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GOOD COUPS AND BAD COUPS
The limits of the African Union's injunction
on unconstitutional changes of power in Africa

Francis Nguendi Ikome

February 2007



Occasional paper no 55

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Series editor:
Garth le Pere

Institute for Global Dialogue
Johannesburg South Africa

February 2007

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Published in February 2007 by the:

Institute for Global Dialogue
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Midrand, South Africa

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ISBN 978-1-920-216-01-6

Produced by Acumen Publishing Solutions

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ACRONYMS AND ABBREVIATIONS

APRM	African Peer Review Mechanism
ARC	Armed Revolutionary Council
AU	African Union
AU-PSC	African Union Peace and Security Council
CAR	Central African Republic
CEEAC	Economic Community of Central African States
CEMAC	Economic and Monetary Community of Central Africa
CEN-SAD	Central African Conflict Management and Resolution Mechanism
CIDO	African Citizens' Directorate
CMJD	Military Committee for Justice and Democracy
CPLP	Community of Portuguese-speaking States
CPP	Convention Peoples' Party
CSSDCA	Council for Security, Stability, Development and Co-operation in Africa
DRC	Democratic Republic of Congo
ECOWAS	Economic Community of West African States
FN	Forces Nouvelles or New Forces
MOU	memorandum of understanding
MPMRC	Mechanism for the Prevention, Management and Resolution of Conflicts
NCO	non-commissioned officer
NEPAD	New Partnership for Africa's Development
NLC	National Liberation Council
NRC	National Redemption Council
OAU	Organisation of African Unity
PRC	Permanent Representative Committee

Introduction

As long as there are tyrannical regimes, there will always be need for good people to be assisted or sponsor successful coups d'état.

*J Michael Waller*¹

The capacity to overthrow a government is one thing. It is quite another matter to govern better to to prepare a better government.

*Bereket H Selassie*²

Africa's liberation elite, keen on wresting political power from the continent's colonisers,³ created the impression among their followers that life would be 'just rosy' after the departure of the colonial powers. African peoples' support for liberation and independence struggles therefore became anchored in expectations of a better life after the attainment of sovereign statehood. Unfortunately, however, shortly after independence the soaring expectations of economic, social, and political well-being were replaced by disappointment and frustration in a majority of newly independent African countries.⁴ This was aggravated, in a number of cases, by disenchantment with politicians, and the spectacle of corruption, waste, and the ever-widening gap between the newly affluent elite and the poor masses.⁵ To make matters worse, the political, economic, and bureaucratic institutions African leaders inherited, and/or established, at the time of independence soon proved to be inadequate to cope with the multiple problems with which the new states had to contend.⁶ As a result, the African state, during the first two decades of independence, became an object of contestation among its constituent elements (particularly between the new affluent governing elite and those groups and interests that felt they were marginalised when it came to sharing the dividends of sovereign statehood). This left it particularly vulnerable and attractive to various forms of political instability (defined, especially, in terms of political intolerance). Gradually, political instability emerged as the hallmark of African politics, with unconstitutional changes of power, particularly through military coups d'état, being the most popular pattern of regime change.⁷

Beginning in the late 1980s, a combination of internal and external dynamics that included, among others, the demise of the former Soviet Union and the subsequent end of the Cold War, and unrelenting civil society pressures, brought about a considerable broadening of Africa's hitherto constricted political space, with a majority of African states either voluntarily or forcibly embracing a liberal political ethos.⁸ Although this post-Cold War wave of democratisation brought with it its own incongruence – in terms, for example, of reviving and/or deepening ethnic, religious, and regional divisions in some countries – it considerably curtailed the incidence of unconstitutional changes of governments on the continent. In the early 1990s, a number of hitherto authoritarian and despotic African regimes, such as those of Pedro Rodrigues Pires in Cape Verde, Mathew Kerekou in Benin, and Kenneth Kaunda in Zambia, all ceded power to new leaders, not through unorthodox methods such as coups d'état, civil wars, or manipulated succession processes, but through plurally competitive elections.⁹ This trend

evolved considerably, spreading to embrace a majority of African countries, partly as a result of the new emphasis on good governance and plural democracy by both continental and global actors, including the Bretton Woods institutions – Africa’s bilateral donors, most of whom had been faithful allies to Africa’s oppressive regimes during the Cold War – and, to some extent, the Organisation of African Unity (OAU) – which was itself beginning to shift from a policy of indifference, to one of non-indifference.

Despite remarkable improvements in Africa’s characteristically volatile political landscape in the early 1990s, the prospects for unconstitutional changes of government remained high. This was partly because some African governments were unwilling to move with the changing times. Many of those who declared their intention to undertake governance reforms were not genuine in their declarations. In most cases, the reforms they embarked on were deliberately cosmetic, shying away from addressing some of the core issues that had been the source of tensions in their polities over the years. These included the marginalisation of some segments of their populations, and the inequitable distribution of the resources of the state; a lack of checks and balances among the various arms of government; non-existent or weak oversight institutions; and a lack of respect for the fundamental rights and freedoms of their peoples.¹⁰ As a result, by the mid-1990s there was a resurgence in political instability on the continent, including the phenomenon of coups d’état. It is against this background that African leaders, in a series of consultative meetings at the urging of the now defunct OAU, resolved to take steps to stamp out the phenomenon of coups, and to establish the necessary conditions for the respect of constitutional order and constitutionality. One of the defining moments of these efforts was the heads of state summit in the Togolese capital, Lomé, in 2000. During this meeting African leaders adopted what became known as the ‘Lomé Declaration’, which defined a framework for African governments’ rapid response to unconstitutional changes of government, including well-defined safeguards and proposed sanctions.¹¹ While the declaration has been hailed as a great political initiative, with huge potential to curtail the incidence of unconstitutional changes of governments, African leaders have, in some cases, been unable to uphold its prescriptions. Since its adoption, a number of coups have been staged on the continent that have not been met with the kind of firm and decisive sanctions contained in the letter and spirit of the declaration.

Against this background, this paper examines the promise that this framework has held for the continent, and the extent to which African governments have been able to uphold it. It also examines the prospects of broadening the framework, as a means of improving the overall peace and security environment in Africa.

Moreover, in light of what appear to be divergent attitudes and responses to unconstitutional changes of government, particularly coups d’état, by various stakeholders – the individual African states that are expected to put pressure on their peers; subregional communities that are supposed to evolve the first level of concerted responses against coups; the African Union (AU), which is the principal architect of the declaration,

and which therefore has the ultimate say in what line of action should be followed in any given coup situation; and extra-continental players that preach good governance and democracy, and which, therefore, have a responsibility to support those African countries that stand against coups d'état, which are the most far-reaching affront to democracy – the paper also seeks to answer the controversial question: is it possible to distinguish between coups that are 'acceptable, and therefore constitute good coups', and those that are 'unacceptable, and therefore qualify as bad coups'?

What, for example, are the factors and forces that have informed responses to unconstitutional changes of power on the continent? And, given the divergent interests of various actors in coup states, is it feasible to evolve a uniform response to coups, as envisioned in the Lomé Declaration and the mooted AU Charter on Democracy, Elections and Governance? What, for example, was the attitude towards coups before Lomé, and what has changed since Lomé?

We argue that, although coups are unfortunate events, and even though experience has shown that a majority of coup-plotters have not governed any better than the regimes they replaced, as long as poor governance persists in Africa, the prospect of having coups will remain high. And unless all the elements that make for poor leadership (such as favouritism, patronage, corruption, lack of accountability and transparency, human-rights violation, and African leaders' high-handedness against political opponents, to name only these), and therefore make coup-plotting an attractive enterprise, are removed, we shall continue to have coup-plotters who will claim to be acting in the public interest.

Coup d'état, constitutionality, and legitimacy: a conceptual framework

Coup d'état

'Coup' is the French word for 'a sudden blow or strike'. A coup d'état, or simply a coup, is the sudden overthrow of a government against the general will (*volonte generale*) formed by the majority of the citizenry. It is usually carried out by a small, but well-organised group that threatens, or effectively uses, force to replace the top power echelons of the state. It may or may not be violent in nature, and it is distinguishable from a revolution, which is usually staged by a larger group and radically alters the political system.¹² Usually, a coup involves the control of some active portion of the military, while neutralising the remainder of a country's armed services. This active group captures or expels leaders, and takes physical control of important government offices, strategic means of communication, and the physical infrastructure. Typically, coups use the powers of the existing government for the takeover. And, to borrow from Edward Luttwak, 'a coup consists of the infiltration of a small but critical segment of the state apparatus, which is then used to displace the government from its control of

the remainder'.¹³ In some sense, therefore, the use of military or other organised force is not the defining feature of a coup d'état. Rather, any seizure of state apparatuses by extra-legal tactics (unconstitutional means, according to the AU) may be considered a coup.¹⁴ A coup succeeds if its opponents fail to dislodge the plotters, allowing them to consolidate their position; the plotters obtain the surrender or acquiescence of the population, surviving armed forces, and the sitting government; and they claim legitimacy.¹⁵

Coups have been described variously as successful or unsuccessful; moreover, they are either bloody or bloodless. Bloodless coups are those in which the mere threat of violence suffices to force the incumbent government to step down. Conversely, a bloody coup is one in which the incumbent ignores or is unaware of the threats of violence, and is forcefully removed from power, alive or dead, with other human and material casualties (so-called 'collateral damage'), the magnitude of which may differ depending on the force applied, and the level of resistance.¹⁶ Coups have also been seen as either internally inspired or externally instigated, or they have been products of a combination of both.

Samuel P Huntington has divided coups into three major types, namely: breakthrough, guardian, and veto coups.¹⁷ Breakthrough coups are those in which a revolutionary army overthrows a traditional government and creates a new bureaucratic elite. These types of coups are usually led by non-commissioned officers (NCOs) or junior officers, and seldom happen. The most memorable ones include the 1911 coup in China, the 1952 coup in Egypt, the 1967 coup in Greece, and the 1980 coup in Liberia.¹⁸

Guardian coups, also described as 'musical chairs', are those in which the usually stated aims of their masterminds are to improve public order and efficiency, or to end corruption. There is hardly any fundamental shift in the structure of power, and the leaders of these types of coups generally portray their actions as a temporary and unfortunate necessity. Nations that witness guardian coups usually undergo many shifts between civilian and military governments.

Veto coups occur when the army vetoes mass participation and social mobilisation. In these cases, the army must confront and suppress large-scale and broad-based opposition, and as a result the coups tend to be repressive and bloody. Examples include Chile in 1973 and Argentina in 1976, as well as the overthrow of president Fujimori of Peru in 2000.¹⁹

Coups can also be classified by the level of the military component that leads the coup. Veto and guardian coups tend to be led by senior officers. Breakthrough coups tend to be led by junior officers or NCOs. In cases where the coup is led by junior officers or enlisted men, it is also seen as a *mutiny*, usually with disruptive implications for the organisational structure of the military.

Although coups have always been perceived as unfortunate events, they have long been part of political transitions, standing out as the most frequently attempted method of changing government.²⁰ The phenomenon of coups d'état dates back to the days of the Roman empire – with great men such as Julius Caesar ascending to power through a coup, and subsequently losing it the same way. One of Europe's greatest leaders, Napoleon Bonaparte, seized power in France through a military coup in 1799. In the Middle East, for some time, the military arrogated unto itself the role of leading, and providing the impetus for, radical change. And in the late 20th century, coups were common occurrences in developing countries – with Latin American countries taking the lead (Brazil, Chile, Bolivia, and Argentina), followed by other regions, such as Africa (Sudan, Togo, Benin, Congo, Ghana, and Nigeria), Asia (Pakistan), the Asia-Pacific (Fiji and the Philippines), and Europe (Greece, Portugal, Spain, and the Soviet Union).²¹ Until the late 1960s, Latin America was the most unstable region in the world, where army officers deposed governments and each other with astounding rapidity.²²

Overall, because coups have always been seen as unfortunate events, efforts at evolving typologies of coups have traditionally not interrogated whether or not a given coup could be 'acceptable, and therefore a good coup' or 'unacceptable, and therefore a bad coup'. However, earlier theorists who saw coups as essentially the handiwork of the military, which was itself perceived as an instrument of modernisation, implicitly saw military takeover of state affairs as positive. Some functionalist scholars contended that in the new states of Africa and Asia the military is functional to modernisation wherever colonialism has imposed political institutions without regard to cultural realities. In this regard, the military's involvement in politics has been associated with underdevelopment. It has been explained as 'a response to the difficulties which the new states have encountered in their efforts to establish themselves as modern sovereignties'.²³ A further argument has been that in transitional societies, where liberal democratic institutions have not or cannot be made to work, armies represent the source of the rational structures required to move countries from traditional societies into their rational modern form.²⁴ This contention is premised on the assumption that the military's disciplined character, its organisational structure, and especially its usually well-defined chain of command and cohesiveness, makes it well suited to cope with situations of crisis.²⁵ These theorists, it could be argued, indirectly made a case for coup-plotters, and implicitly provided coups d'état with a mantle of acceptability – with attendant implications for newly independent societies, including those in Africa, as we shall see in subsequent sections of this paper.

No single factor or condition provides a sufficient explanation for the staging of coups. Rather, coups are usually the product of a convergence of factors, though one major factor could trigger the actual event. It could be a major decision or blunder by a government, or cumulative omission on its part, that leads to action. Whatever the final reasons given by the coup-plotters for their actions, the motivation for coups may be found in the corporate interest of the plotters as a group;²⁶ or in some regional, eth-

nic, or even personal self-interests of a group of influential societal leaders; or it may be actuated by genuine concern for the national interest or public good.²⁷ Any one of these interests, including the national interest, may also dovetail with a class interest, or with some foreign interest, or both.²⁸

In this regard, the notion of the army's cohesiveness is very tenuous, in that the army – even when consigned to the barracks – is not separate from society. Therefore the general ills of the society impact on it, as they impact on other units. This is in spite of the view that the professional standards instilled in the military during their training should structure their behaviour in a manner that places them above societal ills. Proponents of military intervention in politics have pointed out that commissioned officers feel that these standards are affronted when the state they serve flounders, and the civilian politicians 'make a mess of things', thus justifying the officers' readiness to intervene to halt the deterioration of the situation.²⁹ Understandably, the first public declarations by coup-plotters have always emphasised the 'rescue motive', although most of the time this has been nothing more than simple rationalisation.³⁰ Whatever persuasive justifications those responsible have advanced for their actions, coups have always constituted violations of the fundamental law of the state – the constitution. Moreover, coups have always been seen as manifestations of the erosion of the legitimacy of reigning civil governments. This is to suggest that coups d'état have implications for the principles of both constitutionality and legitimacy, to which we now turn our attention.

Constitutions and constitutionality

The notions of constitutions and constitutionality are corollaries of the modern state system that emerged in the 17th and 18th centuries. Constitutions emerged out of the perceived antithetical relationship between power and liberty – with the wielders of political power always being inclined to want to extend and even abuse it. To guarantee liberty, it has been imperative to limit power by means of some rules of judicious organisation – simply known as 'the constitution'. The constitution encloses the power of the state within a specific framework, and therefore limits it. The power to be limited here is political power, otherwise known as state authority. Constitutionality is a technique of reconciling state authority and individual and group liberties. This is necessary because 'authority and liberty form an inseparable couple and liberty cut off from authority buries itself. On the other hand authority deprived of liberty degenerates to licence and omnipotence.'³¹

Constitutions and constitutionality therefore embody the practices, customs, and rules through which power is established, exercised, and transmitted in the state, ensuring the primacy of the law over both the governed and the governors – in other words, no one is above the law. Constitutions and constitutionality perform a number of important functions. Firstly, they organise the transmission and exercise of power in the state, ensuring that it is not exercised in the personal interest of governors, but exclu-

sively in the general interest. Secondly, constitutions serve as the basis of legitimacy of the wielders of political authority, who justify their power and their decisions by claiming that they have been designated in conformity with the constitution, and that they exercise competences attributed to them by the constitution. Thirdly, constitutions underscore the idea of the animating (enabling) law of state institutions, in that a constitution does not limit itself to describing the mechanism of government, but equally determines the manner in which its members have to function. It does not only fix goals for governors, but sees to their actualisation.³²

In which case, all actions, individual or collective, by both the governed and governors, are unconstitutional if they do not conform to the prescriptions of the constitution. In this regard, *the constitution defines modalities by which power can be acquired and exercised, and any deviation from these norms is unconstitutional.*³³ Seizing power by military or other unconventional methods is against constitutional norms, and therefore is unconstitutional and illegal. At the same time, incumbent governments that fail to govern by the prescriptions of their national constitutions, including those that alter or attempt to alter constitutions without following the right constitutional procedures, are also acting unconstitutionally – not omitting those that tinker with laid-down democratic procedures, such as elections, to accede to power. Importantly, therefore, acceding to power, and/or exercising it, by following laid-down constitutional procedures gives political authorities legitimacy. Conversely, acquiring power, and/or exercising it, unconstitutionally deprives power-wielders of legitimacy.³⁴ But what is legitimacy, and how is it acquired and retained?

Legitimacy

Governments command authority because there is a general acceptance of their legitimacy, and all civil government rests on authority legitimated by various mechanisms, which secure the habitual obedience of the people. But legitimacy, like most related social-science concepts, is a difficult notion to grapple with. It has a shifting definition, applying variously to political entities, leadership, policies, laws, and/or procedures. However, the four fundamental conceptions of legitimacy below have been prominent in the literature, relating variously to legality, compliance, problem-solving (output), and justifiability.³⁵

Legitimacy as legality (legal legitimacy). This form of legitimacy consists of a claim by those in authority that they acquired the power to govern following laid-down legal rules, and that they are exercising it following these rules. This is legitimacy earned by meeting legal, and especially constitutional, requirements. It flows from the notions of constitutionality highlighted earlier.

Legitimacy as compliance. The relationship between compliance and legitimacy is complex. This has led some scholars to argue that compliance is not necessarily a compo-

ment of legitimacy, but rather that it is a consequence or product of perceived legitimacy. In which case, compliance would be an indication or recognition of legitimacy, while non-compliance would point to the opposite. Yet, compliance in the form of acquiescence may also stem from apathy, cynicism, or fear.³⁶

Legitimacy as problem-solving or output function. Here, legitimacy is gauged in terms of whether or not those who hold power are capable of, or effectively identify and implement, solutions that secure certain otherwise unattainable goals in society. In this case, legitimacy becomes a measure of the levels of delivery on society's goals, needs, and aspirations. This is otherwise seen as substantive legitimacy – that measures a regime's or an authority's concrete problem-solving abilities after the assumption of power.³⁷

Legitimacy as justifiability (norm). This is the normative side of legitimacy, which is usually expressed in terms of justifiability among political equals, by appeals to hypothetical acceptance or consent. In which case, the legitimacy of a political order becomes a question of whether or not affected parties would have or could have accepted it, under appropriate choice conditions.³⁸ In the words of Easton, 'in political systems, at least in those in which the political authorities are not being fundamentally challenged, the capacity of the authorities to rule is closely connected to the presence of an ingrained belief, usually transmitted across the generations in the socialisation processes, that the occupants of the political authority roles have a right to command and the other members of the system a duty to obey. The major source of power for these roles resides in the prevalence of the conviction of their legitimacy.'³⁹

In summary, the foregoing conceptions of legitimacy point to the fact that laws and authorities are legally legitimate insofar as they are enacted and exercised in accordance with constitutional rules and appropriate legal procedures; secondly, that laws and authorities are socially legitimate insofar as subjects effectively abide by them and are so disposed to do; finally, that laws and authorities are normatively legitimate insofar as they can be justified to the people living under them, and as long as they impose a moral duty on them to comply.

Theorists are not agreed on the respective weights of the four conceptions of legitimacy. While some strongly feel that all the aspects of legitimacy are fundamentally relevant, others believe some of them are of a higher significance than others. Normative theorists often take various forms of normative legitimacy to be fundamental, sometimes even overlooking the other aspects of legitimacy. Some argue that social legitimacy, for example, is the primary indicator of normative legitimacy. Yet the other three conceptions are normatively relevant and interrelated, often compatible, and even mutually reinforcing. For example, legal legitimacy, in the form of constitutionalism and the rule of law, is often regarded as a necessary condition of the justifiability of a political order. On the other hand, on its own, general compliance is insufficient for normative legitimacy, since people may comply with unjust rule solely out of fear of sanctions (retribution),

lack of alternatives, or unreflective habit. Yet, compliance often requires that the population believe that the institutions or/and authorities are normatively legitimate.⁴⁰

It is further held that the power of a government acquires legitimacy because of a general recognition: first, that it is there to protect and serve the people; second, that it is capable of manipulating organised coercion to maintain itself; and third, because of a combination of both factors.⁴¹ There is a link between physical power (coercive force), as monopolised by governments, and the popular view as to their legitimacy, because the use or abuse of such power has social consequences. More importantly, a large part of the use of state institutions is designed to achieve control without resort to brute force. This, however, is only possible in situations where the government has the backing of a significant portion of the population, or at least critical segments of it, which enable it to exercise its authority.⁴²

When there is a serious breakdown in the habit of obedience, resulting in a revolt or other related forms of defiance, the mechanism of peaceful persuasion generally gives way to physical coercion. Many civil regimes have had the tendency of turning to the military to maintain themselves in office. However, a government that loses general popular support cannot indefinitely use the armed forces to cling to power, because this has been found to be an inadvertent invitation for the military's intervention in politics. When a government becomes too dependent on the armed forces, and makes use of them so frequently, the armed forces tend to end up seizing control of government on their own behalf.⁴³ Overall, 'the paths of military men or other coup plotters to the helm of state power are strewn with the human debris caused by the order of corrupt, ambitious or desperate political masters. This, as much as individual ambition, explain [sic] the advent of the numerous coups that have been recorded in history.'⁴⁴ In other words, coups are a product of greed on the part of leaders, and impatience on the part of coup-plotters.

What flows from the foregoing is that coups are sometimes products of poor leadership. But the question remains: could poor governance alone be a justification for coups d'état? Are there no alternative methods of replacing poor leaders? And what are the implications of coups for constitutionality and legitimacy? Are coup leaders forcibly illegitimate? Could coup governments acquire legitimacy through their manner of governing, or by the simple fact that they replaced a bad government that had ipso facto lost legitimacy? Could we then say replacing bad leaders is something positive? This could be the case. However, we must also remember that coup-plotters who replace bad leaders may themselves end up governing poorly, and therefore become bad and illegitimate leaders. Yet, others would argue, even constitutionally elected governments could go down the same route.

In a nutshell, questions about the legitimacy of a political order can be of four different kinds, namely, concern about:

❖❖❖ GOOD COUPS AND BAD COUPS:

- general compliance with rules and authorities;
- the consistency of the procedural norms and authority structures that constitute the formal rules of the game;
- the problem-solving ability of the system, where empirical evidence must indicate, firstly, whether the political order in question can actually achieve the objectives stated in its manifesto or declaration upon taking power, and, secondly, whether it actually does achieve the stated objectives, promises and aspirations, and whether it actually does so reasonably well; and
- whether the political order can be justified to its subjects.

The pillars on which the notion of legitimacy rests are legality, compliance, output, and justifiability. Our analytical framework is accordingly couched in the argument that democratically elected governments are legally/procedurally legitimate and that, under normal circumstances, they would generate compliance, and are more readily amenable to justifiability. However, democratically elected political orders may fail the problem-solving test – by being unable to deliver on pledges and on people’s aspirations – thereby creating a problem-solving legitimacy crisis. A political order that fails the delivery test creates for itself a legitimacy crisis related to justifiability.

Conversely, a coup d’état-informed political order is, by definition, procedurally (constitutionally and legally) illegitimate. And, except with the help of fear of retribution, and the lack of alternative choices, it is very unlikely to inspire ready compliance. However, a procedurally illegitimate, coup-led, political order could acquire legitimacy through its problem-solving (output) attributes/capabilities. A procedurally illegitimate order that resolves tangible societal problems stands the chance of acquiring normative legitimacy. In other words, it can justify itself to the society by its deeds.

In this context, this paper seeks to demonstrate that some coup-inspired political orders, though procedurally illegitimate, may acquire legitimacy through their problem-solving attributes, and therefore could be seen as constructive coups. Moreover, some coup-informed political orders have evolved as solutions to otherwise constitutionally legitimate governments that have lost their credentials of legitimacy because of their failure to solve tangible societal problems, and are therefore unable to justify their continued existence to their countries’ populations.

The paper also attempts to broaden the existing typologies of coups to include a new classification of coups into ‘good coups and bad coups’. Good coups could be described as those that are informed by a genuine desire on the part of coup-plotters to resolve unsettling societal realities, particularly in relation to poor leadership and the hardships that it brings to the people – and against the backdrop of constrained political space for peaceful change. Here, coup leaders are seen to be genuinely acting in the public interest. Coups are also seen as good when coup leaders are not only welcomed by the population and the broader international community upon taking power, but,

during their rule, meet the aspirations and needs of their peoples, while also keeping their word – in terms, for example, of eventually handing over power to democratically chosen civilian governments. On the other hand, bad coups would be those that topple visibly legitimate governments, and that appear to have been informed by the narrow interests of coup-plotters, rather than the public interest. These are coups that are greeted by national and international public outrage, and are staged in spite of the existence of alternative avenues for peaceful change. Additionally, bad coups are those in which coup-plotters, upon coming to power, fail to meet the needs and aspirations of the populations on whose behalf they purport to act, and also fail to keep their word, in terms, especially, of opening up the political space, and eventually handing over power to democratically elected orders.

Against this background, the question arises as to whether the AU injunction on coups d'état as contained in the Lomé Declaration has had the potential of engendering the kind of broad legitimacy that embraces the four dimensions of legitimacy presented above. Our contention in this paper is that it has not. We argue that by focusing narrowly on the question of unconstitutional changes of power, the declaration addresses only part of the question of the illegitimacy of political orders in Africa. For it to be more useful, the framework would have to be broadened, to go beyond mere issues of procedure, so as to embrace broader questions of compliance, output, and justifiability.

It would seem that AU technocrats have been aware of the limited scope of the Lomé Declaration, which explains ongoing efforts to broaden it. This is most succinctly reflected in the proposed AU Charter on Democracy, Elections and Governance. The question remains, however, whether the proposed AU charter gets any closer to the crux of the matter. If it does, what additions does it make to the Lomé Declaration? More importantly, why was it not adopted by African heads of state and government during their summit in The Gambia in July 2006, and what are the implications of this on the resurging culture of coups in Africa?

The African state and the coup culture: the pre-Lomé era

Despite the popularity of pan-Africanist ideology among Africa's immediate post-independence leaders, most of them remained predisposed to guard jealously their newly won national sovereignty and independence. This predisposition first found concrete expression in the manner in which they structured the continent's premier pan-African organisation, the OAU, which was established in 1963. The charter of the OAU paid little attention, if any, to issues of governance and human rights; and how collectively to promote them. Rather, it celebrated the principles of sovereignty and non-interference in the domestic affairs of members' states – raising these principles to the status of axioms of inter-African relations. One of the key objectives of the organisation, according to its charter, was to defend the sovereignty, territorial integrity, and

independence of member states.⁴⁵ Members' states also pledged to respect and promote each others' inalienable right to independence, and to refrain from interfering in each others' domestic affairs, including any engagement in subversive activities against fellow members.⁴⁶ The principle of sovereign independence was further strengthened by the OAU's Cairo Declaration of 1964, in which African states pledged to respect their colonially inherited borders.⁴⁷ In other words, the OAU-informed African peace and security architecture was anchored on very rigid definitions of the notions of sovereignty and non-interference in the domestic affairs of member states.

The sacrosanct character of the notion of sovereignty shaped attitudes towards questions of poor governance and human-rights violations on the continent during a greater part of the first two decades after independence. Capitalising on the distrust and suspicion that characterised the Cold War era, African leaders succeeded in making any external attempt to question African countries' human rights and governance record appear as a pretext to undermine their sovereignty.⁴⁸ Therefore, leaning on rigid notions of sovereignty and non-interference, and the protective shield provided by the Cold War environment on domestic policy-making, a majority of post-independence African leaders slowly transformed themselves into despots and autocrats of various orders. Notions of good governance and democracy soon became very unpopular, with every second African leader justifying the constriction of the national political space as a necessary sacrifice for development and national integration.

African leaders argued with disarming conviction that competitive democratic systems were incompatible with African countries' ethnically, culturally, and religiously plural societies. This gave them licence systematically to undermine and manipulate their national constitutions, silence the media, stifle opposition parties and create one-party states, emasculate the judiciary and the legislature, and create overbearing presidential regimes.⁴⁹ More importantly, they collectively established a culture of 'covering up for each other',⁵⁰ such that few of them ever commented on, let alone intervened to halt, grave violations of human rights and other forms of poor governance.⁵¹ Therefore, gradually, a culture of impunity became entrenched on the continent, with the result that even otherwise unfortunate events such as coups d'état went unsanctioned. With time, both self-serving individuals and those who were genuinely concerned about the continued downslide of their countries' economic and political fortunes resorted to unorthodox methods to grab and retain power.

The complacency towards poor governance on the continent, together with the indifference manifested by both the OAU and various global role players towards some of Africa's earliest coups, created the impression that coup-plotting was an acceptable alternative to constitutional methods of wresting political power; and that military take-overs, especially, were perhaps a remedy to poor civil governance on the continent. Dominant academic discourse in the 1960s that saw the military's involvement in politics as potentially favourable to both development and modernisation seems to

have encouraged both the culture of coups in newly independent states, and the condescending attitude towards coup-plotters.

In this regard, two schools of thought, modernisation theorists and Marxists, could be said to have provided the intellectual foundation for the coup culture that emerged in the Third World in the 1960s and 1970s. Their analyses were particularly supportive of the suitability of the armed forces for governance roles. The modernisation theorists argued that the military was more suitable for new nations such as those of Africa, than the civilian governments that they replaced. This argument was anchored on assumptions that the military possessed unique qualities that other groups in society lacked. These included, among others, dynamism, self-sacrificing leadership tenets, commitment to progress, and unparalleled levels of nationalism.⁵² Modernisation theorists such as Lucian W Pye contended that development and progress were only possible if societies were endowed with modern organisations. And in the case of developing countries, such as the newly independent states of Africa, the military was identified as the most modern organisation.⁵³ Because modernisation was defined largely in terms of a unilinear pattern of development, from backward non-Western societies to developed Western societies, modernisation theorists conjured scenarios wherein the military in the new states, by means of its technical training and rigid organisation, was to step in where civilian leadership had failed to build upon the administrative infrastructure left behind by colonial powers, to promote economic development.⁵⁴ Military objectivity and neutrality were also expected to facilitate greater productive co-operation with the West. Additionally, military rule was seen as being conducive to the political stability necessary for firmer policies against communism.⁵⁵ Modernisation theorists acknowledged that the progressive nature of armed forces varied from region to region. In the particular case of Africa, it was argued that the officer corps, together with students, especially those that were educated abroad, formed the most modern and progressive group in society.⁵⁶ The military was seen, not only as the best alternative to civilian governments, but also as the only organisation, apart from the politicians, that had the ability to govern.⁵⁷

Modernisation's positive view about the military's governance capabilities was partly shared by Soviet Marxist scholars. Their position was that the armed forces in the developing countries could, in certain contexts, fulfil a progressive function, particularly in following a non-capitalist development path. Support from the socialist states was to be given to the progressive forces in new states where the non-capitalist development path was feasible. The military was identified in Soviet Marxist literature as a progressive force, imbued with a nationalism that was favourable to development.⁵⁸

The implications of this positive assessment of the military were two-fold: firstly, it suggested that the military had the right to overthrow ineffective civilian governments in the new states; and secondly, it indicated that such illegal assumption of power was hardly to be seriously challenged, since, in essence, it had the potential of

engendering development. Because modernisation theorists based their assessment of the military's progressive role largely on Western societal values, their emphasis was essentially on economic growth, with near-total neglect of political accountability, freedoms, and human rights. Political institution-building in the prism of modernisation theory was viewed mainly in relation to political order. Military intervention was seen as the answer to acute social and political unrest, with a huge potential to promote political order and stability.⁵⁹ But what is inherent in the nature and character of the post-colonial African state that has made it so prone to social and political instability, including its vulnerability to coups?

The nature and character of the post-colonial African state

The African state has been characterised variously as artificial, underdeveloped, dependent, weak, predatory, and neo-patrimonial. While characterisation in these terms is biased and overstated, however, the truth of the matter is that the 'African state' has, from its inception, been a misnomer. To begin with, African states, including Ethiopia and Liberia, that were not formerly colonised, are not products of internal evolution. Rather, they are products of colonial and neo-colonial power configurations.⁶⁰ Understandably, African states are, in their structures and behaviours, largely the reflection of the dynamics of world politics as defined by European powers and political history. The overriding motive of the European colonial enterprise in Africa was to foster the colonisers' interests through global capitalism, as viewed and articulated in the Berlin Conference of 1884–1885. As a result, the defining features of the colonial state were violence, exploitation, alienation, and deconstruction.⁶¹

After independence, gained variously through national popular struggles, armed resistance, or/and political negotiations, Africa's political elite resolved to maintain the geopolitical status quo. Although some of them produced elements of what appeared as national projects, embodied in patriotic language and slogans, almost all of them perceived their mandate as being, first and foremost, to continue with the traditions of the strong state, in order to build the nationhood that the entities bequeathed by colonialism lacked. The post-independent African state, therefore, tended to be overbearing, wanting to be everywhere, and claiming to be doing everything for everybody. In most cases, it was associated with a personality or a small group of individuals, and especially with the vision of individual leaders.⁶² Moreover, the actualisation of the new political elites' national projects translated, in most cases, into the privatisation of the state, in the process rendering the public domain of social life on the continent irrelevant. Strangely, the first form of privatisation of the African state is associated with the rise of nationalism. In this regard, the state as a private domain also came to mean the right to exclude some people and groups that were perceived as being either directly or indirectly anti-nationalistic, or inimical to the ideologies defined by the new ruling elite.⁶³ Many of Africa's post-independence leaders perceived dissent-

ing opinions and alternative ideologies as potentially destabilising for the fragile new states, most of which lacked social cohesion.

Achieving political stability and social cohesion, against the backdrop of the faulty historical and political foundation of the African state, emerged as key challenges for independent African governments. Lacking experience, these new leaders strove to achieve stability and social cohesion by coercion. They ignored the fact that stability achieved by means of force was bound to be very superficial and volatile. Arguably, the contradictions between the historical legacy of the African state and the basis for its local legitimacy have been at the origin of the various tensions that have plagued it since its creation. While in terms of territorial political affinities, the African state perceives itself as a finite phenomenon, in terms of legitimacy, it has remained an unfinished business. And, like any unfinished business, it embodies potent elements of instability.⁶⁴

African ruling elites' attitude towards opposition has remained one of paranoia. This has translated into the militarisation of the African state, backed by the establishment of arbitrary and fragmented national institutions and rules, alongside bureaucratic structures and behaviour that have tended to impede national dialogue and development. The African state has tended to emphasise national security – defined largely in terms of regime survival – over and above the overall well-being of the majority of its citizenry. State security apparatuses have mostly been instruments in the hands of the ruling classes, generally used to eliminate any perceived or imagined threat to their interests. The consequent militarisation of African politics and power struggles has resulted in political outcomes that tend to weaken seriously the legitimacy of governors and governance institutions in the state. Moreover, African states have been ideologically conservative, with African leaders and their agents being particularly reluctant to formulate conscious policies, or establish institutions, that could render them irrelevant or challenge their very existence.⁶⁵ For a majority of African leaders, parting with the control of the state is perceived as parting with power, privileges, interests, and influence.⁶⁶

Importantly, also, the African state has been very elitist. It has, for the most part, functioned as a pyramidal structure through which only the interests of a few are articulated and secured, in a vertical, hierarchical manner from top down, while the interests of the rest of the majority are hardly articulated at all. This has meant that a majority of African peoples have remained alienated from their states, state institutions, and leaders.

The global momentum towards political liberalisation in the late 1980s and early 1990s was expected to curtail the alienation of African peoples from their states and governments. Paradoxically, however, despite some positive constitutional changes that were apparently intended to give African peoples a real say in state affairs, the African state has remained conservative and protective of the interests of the ruling elite. In many

cases, the initial calls for political liberalisation were met with ruthless repress, and further constriction of national political spaces. And in cases where political spaces were reluctantly opened, there was a rapid politicisation of nationality and identity platforms that, rather than advance the cause of the masses, precipitated violent conflict.⁶⁷

In the post-Cold War era, constitution engineering and the reconstruction of plural societies have faced serious militaristic challenges from the state. And in the absence of real dialogue among the people, states and political elites have continued to use military means, ethnicity, religion, and other unorthodox means to reach their goals. In many cases, elections have taken place without the real participation of the people, and without regard for basic human and social rights.⁶⁸ More importantly, although the African state and the continent's political elite have begun recognising the value of constitutions and constitutionality, the debates that take place, out of which constitutions have been produced, have, for the most part, been very limited in terms of the involvement of all stakeholders, particularly civil societies and the broader masses – making the exercise alien and illegitimate.

The illegitimacy of the majority of constitutions in Africa arises in part from the fact that they are not set up through truly open and democratic processes that pay attention to the dreams and aspirations of all segments of society. In most cases, the negotiations, if any, that precede the adoption of constitutions in Africa, are usually dominated by the hegemonic governing party or elite group. As a matter of fact, the current constitutions of many of African countries were either arrived at as direct impositions, or came about as a result of elite-driven processes and agendas that tended to treat the interests and concerns of the greater majority of the people with disrespect and even contempt.⁶⁹ The hallmark of Africa's imposed constitutions is that they have hardly ever been subjected to popular scrutiny, through, for example, referenda. And in the few cases where constitutions have been subjected to public scrutiny, these exercises were usually brief, carefully monitored, and manipulated to produce only the kinds of outcomes that would promote the interests of the ruling clique.⁷⁰

Overall, state and society seem to have been in conflict ever since Africa's empires and kingdoms were replaced by the unfinished, Western-inspired and -enforced state forms. The illegitimacy of the African state, the oppressive character of some of its leaders, and its peripheral position in the global political economy have been the most serious sources of instability on the continent, including the high incidence of coups d'état. Despite its illegitimacy, the African state has remained powerful in its physical actions, in its appropriation and extraction of resources, and in the arbitrariness of its decisions. It has, however, remained painfully weak in its bargaining power with its constituent elements.⁷¹

In the post-independence years, African leaders' emphasis on the use of the coercive apparatuses of the state inadvertently meant that they became increasingly dependent on the military for their political survival. This had the unintended consequence

of politicising the military, and slowly bringing it closer to the corridors of political power. Therefore, the deteriorating social and economic conditions in Africa that began shortly after independence, partly as a result of poor civil political leadership, became an indirect invitation for military forces to take over the management of the African state. Needless to say, this was greatly facilitated by the positive intellectual assessment of their leadership potential, presented earlier. Understandably, a majority of the illegal takeovers of governments that have occurred in Africa have either been directly carried out by the military, or received their support, or, at the very least, been possible because of their neutrality.⁷²

The Togolese military set the tone for illegal military takeover of governments in post-independence Africa.⁷³ In January 1963, demobilised Togolese soldiers, who had been denied integration into the tiny Togolese army, staged a violent coup, assassinating Togo's pioneer president, Sylvanus Olympio, and replacing his regime with a new hand-picked and subservient civilian regime. The coup in Togo provoked public outrage across the continent, and the coup leaders were seriously ostracised. This was for three main reasons: firstly, because of violent character of the coup; secondly, because of the recognition and respect that Olympio commanded on the continent; and thirdly, and probably more consequentially, because African leaders, a majority of whom were vulnerable to similar military upheavals in their respective countries, needed to send unambiguous restraining signals to aspiring coup-plotters on the continent.⁷⁴ The coup in Togo was followed by a flurry of diplomatic meetings, championed by the OAU, during which a myriad proposals on how to curb the spread of the phenomenon of coups, and the legitimising of coup regimes, were presented. However, these proposals did not translate into any tangible and credible response strategy or mechanism. Therefore, what appeared to be an initial resolute stance against illegal seizure of power slowly ebbed away, so that subsequent coups failed to provoke the kind of ripples that the coup in Togo had provoked. And by 1968, about 64 upheavals relating to the effective or attempted forcible removal of constitutionally sanctioned governments had occurred on the continent.⁷⁵

Barely six months after the Togolese coup, in August 1963, the army in Congo-Brazzaville toppled the government of Fulbert Youlou. Later, in October of the same year, the Dahomean military ousted the civilian government of Hubert Maga in Cotonou. In early 1964, Kenya, Uganda, and Tanganyika were rocked by destabilising mutinies. And in February 1964, in Gabon, the government of close French ally Leon Mba was overthrown by that country's military. However, following a decisive French military intervention, the coup was reversed and president Mba was reinstated.⁷⁶ The French intervention in Gabon, it should be noted, was not informed by France's abhorrence of unconstitutional changes of government on the continent. Rather, it was a product of French economic interests – specifically, French oil interests in Gabon.

In the absence of any serious continental and extra-continental challenge to these early waves of coups on the continent, the continent's military forces were encouraged to

continue their onslaught against civilian governments. In rapid succession, legally constituted civilian regimes were overthrown in Congo-Leopoldville, later named Zaire, in November 1965; in Dahomey in November 1965 and again in December 1965; in the Central African Republic in January 1966; in Upper Volta in January 1966; and in Nigeria in January 1966, and again in July the same year. Ghana, until then considered to be blessed with one of Africa's most progressive leadership structures, joined the queue in February 1966. Unlike the first wave of military coups of 1963 and 1964, which in most cases resulted in the appointment of puppet civilian leaders to rule on behalf of the military, this second wave of military coups produced the first set of military juntas that decided to take charge of state affairs directly. This trend was, in some ways, in consonance with the prevalent intellectual discourse that presented the military as being better suited for governance in the newly-born and unstable African polities. As a result, by the mid-1970s almost 50 per cent of the then 41 independent states were led by military or civil-military cliques: 'the coup d'état and military regime had become the most prevalent political phenomena in Africa'.⁷⁷ The questions that arise from this are: firstly, what were the explanations for this high incidence of coups d'état on the continent during this period? Secondly, and more importantly, did these coup regimes provide better leadership, or were they worse than the regimes they replaced?

The factors that accounted for illegal assumption of power in sub-Saharan Africa in the 1960s and 1970s were many and varied. Claude E Welch, Jr, has provided a very useful eight-point summary of them that we find highly relevant to our analysis:⁷⁸

1. the declining prestige of the major political party, as exemplified by (a) increased reliance upon force to achieve compliance, (b) a stress upon unanimity (homogenisation) in the face of centrifugal forces, and (c) a consequent denial of effective political choice;
2. schism among prominent politicians, which had the effect of weakening the broadly based nationalist movement that had hastened the departure of the former colonial power;
3. lessened likelihood of external intervention in the event of military uprising/ takeover;
4. apparent contagiousness of illegal seizures of power by the military in other African countries;
5. domestic social antagonisms, most obviously manifested in countries where a minority group exercised control;
6. economic malaise, leading to 'austerity' policies that affected the most articulate, urbanised segments of the population;

7. corruption and inefficiency of government and party officials, most noticeable under conditions of economic decline; and
8. heightened awareness within the army of its power to influence or displace political leaders.

What is obvious from Welch's summary is that most of these causes (at least five out of the eight) were more directly or indirectly linked to poor leadership than to the ambitiousness and/or greed of coup-plotters. As a matter of fact, sitting governments created the material conditions that made coup-plotting attractive. For example, by betraying the trust that the African masses had in them, the post-independence governments removed a useful protective shield against coup-plotters. Had they remained the popular leaders that they were at independence, it is unlikely that the masses would have remained indifferent to the plotters' onslaughts against these civilian governments.

Moreover, African leaders' reliance on the use of coercive force to shore up their declining legitimacy did not only make them dependent on, and vulnerable to, the military and security services, but it indirectly served as an invitation for these forces to take over the politics of these states. And, in some cases, African leaders' attempts to manipulate ethnic differences for personal political ends played into the hands of coup-plotters, who gladly invoked the marginalisation of some ethnic groups as an injustice that needed to be corrected by the military's intervention. Additionally, the get-rich-quick attitude of the post-independence African leaders, reflected in ostentatious living, alongside visible corruption, made it difficult to justify the economic hardships of the masses – even when, in some instances, such economic hardship was a result of an unfavourable global economic environment beyond the leaders' control, such as the decline in the prices of cash crops. Some of the coups were actually preceded by street protests and demonstrations over poor pay and other related grievances, which were then used by the military as justifications to take power.

It is beyond the scope of this paper to detail the causes of the numerous coups that took place on the continent during this period.⁷⁹ It suffices, however, to examine the experiences of a few countries to appraise how some of the factors enumerated above played themselves out in bringing about coups, and also how the coup regimes managed the states they inherited.

Ghana

In this regard, Ghana is a particularly interesting case, given its position as the first independent state in sub-Saharan Africa, and also because of the respect commanded continentally and globally by its first president, Kwame Nkrumah. These virtues made the intervention of the military in Ghana's politics appear as an aberration. However,

a closer look at the facts would suggest that the coups and counter-coups that rocked the country were brought about by inept leadership.

Nkrumah ruled by manipulating contending groups and interests against each other, including the politicisation of traditional cleavages. And because his rule was anchored in patronage and personal loyalty rather than on merit, he was unable to sanction close collaborators who were involved in corruption and other related ills. In fact, the Nkrumah regime entertained a disturbingly high level of permissiveness.⁸⁰ Moreover, Nkrumah had an unstructured decision-making style, caused partly by his tendency to act on ideas before they were thought through. Although he surrounded himself with friends and members of his ethnic group, decision-making powers remained concentrated in his person and office. Under Nkrumah, the opposition was restricted by a wide variety of means, resulting in the population being deprived of any effective political choice. Unfortunately, however, his attempt to restrict claims on the system, rather than lessening pressure on the system as anticipated, had the unintended consequence of decreasing the effectiveness with which these claims were communicated, resulting in frustration and discontent with the system. Nkrumah's high-handedness over the opposition and the media eroded much of the legitimacy that he and his party, the Convention Peoples Party (CPP), had enjoyed in the early independence years. The ever-increasing severity of sanctions against opponents resulted in a kind of vicious circle, in which force and not legitimacy became the instrument of rule in Ghana.⁸¹ Eventually, Nkrumah became very unpopular, and, having instituted increasingly unpopular austerity economic policies aimed at reversing the country's economic downslide, he was eased out of power in early 1966 by a coalition of army and security forces, which had emerged as the only other groups capable of challenging his regime, given that he had succeeded in weakening opposition parties.

Nkrumah's overthrow was jubilantly received, and the relative ease with which the regime was toppled indicated not only that his regime had become too dependent on the military, but also that it had decayed and was incapable of responding to the yearnings of Ghanaians.⁸² The National Liberation Council (NLC), which was established on 24 February 1966, headed by General Ankrah, quickly legitimised itself: firstly, by exposing all the ills of the Nkrumah regime through a number of judicial commissions of enquiry – relating particularly to corruption and arbitrary rule; secondly, by promising to restore democratic civilian rule under a new constitution that was to prevent the concentration of power in any single individual or institution; and, thirdly, by promising to factor in the demands of the public and strategic groups in its lines of action.⁸³ Although the NLC could not deliver on some of its pledges, it gained a reasonable level of legitimacy, as revealed by a February 1968 public-opinion poll that showed that a majority of Ghanaians liked the NLC, and that many were not too enthusiastic about the reinstatement of a new civilian government.⁸⁴ Overall, Ghana was politically stable and economically better off during the reign of the NLC, which eventually handed over power to an elected civilian government in October 1969, under the leadership of prime minister Kofi Busia.

Busia's government was faced with numerous economic problems that forced it to undertake a drastic devaluation of the Ghanaian currency in December 1971, resulting in severe inflationary pressures. The government's inability to contain the inflation deepened already existing discontent, providing an excuse for military officers to seize power in a bloodless coup in 1972. The successor government of Colonel I K Acheampong formed the National Redemption Council (NRC), which promised to improve Ghanaians' quality of life. By 1977, it had become obvious that Acheampong's government had failed to satisfy the populations' expectations, partly because of continued corruption, mismanagement, and Acheampong's ploy to perpetuate himself in power. He was overthrown by his chief of staff, Lt General Frederick Akuffo, in July 1978. Akuffo's reign was short-lived, as he was overthrown in June 1979 in a violent coup by a group of junior and non-commissioned officers that established the Armed Revolutionary Council (ARC), headed by Flight Lt Jerry Rawlings, in what has been dubbed 'Rawlings' first coming'.

Rawlings executed eight senior military officers, including the chiefs of state Acheampong and Akuffo, established special tribunals that secretly, and, without due process, tried dozens of military officers, other government officials, and private individuals for corruption, sentencing them to long prison terms and confiscating their property. And, through a combination of force and exhortation, he attempted to rid Ghanaian society of corruption and profiteering. After promulgating a new draft constitution, Rawlings handed over power to an elected civilian administration in September 1979, in the hope that his harsh treatment of members of the former regime had purged Ghanaian society of the ills that informed his intervention.⁸⁵ Although Dr Hilla Limann's government governed according to the constitution, and even as he promoted individual freedoms and democratic norms, it failed to halt Ghana's economic decline. It appeared to condone corruption, and also did nothing to reduce the widening gap between the rich and the poor. Rawlings used this as an excuse to stage a 'second coming' in December 1981. From 1981 to December 2004, Rawlings ruled Ghana with an iron fist. However, although the first and second Rawlings regimes were characterised by serious violations of human rights, it must be conceded that the acclaim that Ghana receives today as one of the few countries in Africa to have turned a corner in governance efforts, owes much to the purges that followed the Rawlings coups. It would seem as though these harsh punishments succeeded in instilling a sense of caution in holders of public office in Ghana, something that is lacking in a majority of African states.

Former Zaire

The case of the former Zaire is also very instructive. Here, Colonel Mobutu's first intervention in Congolese politics, in September 1960, was informed by the constitutional impasse created by rivalry between the president of the republic, Joseph Desire Kasavubu, and his prime minister, Patrice Lumumba. These two were involved in a bit-

ter power struggle that virtually paralysed government activities. Mobutu, the young officer, stepped in to neutralise all the politicians, and to assume power for a short period of about three months, essentially to stabilise the situation in the Congo. He established the college of commissioners-general (*Collège de Commissaires Généraux*), a transitional institution that filled the power vacuum and which was intended to facilitate national dialogue.⁸⁶ However, despite Mobutu's good intentions, the functions of the new college were unclear, it lacked cohesion and popular support, and its membership was too large to be effective. And, with time, it split into factions, which culminated in yet another power struggle between two key faction leaders – the prime minister, Moïse Tshombe, on the one hand, and the president, Kasavubu, on the other. This brought about the military's second intervention in Congolese politics in November 1965, under the leadership of General Mobutu.

Initially acting in the name of the entire Congolese army, but eventually appearing to stand apart from it, and with the connivance of external support – the Americans, the Belgians, and the French – Mobutu soon became one of Africa's most notorious despots, whose hallmarks were kleptocratic governance and outright predation over the resources of the state, with little or no interest in its development. Under him, Zaire, one of Africa's best-endowed countries in natural resources, lacked the most basic infrastructure, and even an army to defend its territorial integrity. It took the end of the Cold War and the demise of the Soviet Union for Mobutu's external backers reluctantly to accept removing the protective shield they offered him over the years, to allow him to account to his people. The failure of civilian pressures post-1990s to force him out of power through violent public demonstrations made the military option the only alternative. Assisted by some of the country's neighbours, a rebellious military force led by Laurent Désirée Kabila marched to the capital and forced Mobutu to flee the country.

Although Mobutu's demise did not herald peace and stability in what was later renamed the Democratic Republic of Congo (DRC), his long-overdue departure was a welcome development, not only for Congolese, but for many Africans, for whom Mobutu's reign had become a continental embarrassment, of almost the same magnitude as Bokassa's and Idi Amin's in the Central African Republic and Uganda, respectively. Although Laurent Kabila's failure to honour pledges made to his external allies who had helped him topple Mobutu threw the country into greater political instability, the rebellion that overthrew Mobutu, though unconstitutional, was most welcome.

Uganda

Another interesting, though not gratifying, case is that of Uganda, where president Milton Obote's excessive reliance on the military made the army chief of staff, Idi Amin, his most dependable ally. As long as this alliance remained strong, the Obote regime was guaranteed its political survival. However, with time, tensions emerged

between the two men, with Obote fearing that Amin was nursing ambitions to seize power eventually, while Amin, for his part, felt that Obote was deliberately undercutting his influence, especially with the creation of parallel military and security forces, independent of the department of defence, which Amin headed.

In January 1971, in what has been tagged a 'personalist coup', Idi Amin overthrew Obote, shattering the delicate balance of power that had prevailed between the two leaders in the period 1969–1970. This was facilitated by the prevalence of political intrigues and a host of other problems that the Obote regime either failed to solve satisfactorily or had not moved resolutely against.⁸⁷ Amin commenced what was to become one of Africa's most notoriously brutal and idiosyncratic rules. For well over eight years, Idi Amin terrorised his people and foreigners, rampaging against an estimated 500 000 Ugandan victims of murder, torture, and imprisonment. After surviving several assassination attempts, Amin was at last ousted in 1979 with the help of Tanzanian forces, saving the lives of countless victims of his unbridled violence, and removing what had become one of the most embarrassing regimes on the continent. The scale of the atrocities committed by Idi Amin against humanity was such that his overthrow was celebrated across the globe – it was indeed a good coup – in spite of the fact that the successor regimes did not bring much of economic transformation in the country. The same could be said of the coup that removed Jean Bedel Bokassa from power in the Central African Republic.

Nigeria: the 'poster-child' of African coups

The case of Nigeria is even more intriguing, in that the country has been under military rule for a greater part of its 46 years of sovereign statehood. It has had only three episodes of democratically elected civilian governments: under Tafawa Balewa, 1960–1966; Shegu Shagari, 1979–1983; and Olusegun Obasanjo, 1999 to date. The two earlier civilian regimes were both terminated by military coups, which coups were followed by a number of intra-military coups and counter-coups that earned Nigeria the unenviable reputation as one of Africa's most politically unstable countries. While military intervention in Nigerian politics has been a major obstacle to the consolidation of democracy in the country,⁸⁸ a critical reading of Nigeria's political history would reveal that elected civilian regimes were plagued by serious problems long before their overthrow by the military. Indeed, the coups that toppled both Balewa and Shagari were preceded by high levels of depluralisation, state appropriation, regime delegitimation, and intense inter-hegemonic conflict, particularly amongst Nigeria's principal ethnic groupings – the Ibos, the Yorubas, and the Housa-Fulani.⁸⁹ The coups were therefore only a culmination of the country's deteriorating political, economic, and social situation. They were, in some sense, solutions to the recurrent stalemates among civil political actors. And, as Ifidon puts it, 'democracy had collapsed before the coups, and it was the failure of democracy that inspired the coups'.⁹⁰

In 1966, for example, following a protracted political impasse among politicians of the western region of the country, and an attempt by the northern-controlled federal government to capitalise on this to further consolidate its grip on power, some elements of the Nigerian federal army, composed largely of Ibo officers and led by General Aguiyi Ironsi, overthrew the federal government. The coup was very violent, resulting in the deaths of the federal prime minister, Tafewa Balewa, and the prime ministers of the northern and western regions. From then on, the Nigerian army became affected by the various political divisions in the country, to the extent that trends that had resulted in constitutional, electoral, and government deadlocks became, in the hands of the soldiers, justifications for more coups and counter coups.⁹¹

Six months after the January 1966 coup, military officers from the north avenged the murder of Balewa and other northern leaders by staging a counter-coup that saw the killing of the federal military head of state, Ironsi, and the massacre of hundreds of Ibos living in the northern region of Nigeria. Feeling that they were increasingly being marginalised in the politics of the federation, the Ibos, under the leadership of General Odunmegwu Ojukwu, opted for secession by proclaiming an independent Biafran republic in 1967. The federal military government of Yakubu Gowon responded violently, throwing Nigeria into a costly three-year civil war which lasted until January 1970, ending with the surrender and reintegration of the rebellious eastern region into the federation.⁹² After the civil war, Gowon was apparently in no hurry to return the country into civilian rule. He was toppled in yet another military coup in July 1975, led by General Murtala Mohammed, who was himself assassinated shortly after taking over power. He was succeeded by his deputy, Olusegun Obasanjo, who returned the country to civilian rule in 1979.

Alhaji Shehu Shagari became Nigeria's second civilian head of state almost 13 years after the country's first successful military coup in 1966. He was re-elected in 1983. However, he was haunted by a serious legitimacy crisis throughout his second term of office, resulting largely from controversy over the manner in which he had earned his electoral victory. Shagari became even more unpopular when allegations of mismanagement and corruption were levelled against him. He was therefore eased out of office in December 1983 by a military junta, led by General Mohammadu Buhari. Buhari's junta lasted for only 18 months. It was ousted in yet another coup, masterminded by General Ibrahim Babangida, who ruled Nigeria until 1993.⁹³

Originally hailed as a corrective recipe, aimed at helping to reset the democratic clock, military rule in Nigeria soon became a serious liability, particularly under Ibrahim Babangida (1985–1993) and Sani Abacha (1993–1998). Although, in terms of political behaviour and the structure of the relationship with the masses, it has been difficult to distinguish clearly between civil and military governments in Nigeria, the Abacha and Babangida regimes raised the bar of oppressiveness and predation on state resources to the highest levels in the country's chequered history. Therefore, although the delegitimation of

Nigeria's democratically elected administrations had provided the initial legitimacy for coups and subsequent military rule, the degeneration of Nigeria's military rulers into tyrants revived the masses' preference for civilian governments, as a lesser evil.

This explains why Nigeria's return to democratic civilian governance in 1999 with the election of Obasanjo, after nearly two decades of military rule, was celebrated as the opening of a new page in Nigeria's history. However, while Obasanjo's civilian government brought much hope to Nigerians, his rule, particularly during his second term, has been rocked by allegations of high-handedness and unacceptable levels of intolerance, akin to what developed under military regimes. His attempt to tinker with the constitution to prolong his stay in office beyond the two terms defined by the constitution has not helped matters. And, as the end of his second term draws near, the wrangling and infighting that have always characterised Nigeria's regime transitions have resurfaced, fuelling fears that Nigerian civilian politicians are once more inadvertently offering the military another invitation to serve as arbiters in the country's rancorous politics.

Overall, while it is true that coup-plotters have at times taken power under the influence of some personal or corporate interest, it is equally true that sitting governments have provided coup-plotters with reasons for their actions. And, although many coup leaders have not governed any better than the regimes they replaced, in some instances, such as the cases of the overthrow of Idi Amin, Bokassa, and even Mobutu, the coup-plotters actually did a great service to their people by removing leaders who were not only preying on their states and peoples, but also constricted the political space for peaceful change.

The Lomé Declaration: context, content, and interpretation

Context

Africa's post-independence culture of impunity and complacency was partly tamed by the demise of the Cold War, and the removal of the protective shield it provided African governments against meaningful external scrutiny of their domestic politics. In the post-Cold War environment, democracy emerged as the most popularly accepted form of government, generating an increased propensity, even among Africa's not-too-democratic leadership, to enshrine democratic principles in their regional agreements. Regional organisations also became lead actors in efforts to prevent, and respond to, the ever-threatening prospects of democracy being subverted through coups d'état and other forms of illegal acquisition and exercise of power.

For Africa's 'mother organisation', the OAU, the point of departure in the fight against the illegal acquisition and exercise of power was the Kampala Document, born of the

same process as the Council for Security, Stability, Development and Co-operation in Africa (CSSDCA) in 1991.⁹⁴ The CSSDCA's first and second 'calabashes' – security and stability – had a direct bearing on democracy and good governance. It is here that the core democratic principles of competitive and transparent multi-party elections and human rights were first clearly articulated. This was taken a step further during the OAU heads of state and government summit in Harare in 1997 – with the adoption of an African common position on unconstitutional changes of government.⁹⁵ African heads of state further elaborated on this principle during their summit in Algiers in 1999, in what has come to be known as the 'Algiers decision on unconstitutional changes of government'.⁹⁶ A key element of this decision, which was a precursor to the Lomé Declaration, was *'the banning from OAU Summits of all governments that had taken power through a coup since the last Summit'*.⁹⁷ During their summit in Lomé, Togo, African heads of state of the OAU expanded and elaborated on all these earlier decisions, coming up with what was, at the time, seen as a far-reaching political initiative – the 'Declaration on the framework for an OAU response to unconstitutional changes of government'.⁹⁸

The Lomé Declaration was arrived at against the backdrop of the resurgence of the phenomenon of coups d'état in Africa, a phenomenon that threatened not only the peace and security of the continent, but was also a setback to the continent's democratisation agenda, which emphasised respect for the rule of law, based on the peoples' will, expressed through the ballot and not the barrel of the gun. Coups were also perceived as an affront to the basic tenets of the OAU and UN charters. They were a contradiction and contravention of the Harare Declaration of 1997, following the coup d'état in Sierra Leone.⁹⁹ The Lomé Declaration was a reaffirmation of the provisions of the OAU charter and the provisions of the African Charter on Human and Peoples Rights. It was a product of the OAU's recognition that the principles of good governance, transparency, and human rights are essential elements for building representative and stable governments, with a potential to contribute to conflict prevention.¹⁰⁰

The almost revolutionary democratic principles enunciated by African leaders in the Lomé Declaration were also partly necessitated by the fundamentally changed post-Cold War environment. In this regard, a key element of that environment was the insistence of major powers that Africans take a lead in preventing and managing their own conflicts. Henceforth, the OAU and its regional communities were to be more directly involved in keeping the peace in Africa, with Europe and America providing only logistical and financial support, where and when they deemed it necessary to do so. This was within the ambit of what Adekeye Adebajo has described as the new international division of labour in conflict management in Africa, after the American debacle in Mogadishu in 1993.¹⁰¹

Overview of content

The key elements of the framework for an OAU response to unconstitutional changes of government included: a set of common values and principles for democratic governance; a definition of what constitutes an unconstitutional change of government; measures and actions that the OAU would progressively take to respond to unconstitutional changes of government; and an implementation mechanism.

To provide a solid underpinning to the OAU's agenda of promoting democracy and democratic institutions in Africa, the Lomé Declaration gave consideration to the elaboration of a set of principles on democratic governance to be adhered to by all member states of the OAU. These principles, which derive from various documents and declarations adopted by the OAU over the years, include, among others:¹⁰²

- the adoption of a democratic constitution: its preparation, content, and method of revision should be in conformity with generally acceptable principles of democracy;
- respect for the constitution, and adherence to the provisions of the law and other legislative enactments adopted by parliament;
- separation of powers and independence of the judiciary;
- promotion of political pluralism, or any other form of participatory democracy, and the role of African civil society, including enhancing and ensuring gender balance in the political process;
- the principle of democratic change and recognition of a role for the opposition;
- organisation of free and regular elections, in conformity with existing texts;
- guarantee of freedom of expression and freedom of the press, including guaranteeing access to the media for all political stakeholders;
- constitutional recognition of fundamental rights and freedoms in conformity with the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981; and
- the guarantee and promotion of human rights.

The assumption was that the strict adherence to these principles, and the strengthening of democratic institutions, would considerably reduce the risks of unconstitutional changes of governments on the continent. The architects of the Lomé Declaration conceded that unconstitutional changes are sometimes the culmination of a political and institutional crises linked to non-adherence to the above common values and democratic principles.

In order to give practical effect to the enunciated democratic principles, the OAU leaders agreed on the following definition of situations that could be considered as situations of unconstitutional change of government:

❖❖❖ GOOD COUPS AND BAD COUPS:

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

They also decided that whenever an unconstitutional change, thus defined, takes place in a member state, the sitting chairman of the OAU and the organisation's secretary-general, on behalf of the OAU, should immediately and publicly condemn such a change and urge a speedy return to constitutional order. The chairman and the secretary-general should also convey a clear and unequivocal warning to the perpetrators of the unconstitutional change that *under no circumstances will their illegal action be tolerated or recognised by the OAU*. In that regard, the chairman and the secretary-general should urge for consistency of action at the bilateral, inter-state, subregional, and international levels. The OAU Central Organ should thereafter convene, as a matter of urgency, to discuss the matter.

At the request of its chairman, the secretary-general, or any OAU member state, the Central Organ may be convened to examine any given situation that could be considered as constituting an unconstitutional change. Following the initial response of its condemning the unconstitutional change, a period of up to six months should be given to the perpetrators of such a change to restore constitutional order. During the six-month period, the government concerned should be suspended from participating in the policy organs of the OAU. Apart from the sanctions provided for under article 115 of the OAU financial rules and regulations, the governments concerned should not participate in meetings of the Central Organ, and sessions of the Council of Ministers and the Assembly of Heads of State and Government. Its exclusion from participating in the OAU policy organs should not affect the country's membership in the OAU, and therefore will not preclude it from honouring its basic obligations towards the organisation, including financial contributions to the OAU regular budget.

The secretary-general should, during this period, gather facts relevant to the unconstitutional change of government, and establish appropriate contacts with the perpetrators with a view to ascertaining their intentions regarding the restoration of constitutional order in the country; the secretary-general should seek the contribution of African leaders and personalities in the form of discreet moral pressure on the perpetrators of the unconstitutional change, in order to get them to co-operate with the OAU, and facilitate the restoration of constitutional order in the member state concerned; and the secretary-general should speedily enlist the collaboration of the regional grouping to which the 'country in crisis' belongs.

At the expiration of the six-month suspension period, a range of limited and targeted sanctions against the regime that stubbornly refuses to restore constitutional order

should be instituted, in addition to the suspension from participation in the OAU policy organs. These could include visa denials for the perpetrators of an unconstitutional change, restrictions of government-to-government contacts, trade restrictions, etc. In implementing a sanctions regime, the OAU should enlist the co-operation of member states, regional groupings, and the wider international/donor communities. Careful attention should be exercised to ensure that the ordinary citizens of the country concerned do not suffer disproportionately on account of the enforcement of sanctions.

In order to give effect to these measures, it was decided that existing OAU mechanisms, particularly the Central Organ, at all its three levels, would be the instrument for implementing this framework for an OAU response to unconstitutional changes in Africa. In this regard, the secretary-general was to explore how best to enhance the capacity of that policy organ to enable it to implement the principles contained in the framework in an effective and credible manner.

The OAU established a Central Organ sanctions subcommittee of five members, chosen on the basis of regional representation, with the task of regularly monitoring compliance with decisions taken on situations of unconstitutional change, and recommending appropriate review measures to the policy organs of the OAU.¹⁰³

The Lomé Declaration: constricted definition of constitutionality and legitimacy

There are two sides to the issue of unconstitutionality of governments – the one relating to the conduct of incumbent governments, and the other relating to those aspiring to grab power. In its enunciation of principles, the Lomé Declaration recognises the fact that a key source of political instability on the continent had to do with the undemocratic conduct of African leaders (poor governance). However, in mapping out its practical responses to unconstitutionality, it is painfully silent on the omissions and commissions of sitting African governments.

The declaration appears to be deliberately narrowly cast, with the weight of the four elements of its definition of what constitutes unconstitutional changes of power leaning almost exclusively on the procedural dimensions of legitimacy – prescribing only how power must be acquired, and not how it should be exercised. Hence it places an injunction on unconstitutional changes of government, and not on undemocratic practices. What this approach suggests is that the main function of the anti-coup thrust of the Lomé Declaration is to protect weak governments – weakness here meaning governments that lack substantive legitimacy – rather than to defend democracy per se.¹⁰⁴ For example, the declaration is silent on subtle but equally pervasive affronts on democracy by incumbents, who, although democratically elected (and therefore procedurally legitimate), have secured their continued stay in power only through the subversion of

their national constitutions – including, of course, the growing tendency to tinker with constitutional provisions relating to terms of office.¹⁰⁵ Moreover, according to Lomé, a legitimate order can only result from free and fair elections. Yet what constitutes a free and fair election has been a very contentious issue; this in spite of the adoption of the AU Durban Declaration, governing democratic elections in Africa. Africa’s elections have hardly been free and fair. And, to add to the confusion, ‘election observers have themselves failed to establish consensus over the fairness of elections or lack thereof’.¹⁰⁶

Lomé is also not sufficiently vocal on the thorny question of the inadequacy and ineffectiveness of Africa’s governance institutions, including the lack of respect for these institutions by both the governors and the governed on the continent.¹⁰⁷ Moreover, because the declaration focuses on ‘post-the-fact reactions’, its authors failed to build into it a credible trigger mechanism that could signal potentially explosive domestic situations for quick AU pre-emptive, rather than reactionary, responses. The brewing crisis in Zimbabwe, which is only waiting to boil over into a civil war, and the studied aloofness towards it of regional and continental organisations, is a particularly telling example. All of these have had far-reaching implications for the implementation of Lomé, as we shall see in the following sections.

Post-Lomé responses to coups: a constellation of dilemmas and complacency¹⁰⁸

From the adoption of the Lomé Declaration in July 2000, to the AU heads of state summit in The Gambia in July 2006, the continent witnessed many attempts at, or effective, unconstitutional changes of government, beginning with Madagascar in January 2002, to Mauritania in August 2005. In all these instances, the AU has been faced with what could be rightly described as a response dilemma over coup situations. It has had to choose between electing to uphold the letter and spirit of Lomé, or alternatively treating each coup according to the specific circumstances surrounding it, in what many have come to perceive as a *policy of exceptionalism* or simply *double standards*.

It would, however, seem that the AU’s responses to coups have been a product of the constellation of forces at a given time, and specific to each coup situation. The responses have depended on the states that have an interest in a particular coup country, as well as the power coalition patterns on the continent and in the AU. They have also depended on the leadership of the AU at any given time – that is, whether leadership groups (comprising the AU president; the chairperson of the commission; and the powerful, but least-spoken-of, Permanent Representative Committee [PRC] – made up of African ambassadors to the AU) are united or divided on a coup situation, and therefore on what line of action needs to be taken. It has also had to contend with domestic reactions to coups – which have themselves varied from manifest indifference, through public jubilation and support for the coup-plotters, to public demonstra-

tions and opposition to the coup. These largely internal continental forces have been mediated by a confluence of international interests – that is, the stakes that a coup country holds for the powerful global powers.¹⁰⁹ The ways these forces have tended to play themselves out suggests that some coups are acceptable, and therefore could be said to be good coups, whereas others are not acceptable, and are therefore bad coups. The following case studies are very revealing of these trends.

The case of Madagascar

The island of Madagascar presented the AU with the first test of the viability of its injunction on unconstitutional changes of governments, contained in the Lomé Declaration. In the presidential elections on 16 December 2001, incumbent president Didier Ratsiraka was declared to have obtained 40,89 per cent of the votes cast, and his challenger, Marc Ravalomanana, 46,2 per cent. This made a second-round rerun inevitable. However, a few days after the voting, Ravalomanana's supporters claimed that, according to counting by their own electoral officials, their candidate had obtained 52 per cent of the votes in the first round. They therefore unilaterally and unlawfully declared him president of the republic.

The AU responded to this crisis by summoning an emergency meeting of the Mechanism for the Prevention, Management, and Resolution of Conflicts (MPMRC) of the Central Organ on 11 January 2002. The meeting produced a communiqué that urged all the parties concerned and the Malagasy people to exercise restraint. While diplomatic efforts, in the form of a number of peace missions, were intensified to try to reconcile the protagonists, the self-proclaimed government of Ravalomanana was denied recognition by the AU. In spite of pressures from Madagascar's northern allies, particularly France and America, that the new regime be given recognition, Ravalomanana's government was recognised as legitimate only after it organised legislative elections in December 2002. However, the organisation of elections was not the only measure that the AU used to gauge the legitimacy of the new government in Madagascar. Rather, the AU also sent a high-level fact-finding mission to Madagascar in January 2003. It was on the basis of the positive report of this mission that the AU's MPMRC recommended the recognition of the new government in Madagascar by the African heads of state meeting at their annual summit in February 2003, in Addis Ababa.¹¹⁰

The AU's management of the coup in Madagascar has been presented as a reflection of the firmness of the organisation against unconstitutional changes of government. However, while it is true that the AU was relatively successful in Madagascar, it is important to put this success in context. Firstly, the timing of the coup was a critical factor in the AU's response. The coup came barely a year after the adoption of the Lomé Declaration, and only a few months after the transition from the OAU to the AU. Therefore, the unity manifested by African leaders over the Malagasy case could

be explained by their desire to demonstrate that they were serious about doing things differently, particularly in relation to responding to undemocratic practices such as coups d'état. A failure in Madagascar would have compromised both the AU and the Lomé Declaration. Secondly, Madagascar, though Africa's largest island state, is a territory of little geo-strategic significance to both continental and extra-continental powers. Thirdly, Madagascar is a resource-poor country, with its major exports being coffee, vanilla, and shellfish, exported respectively to the United States, France, and Germany.¹¹¹ The country has no strategic minerals, such as petroleum or precious metals. It is therefore of little economic consequence to regional and extra-regional power brokers. Additionally, although a former French colony, Madagascar, probably because of its island location, has not been very prominent in continental-bloc politics, such as the francophone–anglophone divide. Therefore, the Malagasy case was a relatively easy puzzle for the AU to resolve. Not only was the organisation able to remain united on the lines of action that needed to be taken, but Madagascar was amenable to being forced into conformity because of its resource paucity, lack of economic muscle, and the absence of a credible external ally that was willing to stand by the coup-plotters.

The case of Côte d'Ivoire

In September 2002, segments of the Ivorian military unsuccessfully attempted to topple the government of president Laurent Gbagbo while he was out of the country on official state business. Although the coup was foiled, its major fallout was that Côte d'Ivoire, once an oasis of peace in the turbulent West African region (until its first military coup in 1999), was plunged into a full-scale civil war, with the emergence of a rebel group known as the New Forces (Forces Nouvelles, or FN).¹¹² The rebel forces succeeded in capturing the northern parts of the country, resulting in the de facto division of the country into two: a rebel-controlled north, and a government-controlled south. The Ivorian 'failed coup' presented the AU with an admittedly more difficult test case for the actualisation of its injunction on coups.

As with the Malagasy case, the AU's MPMRC, at a meeting on 24 September 2002, issued a communiqué strongly condemning the coup attempt. It also urged the parties concerned to look for a lasting solution to the conflict through dialogue.¹¹³ The search for a lasting solution to the Ivorian crisis, and the restoration of full constitutional order, has, however, remained very elusive.

Unlike the Malagasy situation, the Ivorian failed coup did not lend itself to any quick fixes. Firstly, Côte d'Ivoire's post-independence economic and political miracles gave it the status of an economic powerhouse in West Africa – courted by both its immediate and not-too-immediate neighbours. Secondly, because of the continental and international standing of the country's first president, Félix Houphouët-Boigny, the country had got itself into the fray of regional rivalries and competition – including contests

over the leadership of francophone West Africa, with Senegal's Leopold Sédar Senghor – and involved in the traditional tensions between francophone and anglophone West African states. Thirdly, the country has always had special ties with France that gave the latter a strong foothold in both its economy and its politics, including a controversial strategic military pact, which gives France the right to intervene militarily in any serious Ivorian conflict.

Because of these factors and forces, the AU has been unable to act with the kind of unity of purpose that was applied in the Malagasy case. At the regional level, president Gbagbo is believed to have stepped on some toes and hurt the vital interests of major regional power brokers, who are set on seeing him out of office, and who have therefore been supportive of the actions of the rebellion. The same applies to France, which has a problem with president Gbagbo's radical nationalism, which seems to be threatening France's economic and political interests in the country and the region. At the same time, president Gbagbo has some allies, though not many, in the region and on the continent – who are therefore supportive of the respect for constitutional order. These are the dynamics that informed the AU's response to the failed coup, and which continue to inform the development of the Ivorian conflict. Overall, the attitude of role-players who would want to see president Gbagbo out of office, and who therefore continue to afford support to the armed rebellion, suggests that the actions of the rebels are acceptable, and that toppling a regime even by means of arms is right. In which case, the failed coup, in their minds, was a welcome development, and therefore it was a good coup.

The case of the Central African Republic

In March 2003, the Central African Republic (CAR) presented the AU with yet another challenge to its injunction on unconstitutional changes of power. The regime of Ange Felix Patasé, which had had to quell a series of violent incidents of political unrest, including military mutinies, since 1996, was finally toppled in a coup led by the popular army general, Francois Bozize, in March 2003. In line with what was fast becoming a ritual, the AU central MPMRC condemned the coup. And in line with the spirit and letter of the Lomé Declaration, the MPMRC recommended the suspension of the CAR from the AU's activities until such a time that constitutional order would be restored in the country.¹¹⁴

Capitalising on the public mood in the CAR, which was largely supportive of his coup, Bozize quickly organised presidential and legislative elections in March 2005. And, as expected, he and his supporters won the elections, and with this he was quickly offered his country's seat at the AU during its heads of state summit in Syrte, Libya in July 2005. One could have imagined that the AU would take an even tougher stance against the coup-plotters in Bangui than they had taken over earlier coups, given

that president Patasé had been overthrown while away in Niamey, Niger to attend peace talks organised by the Economic and Monetary Community of Central Africa (CEMAC) and the Central African Conflict Management and Resolution Mechanism (CEN-SAD), and facilitated by the AU. The coup was therefore not only a challenge to the Lomé Declaration, but an outright assault on continental peace diplomacy.

The CAR, though among Africa's least-developed countries, has the advantage of some strategic mineral resources and precious metals, including petroleum deposits. Its domestic politics are, therefore, more amenable to external power interference – which could have complicated the AU's position. However, it would seem that the most important factor that informed the AU's somewhat soft stance on the CAR was the public mood. Although it is difficult to gauge accurately after a coup, the public mood in the country was said to be generally festive and supportive of it. This is understandable, given the turbulence – including violent street protests – that had characterised Ange Patasé's reign. Therefore, going by the public mood and the AU's apparently soft stance towards Bozize, one would argue that the CAR coup was a welcome relief for the people of the country, who had in any event been challenging the Patasé regime for years. In which case, this coup could be said to have been a good coup.

The case of Sao Tome and Principe

Probably encouraged by the 'soft landing' afforded General Bozize, by both his people and the AU, after the coup in CAR, Major Fernando Pereira seized power in Sao Tome and Principe in July 2003, while the reigning head of state, Fradique de Menezes, like his counterpart Ange-Felix Patasé, was away on official business in Abuja, Nigeria. However, unlike that of Bozize, Major Pereira's coup was reversed – this being only the second such coup reversal on the continent, after the reversal of the coup in Gabon in 1964, made possible by De Gaulle's military intervention.

But in Sao Tome and Principe, it was more diplomacy than force that brought about the reinstatement of the legitimate constitutional order. For the first time, the AU went beyond barely condemning the coup, to initiating ground-breaking consultative talks that brought together representatives from the member states of the Economic Community of Central African States (CEEAC), the Community of Portuguese-Speaking States (CPLP), Nigeria, and the AU itself, in Brazzaville, Congo on 18 July 2003. This was followed by the sending of a powerful mediation team, with representatives from eight countries (Angola, Brazil, Cap Verde, Congo, Gabon, Mozambique, Nigeria, and Portugal), to Sao Tome and Principe, with the objective of securing the re-establishment of constitutional order, which in this case was to consist of the restoration of the dethroned head of state. Negotiations culminated in the signing of a memorandum of understanding (MOU), which instituted a follow-up organ named the 'Commission for the guarantee accompaniment of the memorandum of understanding'. This

commission was inaugurated in November 2003, with a mandate to guarantee the application of, and scrupulous respect for, the commitments taken by the signatories of the agreement. And in light of the fact the coup was largely a product of economic difficulties faced by president Fradique de Menezes's government, an additional mandate of the commission was to facilitate the mobilisation of financial resources from the international community to ensure economic and social stability in the country. Upon signature of this MOU, the dethroned president regained his office – and constitutional order was re-established in the country.¹¹⁵

These outcomes were possible, not because of the resolve of member states of the AU to uphold the Lomé Declaration, but rather because of the forces in play. Key among them was Nigeria's direct involvement, resulting from the fact that the coup was staged when the Sao Tome and Principe leader was on an official visit to Nigeria. This action was seen by the Abuja authorities as an attempt to embarrass the Nigerian government. Had Nigeria allowed this coup to stand, it would have been a serious dent on its standing as an aspiring continental power, and as one of the key guarantors of constitutionality on the continent. Additionally, the coup leaders could easily be forced into conformity because of the smallness of the country, both geographically and economically, and the absence of any credible external ally. Moreover, as revealed by the thrust of the MOU, the ousted regime was not suffering from a lack of political legitimacy resulting from poor governance; rather, it was simply a victim of poor economic fortunes – lack of resources. The coup leaders, it would appear, were not directly interested in wresting and retaining political power. It would seem their principal concern was with improving their economic situation – alongside that of the masses. This explains why, immediately the international community pledged to provide the necessary assistance, they were ready to restore power to the legitimate civilian government. To the extent that the coup was able to bring the plight of the people of Sao Tome and Principe to the attention of the international community, it was a welcome coup – a good coup. Some would argue that the plight of the people could have been brought into the limelight by legal means, and not through a coup. That could be true. But one might wonder whether the international community, which suddenly became willing to assist the country, could claim amnesia with regard to the economic and social hardships that characterised Sao Tome and Principe over the years.

The case of Guinea Bissau

While negotiations were still going on to resolve the situation in Sao Tome and Principe, another coup was staged in the tiny country of Guinea Bissau. On 14 September 2003, General Verissimo Correia overthrew president Kuba Yalla. As usual, the AU condemned the coup, and called for the re-establishment of constitutional order, not necessarily the re-instatement of the deposed government. It sent evaluation missions to the country and, more importantly, threw its weight behind efforts by leaders of the

Economic Community of West African States (ECOWAS).¹¹⁶ The coup in Guinea Bissau added a new dimension to Africa's coup history, in that the coup leader died barely a month after seizing power and, rather than being replaced by another soldier from the military ranks, his successor, Henrique Rosa, came from and was chosen by civil society. In March 2004 and June 2005 respectively, legislative and presidential elections were held, returning the country to legitimate constitutional order. The fact that civil society was chosen by General Correira's military peers to preside over the return to civil rule would suggest that the military did indeed intervene in the general interest of the country, and not simply to advance its specific class interest. In which case, the coup could qualify as a good coup that aimed at improving the lot of the people of Guinea Bissau.

The case of Togo

An equally interesting new development in Africa's coup history occurred in Togo in February 2005, when the Togolese military installed Faure Gnassingbe, son of one of Africa's longest-serving dictators, as president after the demise of his father. Not only was this action unconstitutional, it also constituted an attempt to apply dynastic principles to a republican setting. The international community, including the usually ambiguous France, judged that the action qualified as a coup, and therefore called for a return to constitutional order. The newly established AU Peace and Security Council (AU-PSC), at its meeting on 7 February 2005, condemned the fraudulent manner in which major Togolese state institutions and authorities – the military, legislature, and the executive – had attempted to manipulate the succession process in Togo, in violation of the Togolese constitution, the Lomé Declaration, the Constitutive Act of the African Union, and the protocol establishing the AU-PSC. During its second meeting, on 25 February 2005, the AU-PSC confirmed the suspension of the new government and all its representatives from all AU activities, until the return to constitutional legality in the country.¹¹⁷

With continued pressure from ECOWAS, the AU, and the broader international community, alongside persistent street demonstrations in Togolese cities, Faure Gnassingbe resigned in February 2005. He was, however, presented as a candidate at presidential elections held in April 2005, and emerged the winner, fulfilling the requirement of a constitutionally legitimate head of state, as laid down in the Lomé Declaration. Togo was therefore readmitted into the AU club during the AU heads of state summit that was held in Syrte, Libya in July 2005.

As with earlier coups, the AU's emphasis in Togo was on the re-establishment of constitutional order – which in almost all cases has consisted, essentially, of organising elections that achieve nothing more than legitimising coup leaders. There has hardly been any insistence on the reinstatement of deposed leaders, or, in the particular case

of Togo, on respecting the constitutional provision that defined who, exactly, was empowered to manage the succession – the speaker of the Togolese National Assembly. Therefore, although at face value it would appear that international pressure on the coup-plotters was consistent, and that it eventually forced them to yield to the will of the people, in reality, the final outcome of the elections in Togo reflected the will of powerful vested interest (the military, the old-guard pro-Ayadema parliamentarians, and bureaucrats), and not that of the Togolese people. Some have argued that Faure Gbasingbe has been a popular politician in his own right and that he won the elections on this basis. Even if that were the case, then he did not need a constitutional coup to bring him to power – a coup that ended up eroding any credibility he might have had. And it could therefore be tagged an unnecessary, and therefore bad, coup.

The Mauritanian dilemma

Hardly had the dust settled on the controversies surrounding the AU's response to the coup in Togo, than the military in Mauritania staged yet another African coup. This one presented the AU and its ban on unconstitutional changes of power with probably the greatest dilemma. On 3 August 2005, elements of the armed and security forces, united under what was termed a Military Committee for Justice and Democracy (CMJD), headed by Colonel Ely Ould Mohamed Vall, director of national security, seized power in Nouakchott, Mauritania. While the AU-PSC took to the usual ritual of condemning the coup and suspending Mauritania from AU activities, Mauritians were in the streets in jubilation, with placards thanking the military for rescuing them from what had been years of oppressive rule by the overthrown leader, president Maaoya Sid'Ahmed Ould Taya.

The AU sent a high-level delegation, led by Nigeria's minister of foreign affairs, to Mauritania on 9 August 2005, to present the AU's position to the coup leaders officially, and to engage them on the way forward to the re-establishment of constitutional order. The leader of the CMJD presented the justification for their actions to the AU delegation, and proceeded to outline a timetable for the return to constitutional order in Mauritania. The first item in the agenda was to consist of a series of constitutional amendments, with the goal of 'proscribing' all forms of constitutional manipulation; this was to be followed by the organisation of general elections in which none of the members of the CMJD, including its president, the prime minister, and all members of government, would be eligible for any post whatsoever. The CMJD informed the AU delegation that it had given itself 24 months to accomplish this task.¹¹⁸

Probably convinced by both the reasons for the coup and the content of the CMJD's transitional programme, alongside the welcoming public mood towards the coup, the AU toned down on its condemnation of the coup in Mauritania, to the disappointment of many on the continent. And in any event, the AU was hamstrung by two other fac-

tors: the first was America's and other Western powers' support for the coup leader, emanating largely from the country's newly discovered huge oil deposits, which had suddenly made it a strategic partner on the West African coast. Second was Mauritania's divided loyalty between the Arab and the African worlds, represented in this case by ECOWAS and the AU on the one hand, and the Arab League on the other. Mauritania had, some years before this coup, withdrawn from ECOWAS, and fears were that had the AU pushed it too hard, it could have simply quit the AU as well. Hence the AU's acceptance of a transitional calendar defined not by the AU, but by the coup leaders.

Judging by the public mood, and going by the reformist transitional programme laid out by the coup leaders, into which the AU appeared to have bought, one would be tempted to say the coup in Mauritania was a good coup. Not only did it remove an oppressive leader, who had closed all avenues of peaceful change, from power, it also defined a promising political future for the country, judging by the constitutional changes it promised to its people. But whether the euphoria that came with the coup translates into long-term happiness, or into frustration, is quite something else.

Critically, though, the dynamics of the coup in Mauritania, as was the case with other post-Lomé coups, raise questions about the workability of the blanket injunction against all coups as prescribed in the Lomé Declaration. One such question is: what options are left for an oppressed people, when the oppressors constrain all avenues of peaceful change? This is a particularly important, though controversial, question, but one would be tempted to agree with Michael Wallace that 'as long as there are tyrannical regimes, there will always be need for good people to be assisted or sponsor successful coups d'état'.¹¹⁹ And in situations where coup leaders are hailed by their people, as happened in Mauritania, has an international community that has remained indifferent to the plight of these people for so many years any moral authority to ostracise the coup leaders, exclusively on principles of constitutional conformity? We argue that the real solution lies in going beyond simply reacting to coups by condemning them, to a more proactive approach, which will consist of monitoring the potential sources of coups, and taking all necessary steps to remove them from Africa's political landscape. It would seem that this is the thinking that informed the proposed AU Charter on Democracy, Elections and Governance, which was presented to African leaders at their summit in The Gambia in July 2006. This is the focus of our next section.

From Lomé to The Gambia: towards an African governance charter

The recurrent violations of the Lomé Declaration, and the rather non-uniform application of its prescriptions by the AU, suggest that the framework in its current form is inadequate to stamp out the scourge of political instability on the continent. Although the Lomé Declaration has been generally accepted as an important political initiative

that has added much value to democratisation on the continent, AU technocrats have equally recognised that there was an urgent need to broaden and strengthen it beyond simply frowning at unconstitutional changes of government, to addressing the principal sources of instability, which include, among others:

- weak democratic institutions;
- the attractiveness of state power, which is increasingly seen as the major source of wealth accumulation for the elite, as a result of African countries' weak economic base;
- external interferences;
- flawed electoral processes, and the resultant contested outcomes;
- a lack of a culture of democracy and peace;
- a prevalence of identity-based violent conflict;
- poor management of resources, and uneven distribution of entitlements;
- politicisation of the security establishment (especially the army);
- ineffective reaction from continental and regional supranational bodies; and
- socio-economic deprivation, poverty, and corruption.¹²⁰

Although the AU has remained adamant that no unconstitutional changes of government can be justifiable (insisting that politics must at all times be conducted through a constitutional order and the rule of law),¹²¹ it nevertheless concedes that some of the reasons advanced by coup-plotters for their actions are well founded, particularly in relation to the material conditions prevailing in some coup states.¹²² In this regard, many of the coups that have occurred on the continent have partly resulted from poor governance, dictatorship, and the violation of human rights. Coup-plotters have almost always claimed to be acting in the general interest, to halt the trampling on democratic norms and violation of human rights, and to rescue their states from unending economic decline. Paradoxically, though, coup-plotters' unconventional approaches to serving the general interest have always amounted to sacrificing the existing constitutional order.¹²³

Yet it might be argued that, in responding to coup situations, there is a need to reconcile questions of legitimacy and legality, in that, while coup actions, by definition, are illegal, they could be legitimate in light of objective societal realities. Sadly, though, experience has shown that coup regimes that have replaced supposedly oppressive governments have not been better governors. Rather than promote good governance and human rights, for example, they have been found to be more oppressive of their peoples, more restrictive of individual freedoms, and hopeless economic managers. The fact of the matter, as Bereket Selassie sees it, is that: 'the capacity to overthrow a government is one thing. It is quite another matter to govern better or to prepare a better government.'¹²⁴

While poor leadership has been a good excuse for staging coups in Africa, the resurging coup culture in the post-Lomé period has also been encouraged by the weak responses

from the AU, which has always opted for ‘soft measures’ – limited to condemnations, attempts at peaceful resolution, and suspension from AU activities.¹²⁵ While this approach has had some positive impact in some coup situations, it has not provided the kind of deterrent required to make coup-plotting a truly costly exercise for potential plotters. This has been compounded by the unwillingness of member states to honour their various commitments to the continental organisation. There is evidence, for example, that some coups have either been supported or sponsored by some African states, with or without the connivance of extra-continental powers. Good examples include Rwanda’s involvement in the conflict in the DRC, and Burkina Faso’s alleged support for the rebel forces in northern Côte d’Ivoire, serving as a conduit for French interference in the country. Moreover, in some cases, the position taken by the AU is contradicted, and even challenged, by that taken at the subregional level.¹²⁶ A good case in point is the unending saga over Côte d’Ivoire, where an AU-chosen mediator, Thabo Mbeki, has been constantly undermined by regional power brokers, in ECOWAS.

It was in this regard that the Central Organs of the AU, in July 2003, requested the AU Commission to undertake a comprehensive review of the Lomé Declaration, and to submit concrete proposals for consideration by the competent AU organs.¹²⁷ These proposals constitute the core of the proposed charter on governance and democracy. The authors of the draft charter took into account various commitments, declarations, and decisions taken by African heads of state in various meetings, relating to questions of governance, democracy, human rights, elections, and gender equality. These included, among others:

- the 1981 African Charter on Human and Peoples’ Rights (Nairobi, Kenya);
- the 1990 African Charter for Popular Participation in Development (Arusha, Tanzania);
- the 1990 Declaration on the political and socio-economic situation in Africa and the fundamental changes taking place in the world (Addis Ababa, Ethiopia);
- the 1995 Cairo Agenda for action-relaunch of Africa’s economic and social development (Addis Ababa, Ethiopia);
- the 1999 Algiers Declaration (Algiers, Algeria);
- the 2000 Lomé Declaration, which is our focus here (Lomé, Togo);
- the 2001 New Partnership for Africa’s Development (NEPAD) (Abuja, Nigeria);
- the 2002 OAU Declaration on the principles governing democratic elections in Africa (Durban, South Africa);
- the 2002 NEPAD Declaration on democracy, political, economic and corporate governance (Durban, South Africa);
- the 2003 Protocol relating to the establishment of the Peace and Security Council of the AU (Maputo, Mozambique);
- the 2003 AU Convention on prevention and combating corruption and related offences (Maputo, Mozambique); and
- the 2005 AU Solemn declaration on gender equality in Africa (Addis Ababa, Ethiopia).

Therefore, although the resurgence of political instability, and especially the phenomenon of coups on the continent in the aftermath of the Lomé Declaration, provided the most immediate impulse for the draft charter, the charter is indeed a consolidation of various commitments by African governments to issues of governance that are perceived to be behind the continent's persistent political instability. The charter is aimed primarily at reinforcing African governments' commitments to these principles. More importantly, what distinguishes it from the Lomé Declaration and related earlier initiatives is that 'it aims at providing a legally binding framework through which member states will build solid institutional and cultural foundations for sustainable democracy and durable peace'.¹²⁸

The draft charter attempts to combine pre-emptive measures with appropriate 'post the act' responses.¹²⁹ It envisages three main levels of intervention. Firstly, in light of the fact that political instability on the continent has originated from poor domestic governance, the draft charter envisages putting in place a strong and credible mechanism for monitoring the national politics of African states – a kind of trigger mechanism that would signal brewing domestic tensions before they degenerate into coup situations. While it is true that the AU has, for some time now, engaged in establishing such trigger mechanisms, particularly within the ambit of the NEPAD's African Peer Review Mechanism (APRM) framework, the voluntary character of some of these initiatives has made them ill-suited to providing a comprehensive solution to domestic instability emanating from poor governance. The draft Charter on Democracy, Elections and Governance is expected to be part of the solution.

Secondly, in light of the perceived inadequacy of the Lomé Declaration's 'soft measures' to dissuade coup-plotters, it had become imperative to review its rather declaratory character, and to confer on it juridical power, by transforming it to a law-making treaty. The proposed charter provides a potentially reinforced legal framework into which the provisions of the Lomé Declaration could be incorporated.

Third, and flowing from the foregoing, is that a sanction regime be built into the draft charter – moving away from the exclusively persuasive diplomacy of Lomé, to some level of coercive diplomacy. This will consist of calibrated measures, ranging from diplomatic pressure to military intervention. In other words, the draft charter envisages the establishment of a relationship of force between the AU-PSC and coup-plotters, as a means of accelerating the re-establishment of constitutional order whenever a coup occurs. The sanctions regime defined in the draft charter also aims at addressing the problem of some member states supporting coup leaders, or actually being behind coups.¹³⁰ In terms of principles, therefore, the draft charter insists on:

- respect for human rights (civil, political, economic, social, and cultural), including freedom of expression, freedom of opinion, right of association, freedom of the press, and freedom of religion and conscience;

❖❖❖ GOOD COUPS AND BAD COUPS:

- access to, and free exercise of, power in accordance with the rule of law;
- the holding of periodic free and fair elections, based on secret balloting and universal suffrage, managed by independent electoral authorities;
- freedom of association, including the right to form political parties;
- separation of powers, and checks and balances among the key organs of government;
- gender equality in the management of public affairs;
- citizen participation through active civil society;
- the constitutional subordination of all state institutions, including the military and police forces, to the legally constituted civilian authority;
- transparency in government activities, accountability, probity, and responsible public administration on the part of governments;
- combating corruption in the management of national affairs;
- the strengthening of institutional capacity of political parties, parliaments, local government authorities, the judiciary, civil society, and other institutions of political participation, for the enhancement and sustenance of democracy;
- the institutionalisation of the status of opposition parties; and
- and an embedded political culture of peace, tolerance, and regular free and fair elections to institutionalise democratic governance.¹³¹

More importantly, the charter slightly broadens the definition of what constitutes unconstitutional changes of power, moving away from the Lomé Declaration's focus on prescriptions of how power must be acquired, to embrace also prescriptions of how it should be exercised. Article 25 of the draft charter states, for example, that the use of, *inter alia*, the following illegal means of accessing or maintaining power constitute an unconstitutional change of government, and shall draw appropriate sanctions from the union:

- a military coup d'état against a democratically elected government;
- intervention by mercenaries to replace a democratically elected government;
- the replacement of a democratically elected government by armed dissidents and rebels;
- the refusal of an incumbent government to relinquish power to the winning party after free, fair, and regular elections; or
- amendment or revision of constitutions and legal instruments, contrary to the provisions of the constitution of the State Party concerned, to prolong the tenure of office for the incumbent government.¹³²

African leaders' hesitation to adopt the governance charter: implications for Africa's coup culture

The Gambia heads of state summit of August 2006 was controversial in many respects. Aside from the fact that it came at a time when it was increasingly becoming obvious that the democratic gains made on the continent were threatened by the resurgence of the coup culture, and by an emerging attitude of incumbents wanting to cling to power against the prescriptions of their constitutions, controversy also arose in relation to giving hosting rights to The Gambia, whose leader is accused of serious human-rights violations. This notwithstanding, the summit was followed with a lot of interest for various reasons, the most critical being the proposed Charter on Democracy, Elections and Governance that was to be tabled to African leaders present. That the summit was perceived as a failure is partly because of the inability of African leaders to agree to this otherwise ground-breaking charter.¹³³ They agreed instead to send the architects of the draft charter back to the drawing board, to rework some unpalatable portions of it for re-submission to the next summit, in Addis Ababa in January 2007.

Some of the provisions of the draft charter were seen to have the potential of infringing on the sovereign independence of African states, especially issues relating to the right to intervene to resolve 'unsettling domestic tensions'. As a matter of fact, the undoing of the draft charter was its attempt to strike a balance between the responsibilities of coup-plotters on the one hand, and that of sitting African governments on the other hand, in the perpetuation of the culture of coups on the continent. The original Lomé Declaration, as we argued earlier, emphasised the unconstitutionality of coups; it did not adequately address the forces and factors that at times induce coup-plotting.

The reluctance to adopt the draft charter indicates that the notion is unfounded that sovereign independence had been watered down in the post-Cold War environment and post-OAU era. Secondly, it underscores the lack of seriousness and political will on the part of a majority of African leaders truly to commit to governance reforms. While some African states, such as South Africa, Ghana, Benin, Zambia, Botswana, Tanzania, and Mali have made laudable efforts towards entrenching viable democratic cultures that include sustaining truly transparent processes for peaceful regime transitions, a majority of African states have remained locked in the logic of being predisposed to twisting the rules of the game in favour of incumbents. And, although intercontinental processes of governance, especially as afforded by the NEPAD-APRM process, have the potential to curtail impunity by Africa's governing elite, their overall impact appears to be very limited. Moreover, their long-term viability in terms, especially, of sustained political will is not guaranteed. In the final analysis, therefore, as long as African leaders are unwilling truly to bring about the kinds of reforms that would remove the principal sources of political instability on the continent, one can argue that the culture of coups will remain with the continent for many more years to come. Coup-plotters will always have readily available excuses to overthrow legally constituted governments.

Conclusion

This paper has examined the phenomenon of coups d'état on the African continent. Although its main thrust has been to appraise the promise that the Lomé Declaration has held for the continent, and the extent to which African governments have been able to uphold it, our analysis placed the declaration in a historical context. Our analyses were also anchored in key theoretical and empirical literature on coups d'état. In this regard, a preponderance of reviewed theoretical literature has presented coups as illegitimate and unfortunate events that are usually in violation of national constitutions. However, the paper has demonstrated that some coup-inspired political orders, though procedurally illegitimate (unconstitutional), may acquire legitimacy through their problem-solving attributes. It has also argued that some coup regimes have emerged as solutions to otherwise constitutionally legitimate governments that have, however, lost their credentials of legitimacy, because of their failure to solve tangible societal problems. A key theoretical challenge arising from the paper is that, in analysing the phenomenon of unconstitutional changes of governments on the continent, there is need to strike a balance between procedural legitimacy (defined largely in terms of constitutionality), on the one hand, and substantive legitimacy, based on compliance, output, and justifiability, on the other.

Importantly, also, empirical evidence suggests that coup-plotters have not governed any better than the regimes they replaced. However, our approach to the coup phenomenon on the continent has been to go beyond merely condemning coups, and, more importantly, to probe the principal causes of coups and other forms of unconstitutional changes of governments. We have demonstrated that there are two sides to the prevalence of unconstitutional changes of governments on the continent, one being poor and autocratic leadership, and the other, greed and the corporate interest of military and security forces.

We have argued that the Lomé Declaration was a great political initiative with huge potential to reduce the incidence of unconstitutional changes of power on the continent. In terms of enunciated principles, the declaration addressed both the leadership-related sources of political instability, and the greed- and corporate interest-related dimensions of the phenomenon of coups in Africa. However, in its prescription of practical ways of fighting political instability on the continent, the framework appears to be deliberately limited in scope, particularly in its definition of what constitutes unconstitutional changes of power. It would appear that the Lomé Declaration's definition of unconstitutionality and how to respond to it are tailored mainly to protect sitting heads of state, and not to promote democracy and democratic values in a comprehensive manner. Lomé, as we have seen, proscribes unconstitutional changes of power, but it is very silent on unconstitutional and illegitimate exercises of power. We have therefore argued that, as long as poor governance persists in Africa, the prospect of having coups will remain high. And unless all the elements that make for poor lead-

ership, and therefore that make coup-plotting an attractive enterprise, are removed, we shall continue to have coup-plotters who will claim to be acting in the public interest.

The paper has also shown that the AU and African leaders' responses to coups have not been uniform, and that, generally speaking, the response has been too soft to serve as a deterrent to aspiring coup-plotters. In some instances, such as in the cases of Mauritania, Togo, and the Central African Republic, the AU's softness created the impression that some coups are indeed good coups. The paper has examined the forces and factors that inform responses to coups on the continent, and has demonstrated that, in nearly all instances, the AU has faced response dilemmas.

Lomé, the paper has argued, in spite of all its merits, is inadequate to provide the kinds of responses necessary to stamp out poor governance, greed, and the resultant unconstitutional changes of governments on the continent. We have therefore also examined the prospects of broadening the Lomé framework as a means of improving the overall peace and security environment in Africa. In this regard, the paper has examined the proposed AU Charter on Democracy, Elections and Governance. The charter has potential for giving the Lomé Declaration some legal teeth. Moreover, it attempts to strike a balance in the share of responsibility for Africa's political instability, as a result of poor governance on the one hand, and the greed and self-centeredness of coup-plotters on the other. We have argued that the hesitation by African leaders to adopt the draft charter during the AU's heads of state and governments summit in The Gambia was most unfortunate. We have, however, explained this reluctance in terms of the forays that the charter makes into sovereign policy-making on the continent. Our submission is that African leaders' reluctance to adopt the draft charter is suggestive of the fact that, in spite of their repeated rhetorical claims to being genuinely committed to democratic change, in practice, they are not as yet willing to move with the changing times.

The consolation, however, is that the AU and some lead states have shown their resolve to bring about changes in governance on the continent, including ensuring the eventual adoption of the draft charter. During the Gambia summit, African leaders at least agreed that the draft charter be reviewed by competent legal experts for re-submission to them at their next summit. It is imagined that compromises will eventually smooth over those clauses that were perceived by some states as being too invasive of their sovereignty. We hope, however, that such compromises will not dilute the charter to a point where it will lose its essence.

In the final analysis, irrespective of how hard any given regional or continental organisation tries to condemn unconstitutional changes of governments, as long as the material conditions in African countries remain unchanged, in terms, especially, of constricted spaces for peaceful political change, some members of society, either acting out of self-interest or in the public interest, will always stage coups.¹³⁴ And when such coups come as a relief to an oppressed people, we cannot but welcome them as good coups.

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- 65 Ibid, 96.
- 66 Ibid, 97.
- 67 This was the case, for example, in Côte d'Ivoire after the demise of Houphouët-Boigny, and in Zaire after the death of Mobutu. In both cases, issues of identity have emerged as defining elements in the politics of the country, especially in relation to determining who is qualified to compete for the ultimate political position of head of state.
- 68 Ibid.
- 69 Ibid, 97–8.
- 70 Ibid.
- 71 Ibid, 98.
- 72 Wiking, *Military Coups*, 9.
- 73 Earlier coups on the continent, before independence, such as the one in Sudan in 1958, differed from those that occurred after independence in that they were seen as rebellions against colonial rule.
- 74 See Decalo, *Coups and Army Rule*, 5.
- 75 Ibid.
- 76 Ibid, 6.
- 77 Ibid.

- 78 See Claude E Welch, Jr (ed), *Soldier and State in Africa: a comparative analysis of military intervention and political change*, Evanston: North-Western University Press, 1970, 17–8.
- 79 For a good inventory of coups in Africa during the first two decades of independence, see, for example, Ruth First, *The Barrel of a Gun: political power in Africa and the coup d'état*, London: Allen Lane/The Penguin Press: 1970: 205–19; see also Robert W Jackman, The predictability of coups d'état: a model with African data, *American Political Science Review* 72(4), December 1978, doi: 10.2307/1954538.
- 80 Welch, *Soldier and State*.
- 81 Ibid, 21.
- 82 Ibid, 188.
- 83 Ibid, 188–89.
- 84 Ibid, 203.
- 85 United States Department of State Bureau of African Affairs, Background note: Ghana official profile, October 2006.
- 86 Welch, *Soldier and State*, 141.
- 87 Decalo, *Coups and Army Rule*, 201.
- 88 See, for example, Ajayi O Rotimi and Julius O Ihonvbere, Democratic impasse: remilitarisation in Nigeria, *Third World Quarterly* 15(4), 684.
- 89 Ehimika A Ifidon, Transition from democracy in Nigeria: toward a pre-emptive analysis, *African Journal of Political Science* 7(1), 2002, 9. It is noteworthy that Nigeria's post-independence geopolitical diversity in terms of religious, cultural, and ethnic plurality made the country potentially unstable at independence. However, it was imagined that by adopting a federal system of government, the country's ethnic and cultural identities would be given expression at various levels of government, therefore reducing the potential for conflict. It would seem, however, that shortly after independence, Nigerian politicians quickly politicised the country's religious and ethnic divisions, including its military and security establishments. These, taking advantage of the dependence and vulnerability of politicians on them, soon emerged as the most powerful political force in the country.
- 90 Ibid, 111.
- 91 Decalo, *Coups and Army Rule*, 201.
- 92 See Francis Nguendi Ikome, The West African regional sub-system: myth or reality?, in Patrick J McGowan, Scarlett Cornelissen, and Philip Nel (eds), *Power, Wealth and Global Equity: an international relations textbook for Africa*, 3rd ed, Cape Town: UCT Press, 2006, 334.
- 93 Ibid.
- 94 Munir Squires, Democracy without borders: cross-regional survey of multilateral pro-democracy efforts. Paper prepared for presentation at the workshop on trans-national dimensions of democratisation in the Americas, Mount Allison University, New Brunswick, Canada, June 14–26, 2005, 8.
- 95 See OAU, Harare Declaration, 1997.
- 96 See OAU, Algiers Declaration, 1999.
- 97 Ibid.
- 98 See Squires, *Democracy without borders*, 8.
- 99 See OAU, AHG/Decl.5 (XXXVI) of July 2000 (the Lomé Declaration).

- 100 Ibid.
- 101 Adekeye Adebajo, Africa and America – in an age of terror, *Journal of Asian and African Studies*, 38(2–3), 2003, 175–91.
- 102 See OAU, AHG/Decl.5 (XXXVI).
- 104 See *ibid.*
- 104 See Squires, *Democracy without borders*, 8.
- 105 For some interesting though controversial perspectives on the debate on extending presidential mandates, see Emmanuel Nkea Alembong, The extension of presidential mandates and constitutionalism in Africa, Yaounde, 2006. Accessible at http://www.leffortcamerounais.com/2006/9/human_rights_co.html; also posted in *Post Newsmagazine* under the title ‘President for life?: peering at the extension of Presidential mandates in Africa’. Accessible at <http://www.post-newsmagazine.com/pages/law.htm>.
- 106 Baimu and Sturman, Amendment to the AU’s right, 4.
- 107 For some useful insights on the pervasiveness of governance institutions on the continent, see, for example, IGD and the Federal Trust for Education and Research, Enhancing institutional effectiveness.
- 108 My analysis in this section draws heavily on the content of Union Africaine, Rapport sur la revision.
- 109 Dr Jinmi Adisa, principal co-ordinator of the African Citizens’ Directorate (CIDO) of the AU, personal interview with the author, Addis Ababa, July 2006.
- 110 For more details on this see Union Africaine, Rapport sur la revision, 5–6.
- 111 See Patrick J McGowan, The Southern African regional sub-system, in McGowan, Cornelissen, and Nel (eds), *Power, Wealth and Global Equity*, 322.
- 112 See Abdul Rahman Lamin, The conflict in Côte d’Ivoire: South Africa’s diplomacy, and prospects of peace, occasional paper 49, IGD, August 2005, 16; see also Francis Nguendi Ikome and Siphamandla W Zondi, The Côte d’Ivoire transition: prospects and challenges, IGD, Global Insight 58, March 2006.
- 113 See Union Africaine, Rapport sur la revision, 5.
- 114 Ibid.
- 115 Ibid.
- 116 Ibid.
- 117 Ibid.
- 118 Ibid, 9.
- 119 See Waller, *Valuable political technology*.
- 120 For an appraisal of the various political processes through which the details of the draft charter were worked out, see, variously, AU, Report on the meeting of independent experts on the Draft Charter on Democracy, Elections and Governance, Addis Ababa, 21–23 November 2005; AU, Report of the ministerial meeting on the Draft Charter on Democracy, Elections and Governance, Addis Ababa, 6–7 April 2006; and AU, Report of the meeting of intergovernmental experts on the Draft Charter on Democracy, Elections and Governance (GOVT/EXPT?RPT(Rev. I), Brazzaville, DRC, 7–8 June 2006.
- 121 This is a position held by a majority of AU technocrats, and it was very strongly echoed by Dr Mamadou Dia, head of division: democracy, governance, elections and human rights, during an

interview with this author at the AU commission headquarters, in Addis Ababa in July 2006. Dr Dia, it should be noted, was one of the brains behind the Draft Charter on Democracy, Elections and Governance presented to African heads of state in the Gambia in August 2006.

122 See AU, Report on the meeting of independent experts, 4, par 14.

123 Ibid 9.

124 Selassie, *The Executive*, 224.

125 Union Africaine, Rapport sur la revision, 9.

126 Ibid.

127 See AU, Report on the meeting of independent experts, 3.

128 Ibid.

129 See AU, Draft Charter on Democracy, Elections and Governance, accessed at <http://www.google.com/search?q=cache:WOXwUY7d2MKJ:www.iss.co.za/Af/RegOrg/unity-t>.

130 See AU, Report on the meeting of independent experts, 10.

131 Ibid.

132 Interestingly, the section of the broadened definition of what constitutes unconstitutional changes of government that was most strongly resisted by African leaders during their summit in Gambia was article 25(5), particularly the last part of the paragraph, relating to attempts by incumbents to prolong their stay in office beyond the provisions of their national constitutions.

133 Another reason for this perception was the failure of African leaders to agree to speak out in unison against the humanitarian crisis in Darfur, particularly with regard to resolving the controversy over the need for a more effective and more robust UN force, to strengthen the poorly equipped and financed AU mission in Darfur.

134 The constriction of political space, through, for example, the banning of opposition parties, is a recipe for unconstitutional change. See, for example, Barbara Geddes, Authoritarian breakdown: empirical test of a game theoretic argument, paper prepared for presentation at the annual meeting of the American Political Science Association, Atlanta, September 1999.

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