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REPORT OF THE COMMISSION ON GOVERNANCE IN AFRICA
(WITH FOCUS ON THE AFRICAN GOVERNANCE
ARCHITECTURE AND ELECTIONS)

**REPORT OF THE COMMISSION ON GOVERNANCE IN AFRICA
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A. BACKGROUND

1. Since independence, Africa has not remained static. The continent has been (and remains) dynamic. It has evolved and continues to evolve today. A decade ago, Afro-pessimists described the African continent as “hopeless”. Today, even Africa’s foremost skeptics now acknowledge that the continent is indeed ‘a pole for global growth’ amidst financial and economic crisis besetting the industrialized world. Afro-pessimists of the yester-year are fast becoming Afro-optimists, albeit begrudgingly. The on-going discourses about the prospects and promise of African transformation, most notably the development of the historic Africa Agenda 2063, are, in some ways, reminiscent of the kinds of high hopes and optimism that marked the continent’s decolonization process and the onset of freedom and liberation in the late 1950s and through much of the 1960s as one African country after another gained their political independence. Now, more than fifty years following the achievement of independence, the continent has made significant strides—from unshackling itself from the yoke of colonialism and apartheid.

2. More particularly, since the 1990s, Africa has witnessed positive developments in its democracy and governance landscape. For instance, post-Cold War and Post-apartheid Africa is more stable and peaceful; there are no more large-scale violent inter-state conflicts; most African states have increasingly improved political accountability, public service delivery and administration; a number of African states have progressively devolved power to local governance structures thereby empowering citizens; the era of military and one-party rule is a thing of the past as the continent has embraced multi-party democracy; today, a culture of peaceful, credible and democratic elections is progressively evolving and being embedded in political fabric of society; Ballots have replaced bullets in Africa as a medium for transfer of power through peaceful means, entrenching a culture of constitutionalism and rule of law; a culture of human rights is increasingly being entrenched as the AU embraces the new doctrine of non-indifference which has replaced the old doctrine of non-interference which characterised the workings of the Organisation of African Unity (OAU).

3. The progress thus far registered on the governance landscape in Africa is particularly notable in respect of the plethora of shared values instruments on democracy, human rights and governance – with the most recent instruments being the 2007 African Charter on Democracy, Elections and Governance; the 2012 African Charter on the Values and Principles of Public Service and Administration; and the 2014 African Charter on the Values and Principles of Decentralisation and Local Governance. Similar progressive governance shared values instruments have also been adopted at the level of the Regional Economic Communities (RECs). Be that as it may, while adoption of progressive shared values instruments on democracy, governance and human rights is a welcome and commendable step by the AU and RECs, their implementation at national level remains a mixed bag and therefore a cause for concern.

The gap between norm-setting and norm-implementation calls for visionary and transformative political leadership combined with vibrant citizen engagement if the noble ideals of African Agenda 2063 are to be realised.

4. During its Summit held in Addis Ababa, Ethiopia, the African Union Assembly of Heads of State and Government adopted the Africa Agenda 2063. This is a fifty-year development plan of the continent. Surely, there is no gainsaying that the optimum achievement of the noble goals set out in Agenda 2063 are highly dependent upon firm and solid political foundations including the nurturing and consolidation of democratic and participatory governance, sustainable peace and political stability. In essence, democracy and peace should form the key anchors of AU Agenda 2063 and critical policy options around these two areas need to be explored and their linkages to continental integration and development identified. This is simply because democracy and peace are two sides of the same coin. Democracy almost inconceivable without peace. Peace is unsustainable without democracy. Both democracy and peace are a crucial pre-condition for inclusive, equitable and people-centred socio-economic development.

5. Africa Agenda 2063 recognizes the inextricable and dialectical inter-linkages between and among democracy, peace and development as key elements of the AU vision of “an integrated, prosperous and peaceful Africa, driven and managed by its own citizens and representing a dynamic force in the international arena”. Anchored on the ideology of Pan-Africanism and African Renaissance, the Africa Agenda 2063 identifies five drivers of change, namely (a) Promoting science, technology and innovation; (b) Investing in human development; (c) Managing the natural resource endowment; (c) Pursuing climate-conscious development; (d) Creating capable developmental states; and (e) harnessing Regional Integration.

6. Various stakeholders (including women, youth, civil society, private sector, faith-based organizations etc.) consulted during the development of Agenda 2063 made their aspirations of the future Africa they want abundantly clear. These are categories in seven clusters as follows:

- A Prosperous Africa based on inclusive growth and sustainable development;
- An Integrated Continent, Politically United, based on the ideals of Pan Africanism;
- An Africa of Good Governance, Respect for Human Rights, Justice and the Rule of Law;
- A Peaceful and Secure Africa;
- An Africa with a strong Cultural Identity, Values and Ethics;

- An Africa whose development is people-driven, especially relying on the potential offered by its youth and women; and
- Africa as a Strong, Resilient and Influential Global Player and Partner.

7. Undoubtedly, therefore, achieving the noble goals of Africa Agenda 2063 requires a developmental state as one of the enablers for this fifty-year vision as outlined in paragraph 5 above. The creation and sustainability of a capable and developmental state requires a peaceful environment. It also requires a democratic setting. That is why two of the seven popular aspirations of Agenda 2063 stakeholders outlined in paragraph 6 above are (a) a peaceful and secure Africa and (b) an Africa of good governance, democracy, respect for human rights, justice and the rule of law. Experience shows that states deliver better public services, fighting against poverty, inequality and unemployment better under peaceful and democratic settings. The reverse is true in countries under undemocratic rule and those engulfed in protracted violent conflict and civil war.

8. This Report provides an overview of the state of governance and elections in Africa. It identifies progress registered and challenges encountered in the areas of governance and elections on the continent. It is divided into five sections. The next section focuses on the operationalization of the African Governance Architecture. It is followed by a section on deepening democratic and participatory governance in Africa. The subsequent section dwells on the promotion of democratic, credible and peaceful elections. Within the analysis of the state of governance and elections in Africa provided in this report, achievements that the continent has registered are recorded, while the remaining challenges that require close attention of the AU and RECs are outlined and highlighted for appropriate policy responses. The report also makes some recommendations to guide effective policy responses by the African Union. The concluding section recaps the gist of the report.

