the country against institutional insecurity, which has the potential to disrupt established institutional balance and compromise effective consolidation of republican values and patriotism. The AU is encouraged to accompany and support the Union of the Comoros in all political, legislative and institutional reforms with a view to ensuring effective democratic governance by the state.

149. Improve the elections landscape. The Comoros is encouraged to establish an independent institution to organise and manage credible, transparent, free and fair elections. Such an entity will facilitate accreditation of civil society organisations and the media as national observers for the electoral process, aided by international observers and facilitate establishment of a new consultation framework before the next presidential elections in 2024, following the Fomboni Declaration. The AU is encouraged to assist the Union of the Comoros to organise transparent and peaceful elections in 2024 and 2025 and, as in the past, act as observer for the next electoral process.

150. Combat cross-border terrorism. Develop and implement development policies that focus on the territorial integrity and territorial justice. This requires security and defence forces (SDF) to be sensitised to the terrorist threat and regional geopolitical issues.

8.6 The Republic of the Sudan

151. In the sixty years since its independence in 1956 the Republic of Sudan has witnessed three military coups that set up authoritarian regimes that ruled for 48 years; its democratic period lasted only 15 years. Except for the 11 years of peace from 1972 to 1983, civil war has continued since independence with profound effects on the lives of the people who suffered famine and resulted in the displacement of more than four million. According to estimates, over the course of two decades more than two million people were killed or died indirectly because of the war.

152. Peace talks between the Sudan government and the rebel movement, the Sudan People's Liberation Army (SPLA) began in 2002 and ended with the Comprehensive Peace Agreement (CPA) in January 2005. A period of autonomy culminated in a referendum in which South Sudan won independence.

153. Sudanese political crises have manifested in coups, wars, economic decline, administrative chaos and corruption with no consensus or compromise among political leaders, who offer only a military coup to remedy political disagreements or the demands of marginalised areas, such as the south and Darfur.

154. In October 1964 revolution revived an ideological discussion of whether the country's constitution should be Islamic or secular. The constitution committees of the first and second constituent assemblies dealt intensively with this issue. Traditionally, right-wing parties adhere to the Islamic constitution option, in opposition to the secular camp, which has been associated with modern forces and urban classes and a better-educated population led by leftist intellectuals.

155. In November 1965 the Communist Party was dissolved which weakened its influence and other modernist forces that emerged after the October 1964 revolt.

156. On 25 May 1969, Colonel Gaafar Nimeiry led a coup against the supporters of an Islamic constitution. The regime issued a secular constitution that restricted freedoms and political action and ushered in a one-party system. In 1983 Nimeiry turned his back on secularism, and, announcing the 'application of Islamic Sharia laws' began to impose harsh Islamic penalties. These laws threatened national unity; civil war broke out again in the south in 1983. Nimeiry was overthrown in April 1985 by a popular uprising supported by the army. Although the democratically elected government of Sadiq al-Mahdi endeavoured
to reach a peace agreement with the rebels in the south, those efforts were halted by the Islamist military coup in June 1989 led by Brigadier General Omar al-Bashir.

157. Omar al-Bashir ruled the country in coalition with various Islamist groups until December 2018, when a peaceful popular uprising led to his downfall in April 2019 and an end to the 30-year authoritarian rule by the Islamist National Congress Party (NCP).

158. Two years later, on 25 October 2021, Lieutenant-General Abdel Fattah al-Burhan staged a military coup that stalled Sudan’s political transition towards civilian rule, dissolving government and declaring a state of emergency. Abdel Fattah al-Burhan took what he called ‘corrective action.’ Prime Minister Abdullah Hamdok was placed under house arrest and four officials of the civilian component of the government were detained. Hours after the arrests, the general appeared on national television explaining that he had no option but to take power to correct the course of the revolution and prevent a civil war. He declared a state of emergency and dissolved the transitional government by cancelling crucial articles of the constitutional declaration. Al-Burhan further announced the appointment of a new transitional government of technocrats within a week to lead Sudan to elections in July 2023.

Key findings

159. Military dominance over the politics of Sudan persists, and devolution and decentralisation of power have proven difficult. The apparent connection between the military class and previously warring factions, as well as their economic hold on the resources in their respective states, has granted little or no power to civilians. As a result, despite the seemingly even distribution of power between civilian and military representatives within the sovereign council, the military representatives within the council tend to have more influence in the final decisions made on crucial aspects of reform and governance. This is most likely because the military holds the presidency of the sovereign council.

160. The Sudanese military has vast business interests in almost all economic sectors. Consultations suggests that this is a key contributor to economic distortions in the country because security-sector-linked businesses enjoy tariffs exception, tax exemptions and superior networks, which crowd out private-sector competition. Representatives of the private sector believe Sudan will not achieve significant debt relief if it fails to rationalise the parallel economy linked to security-sector-controlled businesses. Sudan recently undertook a review of the status of industrial and commercial companies owned and controlled by the security sector, which is known to have an economic presence and business interests in most sectors.

161. Economic challenges foster conflict. The review learnt that the popular public sentiment – that people were better off during the previous regime – will continue to grow if economic challenges are not addressed and could be a cause for conflict in the future of Sudan. Individuals in civil society and the private sector warn that the prevailing conditions resemble those that led to the revolution that overthrew the al-Bashir regime. The review further established that both civil society and private sector believe that the continued influence of the military class over access to vital natural resources is eroding the progress made by the transitional government to address accountability and human rights violations, which undermine peace and stability.

162. A lack of coordination in planning between the federal government and the states. The general sentiment of the states was that the federal government neglects and marginalises them in decision-making, national planning and resource allocation which may lead to future conflict. The budget-making process should be consultative, bottom-up and non-discriminatory.


20 Ibid
163. **Profound weaknesses in non-security-sector public institutions** contribute to a huge loss of public resources and concentration of wealth in the hands of a few politically connected individuals. It is unclear whether these resources are kept within the country or expatriated to other countries, thus feeding into the illicit financial flow phenomenon.

164. **An absence of key institutions of accountability and transparency:** where these do exist, they are often weak and unable to function effectively due to capacity constraints. The collapse of key institutions also caused rampant corruption, economic distortions, sectoral imbalances, and patronage networks and led to loss of public trust.

165. The review received confirmation from the Ministry of Labour and Social Development that the private sector and civil society are optimistic that the government is prioritising building and strengthening institutions to address corruption and facilitate recovery of large sums of financial resources embezzled during the previous regime.

**Recommendations**

166. **Revive the national peace and reconciliation process.** By adopting a permanent constitution that follows a nationwide process run by an independent Constitutional Commission (Office of the Prime Minister, mediators, representatives of the African Union, UN) government can bring rebel groups on board. The government is also encouraged to initiate the Demobilisation and Disarmament National Programme in Sudan which should also ensure that the participation of the military in the economy, politics and civilian life is effectively regulated. Accordingly, the government is encouraged to develop and implement agreements on nation-building that minimise external influence on the peace process in Sudan and represent the various sectors of society in the peace-building process. Efforts should reinforce the role of national experts in the peace-building process and implement key provisions of the Juba Peace Agreement. Government is also encouraged to set up a Sudan Transitional Development Fund to finance key provisions of the peace agreement.

167. **Broaden participation in the armed forces.** Owing to the centrality of the military in the Sudanese society, the government is encouraged to undertake an audit of the participation of all social groups at various levels and professions in the military, particularly women.

168. **Build capacity for elections and reconstruction** that includes training of political parties and civil servants on how to maintain peace and security (parliament, public service commission, international experts, African Union and the UN). Community centres should be developed in all regions for healing and psychological support to the victims of war such as Peace Commission, Higher Peace Council, Ministry of Social Development and other related bodies may include Peace Commission, Transitional Justice Commission, Refugees Commission, Reparations Authority (Parliament, Ministry of Justice, Judiciary).

169. **Reforms in government procurement and contracting.** An urgent review of the laws and rules for procurement, contracting and surplus disposal is required to match and harmonise them with international and national standards for procurement.

**9. EFFICACY AND EFFECTIVENESS OF SANCTIONS REGIMES**

170. The high-level African Union–African Peer Review Mechanism (AU–APRM) consultative mission to the UN and US government on Review of Normative Frameworks on Sanctions Regimes for Unconstitutional Change of Government took place from 16 to 23 October 2022 in New York and Washington DC in the US.
171. Within the multilateral system and institutions and among member states of the UN and AU, the response to UCG includes the application of sanctions, which, according to the UN, is an intervention that may be imposed on individuals, groups, businesses, institutions, or governments following violation of a law or binding oath. Sanctions may include travel bans, transport control, asset freezes, military sanctions, and arms embargoes as well as diplomatic, cultural, trade and financial sanctions. The UN Security Council implements sanctions to maintain or restore international peace and security under Chapter VII of the UN Charter.

172. The consultative missions to review the normative frameworks for UCG were undertaken based on the significance of sanctions as a response to UCG.

173. The purpose of the AU–APRM mission to the UN in September 2022 was to obtain information and perspectives from the UN and US government on the impact, challenges and proposals for reform of sanctions regimes on UCG and specifically, to undertake an expert analysis of the efficacy and effectiveness of the AU and REC normative frameworks on sanction regimes for UCGs.

174. It was envisaged that the consultations would inform development of recommendations regarding the ongoing AU institutional processes on the review of guidelines for sanctions on UCGs, and recommendations pertaining to the conditions and human rights of affected populations in UCG situations.

175. Consultations were held with the UN Security Council Secretariat Branch (SCSB), which supports the work of the council, especially its rotating presidency, facilitates formal and informal meetings and other activities, manages the council’s monthly and daily programme of work, provides procedural advice, and supports council missions to countries and regions of concern. The SCSB also contributes to the drafting of key official documents including the Security Council’s Annual Report to the General Assembly, the Volumes of Resolutions and Decisions and the list of matters of which the council is seized.

176. The mission also held consultations with the Africa Group of the Security Council (A3) which consists of three non-permanent members of the Security Council. The A3 coordinates efforts on various topics, ranging from health and migration to issues of peace and security and holds regular meetings to receive briefings from guests and UN officials and discuss UN resolutions and topics to reach a common African position. The A3 is chaired by an ambassador from a member state, with the position rotating monthly. Additionally, to obtain perspectives on targeted sanctions, the mission held consultations with the US Department of State which advises the president and leads the nation in foreign policy issues, including sanctions. The US Department of State negotiates treaties and agreements with foreign entities and represents the US at the UN. The mission also met the US Department of Treasury which develops and implements economic sanctions.

177. The mission also held extensive consultations with representatives of permanent missions to the UN who preside in various security council sanctions committees and are responsible for organising and coordinating participation of member states in the work of the organisation.

178. Ten key informant interviews were conducted, using a qualitative in-depth guide, and five expert review meetings were held.

9.1 Background to sanctions regimes

179. The AU has applied sanctions related to UCG on several Member States since 2003. The application of sanctions on UCG is guided by Article 23 (2) and Article 30 of the AU Constitutive Act, Article 7 (g) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol), the Lome Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government, Article 25 of the African Charter on Democracy, Elections and Governance, which provide respectively as follows:
Article 23 (2) of the Constitutive Act: Any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of transport and communications links with other member states, and other measures of a political and economic nature to be determined by the Assembly.

Article 30 of the AU Constitutive Act: Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.

Article 7 (g) of the PSC Protocol: Institute sanctions whenever an unconstitutional change of government takes place, as provided for in the Lome Declaration.

Article 25 of the African Charter on Democracy, Elections and Governance: When the Peace and Security Council observes that there has been an unconstitutional change of government in a State Party, and that diplomatic initiatives have failed, it shall suspend the State Party from the exercise of its right to participate in the activities of the Union in accordance with the provisions of article 30 of the Constitutive Act and 7 (g) of the Protocol. The suspension shall take effect immediately. The suspended State Party shall continue to fulfil its obligations to the Union, in particular with regard to those relating to respect of human rights. Notwithstanding the suspension of the State Party, the Union shall maintain diplomatic contacts and take any initiatives to restore democracy in that State Party. The perpetrators of unconstitutional change of government shall not be allowed to participate in elections held to restore the democratic order or hold any position of responsibility in political institutions of their State. Perpetrators of unconstitutional change of government may also be tried before the competent court of the Union. The Assembly shall impose sanctions on any Member State that is proved to have instigated or supported unconstitutional change of government in another state in conformity with Article 23 of the Constitutive Act. The Assembly may decide to apply other forms of sanctions on perpetrators of unconstitutional change of government including punitive economic measures. State Parties shall not harbour or give sanctuary to perpetrators of unconstitutional changes of government. State Parties shall bring to justice the perpetrators of unconstitutional changes of government or take necessary steps to effect their extradition. State Parties shall encourage conclusion of bilateral extradition agreements as well as the adoption of legal instruments on extradition and mutual legal assistance.

180. Accordingly, the PSC at its 178th meeting held on 13 March 2009, decided to establish a Committee on Sanctions to conform with Article 8 (5) of the Protocol which states that the Council may establish subsidiary bodies and sub-Committees as it deems necessary for the performance of its functions. In order to ensure the full realisation of this decision the PSC in December 2009 adopted the Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Government in Africa.

181. The Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union (Framework) in Situations of Unconstitutional Changes of Government in Africa stipulates the mandate of the Committee shall be to monitor and make recommendations on the implementation of sanctions regimes imposed by the PSC in situations of unconstitutional changes of government.

182. The Framework also states that PSC Committee on Sanctions will perform the following functions:

i. Monitor the implementation of sanctions measures imposed by the PSC.

ii. Seek from all Member States, relevant information regarding the actions taken by them to effectively implement the sanctions measures imposed by the PSC and whatever additional information it may consider useful in this regard.

iii. Examine information regarding alleged violations of sanctions measures imposed by the PSC and recommend appropriate action if necessary.

iv. Identify individuals and entities to be included in the list for the imposition of targeted sanctions pursuant to the provisions of a PSC communiqué imposing sanctions.
v. Consider and recommend, upon request, exemptions from sanctions measures as set out in a PSC communiqué.

vi. Review regularly the list of individuals and entities designated by the PSC, with a view to keeping the list as updated and accurate as possible and to confirm that listing remains appropriate, and to encourage Member States to provide any additional information whenever such information becomes available.

vii. Report at least once a month to the PSC on its activities and on implementation of the communiqué, including on ways to strengthen the effectiveness of the sanctions measures imposed by the PSC.

viii. Identify cases of non-compliance with the sanctions measures pursuant to a PSC communiqué and to recommend the appropriate course of action on each case, for the attention of the PSC.

183. The AU employed the above normative framework to prevent and manage UCG and mitigate its effect. To date, the PSC acting pursuant to Article 7 (g) of its Protocol has imposed sanctions on Member States in response to instances of UCG 21 times. In two instances the PSC imposed targeted sanctions that included denial of visas, travel ban and asset freeze. However, the PSC Sub-Committee has not always been active in addressing situation of unconstitutional changes of governments. It is for this reason that the PSC at its 1061st meeting held on 27 January 2022 under the theme “Promoting Constitutionalism, Democracy and Inclusive Governance to strengthen Peace, Security and Stability in Africa” requested the AU Commission to reactivate the said Sub-Committee to provide support to the PSC and follow up on the implementation of sanctions imposed by the PSC, as well as to provide the necessary support and coordinate with the REC’s/RMs.

184. Furthermore, at its 1100th meeting held on 15 August 2022 on Sanctions and Enforcement Capacities: Deterrence Against Unconstitutional Changes of Government, the PSC called for the full operationalization of the PSC Sanction Committee and the development of the requisite technical capacities to ensure its effectiveness, including the holding of appropriate capacity-building training programmes for the Sub-Committee in line with the Decision of the May 2022 16th Extraordinary Session of the AU Assembly of Heads of State and Government in Malabo, Equatorial Guinea. The PSC directed the Committee of Experts to urgently develop the Terms of Reference (ToRs) for the PSC Sub-Committee on Sanctions.

185. The PSC equally directed the Commission to put in place a solid sanctions infrastructure using, the available resources in the Political Affairs, Peace and Security Department that will effectively support the work of the PSC Sub-Committee on Sanctions, as well as a monitoring and evaluation group, to assess the implementation of the sanctions imposed against the Member States.

186. The PSC also underlined the importance of refining existing sanctions pronouncements into consistent frameworks that are aligned with the current evolution of the challenges they are meant to address; in this regard, the commission, in collaboration with the UN stakeholders and relevant African research institutions and think-tanks including the African Members of the UN Security Council (A3) and UN Security Council Permanent Members requested that an effective collaborative mechanism be explored and developed to strengthen the AU sanctions regime and provide appropriate technical capacity to the PSC Committee of Experts and the Military Staff Committee.

187. In the same way, the PSC expressed the essence for sanctions to be smartly targeted to the concerned parties and avoid precipitating unnecessary hardships on the citizenry of concerned countries; while renewing the call for a new strategic approach that will simultaneously employ mediation and peace-building to prevent and resolve conflicts.
9.2 Key findings

188. The mission found that there is coherence between UN and AU regimes. The Africa Group (A3) and UN experts and staff conceded that the safeguarding of human rights is a shared value of the AU and the UN, despite their different approaches. They reaffirmed that human rights are universal rights that should not be relegated to a particular organisation and that the enforcement of human rights needs to be widened. A pertinent issue mirrored by both the Africa Group and UN experts and staff was the idea that while it is advisable for the AU to learn from the UN model of sanctions, it must be careful not to replicate the UN's mistakes. The establishment of an original, African model to reflect African realities was strongly encouraged.

189. The Africa Group highlighted that the fundamental principles of peace, security and respect for human rights for the establishment of sanctions between the AU and the UN are the same, although their approaches are different. These differences arise from the enforcement mechanisms of both organisations as decisions made by the AU are carried out by heads of state through the Peace and Security Council, while those of the UN are carried out by the Security Council through expert panels.

190. The mission also found a lack of effective synergy between the AU and ECOWAS sanctions regimes and that of the UN, especially in addressing conflict issues, which, they argued, was due to differences in approaches and resources. The group indicated that, unlike the AU, the UN has sufficient resources and stronger mechanisms. Additionally, and unlike the AU, the UN publishes a list of the names of leaders of armed groups, which are subsequently referred to the International Criminal Court of Justice at The Hague, for prosecution. This is an effective practice since most leaders do not want to be stigmatised and would like to remain unknown. The UN experts and staff also stated that the reparation of assets belonging to leaders of UCGs to the victims of violence ought to be formalised and enforced especially at the sub-regional level for it to be effective.

191. Regarding the efficacy of AU sanctions, in respect of legislation and instruments on normative frameworks for sanction regimes in Africa, the Africa Group stated that ECOWAS has more accomplishments than the AU in supporting democratic and governance efforts in West Africa. For the AU to be more effective, the Africa Group pointed out that its approaches need to be coordinated on a larger scale and include sub-regional organisations. In addition, the Africa Group cautioned that failure to enforce sanctions during the transition phase could lead to the targeting of individuals thus affecting the escalation ladder.

192. The Africa Group also concluded that the AU legal framework for sanctions is robust but is hampered in its swift enforcement by a bureaucracy that involves several entities delegated by the Assembly, all of which apply intricate decision-making processes. Additionally, the experts and the A3 indicated that while the consensus approach to decision making is considered the most optimal principle in the AU, the lack of a voting option creates significant delays in decision making.

193. The A3 and experts further highlighted the absence of an institutionlised entity within the AU that has permanent staff contingent of sanctions experts with the responsibility of examining situations and determining the type and scope of sanctions. Among others, the group indicated that the absence of such an entity limits the understanding of critical elements of the escalation ladder, and application of expert knowledge. The lack of a specialised entity also affects capacity for proper monitoring of efficacy and evaluation of the effectiveness of sanctions. They also highlighted that the sanctions framework excludes bans on major events and sports competitions as most member states are either involved at least one of the above sanctions.

194. The Africa Group cautioned against the introduction of broad economic sanctions, arguing that they exact a heavy toll on developing countries, especially African countries. They highlighted that although adverse effects are inevitable in some instances, measures must be taken to minimise their effect on the population. They pointed out that if indiscriminately implemented, economic sanctions could provide political capital for UCG leaders to mobilise the population against AU sanctions, which would be
counterproductive. Additionally, the group pointed out that the lack of globally corroborated application of AU sanctions may accord UCG leaders in African member states protection in defiance of sanctions.

195. Another key finding of the report was that while sanctions are a tool to encourage change toward positive behaviour that is beneficial for the development of a nation, they must be part of a broader package of response to deviation from agreed norms as they are not as effective if they are applied alone. The package may comprise different types of measures such as visa restrictions, debt and/or financial embargos, and many other measures such as trade and export controls, which may not necessarily be classified as sanctions.

196. The private sector was identified as an important entity in the application of sanctions by states, particularly in instances of financial sanctions, which are coordinated by central banks. Such measures as those applied by the central banks to compel the private sector to corroborate sanctions are significant in this effort.

197. It was observed that counter terrorism (CT) sanctions are comparatively enforced more diligently and rigorously than those for UCG. The CT framework can inform how similar AU sanctions and related frameworks may be implemented to prevent UCG.

9.3 Recommendations

198. The following recommendations on the nature and scope of sanctions, as well as those pertaining to the review of institutional procedures within the AU are proposed. The AU is encouraged to strictly implement instruments that are already in place, namely: the Constitutive Act, the Lomé Declaration, the PSC Protocol, African Charter on Democracy, Elections and Governance, Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in situations of Unconstitutional Changes of Government in Africa and to focus on preventive measures.

199. The following are the recommendations of ensuring an effective sanctions regime against UCGs:

- Swift and consistency by the AU in imposing sanctions.

- Application of effective targeted sanctions against the perpetrators of UCG and their associates. The AU should broaden the spectrum of its sanctions and consider all forms of sanctions, including targeted sanctions, trade in minerals bans, weapon import bans, and human-rights-related criteria; such criteria, which must emphasise the centrality of the rights of women and children, should be a benchmark for the escalation ladder.

- Establishment of an Expert Group to support the PSC Sanctions Committee.

- Enhanced coordination on the sanctions imposed by the AU with RECs and the international community. The efficacy of AU sanctions regime is limited when applied within the confines of Africa. AU sanctions need to be corroborated by, and implemented jointly with RECs, UN and other powerful actors within the international community.

- Redefining and sequencing the escalation ladder to reflect clear parameters and actions targeting the leadership of UCG and associates.

- Monitoring and lifting sanctions in a timely manner. The AU should constantly monitor countries under sanctions to assess the extent to which the objectives of the sanctions have been attained. This will also mitigate the impact of sanctions on the population that was not targeted.
10. CITIZEN’S VOICES ON UCG

200. The AGR23 recognises the centrality of public perceptions on UCG in addressing the phenomenon. Accordingly, the report represents the opinions of citizens from the entire spectrum of African society. The citizen’s voices or perceptions, or ‘voice of the people’, be considered in this report as the manifestation of the collective conscience and expression of a people on a matter. In the AGR23, citizen’s voices comprise the people’s ideas, reflections and opinions on the political will, government policies, actions, and capabilities in preventing, managing, and mitigating UCG.

201. To this end, the AU held extensive consultations and examined review reports to gain a comprehensive view and understanding of how citizens are impacted by UCG.

202. The first was the Citizen’s Forum on Democracy and Unconstitutional Changes of Government organised by the Economic Social and Cultural Council (ECOSOCC) in collaboration with the African Peer Review Mechanism. The forum received over 200 representatives from academia, think tanks, faith-based organisations, media, and civil society organisations. The forum provided citizens with a platform for in-depth reflection on social, economic, and political contexts given the recent upsurge of UCG in Africa, and also aimed to enhance the understanding of the AU institutional and normative frameworks on UCG. The deliberations also sought to examine the potential role that non-state actors, including civil society, can play in implementing these important agendas.

203. The second was the Youth Forum at the 11th High-Level Dialogue on Democracy, Human Rights and Governance Trends, Prospects and Challenges. The APRM held consultations with the youth to gather their perspectives on issues affecting their lives as well as highlight the role of youth in addressing UCG on the continent. The focus was centred around the analysis of the normative frameworks of the AU and RECs against UCG and how these affect meaningful inclusion of youth in political and socioeconomic systems.

10.1 Findings

204. Public access to information. The Youth Forum highlighted deficiencies in public access to information and the need to increase accountability by making public information on the state of governance available to and accessible by African citizens. The forums raised strong concerns about the proliferation of fake news and propaganda and its role in misinforming citizens and misguiding the actions of youth. The forum also noted that although there has been progress at national, regional and continental levels in developing frameworks to tackle UCG, their selective and inconsistent application contributes significantly to the recurring use of UCG.

205. UCG undermines opportunities for businesses by disrupting the operating environment. Youth noted that UCGs drive away foreign business interests and associated opportunities, heighten economic instability, increase poverty, and create conditions conducive to UCG.

206. Participation of women. The report found persistent hindrances to the participation of women that include cultural norms and traditional beliefs and institutional structures which limit participation in political leadership and results in the inadequate recognition of women’s contribution to peace, security, and development at national, subregional and continental levels.

10.2 Recommendations

207. Increase civil involvement and engagement. Citizens urged the AU to consider civil society in establishing a PSC Sub-Committee on unconstitutional changes of government in line with Article 8(5) of the PSC Protocol. Citizens requested increased involvement and engagement in AU processes through the ECOSOCC and AGA Platform, and in the envisaged finalisation of the AU Guidelines for the Amendment of National Constitutions, in line with existing frameworks on constitutionalism and rule of law.
208. **Address the root causes of social and political unrest.** Member states are encouraged to invest in addressing the structural root causes of social and political unrest that lead to unconstitutional changes of government by rebuilding public trust in governments, accountability of state institutions, inclusive development and livelihood provision, quality and sustainable service delivery and effective participation and inclusion of citizens in decision-making.

209. **Increase civil engagement with AU structures.** Citizens called for greater, structured engagement with AU structures including engaging and collaborating with civic empowerment bodies to strategically promote and enhance citizen awareness, sensitisation, tracking implementation, and technical support to member states. Engagement also include annual high-level dialogues to promote and enhance meaningful participation and engagement of citizens in governance.

210. **Youth participation.** The AU and member states are encouraged to introduce and increase youth participation and, specifically, adopt quotas to ensure adequate representation of youth in critical public political and economic institutions and platforms at national, regional and continental levels.

11. **CONCLUSIONS AND WAY FORWARD**


212. The first is Assembly Decision/AU/Dec. 815(XXXV) of the 35th Ordinary Session, held in February 2022, which expressed deep concern about the resurgence of UCG in Africa. The Assembly called on member states to uphold constitutionalism and fully respect all AU shared values, normative instruments and legal instruments, particularly the AU Constitutive Act and the African Charter on Democracy, Election and Governance (ACDEG).

213. The second is the Assembly Decision of the 16th Extraordinary Session of the African Union Assembly of Heads of State and Government on Terrorism and Unconstitutional Changes of Government held on 28 May 2022 in Malabo, Equatorial Guinea, as well as other AU meetings and forums which directs that the AGR23 focuses on UCG and terrorism.

214. This Key Highlights document has summarised the outcomes of the analysis of influences, causes and triggers of UCG arising from deficits in the integrity of democratic elections; constitutional order and state legitimacy; diversity management and human rights; economic governance and public sector accountability; and the dynamic of popular uprising, militarisation, and terrorism.

215. The report presents six country case studies related to UCG through targeted reviews of the Kingdom of Lesotho, the Republic of Sierra Leone, the Republic of Chad, the Republic of Guinea, the Union of the Comoros, and the Republic of Sudan. Equally pertinent are the findings and recommendations on the efficacy and effectiveness of the normative framework of the African Union sanctions regime.

216. The report organised the key recommendations for action at the level of the AU, RECs and member states. Recommendations presented fall into the following broad operational categories:

i. Recommendations encouraging states to ratify protocols and undertake reforms of domestic legislation necessary for addressing the deficits identified in the five thematic areas.

ii. Recommendations calling for improvements in the institutional mechanisms for implementation of critical programmes.

iii. Recommendations emphasising the need for inclusive participation in nation-building.
11.1 Ratification of protocols and reform of domestic legislation

217. **Ratify and domesticate regional and continental instruments.** Member states are encouraged to ratify and domesticate regional and continental instruments such as the Malabo Declaration on Terrorism and Unconstitutional Changes of Government in Africa. The adoption, ratification and domestication of protocols such as those on Free Movement of Persons, Right of Residence and Right of Establishment, seeks to ensure the protection of human rights of displaced populations and prevent socioeconomic and political disenfranchisement. The report concludes that domestication of such instruments may prevent the recruitment of displaced populations into mercenary groups, which act as destabilising elements.

218. **Adopt regional and domestic instruments on control of illicit trans-border arms movement, drug trafficking, illicit financial flows and human trafficking and smugglings.** The report highlights that such cross-border activities have implications for UCGs regarding financing of the operations. Similarly, the domestication of human rights frameworks into law is important for the improvement of citizens’ rights in member states, particularly marginalised groups such as women, children, immigrants, and ethnic minorities.

219. **Constitutional review processes and alignment of national constitutions with the fundamental principles of universal suffrage.** The report emphasises supremacy of the constitution and encourages member states to expedite outstanding constitutional review processes and consistently pursue alignment of national constitutions with the fundamental principles of universal suffrage. In all instances where the military has been central to public political life, the report encourages concerned member states to work towards re-establishment of civilian rule and is also encouraged in member states where military rule is still in place.

11.2 Improve institutional mechanisms

220. The AU is encouraged to explore modalities for enhancing the effectiveness of the African Court on Human and People’s Rights, and national judiciaries, in the determination of UCG and application of remedial action. Accordingly, member states are encouraged to ratify the Protocol to the African Charter on Human and People’s Rights on the Establishment of an African Court.

221. **Institutions to ensure electoral integrity, separation of powers for checks and balances, and efficiency of state institutions are critical mechanisms for the prevention, management, and mitigation of UCG.** The report encourages member states to promote and support the conduct of fair elections, curb illicit flow of finances, and improve public sector accountability through the agency of these institutions. Member states are therefore encouraged to demonstrably increase public investment in, and autonomy of, these institutions.

222. **Build institutions that promote accountable and responsive governance, the supremacy of the constitution, and the capacity and accountability of public officials.** Member states are encouraged to support, through resource allocation, the independence of the three arms of state. Equally pertinent are the recommendations that encourage member states to undertake comprehensive decentralisation and implement measures that promote inclusive economies to limit conditions that enable UCG.

11.3 Inclusive participation and nation building

223. **Deepen nation-building processes based on inclusive and democratic principles.** Nation-building efforts anchored in the creation of cohesive society are encouraged; member states are urged to institute and deepen nation-building processes based on inclusive and democratic principles. The report recognises the commendable efforts of member states that have initiated national dialogues for reconciliation, transition to civilian rule and sector reforms. The report therefore encourages member states to implement the recommendations from these dialogues and engage all sections of society, regardless of race, gender, age, ethnicity, faith, or geographic location. The report notes that women and children are particularly affected by unconstitutional changes of governments and their involvement in
decision-making and transition to the democratic states is thus encouraged. Women’s participation and representation in political leadership is important in building inclusive and equal societies. To this end, member states are encouraged to introduce political education at all levels of the education system.

11.4 Next steps

224. The drafting of the Africa Governance Report 2023 (AGR23) on Unconstitutional Change of Government in Africa was developed through a rigorous process that included review and validation of the outcomes by the APRM Panel of Eminent Persons and the AU Panel of the Wise; National Secretariat Coordinating Committee; NGC Continental Consultative Committee; PSC-APRM Joint Retreat; APRM Methodology Forum and the AGA Validation of AGR23 at technical level.

225. Following the adoption of this report by the 36th Ordinary Session of the African Union Heads of State and Government based on the recommendation of the 32nd APR Forum of Heads of State and Government, the AGR23 will be launched and disseminated in all five regions of the African Union coordinated by Regional Economic Communities, and thereafter in AU member states.
2023-02-10

1139th Meeting of the Peace and Security Council Held on 10 February 2023, on the Consideration of the Presentation on the Draft Key Highlights of the Africa Governance Report 2023 by the African Peer Review Mechanism (APRM).

Peace and Security Council
African Union Commission

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