

# Data for Governance Alliance Policy Brief No.16

The people demand a working social contract: Responding to unconstitutional change of governments in Africa

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#### 1. Introduction

Until recently, coups – defined as violent and illegal seizure of power from a constitutionally elected government – had been on an overall downward trajectory in Africa since the 1960s.¹ Historically, Africa has topped the coup charts globally, trailed by Latin America.² In recent years coups are resurfacing in the West, Central and Sahel regions of the continent. When the Heads of State and Government of the Organization of African Unity (OAU) met at the Thirty-sixth Ordinary Session Assembly in Lomé, Togo in July 2000, they adopted the Lomé Declaration of July 2000 on the framework for an OAU response to unconstitutional changes of government.³ Still, other waves forced action. After Lomé, an African Union (AU) Assembly in 2009 adopted a Decision on the Resurgence of the Scourge of Coups D'état in Africa, which strongly condemned coups that had taken place in Mauritania (August 2008), Guinea (December 2008) and an attempted coup in Guinea Bissau (August 2008). Most recently, the AU Declaration on Terrorism and Unconstitutional Changes of Government in Africa⁴ was adopted at the 16th Extra-Ordinary Session of the AU Heads of State and Government in Malabo, Equatorial Guinea on 28 May 2022.⁵

The African Peer Review Mechanism (APRM)'s third <u>Africa Governance Report 2023</u> (AGR23) released in July 2023 which focuses on UCGs, documents 18 incidences of UCG since the AU was formed, from March 2003 to September 2022. The 2023 developments in Niger and Gabon are not captured. Interestingly, the November 2017 "military-assisted transition" in Zimbabwe is omitted, and one may surmise that this was not considered a coup.

The problem of UCGs is one that does not lend itself to singular nor easy resolution. This is because the problem has nuance. For example, if an unscrupulous leader steals an election and rises to power by breaching or subverting the constitution, and then a few months later is deposed from office through a coup, is this an unconstitutional change of government? If yes, does that assume the government was constitutional in the first place? Or does unconstitutional change of government only occur when the government in place was constitutional to start with?

Currently, the definition has largely been limited to military takeovers of government, many times blind to the underlying currencies that define the deposed government or its rise to

<sup>&</sup>lt;sup>1</sup> According to Solomon Ayele Dersso, "Between 1952 and 2014 there were 91 successful coups in Africa, and prior to 1990's, coups had become the main mode of political contestation and leadership change in the majority of African states". See Solomon Ayele Dersso, "Unconstitutional Changes of Government and Unconstitutional Practices in Africa", June 2016, https://sites.tufts.edu/wpf/files/2017/07/2.-UCG-Dersso-f.pdf.

<sup>&</sup>lt;sup>2</sup> Available research data show that out of the 486 attempted or successful military coups carried globally since 1950, Africa accounts for the largest number with 214, of which at least 106 have been successful. Researchers point out that at least 45 of the 54 nations across the African continent have experienced at least a single coup attempt since 1950. See AJLabs, "Mapping Africa's coups d'etat across the years" Aljazeera, <a href="https://www.aljazeera.com/news/2023/8/30/mapping-africas-coups-detat-across-the-years">https://www.aljazeera.com/news/2023/8/30/mapping-africas-coups-detat-across-the-years</a>.

<sup>&</sup>lt;sup>3</sup> AHG/Decl.5 (XXXVI); https://www2.ohchr.org/english/law/compilation\_democracy/lomedec.htm.

<sup>&</sup>lt;sup>4</sup> Ext/Assembly/AU/Decl.(XVI); <a href="https://africanlii.org/akn/aa-au/doc/declaration/2022-05-28/declaration-on-terrorism-and-unconstitutional-changes-of-government-in-africa-adopted-during-the-16th-extraordinary-session-of-the-assembly-of-the-african-union-held-on-28-may-2022-malabo-equatorial-guinea/eng@2022-05-28</a>

<sup>&</sup>lt;sup>5</sup> Ext/Assembly/AU/Dec.(XVI); https://africanlii.org/akn/aa-au/doc/decision/2022-05-28/decision-on-terrorism-and-unconstitutional-changes-of-government-in-africa/eng@2022-05-28.

power. Yet for integrated and lasting solutions, we cannot ignore this.