B. THE OPERATIONALISATION OF THE AFRICAN GOVERNANCE ARCHITECTURE

9. The evolution of the African Governance Architecture (AGA) is traceable to three important landmark decisions of the African Union. First, in Jan.2010, the 16th Ordinary Session of Executive Council held in Addis Ababa, Ethiopia, adopted a decision (EX.CL/Dec.525(XVI)) which directed that the theme of the January 2011 Summit be devoted to the Shared Values of the African Union, including “identifying obstacles and measures to be adopted to facilitate continental integration based on such values”. In the same Decision, the Executive Council adopted the idea of “putting in place a Pan-African Architecture on Governance as a platform for dialogue between the various stakeholders”. Secondly, during its meeting of January 2011, the 18th Ordinary Session of the Executive Council endorsed the strengthening of the African Governance Architecture, through the launch of the African Governance Platform as an informal and non-decision making mechanism to: foster exchange of information; facilitate the elaboration of common positions on governance; and strengthen the capacity of Africa to speak with one voice. In the same Decision, the Executive Council requested the

Commission to “ensure greater synergy and coherence between African Governance Architecture and the African Peace and Security Architecture”. It was during its January 2011 Summit that the AU declared 2012 as the Year of Shared Values in Africa. Thirdly, during the same 2011 Summit, the AU Assembly adopted a comprehensive Declaration on the Theme: Towards Greater Unity and Integration through Shared Values”.

10. During the January 2011 Summit on Shared Values, the AU adopted a 12-point Declaration which, inter alia, committed Member States to:

- a) Enhance efforts aimed at reinforcing a deeper understanding of Shared Values and their promotion and popularization amongst the African peoples as a means of shaping Africa’s common future and mobilizing the African peoples towards achieving the shared vision of continental integration and unity;
- b) Speed up the ratification and domestication of instruments of Shared Values and call upon the African Union Commission (AUC) to put in place measures and modalities to support Member States to establish the required capacities and processes for monitoring and review of domestication efforts;
- c) Consolidate and fully implement the instruments of Shared Values, including the African Peer-Review Mechanism (APRM) and relevant National Plans, as a catalyst for unity, policy harmonization, convergence and integration on the Continent;
- d) Ensure greater synergy between peace and security matters and governance and democracy, thereby ensuring that developments in the terrain of shared values feature prominently in the Peace and Security Council;
- e) Promote the role of women in socio-economic life and prioritize the participation of women in governance and democracy and secure their direct involvement in decision-making in line with the Solemn Declaration on Gender Equality in Africa (SDGEA) and the Declaration on the African Women’s Decade (2010-2020);
- f) Urge the youth to participate fully in governance and democracy processes, as per the provisions of the African Youth Charter and request that efforts be put in place to establish an annual Youth Parliament at the continental level;
- g) Enhance the participation of African Research Institutes, Universities, Civil Society and the Media in promoting Shared Values as part of wider efforts directed at securing African ownership;

- h) Establish African ownership over Shared Values by way of wider communication and information sharing, through direct support to Member States, by ensuring the strengthening of institutions and by way of putting in place measures to ensure that success is monitored and that there is ongoing review of progress in the implementation of adopted Shared Values instruments.

11. It was these three critical moments which started in 2010 culminating in the adoption of decision to establish the African Governance Architecture and its Platform in 2011. The African Governance Platform was subsequently established in 2012 pursuant to the Executive Decision EX. CL/Dec.525 (XVI) of 2010 and the 2011 Declaration on the Theme of the Summit: Towards Greater Unity and Integration through Shared Values". The establishment of AGA is inspired by an imperative to ensure effective implementation of AU Shared Values on Democratic Governance, particularly the Constitutive Act that expresses the AU's determination to "promote and protect human and people's rights, consolidate democratic institutions and culture and ensure good governance and the rule of law".

12. The AGA itself has four main pillars: (a) norms/vision; (b) institutional framework; (c) interaction and processes (d) the African Governance Facility. The norms refer to the existing Shared Values instruments that define the vision of the AU & RECs on democracy, human rights and governance. The institutional framework refers to all the AU Organs and Institutions, including RECs that form part of the African Governance Platform. Interaction and processes refer to consultations, dialogue and information exchange among the members of the Platform including RECs and civil society organizations. The African Governance Facility is planned as a resource mobilization framework to support African Governance Platform initiatives and programmes towards the promotion of good governance and strengthening of democracy on the continent. Of the four pillars, it is the African Governance Facility that is yet to be operationalized in full. In order to secure sustainability of AGA initiatives and programmes, it is crucial for the African Governance Facility to be operationalized.

13. The Platform was launched in Lusaka, Zambia in 2012 as the institutional implementation framework of AGA. It is composed of AU Organs, Institutions and Regional Economic Communities with a mandate for the promotion and sustenance of democracy, governance and human rights in Africa. The mandate of the AGA Platform is five-pronged, namely to: (a) foster exchange of information; (b) facilitate the elaboration of common positions on governance; (c) strengthen the capacity of Africa to speak with one voice; (d) facilitate harmonization of shared values instruments; and (e) coordinate initiatives in governance and democracy . The AGA Platform is structured along five clusters as follows: (i) Democracy (elections, political parties etc.); (ii) Governance (public service and administration, local governance and decentralisation, urban development and housing, anti-corruption and accountability, natural resource governance); (iii) Human Rights and Transitional Justice; (iv) Constitutionalism and Rule of Law and (v) Humanitarian Assistance

14. Pursuant to the decision of the 18th Ordinary Session of the Executive Council (Ex.CL/Dec.635 (XVIII)), which urged the AU Commission to ensure greater synergy and coherence between AGA and the African Peace and Security Architecture (APSA), and the Declaration of the 16th Ordinary Session of the Assembly ((Assembly/AU/Decl. 1 (XVI)), which encouraged the AU Commission to ensure greater synergy between peace and security, and governance and democracy, the AU Commission established the Inter-Departmental Taskforce on Conflict Prevention.

15. The Taskforce is charged with facilitating dialogue among AU Commission departments working on conflict prevention, identifying areas of convergence, and sharing comparable lessons as well as practices on conflict prevention in order to maximize and broaden the impact of AU conflict prevention interventions. The Taskforce is currently in the process of finalizing the draft Conflict Prevention Framework, which will among other things guide the effective implementation of the nexus between peace and security, and governance and democracy, as an enabling factor for conflict prevention. In addition, various AU Commission Departments have designated Focal Persons to constitute members of the Task Force.

16. Furthermore, the AUC has coordinated a number of joint preventive diplomacy efforts with various African Governance Platform Members. These have included joint assessment and preventive diplomacy missions to Member States including South Sudan, Central African Republic and Mali; election observation missions; and post conflict reconstruction efforts.

17. While significant progress has been recorded towards fostering greater cooperation and coordination between AGA and APSA, there is more to be done in the areas of deliberate joint strategic planning and implementation of initiatives, which will enhance greater synergy and impact of the AU's conflict prevention initiatives on the continent.

18. Current efforts towards enhancing greater synergy, collaboration and cooperation among AUC Departments remain largely technical and should therefore be complemented by political support by Member States for effective implementation.

19. Increased synergies, collaboration and cooperation between AGA and APSA require joint strategy development and implementation by the two architectures on conflict prevention and post conflict reconstruction and development. It is therefore imperative to ensure greater support from Member States by providing political commitment and leadership as well as adequate human and financial resources to the African Governance Platform to accelerate the process of linking democratic governance and peace and security in addressing conflicts in Africa.

C. DEEPENING DEMOCRATIC AND PARTICIPATORY GOVERNANCE IN AFRICA

20. Deepening democratic and participatory governance in Africa is one of the key drivers of the Africa Agenda 2063. Towards this end, since the operationalization of

AGA in 2012, six (6) priority areas are key for the nurturing and consolidation of democratic and participatory governance in Africa going forward namely:

- a) Public Sector Governance and Service Delivery;
- b) Decentralization and Local Governance;
- c) Corruption and Illicit Financial Flows;
- d) Natural Resource Governance;
- e) Unconstitutional Changes of Government;
- f) Diversity Management.

Public Sector Governance and Service Delivery

21. The significance of service delivery in governance and national development in Africa cannot be overemphasized. Poor public sector governance and management coupled with ineffective public service delivery in many AU Member States are among the leading obstacles to democratic governance and socio-economic transformation in Africa. This decade has witnessed numerous popular protests and civil unrests in Member States due to poor service delivery. Attempts at redressing this problem has led to a significant numbers of the AU Member States adopting and implementing Public Sector Reforms (PSRs).

22. PSR in Member States have brought modernization to the African public service and administration with tangible impacts on service delivery and development. For instance, most of the Member States have embraced Information Communication and Technology (ICT) in administration of public service and this has impacted positively effective service delivery is specific sectors like education and health. Is some of the Member States civil society are now involved in public policy development, implementation and evaluation.

23. Due to the above development, recent research shows that most of the AU Member States have now achieved universal primary enrolment, with rates above 90%; also in recent years, under-five mortality rate and its maternal mortality rates have declined significantly¹. These are some of the new development in public sector governance in Africa. Despite this, it is important to emphasize at this juncture that the AU Member States still have a long way to go in term of implementation of their public service and administration policies and programmes.

24. To date, only nine Member states have ratified the African Charter on Public Service and Administration. This instrument is fundamental to the promotion of developmental states in Africa through effective and efficient public service delivery. For impactful progress to be made in this sphere, AU Member States should prioritize the

¹ See Assessing Progress in Africa toward the Millennium Development Goals (MDG) Report 2013 by UNECA for more details on impacts of public service delivery I different sectors in Africa.

ratification, domestication and implementation of the African Charter on Values and Principles of Public Service and Administration. For the Charter to enter into force, the current number of ratification must increase from nine to fifteen.

Decentralization and Local Governance

25. Another significant development in democratic governance on the continent is decentralization, local governance and local development in Member States. Majority of Member States have adopted decentralization and devolution of power as veritable means of bringing governance closer to the people of Africa and a promising avenue for promoting popular participation in governance, particularly at the local level. A recent assessment of Local Governments in Africa shows that there is commendable level of decentralization and devolution of power at the local level but commitment to implementation of decentralization policies and programmes by Member States remains a fundamental challenge².

26. The recently adopted African Charter on the Values and Principles of Decentralization, Local Governance and Local Development promises aims to deepen decentralization and promote local democratic governance and effective public service delivery. The Charter was adopted in June 2014. Thus far, only two Member States have signed the Charter. Prioritization of its ratification by at least fifteen Member States is required for it to enter into force.

Corruption and Illicit Financial Flows

27. In 2002, the African Union estimated that corruption costs African economies more than US\$ 148 billion dollars each year. This figure represents 25% of Africa's GDP and increases the cost of goods by as much as 20 percent thereby deterring investment and inhibiting development. In the same vein, corruption was identified to be the third most serious problems after poverty and unemployment in Africa in 2005³; unfortunately, the trend has not changed till date. A recent report of the High Level Panel on Illicit Financial Flows from Africa sponsored by AU and UNECA and led by H.E. Thabo Mbeki, former President of South Africa, reveals that the continent is annually losing more than \$50 billion through illicit financial outflows, and corruption is one of the facilitating factors for these outflows alongside weak governance capacity. The explanation for the above is linked to weak national anti-corruption institutions.

28. In a nutshell, corruption continues to hamper negatively efforts at promoting democratic governance and socio-economic transformation in Member States. The Member States, the Regional Economic Communities and the AU have undertaken various commendable regulatory instruments in their efforts to combat corruption in

² See United Cities and Local Governments of Africa (UCLGA and Cities Alliance publication on Assessing the Institutional Environment of Local Governments in Africa published in September 2013 for more details.

³ See African Governance Report, 2005 for details

Africa. But the challenge remains commitment to bridge the gap between norm-setting and norm-implementation through appropriate policies at national level. If corruption is not dealt with in Africa, the Africa Agenda 2063 may not yield the expected results.

29. AU Member States must therefore prioritize implementation of all their national anti-corruption policies and programmes, including international, continental and regional anti-corruption instruments. The African Union Convention on Preventing and Combating corruption is a fundamental document that can resolve the corruption challenge on the continent. This will only be feasible if Member States practically commit to its ratification, domestication and implementation. The Convention is one of the world's renowned anti-corruption instruments but it has yielded little or no result due to poor commitment and implementation by AU Member States. It is ironical to note that the numbers of the African Union Member States that have ratified the United Nations Convention against Corruption are more than those that have ratified the AU Convention. It is therefore imperative that the African Union Member States henceforth commit themselves to the Convention and provide adequate resources (financial, human, technological, infrastructural etc.) to the African Union Advisory Board on Corruption to function as expected.

Natural Resource Governance in Africa

30. As noted earlier in paragraph 17, the Mbeki Report on Illicit Financial Flows, defined as money illegally earned, transferred and used, reveals that Africa has lost USD 1 trillion over the last fifty years. Today, Africa loses USD50 billion per annum in illicit financial flows. In fact this amount is equivalent to amount of funds the continent needs to fund infrastructure projects annually. Illicit financial flows take three main forms namely (a) commercial activities, (b) criminal activities and (c) corruption. The illicit financial flows include abusive transfer pricing, trade mispricing, misinvoicing of services and unequal contracts, among others. Illicit financial flows are more prevalent in the natural resource sector and they are also more pervasive in conflict-affected and post-conflict countries.

31. Good natural resource governance encompass full respect for the rule of law in natural resource sector, effective citizens participation, multi-actor partnerships, transparent and accountable, vibrant and effective natural resource institutions, an efficient and effective public sector with mandate to manage the country's natural resources, public access to natural resource information etc.

32. Effective management of natural resources in Africa would therefore embrace the application of the following among other elements of good governance in the management of the African natural resources.

- Accountability at all levels in the management of Africa natural resources: Currently there is limited accountability in the sector. Although, initiative like EITI has been promoting accountability in extractive revenue, accountability of natural resources expenditure is generally poor in Africa. African must therefore prioritize accountability in the sector;

- Government responsibility in the extractive sector must include conserving ecosystem integrity and diversity and sustainable management of natural resources;
- Effective control of corruption in the natural resource sector: Most often, the sector is the conduit for grand corruption in many African countries. Africa must prioritize fighting corruption in the extractive sector;
- Transparency including timely and unconstrained access to information in the natural resource management;
- Effective participation of citizens and other critical stakeholders in all the policy processes relating to the management of natural resources in Africa there should be active involvement of the civil society and other critical stakeholders in the management of natural resources in Africa;
- African natural resources should be managed and be made to be responsive to the socio-economic needs of the African people;
- Effective implementation of all the natural resources programmes, policies, rules and regulations like the AVM should be prioritized;
- Respect for the rule of law in the management of natural resources;
- There must be equity and justice in the distribution of natural resource revenue.

33. It is important for Africa to build citizens capacity to understand and utilise natural resources positively. This effort will help to build trust between the state and the citizens on natural resources management. It will also promote legitimate governance of the sector, generate fairer contracts and more equitable national strategies and help to reduce incessant conflict crisis that usually emanate from mismanagement of natural resources in Africa. Also, better understanding of the sector will in turn, creates local ownership and better investment climate. Mutually beneficial agreements between the government and the citizens on natural resources management in Africa will stand the test of time to promote economic growth and development on the continent.

Urban Development and Housing

34. The African continent has undergone profound transformation at the level of population growth and demographic composition; urbanization and human settlements development; as well as strengthening urban systems for economic development. Projections indicate that the trend will continue with increased intensity as the continent enters the next twenty years of implementing the forthcoming Habitat III conference outcomes.

35. A distinctive feature of population growth on the continent reveals that urban population has almost doubled during the past 20 years and the rural population has continued to increase by almost 50% during the same period. Once again the same trend will continue in the next two decades when Africa will be crossing the threshold of having half of its population residing in urban areas.

36. Of utmost significance is the phenomenon of “in situ urbanization” which is taking place with the proliferation of smaller agglomerations and settlement clusters evolving out of rural settings with populations of less than 20,000 people. Beyond the megacities, metropolitan centres, large and secondary cities, as well as small towns –these emerging smaller agglomerations have the potential to become the nuclei of urban growth in the next twenty years and can also contribute to changing division of labour as well as revitalizing rural-urban linkages⁴.

37. However, this same phenomenon coupled with urban sprawl, non-adherence to planning regulations and standards, ineffective and inappropriate urban governance systems, infrastructural deficiencies and capacity limitations has generated negative externalities including proliferation of slums and informal settlements, congestion, unemployment, crime and mobility challenges.

38. African experience calls for emphasis on dynamic processes which would generate structural change as opposed to focus on forms and configurations. African Union needs to urgently address “urbanization agenda’ rather than an ‘urban agenda’ of which the latter tends to over-emphasize the locus dimension and magnifies the binary distinction of rural-urban. There is need for increased efforts in improving productive, compact and resilient cities and towns through structured investment in infrastructure, improved business systems, and pro-poor urban polices. Of most importance is to promote structural change in a sustainable manner which encompasses the entire continuum of human settlements. It is also urgent and important that the African Union develops and adopts the proposed African Charter on the Principles and Values of Urban Development, Housing and Human Settlements to improve urban governance and development in Africa as proposed by the African Union Specialized Technical Committee on Public Service, Local Government, Urban Development and Decentralization.

Human Rights and Transitional Justice

39. The state of human rights abuse in AU Member States in recent years is not without challenges and therefore calls for urgent attention by the AU policy making organs and Member States. The Rwanda Genocide that claimed thousands of innocent citizens still resonates in human memory till date. This underscores the yearly Rwanda Genocide anniversary by the African Union Commission and the Government of Rwanda. The essence of this anniversary is to continually remind Africans that never

⁴ Agence Francaise Development (AFD). 2008. AFRICAPOLIS. Atlas of West Africa

again should the continent permit such mass atrocity and human rights violation in any of the Member States.

40. Although, Africa has not experienced another Genocide but serious human rights violation persist in some of the Member States. The salient Human Rights violation in recent years includes domestic violence leading to human rights abuses. The problem of xenophobia has also confronted some of the AU Member States including Libya and South Africa with dire consequences for diversity management, continental integration and unity.

41. Worth noting on human rights situation in Africa is the civil wars that engulfed Mali, Central African Republic and South Sudan. These wars claimed thousands of lives and properties worth million Dollars. Unfortunately, the human rights violation continues in these countries till date. In Nigeria, Niger and Cameroon abduction and killing of innocent citizens continue by the Boko Haram insurgency. The extra judicial killing experiences in Kenya and Somalia is worrisome. Hundreds of innocent Africans including students while studying in their campus were sent to early grave by the militant groups- the Al-shaabab. The recent xenophobia on the continent, particularly in South Africa and Libya calls for concern. Africans from other countries were killed and maltreated by their fellow Africans.

42. The African Union Commission is finalizing a Transitional Justice Policy Framework for Member States, if adopted and implemented accordingly it will among others promote transition justice and accountability in post conflict countries and contribute to promotion of human rights regime on the continent.

43. The African Union has proclaimed 2015 as the Year of Women's Empowerment and Development towards Agenda 2063. This is significant as the Union aims to deepen the respect of women's rights on the continent. In order to build on the achievements of 2015 in respect of efforts towards gender equality and women's empowerment, the Union has also declared 2016 as the Year of Human Rights with Special Focus on the Rights of Women. This is crucial in our efforts to inculcate a culture of human rights on the continent. In fact, 2016 marks a veritable watershed in the continental human rights trajectory: 2016 marks the 35th Anniversary of the adoption of the African Charter in 1981; 2016 marks the 30th Anniversary of the entry into force of the African Charter in 1986; the year marks the 29th Anniversary of the operationalization of the Commission in 1987 (in 2016 the Commission will be just one year shy of its 30th anniversary); 2016 also marks the 10th Anniversary of the operationalization of the Court.

44. The adoption of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (the Maputo Protocol) in 2003 ushered in a new thinking in addressing gender inequality and the rights of women in Africa. In 2016, the Maputo Protocol will be 13 years old. To reaffirm their commitment to gender equality, in 2004, the Assembly of Heads of State adopted, the Solemn Declaration on Gender Equality in Africa (SDGEA), and this commitment was reinforced by the adoption of the first-ever African Union Gender Policy in 2009 and Assembly Declaration of 2010-2020 as an African Women's Decade and the launching of the Fund for African Women. The

Assembly also committed itself to continue to expand and to accelerate efforts to promote gender equality at all levels, and the determination to build on the progress that have been achieved in addressing issues of major concern to the women of Africa.

45. It is for this reason that it was deemed necessary to declare this auspicious year (2016), the African Year of Human Rights with particular focus on the rights of women, to mark, commemorate and celebrate these significant milestones in Africa's continental human rights progression. It is an opportunity to give Africans the chance to tell their story – not only to raise awareness about the great work that they have been doing to uplift their communities, but also to inspire future generations to emulate innovative and exciting approaches to making a difference through human rights based approaches. This, in the end, will showcase the African local human rights activities by Africans themselves to solidify local humanitarian dividends and ensure longer-term outcomes.

46. The declaration of 2016 as African Year of Human Rights will provide further opportunity to consolidate the gains already made over the years, ensure better coordination of human rights bodies on the continent, and move towards the establishment of a true human rights culture on the continent.

47. In order to commemorate the year 2016 and advance the AU human rights agenda particularly its gender equality agenda, various AU Organs namely the AUC (Department of Political Affairs, Directorate on Gender, Women and Development), the African Court on Human and People's Rights, the African Commission on Human and People's Rights, the African Committee of Experts on the Rights and Welfare of the Child, the Pan-African Parliament, the Economic, Social and Cultural Council are embarking on project 2016.

48. The general outcome of celebrating 2016 as Africa Year of Human Rights with focus on the rights of women will be an enhancement in the enjoyment, promotion and protection of human rights on the continent. To achieve this general outcome, 13 main activities have been earmarked to be undertaken during the year. For better coordination, the activities have been clustered into three main categories. Each cluster has an overall outcome, informed by the specific outcomes of the activities under the said cluster. The three clusters are: **knowledge management, advocacy and outreach and multi-sectorial dialogue.**

Unconstitutional Changes of Government

49. The AU has adopted a comprehensive, robust and fairly strong normative framework against unconstitutional change of government among its members. The framework can be seen as part of the continental body's efforts to promote democratic governance and rule of law throughout the continent. A key objective of the norm is protecting the voice of citizens in selecting their leaders, since unconstitutional change of government subverts the choice of citizens. Another objective is to mitigate conflicts and promote human security, since unconstitutional change of governments often engenders enduring violent conflicts. The expansive normative framework of the AU against unconstitutional change of government is also meant to encourage its 54

member states to progressively move away from politics of the bullet towards politics of the ballot. Governments should come and go not through unconstitutional changes including military coups (bullet politics), but through citizens' popular and sovereign will expressed through credible, transparent and democratic elections (ballot politics).

50. During the period, 1960s to the 1980s, there were more military coups in Africa than regular elections. Since the 1990s to date, there are more elections in Africa than military coups. However, while the problem of military coups have progressively given way to elected governments in a majority of African countries, other forms of unconstitutional change of government have continued to pose a challenge for the African Union. These include rebellions and popular uprisings, among others. It is worth recalling that during the Assembly of the Heads of State and Government of the AU held in May 2013, the adopted 50th Anniversary Solemn Declaration reiterated the Union's **"rejection of unconstitutional changes of government, including through any attempts to seize power by force but recognize the right of our people to peacefully express their will against oppressive systems"**.

51. While it is both encouraging and gratifying that the AU has developed an expansive, robust and comprehensive normative framework against unconstitutional changes two challenges still remain namely (a) the scourge of unconstitutional changes of government has begun to rear its ugly head posing a major challenge for the continent in respect of democratisation and peace-building; and (b) the current normative framework, comprehensive, robust and expansive as it may be, has not yet adequately addressed the problem of popular uprisings which have been witnessed in recent times in North Africa especially in Tunisia, Egypt and Libya. It is worth recalling the AU Assembly in its Decision Assembly/AU/Dec.220 (XII) adopted at its 12th Ordinary Session of 1-4 February 2009 in Addis Ababa, Ethiopia in which African leadership expressed deep concern over the resurgence of coups d'état on the continent which constitute not only a dangerous downturn and serious setback to democratic processes, but also a threat to peace, security and stability on the continent. The Assembly called on Member States to react firmly and unequivocally to put an end to this scourge. The Assembly also requested the Chairperson of the Commission to submit concrete recommendations on the appropriate measures to prevent unconstitutional changes of government, to develop capacity for early warning mechanism, good offices and mediation, including the Panel of the Wise.

52. The 19th Ordinary Session of the AU Assembly held in July 2012 adopted Decision Assembly/AU/Dec.427 (XIX) requesting the AU Commission in collaboration with the African Court on Human and People's Rights (AfCHPR) "to prepare a study on the financial and structural implications resulting from the expansion of the jurisdiction of the African Court on Human and People's Rights and submit the study along with a Draft Protocol on Amendments to the Protocol to the Statute of the African Court on Human and People's Rights for consideration by the policy organs at the next summit slated for January 2013. In addition, the Assembly, in the above decision, stressed the need for the AU to adopt a definition of the crime of unconstitutional change of government and in this regard requested the Commission in collaboration with the AU Commission on

International Law (AUCIL) and the AfCHPR to submit this definition for consideration by the policy organs in January 2013.

53. However, upon submission of the Draft Protocol and the Study on the financial and structural implications, the Executive Council adopted a decision EX.CL.766 (XXII) requesting the Commission to, among others, conduct a more thorough reflection, in collaboration with the Peace and Security Council on the issue of popular uprising in all its dimensions and on the appropriate mechanism capable of deciding the legitimacy of such an uprising. The Peace and Security Council at its 384th Meeting held on 5 July 2013 decided to devote one of its meetings in 2013 to the consideration of lessons learnt from all cases of unconstitutional changes of government in Africa, including the definition of and status of popular uprisings or revolutions. The Office of Legal Council has worked closely with AUCIL and AfCHPR to provide a legal definition of unconstitutional changes of government in light of popular uprisings in North Africa. This discussion paper compliments the work of the OLC, AUCIL and AfCHPR by providing a political analysis of the redefinition of unconstitutional changes of government as the AU addresses the issue of popular uprisings or revolutions.

54. The popular uprisings that started in North Africa in January 2011 have had significant implications for strengthening the African Union (AU) norms, principles, and practices that undergird democracy and governance in Africa. These changes have also had a profound effect on the AU provisions on Unconstitutional Change of Government (UCG). The convulsive transformation that toppled governments in Tunisia, Egypt, and Libya demand a reflection that informs thinking about how to balance political reforms, the restoration of constitutional order, and the expansion of popular legitimacy. All these are essential conditions in the promotion of good governance, peace, security, and stability in Africa. The AU, through its institutions such as the Panel of the Wise, retains a dominant role in popularizing the diplomatic and political contributions to achieving these objectives.

55. Part of the dilemma surrounding the implementation of the UCG is that, of the five provisions that constitute unconstitutional changes, the first three (military coups; mercenary intervention; and replacement of governments by armed dissidents) entail the forceful seizure of power against democratically- elected governments. The last two provisions (refusal by incumbents to relinquish power and constitutional changes to extend the term of incumbents) relate to the failure of governments to respect constitutional legality. Unlike the first three components that have met unambiguous condemnation from the AU because of the military element, the last two components remain contentious in garnering widespread consensus. Because of this disjuncture, there is considerable room for acknowledgement of popular protests as vehicles for political change in the circumstances where there are no apparent alternatives to achieve democratic outcomes. Acknowledging the place of popular civilian uprisings would be consistent with the general spirit of the Constitutive Act and other democracy promotion tenets that place popular legitimacy as the foundation for democracy and good governance.

56. While the AU, like other international actors, was unable to anticipate the developments in North Africa, it nonetheless reacted creatively. In other words, it exhibited the necessary flexibility, basing its action not on a literal and dogmatic interpretation of the existing texts, but rather on the need to contribute to the attainment of the overall objective sought by the AU, namely, the consolidation of the ongoing democratization processes in the continent. Thus, at its 257th meeting devoted to the situation in Tunisia, held on 15 January 2011, the PSC strongly condemned the excessive use of force against the demonstrators, and urgently appealed to the political stakeholders to work together towards a peaceful and democratic transition which would allow the Tunisian people to freely choose their leaders through free, open, democratic and transparent elections.

57. Regarding Egypt, the PSC, at its 260th meeting held on 16 February 2011, noted the deep aspirations of the Egyptian people, especially the youth, to change and the opening of the political space, in order to be able democratically to choose institutions that are truly representative and respectful of freedoms and human rights. It strongly condemned the acts of violence against the demonstrators. The PSC recognized the exceptional nature of the situation in Egypt, and took note of the decision of Hosni Mubarak to resign from his position as President of the Republic and surrender authority for the exercise of state power to the Supreme Council of the Armed Forces.

58. Regarding Libya, the PSC, as early as 23 February 2011, expressed deep concern over the developments in the country, and strongly condemned the indiscriminate and excessive use of force and arms against peaceful demonstrators. It underscored the legitimacy of the aspirations of the Libyan people for democracy, political reform, justice and socio-economic development. At its 265th meeting held on 10 March 2011, at the level of Heads of State and Government, the PSC reiterated these positions, agreed on a road map for resolving the Libyan crisis and established a high-level ad hoc committee to assist in the speedy resolution of the crisis.

59. The UN Security Council resolution 1973 of March 2011 authorizing all necessary measures to protect civilians in Libya from pro-Gaddafi forces fundamentally altered prospects for a negotiated settlement, particularly when NATO's intervention tilted toward the military support for the opposition. On visits to Libya and in regional consultations, the AU High Level Committee crafted a road map that included immediate cessation of hostilities, humanitarian aid to civilians in need, and a negotiated solution to the conflict. But the road map could not garner support from key international actors. During the 291st meeting of the AU PSC in Addis Ababa in late August 2011, the AU called for an immediate truce between the warring parties and the formation of an all-inclusive transitional government. The AU high level ad hoc committee meeting in early September 2011 in Pretoria reiterated this position, noting that the AU would work with various stakeholders, including the National Transitional Council (NTC), to establish an all-inclusive national government. On 20 September 2011, the AU finally recognized the NTC, stating that it was ready to help the NTC build an inclusive government.

Proposals on the New AU Response to Popular Uprisings within the Framework of its doctrine on Unconstitutional Changes of Government

60. Firstly, in order to deal with the issue of popular uprisings as the AU addresses the problem of unconstitutional changes of government, it is imperative upon AU Member States to sign, ratify and implement all the AU shared values instrument aimed at deepening democratic and participatory governance on the continent as elaborated in this paper. This is one fundamental way to prevent unconstitutional changes of government and it is also an important mechanism to prevent popular uprisings against governments. As the English aphorism goes, 'prevention is better than cure. But so long the current gap between norm-setting and norm-implementation exists, the AU is still far from dealing with this problem. So more effort has to be invested in encouraging AU Member States to implement agreed shared values instruments including the African Charter on Democracy, Elections and Governance.

61. Secondly, the Summit on Shared Values in January 2011 underscored the need for increased popularisation of common norms and standards to underpin regional integration and development, including values that are enshrined in the CSSDCA and the formation of the AU. A number of AU Organs and Institutions with mandate on democracy, governance and human rights which form part of the African Governance Architecture (AGA), including PAP, AfCHPR, ACHPR, AUC, PSC, PRC, RECs, Panel of the Wise, APRM etc should redouble their efforts in popularising AU shared values instruments and advocating aggressively for their effective implementation at Member State level. It is for this reason that this paper proposes that the above-mentioned AU Organs and Institutions use the AGA platform to launch a series of dialogues at the continental and sub-regional levels on how Africa can return to the premises and practices of the CSSDCA, dialogues that rededicate African actors around these issues will go a long way to underscore Africa's ownership of the principles articulated and enunciated over the years, emphasizing that in order to build strong institutions, compliance with Shared Values is an imperative. Prioritizing ratification and implementation would be a key contribution of these AU Organs and Institutions, particularly where there have been long time lags between adoption and ratification.

62. Thirdly, in strict legal sense, any means of achieving a regime change that is outside of the Constitution and its provisions constitute or is tantamount to unconstitutional change of government. It is important, therefore, that AU implores its Member States to embed a culture constitutionalism and rule of law in their own national jurisdictions. However, certain cases have shown that governments can be arbitrary, oppressive and show little regard for the rule of law thus setting the stage for popular uprising. It is important to note that in any national setting, political expediency as a replacement to strict adherence to the provisions of the constitution is always a recipe for instability and political chaos. Perhaps the panacea to this dilemma lay not in calibrating the extent, depth and perceived acceptability of the uprising within the populace but to devise a modality for early response based on AU's continental early warning indicators and move to early action. In this regard steps should be taken to prepare a guideline for preventive deployment of AU presence before the breakdown of law and order. This is in accordance with the modalities of operationalizing the Ezulwini

Framework for the enhancement of the Implementation of Measures of the African Union in situations of Unconstitutional Changes of Government.

63. Fourthly, since the 50th Anniversary Solemn Declaration rightly commits the AU to recognise the right of “our people to peacefully express their will against oppressive systems”, the AU cannot sit idly by as popular uprisings happen. It needs to assess these uprisings and establishing the following facts and as early as possible to allow early response: (a) which uprisings are legitimate and which ones constitute an unconstitutional change of government? (b) which governance systems are oppressive and which ones are democratic, in other words, what constitute oppressive political systems? (c) in countries that have constitutions that clearly outline constitutional changes of government and a space allowed for citizens to peacefully express dissent, how does popular uprising auger with constitutionalism and the rule of law? In order to answer definitively these weighty questions and others related to them, the AU has to commission a detailed study that will unravel the political ramifications of its concrete response to popular uprisings. Such a comprehensive study will complement the one undertaken by OLC, AUCIL, AfCHPR on the legal ramifications of the AU response to popular uprisings and the redefinition of unconstitutional changes of government in Africa.

64. Fifthly and finally, in determining whether or not a popular uprising amounts to an unconstitutional change or amounts to a legitimate expression of the people’s will, the AU may consider six (5) factors namely: (a) a culture of constitutionalism and rule of law exists to allow citizens to express their opinions and change their governments; (b) the national character of the popular protests cutting across various diversity divides especially ethnicity and religion etc.; (c) the peacefulness of the protests; (d) involvement of security forces in the protests; and (e) involvement of external forces in the protests.

Diversity Management

65. What is diversity? Is it a liability or asset to democracy and development? How best can diversity be managed in a constructive manner especially during elections? Francis Deng captures Africa’s dilemma poignantly as follows: “perhaps the most important challenge facing African countries today lies here: How does the African state transform its component identities-its ethnic diversities inherited from colonial boundaries-into nation-states”⁵.

66. Simply defined, diversity is a state of being different. It defines individual and group identity in society. Its subjective and objective markers include language, religion, history, region, custom/culture, race, class, ethnicity, gender and age. Diversity cannot be wished away. That is why the 2004 Human Development Report aptly observes that “cultural diversity is here to stay-and to grow. States need to find ways of forging

⁵ Deng, F. 2008. Identity, Diversity and Constitutionalism in Africa, Washington DC: United States Institute of Peace Press, p31.

national unity amid this diversity. The world, ever more interdependent economically, cannot function unless people respect diversity and build unity through common bonds of humanity⁶. Being different from others ought not be a bad thing. In fact, in its article 8 (3), the African Charter on Democracy, Elections and Governance, which came into force on 15 February 2012 after the required 15 ratifications by AU member states, stipulate clearly that “state parties shall respect ethnic, cultural and religious diversity which contributes to strengthening democracy and citizen participation”⁷.

67. Diversity, in and of itself, need not lead to adversity and become destructive. In fact, it is supposed to enrich democracy given that two of many principles of democracy are pluralism and tolerance. People ought to be free to be who they are and to choose and celebrate their various identities, being respected and also respecting others with different identities from their own. They should be “able to make cultural choices without penalty, without being excluded from other choices – for jobs, schooling, housing, healthcare, political voice and many other opportunities critical to human well-being”⁸. This is what the 2004 Human Development Report cogently terms cultural liberty-the freedom to express one’s identity without fear for any reprisal. Under conditions of cultural liberty, diversity can be a resource for national unity and advancement of nation-state building project in contemporary Africa. Unity is perfectly possible in diversity. The notion of unity in diversity is premised “on the assumption that a successful nation is one that can pool together its diverse social intermixtures in a manner that builds on their richness and does not alienate any group”⁹.

68. To date, the issue of socio-cultural diversity presents a particular challenge to Africa especially in relation to national unity and nation-building. This is more so in post-conflict societies. This challenge gets even more pronounced during elections. Although identity conflicts get more accentuated and even more violent during elections, they are not purely a phenomenon of elections per se¹⁰. In broad terms, three root causes of identity conflicts can be identified including:

- Struggles for political power (including electoral contests);
- Contestation over national privilege (including citizenship);
- Competition over scarce resources (who gets what and why)¹¹.

⁶ UNDP.2004. Cultural Liberty in Today’s Diverse World, Human Development Report, Oxford: Oxford University Press, pp2-3.

⁷ AUC. 2007. African Charter on Democracy, Elections and Governance, Addis Ababa, Ethiopia, p.14.

⁸ UNDP.2004. Cultural Liberty in Today’s Diverse World, Human Development Report, Oxford: Oxford University Press, pp28

⁹ Deng, F. 2008. Identity, Diversity and Constitutionalism in Africa, Washington DC: United States Institute of Peace Press, p43.

¹⁰ Matlosa, K. and Zounmenou, D. 2011. ‘Identity, Diversity and Electoral Violence: Dilemmas of Democratic Transformation in Africa’, *Africa Review*, Volume 3 Number 2 July-December, p.147.

¹¹ Deng, F. 2008. Identity, Diversity and Constitutionalism in Africa, Washington DC: United States Institute of Peace Press, p37.

69. The three root causes of identity-based violence during and in between elections are quite pervasive in Africa today. This explains, in part, why one of the major governance challenges for the continent has been identified as diversity management. During the Extra-Ordinary Summit of APRM Forum of Heads of State and Government held in Cotonou, Benin on 25-26 October 2008, a number of governance deficits emanating from the self-assessment and review of five pioneer APRM countries namely Ghana, Rwanda, Kenya, South Africa and Algeria were identified. Interestingly, among the list of these challenges was diversity management and elections.

70. The 2004 Human Development Report presents a comprehensive exploration of possible policy reforms that could better advance cultural liberty and present an opportunity for constructive management of socio-cultural diversity on a global scale, including in Africa. In order to address the challenges, the Report proposes policy responses in five main areas namely:

- Policies for ensuring political participation of diverse cultural groups through power sharing and consociationalism;
 - Federalism
 - Proportional representation electoral system
- Policies on religion and religious practice;
 - Freedom of belief
 - Rights for religious minorities
- Policies on customary law and legal pluralism;
 - Access to justice for all
 - Cultural recognition of justice
- Policies on multiple languages;
 - Language policy in schools
 - Language policy in government institutions; and
- Policies for redressing socio-economic exclusion;
 - Addressing unequal social investments to achieve equality of opportunity
 - Recognizing legitimate claims to land and livelihoods
 - Taking affirmative action in favour of disadvantaged groups¹².

71. The above list of policy options for Africa to better manage diversity in a constructive manner provides an important menu for exploring policy responses by AU, RECs and Member States towards deepening democracy and peace in Africa. Agenda 2063 ought to encapsulate the above policy responses as a direct response to challenges of nation-building, cohesion and social integration facing many of the AU Member States today.

¹² UNDP.2004. Human Development Report: Cultural Liberty in Today's Diverse World, New York: UNDP, pp47-72.

D. PROMOTING DEMOCRATIC, PEACEFUL AND CREDIBLE ELECTIONS IN AFRICA

72. In order for the AU to achieve greater integration and development as conceived within the objectives and principles of the Constitutive Action and the Agenda 20163, the promotion of democratic, peaceful and credible elections is essential. Several governance instruments have been adopted to enhance the objective of African Union Member States to develop the right political and institutional frameworks within which democratic elections would be conducted. For instance, the Durban Declaration on Principles Governing Democratic Elections in Africa (2002) calls for elections to be held at regular intervals, as provided in national constitutions and by impartial, all-inclusive, competent, accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics¹³. The African Union Guidelines for Electoral Observation and Monitoring Missions adopted in 2002 also provides further details on the role of the AU in election observation and monitoring towards the strengthening of democratization and governance processes on the continent.

73. The African Charter on Democracy, Elections and Governance (ACDEG) which was adopted in 2007 and entered into force in February 2012 reinforces the above democratic and governance norms by also focusing on (a) respect for human rights and democratic principles; holding of regular, transparent, free and fair elections; (b) effective participation of citizens in the governance of public affairs; and (c) strengthening political pluralism and recognizing the role of opposition parties.¹⁴

74. Multiparty democracy and the holding of regular elections are currently accepted by all African Union Member States. This is an indication that there is progress towards democratic consolidation in Africa. On average, not less than 15 elections are held every year. For the first half of 2015 (January – June), 11 elections have been held in 9 AU Member States. Six (6) other Member States are expected to hold elections before the end of 2015. For the year 2016 alone, it is expected that not less than 17 AU Members States will be holding elections.

75. From the experience of countries that have held elections in the first half of 2015, a number of important cross-cutting issues towards the promotion of democratic, peaceful and credible elections would require particular attention, including the following:

- (a) Election management and Financing;
- (b) Political Parties;
- (c) Electoral violence;
- (d) Citizen participation.

(a) *Election management*

¹³ Section Two, OAU/AU Declaration on Principles Governing Democratic Elections in Africa.

¹⁴ Article 3, African Charter on Democracy, Election and Democracy (2007).

76. The organization of democratic, peaceful and credible elections depends to a large extent on how effective the entire electoral process is managed. This requires putting in place and independent election management (EMB) equipped with adequate human and financial resources. Most Member States have put in place independent EMBs that have the sole responsibility to manage elections. In other cases, there are several bodies working together to manage elections. Ideally having an independent EMB with the sole responsibility of conducting election provides confidence and transparency in an electoral process.

77. The setting up of independent EMBs have largely contributed to improvement in election management in Africa. There are increasing innovations in voter registration and results transmission methodologies with most EMBs option for electronic systems. While these innovations have sought to increase transparency, in some cases, their failures have had dire consequences on electoral process. Overall, there is election management on the continent continue to produce mixed results. In most cases, effective and efficient election management has led to acceptable electoral outcomes, in other cases, poor management of elections have engendered electoral violence and protracted election disputes. Part of the challenges to effective and efficient election management had been funding challenges and the autonomy of EMBs. Funding for the organization of democratic elections by most Member States are not secured. Thus most member states depend largely on external partners to fund their elections, a situation that makes it difficult for EMBs to receive funding on time.

78. Continuous improvement in election management in Africa will require the provision of adequate and timely funding as well as human resources capacity for EMBs. Capacity of EMBs also needs to be supported with particular reference to the introduction of information technologies in election management. Efforts should be made by AU Member States to make adequate funding available for the management of elections. Timely release of funding for elections would also contribute the holding of transparent and credible elections.

79. The AUC will continue support improvements in election management on within Member States through technical assistance to Member States holding elections and who may require some form of funding support or the deployment of experts to help them prepare for elections. Training for staff of EMB to build their capacities as part of the efforts to enhance the effective management of elections has also been on-going for the past 3 years and will continue in earnest. Not less than 20 Member States have benefitted from the AUC capacity building programme for EMBs. The revival of Association of African Election Authorities (AAEA) to serve as a coordinating body for inter-EMB cooperation and assistance will also go a long way to improve election management.

80. There are also limited funds available to the AUC to provide technical assistance to Member States holding elections. The Democracy and Electoral Assistance Fund receives inadequate contributions from Member States making it impossible for the AUC to offer the needed assistance to member states that require it. Currently, there is overdependence by the AUC on partner funding for elections observation and related

activities. There is also inadequate human resource capacity for the AUC to provide the needed support to Member States in the area of democracy, elections and governance.

81. The Democracy and Electoral Assistance Fund should be adequately funded by Member States to guarantee adequate sources of funding for supporting the AUC democracy and election related activities and programmes. The AUC should be provided with the necessary human resource capacity to enable it support Member States on democracy and elections.

(b) Political Parties

82. Political Parties are the bedrock of any democratic system since they influence government policies and form governments after winning elections. In this case, viable and strong political parties, either in government or in opposition, are essential ingredient for democratic elections and good governance. There is no doubt that the acceptance of multiparty democracy by Member states came with it the formation and growth of political parties.

83. In most Member States there are viable and strong political parties capable of forming governments. In countries will regular alternation of power, there political parties have been strengthened without they are in opposition or in government. However in some countries political parties remain weak and fragmented and cannot constitute viable opposition to ruling parties. Lack of regular sources of funding for political parties contributes to their weakness and inability to constitute viable opposition force. Lack of internal democracy in some political parties and their fragmentation is also another source of concern in the development of political parties on continent.

84. This situation calls for strategies on the part of Member States to support the development and strengthen political parties to help them play crucial roles in democracy building on the continent. States Parties to the African Charter on Democracy, Elections and Governance are under obligation to 'strengthen political institutions to entrench a culture of democracy and peace'¹⁵. It needs to be noted that some Member States have introduced funding for political parties during this elections.

(c) Electoral violence

85. Electoral violence constitutes a threat to democratic consolidation and citizens participation in an electoral process. Elections continue to be sources of tension and in some cases violence on a scale that have potential to destabilize the continent. The outcomes of most elections on the continent are quite often disputed thus making is difficult for forging national consensus after elections.

¹⁵ . Article 12(2) African Charter on Democracy, Elections and Governance.

86. For most part of the over two decades since the introduction of multi-party elections in most Members States election-related violence has been a key features of our electoral politics.

87. The upsurge of electoral violence led the AU Panel of the Wise to Commission a report on election-related violence which was published in 2010. This report made far reaching recommendations which the AUC continue to implement. This include the need for the Panel of the Wise to undertake preventive diplomacy visits to countries holding elections to defuse tension, the deployment pre-election assessment teams and long term observers. The efforts of the Panel of the Wise in preventive diplomacy to avert electoral violence are complemented by efforts of the Africa Forum-a forum of former heads of State and Government. It needs to be noted that there is noticeable reduction in election related violence since 2010.

88. The trend is that most political stakeholders are resorting to the legal processes to seek redress in cases of electoral disputes. It is therefore important that states parties continue to 'establish and strengthen national mechanisms that redress election-related disputes in a timely manner'¹⁶. The AUC on its part continues to deploy the necessary efforts to reduce election related violence. Further effort is being made towards the implementation of an Electoral Risk Management Tool (ERMT) which is aimed at helping EMBs identify potential spots of elections related violence and deal with them before elections.

(d) *Citizen participation*

89. