

Between the Rock and a Hard Place: The Africa Union and Democracy Promotion in Africa

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ABSTRACT

While the Cold War lasted, the Organization of African Unity (OAU) never considered democracy promotion in member states as a priority. What mattered to the body was the safeguard of the sovereignties of member states. The globalization of the third democratic wave however, changed that as democracy promotion, courtesy of Donor's aid agenda became a core objective of the OAU/AU. Deploying descriptive, historical, and analytical methods of inquiry with a focus on the African Charter on Democracy, Elections, and Governance (ACDEG), this article assesses the extent of AU's commitments to promoting democracy in Africa. Following an extensive review of conceptual literature on democracy, as well as relevant studies on OAU/AU's democracy promotion initiatives in Africa, it notes that OAU/AU, no doubt, has robust normative frameworks for dealing with an unconstitutional change of government and other actions that could constitute a threat to the growth of democracy in Africa but in enforcing these frameworks, it is often stuck between a rock and a hard place. It suggests, among others, the strengthening of the enforcement mechanisms of the organization.

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INTRODUCTION

Before the late 1980s, when liberal democracy, courtesy of the global wave of democratization, became the prevailing norm for assessing the level of civilization of states, the Organization of African Unity (OAU), now the African Union (AU), perhaps, paid lip service to promoting liberal democracy and its institutional appurtenances, in member states (Leininger 2014: 5). Indeed, for almost three decades, member states of the OAU, under the guise of curtailing the monster of ethnicity and other ‘nation-destroying’ forces, destroyed the liberal democratic institutions inherited from colonial rule. Interestingly, while authoritarianism and its associated antimonies supplanted liberal constitutionalism in many states across the continent, the organization, perhaps, due to extant principles¹ guiding it, adopted a policy of avoidance by treating cases of unconstitutional change of government as well as other forms of common infractions as falling within the purview of internal affairs of states (see Sesay 1985; Williams 2007). To be sure, the promotion of democracy was not an agenda of the organization as well as those of its members.

However, by the 1990s, the divine right and other forms of undemocratic legitimization basis that had been deployed for almost two decades to rationalize authoritarianism in Africa came under severe attacks from pro-democracy movements, which demanded the democratization of the hitherto constricted political spaces (Adetula 2011:10). Perhaps, these developments, coupled with the globalization of liberal peace discourses, brought the issue of democracy, human rights, peace, and security to the core of intra-African relations. For example, the Kampala Document, produced, following a conference, organized by the African Leadership Forum (ALF), with support from United Nations Economic Commission for Africa (UNECA), in Kampala, Uganda, in 1991, anchored peace and security within the African nation on “ability to participate fully in societal affairs and to enjoy freedoms and fundamental human rights” (ALF 1991). To this end, a series of initiatives were undertaken by OAU (later AU) purporting to promote, enhance and support democracy in member states. In other words, the promotion of democracy, since the end of the Cold War, has become a core agenda of the OAU/AU (see Udombana, 2003).

It is against the foregoing background that this article, focusing on the African Charter on Democracy, Elections, and Governance (ACDEG), assesses the extent of African Union’s commitments to promoting democracy in Africa.

The rest of the article is partitioned into several sections. Following this introductory preamble is section two, which presents the conceptual and theoretical anchorages for the article. Specifically, the section lays bare the model of democracy that the democracy charter and other normative frameworks mirror. The third section discusses earlier initiatives to promote democracy in Africa before the arrival of ACDEG. The section that follows highlights and examines provisions relating to unconstitutional change of government in ACDEG. Next is an assessment of the practice of the AU in handling the issue of unconstitutional change of government and violence against democracy in Africa. The last section sums up the arguments, reflects, and concludes.

CONCEPTUAL FRAMEWORK

The starting poser of the conceptual exercise in this article is: which model of democracy does ACDEG and other normative frameworks mirror? This is against the backdrop of the fact that democracy in political theory has been framed and defined from different standpoints (Osumah 2015: 164). For instance, Przeworski et al. (2000:14) are of the view that almost all normative aspect of social life that is anchored on freedom are attributed to democracy.

Instructively, the outcome of a lack of precise definition of democracy is the prevalence of different models of democracy in literature. According to Weale (1999:19),

Looking at literature on democracy, we read of pluralist democracy, radical democracy, liberal democracy, socialist democracy, one-party democracy, deliberative democracy, polyarchy, elitist democracy, equilibrium democracy, and so on.

However, the definition of what democracy means would appear to have been framed from three broad theoretical perspectives (Basiru et al. 2017:144). First, the Rousseauian (participatory) approach to democracy dwells on citizens' direct participation in the political process (see Walker 1966; Habermas 1975; Budge, 1996). In this wise, Guttman and Thompson (2004:7) view democracy, "as a form of government in which free and equal citizens (and their representative), justify decisions in a process in which they give one another reason that is mutually acceptable and generally accessible".

Second, the Schumpeter (electoral) approach to democracy view democracy, procedurally, through the prism of competitive elections (see O’Gorman 1973; Wolfe 1971; Schmittter and Karl 1986). Indeed, a leading exponent of this school of thought, Schumpeter (1952:32), once remarks, «democracy does not mean and cannot mean that the people rule in any real sense of the term, ‘people’ and ‘rule’. Democracy means only that the people have the opportunity of accepting or refusing the men who are to rule over them». Third, the liberal approach conceives democracy in the context of constitutional guaranteeing of freedoms- free elections, free speech, free movement, free press etc. (see Beetham 2004:61-65). To the extent that individuals’ rights and liberties are constitutionally enshrined and guaranteed, proponents of the liberal approach contend that democracy exists (Hague and Harrop 2007:49).

At this juncture, it is instructive to stress that, since the end of the Cold War, the hitherto sharp boundary between the previous approaches would appear to be non-existent as all now seems to have been subsumed under the hegemony of liberal democracy discourse (Coleman and Maogoso 2005:175). The point being made here is that since the end of the Cold War, democracy has been, discursively, made coeval with liberal democracy. Indeed, a cursory look at the Objectives of ACDEG would clearly show that it aims to promote liberal democratic values in member states (AU 2007:3). Thus, given the fact that AU, through ACDEG, seeks to promote and institutionalize liberal democracy in Africa, democracy, in this article, refers to liberal democracy.

FINDINGS AND DISCUSSION

The AU’s Prior Efforts to Promote Democracy in Africa

The African Charter on Democracy, Elections, and Governance, it must be stressed, like other post-Cold War democratic norms, is better understood in the context of the continent’s political history dating back to the immediate independence era. As stated earlier, while independence ushered in liberal democracy and its values, the post-colonial African ruling elites caged it for personal aggrandizement. Indeed, in many African countries, the inherited legal-rational structures, which were anchored on liberal principles, were either modified or dismantled by the ruling elites in their grand agenda to consolidate power (see Kirk-Greene, 1991). Indeed, to the ruling elites of the immediate post-independent era, ethnicity, which many of them had explored and exploited to gain power, suddenly became anathema to multi-party democracy, on the one hand, and national integration on the other hand.

Therefore, in order to deal with the ‘monster’ of ethnicity, the best option, according to the ruling elites, was to centralize power in the hand of the central State (Zolberg 1976:100).

This model of politics and governance, in different parts of the continent, must be noted; however, it presented few paradoxes. Firstly, it destroyed the classic separation of power, which was a core principle on which most independent constitutions were erected, by allowing power to be concentrated, horizontally, within the central state structure, in the hand of the Chief Executive of the State. Secondly, centralizing power in the central State also destroyed pluralist and competitive politics, which heralded the first governments in the post-independent era, as the various interest groups which ought to have represented societies were shut down in the policy process, resulting in the State becoming inverted. Thirdly, by centralizing and concentrating power in the hand of the Chief Executive of the State, an opportunity for multi-party competition for state power was foreclosed.

Interestingly, as the political arena became constricted, as a result of the centralization of power in an individual, clientelism assumed more significant currency. The reason for this is simple. Since the individual-centered states had destroyed the Weberian legal-rational structures inherited from the departing colonialists, they had to invent one, which was anchored on the distribution of state resources ‘irrationally’ in order to buy legitimacy (Medard 1982:4). To be sure, a clientelist-oriented state, given its narrow conception of legitimacy, anchored on few individuals and groups that had access to the State and societal resources, tends to pander, partially, towards the ethnic group whose member is at the helm of affairs in the country to the exclusion of other ethnic groups (see Van de Walle 2003). Disastrously, this State of affairs, for decades, created state-society schisms and in countries such as Liberia, Sierra Leone, Somalia, Sudan, DRC, and Ethiopia led to state implosion and civil wars (Jinadu, 2007: 8).