# 2. The manifestation of the problem

Unconstitutional change of government as a problem manifest in subversion of constitutional order to take up power. But that is not the problem: that is only the symptom. Invariably, the problem is governance gone wrong in one of more of the following ways:<sup>6</sup>

- a. **Bad state of human security** Human security is the most basic human need. It is what people are in pursuit of, individually and collectively. Economic and political governance deficits have thrown human security in disarray, but also external interference. Problematic and nebulous relationships with external influences, as have been seen in the manipulative and self-interest-based relations between some West African states and France, are causes for concern. Excessive French influence is cited as one of the causes of governance instability in Francophone West Africa, with France siding with unpopular governments in their former colonies, mostly in advancement of self-interest by the former colonial power. This is an example of relationships which weaken homegrown and sustainable human security.
- b. Wealth of nations subverted to wealth of individuals According to the third Africa Governance Report 2023 (AGR23), all the UCG-affected countries have suffered from structural problems that hamper economic governance and public sector accountability, with low indicators for human development, social development and economic: "UCG-affected countries are all characterised by rampant corruption, absence of de facto rule of law, extreme poverty, unemployment, inequality, poor economic conditions and high inflation, underdeveloped infrastructure, dependence on primary goods exports, and mismanagement of the country's natural resources. All this is eroding state output legitimacy and add to grievances of ordinary citizens who then easily express their support for UCGs whenever they occur". These are deep issues that are not resolved by an intervention to respond to the one incident of unconstitutional change of government. It calls for structural adjustment.
- c. **Badly managed elections** In a democracy, elections are the primary means to give consent to a government. But bad elections mean disputed process and/or outcome, resulting in legitimacy deficits. For example, in Gabon the military cited electoral malpractice as one of the reasons for the coup in August 2023.9 Similar concerns were raised as one of the driving factors behind the 2017 coup in Zimbabwe. Africa is replete with examples of badly managed elections, and for the most part there is performative democracy, with elections being used to legitimate regimes.
- d. **Weak and poorly run institutions** It is a causal chain: elections can we poorly managed because of weak institutions, for instance. Similarly, justice and rule of law can be subverted

<sup>&</sup>lt;sup>6</sup> Former president of Nigeria Olusegun Obasanjo recently made headlines by naming bad governance as the cause of the recent wave of coups: "'Bad Governance Is To Be Blamed For Military Coups In Africa' – Obasanjo", NewsWire, 20 September 2023, <a href="https://newswirelawandevents.com/bad-governance-is-to-be-blamed-for-military-coups-in-africa-obasanjo/">https://newswirelawandevents.com/bad-governance-is-to-be-blamed-for-military-coups-in-africa-obasanjo/</a>.

<sup>&</sup>lt;sup>7</sup> Kent Mensah, "Africa's coup epidemic: Has democracy failed the continent?" Aljazeera, 22 September 2023, <a href="https://www.aljazeera.com/features/2023/9/22/africas-coup-epidemic-has-democracy-failed-the-continent">https://www.aljazeera.com/features/2023/9/22/africas-coup-epidemic-has-democracy-failed-the-continent</a>.

<sup>&</sup>lt;sup>8</sup> Isaac Kaledzi, "Why ex-French colonies in Africa seem beset by coups" DW, 30 August 2023, https://www.dw.com/en/africa-military-coups-former-french-colonies/a-66530922.