Interestingly, while these civil wars raged, the donor community attributed them to the authoritarianism of the past, which prevented the growth of democracy in member states. Based on this diagnosis, the donor community submitted that what the continent needed as a panacea for conflicts, and insecurity was a governance model anchored on liberal democracy (Odukoya, 2007: 148). Soonest, OAU keyed into this evolving norm, and in subsequent decades, it initiated many activities geared towards institutionalizing democracy in member states, starting with the 1990 Addis Ababa Declaration.

Although the Summit that produced the Addis Ababa Declaration was convened to re-examine Africa's position in a changing world, it ended up framing the continent's future development in terms of democracy promotion. Accurately, Paragraph 10 of the Declaration reads *inter alia*, "We, therefore, assert that democracy and development should go together and should be mutually reinforcing" (OAU 1990). Five years later, at an event of similar status, in Cairo, Egypt, similar affirmation was made by African leaders via the OAU platform. The Cairo Agenda for Action anchored the resolution of Africa's socio-economic crisis in a changing world on institutionalizing democracy and good governance in member states (Glen 2012:153). Indeed, paragraph 10 of the Agenda boldly recognizes, "the nexus between democracy, peace, security and sustainable development" (OAU 1995).

Further, paragraph 10 (a) and (b) set the policy framework on how to institutionalize democracy in member states. The former enjoins state parties to: "launch programs to promote national unity based on the principles of respect for human rights and dignity, free and fair elections, as well as the respect of the freedom of the press, speech, association, and conscience" (OAU 1995). The latter obligates them to: "ensure the speedy promotion of good governance, characterized by accountability, probity, transparency, equal application of the rule of law, and a clear separation of powers, as an objective and a condition for rapid and sustainable development in African societies" (OAU, 1995).

Two years later, OAU, through the Council of Ministers (CM) produced the Harare Decision, which frowns at the unconstitutional change of government in Africa (OAU 1997). Coming at the heel of the coup d' état that ousted the democratically elected government of President Tejan Kabah in Sierra Leone, OAU condemns the coup d' état and also encouraged its member states and the international community to refrain from recognizing the new regime. Similar positions were taken at Algiers in 1999 when OAU reaffirmed its commitments to outlawing unconstitutional change of government in Africa (OAU, 1999).

However, it has to be stressed that though the Harare and Algiers Decisions reaffirmed OAU's commitment to promoting democracy, particularly on how to respond to violence against democracy, they did not, however, establish a general program of action in case of an unconstitutional change of government in any African country (Elvy, 2013:60). Perhaps, this lacuna led to the adoption of the Declaration on the Framework for an OAU Response

to Unconstitutional Changes in Government at the 2000 Summit in Lomé, Togo (Glen, 2012:54). As a matter of fact, unlike the Harare and Algiers Decisions, the Lomé declaration did not only lay down the policy framework for how the OAU would address an unconstitutional change of government in one of its member states, but most importantly outlines what actions would constitute an unconstitutional change of government.

Again, in its commitment to promoting democracy in the continent, the Declaration listed a number of measures to be taken by OAU against a country whose government has changed unconstitutionally. This ranged from the initial condemnation of the change and urging to restore a constitutional government, a six-month suspension from the policy organs of the OAU coupled with other potential sanctions, and additional targeted sanctions should the constitutional government not be restored within six months (OAU, 2000).

In the same year, perhaps, due to the imperative of redirecting the continent's relations with the rest of the world in the new millennium, OAU transformed into AU, following the adoption of the Constitutive Act of the African Union (see Mwanasali, 2003). Although the Act was primarily concerned with establishing a new organizational structure for the continental body, nevertheless, it stipulated numerous provisions aimed at promoting democracy and good Governance (AU, 2000). For instance, Article 3 (g) states that AU seeks, "to promote democratic principles and institutions, popular participation, and good Governance (AU, 2000). Furthermore, the principles guiding AU's *modus operandi* provided for "respect for democratic principles, human rights, the rule of law and good governance" (Article 4(m), AU, 2000) and "condemnation and rejection of unconstitutional changes of governments" (Article 4(p), AU 2000). It is also instructive to note that in order to give further impetus to the Lomé Declaration, Article 30 of the AU Act provided that "Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union" (Article 30, AU 2000).

Interestingly, barely two years of its launch, AU demonstrated its commitment to continue from where its precursor stopped by issuing the Declaration on the Principles Governing Democratic Elections in Africa (AU 2002a). Coming as a follow up to the Report of the Secretary-General on strengthening the role of the OAU in election observation and monitoring, the Elections Declaration, adopted by African Heads of Government in Durban, South

Africa, in 2002, would appear not only to have placed free, fair and credible elections at the center of the continent's democratizing project but most importantly also recognized the importance of democratic elections as the basis of constituting all governments (Elvy, 2013: 63). Specifically, Article II (2) of the Declaration provides that, "elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development" (AU, 2002a).

The Declaration, in Article III, also obligated member states to put in place necessary measures to ensure democratic elections by establishing an impartial, all-inclusive, competent and accountable national electoral bodies (AU 2002a). Instructively, beyond these obligations, the Declaration, in Article IV, equally provided for a number of democratic rights, chief among was that "every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives following the provisions of the law" (AU, 2002a).

In the same year, two other initiatives that aimed to promote democracy in AU member states were launched. In July 2002, the New Partnership for African Development (NEPAD) Declaration on Democracy, Political, Economic and Corporate Governance was adopted to foster economic development and eliminate poverty via the promotion of democracy (AU 2002b). In comparative terms, like the Addis Ababa Declaration of 1990, mentioned earlier, NEPAD Declaration anchored the continent's socio-economic development on nurturing democratic values in AU member states. Interestingly, like the Elections Declaration, NEPAD democratic framework categorically restated the AU's commitment to the promotion of democracy and human rights associated with democracy, including: equality of all citizens before the law, the right to form and join political parties and trade unions, and the inalienable right of the individual to participate in free and fair elections (Paragraph 7, AU 2002b).

In furtherance of its fundamental objective, the Declaration established an action plan that would: ensure that national constitutions reflect the democratic ethos; promote citizens' participation in the political process in a free and fair political environment; enforce AU's position on unconstitutional changes of government and other decisions aimed at promoting democracy, good governance, peace, and security; establish an appropriate electoral administration and oversight bodies; and strengthen the AU and sub-regional

election monitoring mechanisms and procedures (see Paragraph 12-13, AU 2002b).

The optional protocol relating to the establishment of the Peace and Security Council is another democracy promotion initiative adopted in 2002 (AU 2002c). Although the framework primarily focused on issues of how to deal with internal and external threats to peace and security, however, issues of democracy promotion are also embedded. To be sure, the protocol appears to have contemplated that achieving sustainable peace and security in the continent has to be anchored on the promotion of democratic practices, good governance and the rule of law (Article 3(f), AU 2002c). To this end, the protocol mandated the Peace and Security Council to follow-up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by Member States (Article 7, 1 (m), AU 2002c).

Finally, in 2003, perhaps, realizing that transparency, probity, and accountability in government is pivotal to nurturing liberal democratic institutions, AU adopted the corruption convention in Maputo, Mozambique (AU 2003). Instructively, like the Peace and Security Council's optional protocol and unlike the Lomé and Durban Declarations, the corruption convention is binding on member states that have ratified it (Article 23(3), AU 2003). Specifically, the Convention obligated member states to among others: condemn and reject acts of corruption; respect human rights, as well as democratic principles and institutions (Article 3, AU 2003). It is clear from the previous that OAU/AU, before the arrival of ACDEG, invested enormous resources in promoting democracy. However, it has to be stressed that the pre-ACDEG instruments adopted to promote democracy were characterized by one form of shortcomings or the other (see Elvy, 2013: 77).

The Entry of the African Charter on Democracy, Elections, and Governance

ACDEG, adopted by the AU Assembly of Heads of State and Government in Addis Ababa, Ethiopia, on 30 January 2007, in comparative terms, is, perhaps, the most ambitious attempt by AU to promote democracy in Africa (Glen 2012:160). Indeed, unlike previous instruments, which either lacked adequate enforcement provisions or non-binding on member states, ACDEG

imposed massive legal obligations on member states of AU. For instance, Article 44(1) of the Charter reads *inter alia*, “State parties to the Charter undertake to implement the necessary domestic legislation and regulation to fulfill the objectives, principles, and commitments contained in the Text” (AU, 2007). Its comprehensiveness, notwithstanding, the Charter establishes in its preamble that its coming was the culmination of efforts at promoting and protecting democracy within the OAU/AU system (Glen, 2012:160).

Specifically, ACDEG base document is organized into eleven Chapters and fifty-three Articles. Aside the Definitions, Objectives, and Principles in Chapters 1, 2, and 3 respectively, dealing with general guidelines, the Charter contains 6 substantive sections dealing with issues bothering on how to strengthen democracy and Governance in Africa. The first, Chapter 4, contains 7 Articles and deals with the issues of the rule of law and human rights in Africa (Chapter 4, Articles 4-10, AU 2007). Chapter five, the second substantive section with three Articles, focuses on the modalities for nurturing the culture of democracy and peace in Africa (Chapter 5, Articles 11-13, AU 2007). The one that follows dwells on institutions that could nurture the rule of law, constitutionalism, and good Governance (Chapter 6, Articles 14-16, AU 2007). The institutionalization of credible frameworks and mechanisms for the conduct of credible elections in member states is the focus of the fourth substantive section, covering Articles 17 through 22 (Chapter 7, Articles 17-22, AU 2007).

Instructively, given the threat that coup d’ état and other unconstitutional means of changing government pose to democracy in Africa, ACDEG also addresses strategies for dealing with the challenges of unconstitutional changes of government in Africa (Chapter 8, Articles 23-26, AU 2007). Finally, the Charter is not silent on the issues that bother on socio-economic governance and welfare of the people (Chapter 9, Articles 27-43, AU 2007). However, of relevance to this article are the provisions dealing with the unconstitutional change of government and violence against democracy in Africa. These are captured under Article 2 (4), Article 3 (10), and the whole of Chapter 8, spanning Articles 23, 24, 25, and 26. Indeed, one of the objectives of the Charter reads, “to prohibit, reject and condemn unconstitutional change of government in any Member State as a serious threat to stability, peace, security and development” (Chapter 2, Article 2(4), AU 2007). Again, the 10th principle guiding the Charter unequivocally stipulates, “condemnation and total rejection of unconstitutional changes of government” (Chapter 3, Article 3(10) AU 2007). Furthermore, Article 23, building on Lome Declaration,

establishes what constitutes an unconstitutional change of government to include coup de”tat against a democratically elected government among other acts of constitutional infractions (AU, 2007).

Beyond these definitions, the Charter invests the Peace and Security Council (PSC) with the mandate to act should any of the previous occurs in member states. Specifically, the Charter in Article 24 invests the PSC with the mandate to move against a member state that subverts the constitutional edifice of its country (AU 2007). Article 25 adumbrates ten (10) measures to be taken by PSC when any of the conditions in Article 23 is breached by member states. These are:

- 1) 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 said State Party from the exercise of its right to participate in the activities of the Union in accordance with the provisions of articles 30 of the Constitutive Act and 7 (g) of the protocol. The suspension shall take effect immediately;
- 2) However, the suspended State Party shall continue to fulfill its obligations to the Union, in particular concerning those relating to the respect of human rights;
- 3) Notwithstanding the suspension of the State Party, the Union shall maintain diplomatic contacts and take any initiatives to restore democracy in that State Party;
- 4) 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.;
- 5) Perpetrators of unconstitutional change of government may also be tried before the competent court of the Union;
- 6) 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;
- 7) The Assembly may decide to apply other forms of sanctions on perpetrators of unconstitutional change of government including punitive economic measures;
- 8) State Parties shall not harbor or give sanctuary to perpetrators of unconstitutional changes of government;

- 9) State Parties shall bring to justice the perpetrators of unconstitutional changes of government or take necessary steps to effect their extradition;
- 10) State Parties shall encourage the conclusion of bilateral extradition agreements as well as the adoption of legal instruments on extradition and mutual legal assistance (AU, 2007).

From the previous provisions, it is clear that ACDEG contains many provisions that purport to deal with the aberration of unconstitutional changes of governments in Africa. Indeed, it would seem apparent that not only these provisions highlights the normative principles on how to sustain legitimate political order but also put in place the regulatory framework for handling member states' infractions of these provisions. The point being made here is that ACDEG's provisions on unconstitutional change of government in Africa vest the AU, through PSC, with the institutional mandate to enforcement provisions bothering on unconstitutional changes of governments and by extension, a threat to democracy. This leads to the issue of how the AU has enforced the non-acceptance of unconstitutional change of government principle. This is the focus of the next section.

AU and Unconstitutional Change of Government: Contexts and Issues

At the onset, it has to be stressed that since the coming into force of ACDEG on February 15, 2012, following the deposition of the instrument of ratification by the 15th member state, in line with the provision of Article 48 of ACDEG, AU, through PSC, as before, had been intervening in matters that bothered on UCG. However, it is observed, arguably, that AU's responses had somewhat been tainted with softness and inconsistencies (see Omotola 2014: 16-18). This tendency was noticeable in the body's responses to the post-election crisis in Kenya, Zimbabwe, and Ivory Coast in 2007, 2008, and 2010 respectively. In the Kenya case, rather than treating the incumbent President Mwai Kibaki's action of digging-in when defeat was imminent in an election declared generally to be free and fair by the international observers, as a violation of Article 23(4) of ACDEG and sanctions subsequent imposed in pursuant to Article 25(1) of ACDEG, Article 30 of the Constitutive Act and 7(g) of the PSC protocol respectively, AU supported the continuation of the *ancient* regime under a controversial power-sharing arrangement (see Harowitz 2008).

It would be recalled that the 2007 presidential election in Kenya reportedly led to the defeat of the incumbent president, Mwai Kibaki of the Party of

National Unity (PNU), by Raila Odinga of the leading opposition party, the Orange Democratic Movement (Badejo, 2008:2). However, the incumbent, rather than accepting and conceding defeat to the ‘unofficial’ winner dug-in and resultantly sparked off post-election violence, which cost thousands of lives (Kenya Red Cross Society, cf. in Omotola, 2010:69). Following days of destructions, a power-sharing pact brokered by Kofi Anan, a former UN Secretary-General, was worked out between the government and the ODM in which the incumbent retained the presidency while Raila Odinga took the post of Prime Minister (Harowitz 2008).

The Zimbabwean 2008 election followed a similar pattern. On March 28, 2008, presidential and parliamentary elections were held, and as reported, Morgan Tsvangirai of the Movement for Democratic Change (MDC) won the first ballot even though his total votes was less than 50 percent required by the Constitution of the country. This made a run-off inevitable. However, rather than allowing the process to run out, the incumbent, President Robert Mugabe, deploying state security apparatus, unleashed massive violence against Tsvangirai and his numerous supporters throughout the country (see MDC 2009; Ploch 2010). Following months of post-election violence in which thousands of lives were lost, a power-sharing arrangement, the Global Political Agreement (GPA), brokered by Thabo Mbeki, was signed on September 15, 2008 between the incumbent, Robert Mugabe of the ZANU-PF, MDC and a breakaway faction of the MDC (Omotola, 2014:21). It is instructive to note that, like Kenya’s case, the incumbent also retained the presidency while the aggrieved took the position of Prime Minister.

It is clear from the two cases above that the incumbent breached the provision of Article 23(4) of ACDEG. Even though there was greater involvement of the international community in putting place the power-sharing arrangement, perhaps, to curtail further human destruction; yet the AU welcomed and supported it in clear breach of Article 23(4). The Ivorian case, perhaps, if not for the intervention of the French-backed forces, which removed the incumbent, Laurent Gbagbo, the AU initially seemed to have favored power-sharing approach in which the incumbent and the internationally recognized winner of October 2010, Allasane Quattara would share power (Omotola, 2014:21). Indeed, a pointer to this manifested when the incumbent, immediately after the visit of the AU chief mediator to the crisis, Thabo Mbeki, told the world that he would be willing to offer the internationally recognized winner, the post of Prime Minister in a power-sharing arrangement (Appiagyei-Atua, 2010). What is clear from the previous analyses is that the AU often finds

itself stuck between a rock and a hard place when it comes to enforcing Article 23(4) of ACDEG. Putting this scenario in perspective, Bassett and Straus posit, “the AU has been very reluctant to act when it comes to other constitutional infringements such as falsifying elections, amending constitutions to consolidate more power, or permitting additional terms in office” (Bassett and Straus, 2011:130).

It is instructive to note that beyond the other cases in which the AU breached its principle to support unconstitutional arrangements, the body, in other areas, observably, has also displayed a lack of will in enforcing its mandate (Vandeginste, 2013). Often, rather than sticking to its outlined principle of imploring coupists to return to the *status quo ante*, as it did in 2003, in Sao Tome and Principe², it supported the formation of an interim government, headed by the “chief coupist” (Vandeginst, 2013:20). This was visibly demonstrated following the military putsch in Mauritania in 2008. In this situation, the AU, rather than insisting that the coupists should return power to the ousted president, actively supported the establishment of temporary government in which members of the military junta participated (AU, 2009). Interestingly, a similar scenario played out in Madagascar in which the AU actively supported negotiations that led to the Addis Ababa Act of November 2009 (see Nathan, 2013). Again, the body welcomed the Ouagadougou Joint Declaration, which was signed by leading members of the National Council for Democracy and Development (CNDD), the organization that took responsibility for the 2010 Guinean coup d’ état and an international mediator (Vandeginste op, cit:17). Instructively, in the Declaration, the concerned parties did not only agree to form a National Council of Transition composed of 101 members representing all sectors of society but also confirm the interim de facto presidency of Konate, the leader of CNDD.

AU has equally not been able to enforce the latest addition to the definition of UCG, Article 23(5). Perhaps, the body still treats the issue of “third term” or “unlimited term” agenda as constituting the internal affairs of states. Indeed, since the coming of ACDEG, Article 23(5) has been breached by lame-duck regimes of Abdelaziz Bouteflika, Paul Biya, Ismail Omar Guelleh, Abdoulaye Wade in Algeria, Cameroon, Djibouti, and Senegal respectively. More worrisomely is the fact that some of these regimes, while their rule lasted in their respective countries, were significant supporters of a new Africa built on constitutional democracy. Finally, perpetrators of coup d’ état in Africa in the last few years have also been benefiting from flawed transitional elections due to the inability of AU to enforce Article 25(4).

The Mauritania case is instructive here. On August 6, 2008, a group of army officers led by General Mohammed Ould Abdelaziz had overthrown the democratically elected government of President Sidi Mohammed Cheikh Abdallahi³ (AFJR, 2008). Expectedly, AU, in line with the provision of Article 25 of ACDEG, suspended Mauritania from its activities pending the time that a democratic election would be held (Pambazuka, 2008). Some months later, AU endorsed the Dakar Framework Agreement, which set the modality for the restoration of democracy in Mauritania (AU 2009). However, AU could not prevail on General Abdelaziz from contesting the July 2009 presidential election, which he eventually won (Economist 2009). It is instructive to note that a similar scenario played out in Egypt on July 3, 2013, following the overthrow of the democratically elected government of Muhammad Morsi, by the head of the Egyptian army, generally Fattah El-Sisi. Two days later, the country was suspended from the activities of AU on July 5, 2013. Specifically, the suspension order berated the military for violating the country's constitutional order (cf. Maru 2013).

Interestingly, General El-Sisi, perhaps, taking a cue from General Abdelaziz of Mauritania, in the process of returning his country to constitutional order as contained in the AU's suspension, civilianized and participated in a "presidential election" contrary to Article 25(4) (Dersso 2014). He eventually won the presidential election as a democratically elected president of Egypt.

CONCLUSION

This article set out to examine and assess the extent of AU's commitments to enforcing its existing legal frameworks on promoting democracy in Africa. To this end, it presented the conceptual and theoretical frameworks, reviewed extant literature on Africa's democratic journey, and, most importantly, analyzed the key provisions in the ACDEG. From these reviews, it found that AU, in enforcing some of its extant normative frameworks, particularly those dealing with UCG, is often stuck between a rock and a hard place. Put differently; the body is often caught in the dilemma of either enforcing the existing provisions on UCG to the fullest or giving consideration to pragmatism. In the former case, this has manifested in the body, not taking decisive actions against the violators of the provisions of UCG as the cases examined earlier attempted to illustrate. In the latter scenario, considerations for regional stability, humanitarian concerns among others often influence the decisions of the body not to enforce UCG to the fullest. In such a situation,

the body might be compelled by expediency to seek negotiated settlements rather than enforcing the provisions on UCG to the fullest. Overall, beyond all of these, other initiatives which the body undertook, in recent times, to support and salvage constitutional democracies in Mali, Burkina Faso, and Gambia, cannot be glossed over still.

End Notes

- ¹ These principles include: sovereign equality of member states and non-interference in the internal affairs of member states.
- ² In 2003, the democratically-elected government of Fradique de Menezes was overthrown by a group of military officers led by Major Pereira.
- ³ President Abdallahi came into power on April 19, 2007, having won the presidential election under a transition programme midwifed by *Colonel Ely Ould Mohamen Vall*. In the previous transition programme, the initiator of the programme, *Colonel Maaouya Ould Ahmed Taya* contested in the 1992 presidential election and won. He was in power till August 3, 2005, following his ouster by *Colonel Vall* in a *coup d'état*.

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