<sup>&</sup>lt;sup>9</sup> Ope Adetayo, "Season of putsch: Why have coups become popular in Africa?" Aljazeera, 1 September 2023, <a href="https://www.aljazeera.com/features/2023/9/1/season-of-putsch-why-have-coups-become-popular-in-africa">https://www.aljazeera.com/features/2023/9/1/season-of-putsch-why-have-coups-become-popular-in-africa</a>.

when the judiciary is weak and captured. Checks and balances fail when the legislature is weak and plays to the whims of the executive. The security establishment can also be weaponised to protect incumbency. In Gabon, for instance, the military group that took power in August 2023 from President Ali Bongo after a disputed general election organised themselves in what they termed the "Committee for the Transition and Restoration of Institutions". Implicit in this nomenclature is that to them, this coup is a revolution to restore institutions and transition into people-centered service providers. Real intentions may be different, of course, but the fact that this naming is chosen is telling. What do the people want? That may have been the question, and the answer was likely, the people want better functioning democratic institutions.

These circumstances then leave people with no choice, but to demand a new social contract. That demand is done in many ways, and one way may be to upset the constitutional order. But this must be understood: the order would have already been upset by underling concerns as exemplified by the above. So, taking of power from a government that is in systemic, sustained, and incurable breach of the social contract, become just an added layer to the state of unconstitutionality.

The Lomé Declaration of 2000 agreed on the following as constituting unconstitutional change of government:

- i. military coup d'etat against a democratically elected government;
- ii. intervention by mercenaries to replace a democratically elected government;
- iii. replacement of democratically elected Governments by armed dissident groups and rebel movements; and
- iv. the refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.

Therein lies a limitation: there are now news forms of unconstitutional change of government, which are left out in the Lome Declaration. Manipulating elections is one of them and revising constitutions to prolong incumbency is another. Conspicuously, the APRM report of 2023 in its listing of 18 cases of UCG between March 2003 and September 2022, does not include UCGs through refusal to relinquish power after elections, or anything election related. This shows the gap: focus on UCGs has been armed takeover of government, and this is a limited understanding of UCGs.

The recent 2022 <u>AU Declaration on Terrorism and Unconstitutional Changes of Government in Africa</u>, however, starts to incorporate the subject of organizing free, fair, and credible elections, and constitutional provisions on terms limits within the context of UCGs. Declaration 4 on Unconstitutional Change of Government makes a "Commendation of the strides made by Member States in organizing free, fair, credible and transparent elections, despite the challenges posed by the COVID-19 pandemic; and the continued respect for electoral outcomes and constitutional provisions relating to term limits".<sup>10</sup>

<sup>&</sup>lt;sup>10</sup> AU Declaration on Terrorism and Unconstitutional Changes of Government in Africa was recently adopted at the 16th Extra-Ordinary Session of the AU Heads of State and Government in Malabo, Equatorial Guinea on the 28th of May 2022

Article 23 of the African Charter for Democracy, Elections and Governance (ACDEG) extended the definition of UCG to include "Any amendment or revision of the constitution or legal instruments, which is an infringement of the principles of democratic change of government". This was also reflected in the AU's Accra Declaration on Unconstitutional Changes of Government in Africa, 2022, which states the AU's commitment to "Comprehensively address factors which lead to unconstitutional changes of government, including manipulation of democratic processes to tamper with constitutions and effecting amendments to electoral laws within a short span before the elections and without the consent of the majority of political actors and in violation of the stipulated national democratic principles, rules and procedures for constitutional amendment". According to the 2023 APRM report, "This is key considering the high incidence of abusive constitutionalism used to facilitate UCG with incumbents seeking sanctuary in legal disguise, particularly through manipulative presidential term-limit amendments and various other forms of unconstitutional review of constitutions.". 13

### 3. What the data is showing us

The data says Africans are desirous of democracy as a form of governance but are disillusioned by its failure to deliver tangible dividends to the lived realities of many. The data says demand for democracy is higher than supply. Afrobarometer data from September 2022 shows that a vast majority of people polled from 34 African countries said they believe in democratic elections, yet only 44% said elections help voters remove bad leaders. No wonder in several countries, support for elections is declining.14 Afrobarometer data show that overall, support trust in elections has dropped in 26 of 30 African countries surveyed between 2011 and 2021. That includes Sudan, Mali, Burkina Faso and Niger – countries that have seen coups in the last three years.

So, unconstitutional changes of government seem to not be a revulsion or rebellion against democracy in Africa: instead, they seem to manifest a search for democracy which is centred on the needs and priorities of the people.

One peculiar aspect of the current trends of coups in West Africa is that the coups are being supported by the publics, in some cases with street celebrations. <sup>15</sup> There are several countries such as Zimbabwe, Gabon, and Burkina Faso, where popular sentiments in favour of the end

<sup>&</sup>lt;sup>11</sup> African Charter on Democracy, Elections and Governance, adopted 30 January 2007, <a href="https://au.int/en/treaties/african-charter-democracy-elections-and-governance">https://au.int/en/treaties/african-charter-democracy-elections-and-governance</a>.

<sup>&</sup>lt;sup>12</sup> Adopted in March 2022 at the African Union (AU) Reflection Forum on UCG in Africa, Accra, Ghana, <a href="https://www.peaceau.org/uploads/eng-declaration-on-unconstitutional-changes-of-government-in-africa-15-17-march-2022.pdf">https://www.peaceau.org/uploads/eng-declaration-on-unconstitutional-changes-of-government-in-africa-15-17-march-2022.pdf</a>.

<sup>&</sup>lt;sup>13</sup> Page 10.

<sup>&</sup>lt;sup>14</sup> Afrobarometer, "Support for elections weakens among Africans; many see them as ineffective in holding leaders accountable" Dispatch No. 551, 16 September 2022, <a href="https://www.afrobarometer.org/wp-content/uploads/2022/09/AD549-PAP15-Support-for-elections-weakens-in-Africa-Afrobarometer-Pan-Africa-Profile-6sept22.pdf">https://www.afrobarometer.org/wp-content/uploads/2022/09/AD549-PAP15-Support-for-elections-weakens-in-Africa-Afrobarometer-Pan-Africa-Profile-6sept22.pdf</a>.

<sup>&</sup>lt;sup>15</sup> Ope Adetayo, "Season of putsch: Why have coups become popular in Africa?" Aljazeera, 1 September 2023, <a href="https://www.aljazeera.com/features/2023/9/1/season-of-putsch-why-have-coups-become-popular-in-africa">https://www.aljazeera.com/features/2023/9/1/season-of-putsch-why-have-coups-become-popular-in-africa</a>. Kent Mensah, "Africa's coup epidemic: Has democracy failed the continent?" Aljazeera, 22 September 2023, <a href="https://www.aljazeera.com/features/2023/9/22/africas-coup-epidemic-has-democracy-failed-the-continent">https://www.aljazeera.com/features/2023/9/22/africas-coup-epidemic-has-democracy-failed-the-continent</a>.

of long-time rulership helped legitimise military interventions. <sup>16</sup> The leaders of these countries had overstayed, sustained by illiberal and undemocratic practices; unconstitutional practices in many cases. Of course, the evidence shows that over time those celebrations become muted as realisation sets in that democracy was not delivered by the coups. This trend tells us something: that the people are looking for social contracts that work. So desperate are they that in many cases it is a case of the end justifying the end.

With elections having become performative and susceptible to choreography in many places, there is a mainly unstated deep search for alternative ways of achieving democratic governments and social contracts. The answer has remained elusive. But this consideration is important in any search for solutions to the unfolding scourge of UCGs.

# 4. New forms of unconstitutional changes of government

Unconstitutional change of government not only occur through violent military takeover of governments. The terrain has shifted; nuances have emerged; those who subvert constitutionalism for purposes of taking over governmental power have become smarter.

There is now a rise in UCGs through unconstitutional retention of power. This is broader than just refusing to hand over power after a free, fair, and credible election, which the Lomé Declaration recognises. This includes manipulation of elections and institutions, to subvert the will of the people and the efficacy of elections as a way of establishing the social contract. Unconstitutional changes of government are now being waged by incumbents against electoral opponents who would have won polls. When a party wins elections, that is a government elected by the people. When an incumbent then manipulates the vote, and remains in office, they have engaged in an unconstitutional change of government. This is the most widespread form of constitutional change of government in fact being experienced. What then happens is that in these places where elections are ineffectual, coup d'états become likely, which is the traditional understanding of UCGs. This is the case with Zimbabwe (2017) and Gabon (2023), for example.

Another less physically violent form that has gained ground is the extension of terms limits either through changing the upper age ceiling of the presidency or the number of terms that one can serve, against popular will. According to the Open Society Initiative of Southern Africa, from April 2000 to July 2018, limits were changed 47 times in 28 countries, with at least six failed attempted changes. In 23 cases, spread over 19 countries, the changes strengthened term limits by introducing or imposing stricter temporal boundaries on presidential mandates, but in 24 instances in 18 countries, the temporal restrictions on holding presidential office were removed or loosened. The changes in term limits have been executed in five different ways. The first is amendments to constitutions that extend the length of presidential terms of office: from five to seven years as the case of Guinea (2001), the Democratic Republic of Congo (2002), Rwanda (2003) and Burundi (2018); and from five to six

<sup>&</sup>lt;sup>16</sup> Kent Mensah, *Ibid*.

<sup>&</sup>lt;sup>17</sup> **Lerato Mohlamenyane**, "Presidential term limits in Africa: what should be done?" Open Society Imitative for Southern Africa (OSISA), 9 February 2023, <a href="https://osisa.org/termlimits-in-africa/">https://osisa.org/termlimits-in-africa/</a>.

years in Chad (2018). Presidential terms were also extended in instances of intra-state conflict and capacity problems when elections were postponed in South Sudan (2015 and 2018) and DRC (2016). Secondly, changes increase the number of terms a person may hold presidential office, from two to three terms in the Democratic Republic of Congo (2015). Thirdly, changes are made to reset the clock for the incumbent president, as witnessed in Zimbabwe (2013), the Democratic Republic of Congo (2015), and Rwanda (2015), where the incumbents had reached their absolute term limits but could argue that a new or revised constitution enabled them to start with fresh mandates unrestricted by previous constitutional limits. Fourthly, term limits are removed altogether, as in Guinea (2001), Togo (2002), Tunisia (2002), Gabon (2003), Chad (2005), Uganda (2005), Algeria (2008), Cameroon (2008), Niger (2009) and Djibouti (2010). Fifthly, changes remove age limits for presidential candidates (Uganda 2017).

# 5. A problem with spillover effects

Unconstitutional changes of government are a threat to regional security, not just country security. This here is a case of a regional response to this development.

There is a multiplier effect to existing human security threats. As the APRM notes in its 2023 Africa Governance Report: "In the long-term, UCGs breeds a political culture of unconstitutional removal of governments as citizens ultimately develop entrenched beliefs and feelings that whenever they have lost confidence and trust in the political system, they have to overthrow the government through popular protests or other unconstitutional means. This weakens the role of elections and constitutionalism as democratising tools that allow for peaceful transfer of power". 19

There is also a contagion effect, as has been seen in the Sahel. Recently, in September 2023, Mali, Burkina Faso, and Niger, all being run by militaries that took power through coups, formed a military alliance to support each other in the face of any external aggressions to any of the three, including from the regional bloc Economic Community of West African States (ECOWAS).<sup>20</sup>

Most countries have adopted electoral democracy, and what coups, unconstitutional changes in government and manipulating constitutions do is to limit the efficacy of elections, undermine their value, breed instability, and increase not only country but regional human security risks. Studies have shown that coups breed other coups, and a combination of coups and manipulation of constitutions for power retention, breed cycles of instability and recession of democracy.

As such, UCGs are a regional as opposed to an individual country issue. Regional responses become important. The following questions become pertinent:

<sup>19</sup> Page 3.

<sup>18</sup> Ibid.

<sup>&</sup>lt;sup>20</sup> "Sahel, the 'African NATO' is born: Mali, Niger and Burkina Faso launch the new military alliance", Agenzia Nova, 18 September 2023, <a href="https://www.agenzianova.com/en/news/sahel-nasce-la-nato-africana-mali-niger-e-burkina-faso-lanciano-la-nuova-alleanza-militare/">https://www.agenzianova.com/en/news/sahel-nasce-la-nato-africana-mali-niger-e-burkina-faso-lanciano-la-nuova-alleanza-militare/</a>.

- a. Are the coups, unconstitutional changes in governments and constitutional manipulation communicating a problem with the current electoral democracy systems in the region? If yes, what it is, and what should be done about that?
- b. What are the AU and regional economic communities (RECs) doing in response to the prevalence of coups, unconstitutional changes in government and constitutional manipulation, and is this enough? Are there response standards that must be advanced?

Interrogating these questions is critical to inform the success sought through the <u>AU Agenda</u> 2063: <u>The Africa We Want</u> - Africa's blueprint and master plan for transforming Africa into the global powerhouse of the future, not just on issues of good governance and security but development of the region.

While individual cases invite case-by-case tailor-made solutions, a regional approach to this regional problem is inevitable. It is necessary because the effects of unconstitutional changes of government respect no national boundaries, but also because the problems have become systemic and quite widespread in Africa.

There is more: where there is breakdown of the constitutional order which is not responded to and resolved timeously, it creates an opportunity for third party actors with no-so-clean intents to set up shop and advance their causes. In the case of West Africa and the Sahel, militant extremist groups are already in operation: "Coups provide spaces for extremist groups to exploit [...] It's a field day and bonanza for extremist groups within the region to exploit because, while governments are busy looking at ways to bring about stability and contain the vulnerability, extremist groups are taking advantage of that and increasing their presence through attacks."<sup>21</sup>

The reality is that there is no intervention handbook, and evidently ECOWAS and the African Union have struggled on how to intervene. In Niger, ECOWAS made threats of use of force and gave a deadline to the military grouping to restore the deposed leader President Mohamed Bazoum following seizure of power on 26 July 2023. Nothing happened on both ends. A threat such as this should never be used unless there is real political will and capacity to follow it through, otherwise it weakens the regional bloc and its credibility. A reality is revealed here: the struggle to calibrate the right kind of response is real.

#### 6. Recommendations

These following recommendations are not categorised per actor but are rather presented in wholesome format with the understanding that these recommendations take collective efforts to achieve, with both state and non-state actors, RECs and the AU all acting in concert.

a. Revise normative framework - There is need to revise the Lomé Declaration definitions of unconstitutional change of government to include manipulation of elections and electoral theft which render elections ineffectual, and changes of constitutions to allow extension of incumbency. Article 23 of the African Charter on Democracy, Elections and Governance (ACDEG) somewhat covers the later, this is still to be unpacked in terms of what it means and implemented in practice in responding to UCGs.

<sup>&</sup>lt;sup>21</sup> Kent Mensah, "Africa's coup epidemic: Has democracy failed the continent?" Aljazeera, 22 September 2023, <a href="https://www.aljazeera.com/features/2023/9/22/africas-coup-epidemic-has-democracy-failed-the-continent">https://www.aljazeera.com/features/2023/9/22/africas-coup-epidemic-has-democracy-failed-the-continent</a>.

The path to democracy is not linear. Realistically, there would be situations - albeit rare and special - where and when a wrong must be corrected by invoking the supremacy of the people as a collective to reclaim and withdraw their consent from the government, and this withdrawal may be through popular action or other means. It is a conversation that must be confronted, and such circumstances and their limits must be made clear, to the greatest extent possible. The people in their supreme collective, remain the ultimate source of the authority to govern, and the primary stockholders of the social contract. The current AU normative framework is strong at protecting incumbents who may be holding on to power even unconstitutionally, even with the shift brought about by Article 23 of the ACDEG. In other words, parameters for the right of revolution (or right of rebellion) as an age-old right or duty of a people to "alter or abolish" a government that acts against their common interests or threatens the safety of the people without cause, must be stated. For the most part, this collective right exists as a natural law right, but positivist codification can be seen in the Universal Declaration of Human Rights: "Whereas it is essential, if man is not to be compelled to have recourse, as a last resort, to rebellion against tyranny and oppression, that human rights should be protected by the rule of law".<sup>22</sup> This is necessary so as to avoid unjustified counter-arguments and undue claims to the right to revolution by peoples of particular states or coup plotters. Clarifying this aspect is a protective layer, contrary to what some may think to be licensing coups and revolution. In any event, a coup must be clearly distinguished from popular revolution. Similarly, there must be distinction between a coup, and the military stepping out to support or protect legitimate popular action.

- b. Consistency and predictability in responses There must be consistency in the way the AU and RECs respond. It cannot be lenient towards other cases and harsher towards others. This is already in the Lomé Declaration, in respect of the AU, but that has yet been achieved. There must be predictability of responses from the AU and RECs, while respecting nuance and context. Those who plot unconstitutional changes of government must already know the consequences.
- **c. Timely and effective responses** Some analysts have said that a coup that lasts beyond 24 hours is here to stay.<sup>23</sup> Very little evidence is there to contradict this. It becomes vital for timeous interventions to be mounted whenever a coup takes place if the intention is reversal, or even to contain effects.
- **d. Peoples' voice and popular participation** The people must have a say in solutions. Issues of UCGs are contractual in nature, in the sense that they fundamentally deal with the social contract. Contractual disputes are not resolved in any meaningful and sustainable way without engaging with the many sides that are party to that contract. It is unavoidably necessary that resolutions of unconstitutional changes of government must include the people.
- e. Addressing structural drivers Cause elements of UCGs must be dealt with, not just the manifestation. This is a long-term commitment to fostering good governance, and insisting on safeguards that protect the social contract. Insisting in such safeguards is not to interfere with national sovereignty and demanding of countries certain strands of democracies; it is simply demanding minimum standards that conduce to the African Union shared values of good

<sup>&</sup>lt;sup>22</sup> Preamble to the Universal Declaration of Human Rights (UDHR).

<sup>&</sup>lt;sup>23</sup> Sam Mednick and Chinedu Asadu, "Western officials: Niger junta warned they'd kill deposed president after any military intervention" AFP, 10 August 2023, <a href="https://apnews.com/article/niger-coup-jihadis-west-africa-9032a0e1161551ffcfde4b785f6cf74a">https://apnews.com/article/niger-coup-jihadis-west-africa-9032a0e1161551ffcfde4b785f6cf74a</a>.

governance. Dealing only with the manifestation of the problem – a UCG incident, may not resolve the situation. In some cases, for instance, when an illegitimate regime is restored, it may yield the law of unintended consequences and make things worse.

#### 7. Conclusion

The normative baseline upon which to build better responses to UCGs in Africa is there. But it must be improved. In doing so, there must be realisation that it is not the UCG that is the primary problem; it is the underlying structural issues. That is where resources must be focused. It is about building a democratic culture. Dersso's observation is critical here: "UCG's are usually the result of serious deficits in democratic governance, observance of people's and human rights, the rule of law and constitutionalism. Critically, the AU has failed to define the actions or measures that it needs to take in cases of serious breaches of these norms. As a result, the AU's actions on UCG continue to remain reactive rather than becoming preventive".<sup>24</sup> Real, concrete action on structural influences is what will address UCGs in their various iterations and move action from being reactive to being preventive and pointed towards causes and not symptoms. For now, it is safe to say the AU and the RECs have been unable to contain UCGs in Africa, and this must change. The hand of AU and RECs must be strengthened to respond to UCG. Resolutions should ultimately be a regional issue, for "strengthening regional organizations may be the only way to tackle the problems that plague fragile states in Africa and elsewhere. [...] It can change societal dynamics by empowering people, unshackling them from the restrictions imposed by ineffectual governments".<sup>25</sup>

**END** 

<sup>&</sup>lt;sup>24</sup> Solomon Ayele Dersso, "Unconstitutional Changes of Government and Unconstitutional Practices in Africa", June 2016, https://sites.tufts.edu/wpf/files/2017/07/2.-UCG-Dersso-f.pdf.

<sup>&</sup>lt;sup>25</sup> Seth Kaplan, "West African Integration: A New Development Paradigm?", The Washington Quarterly, Autumn 2006.



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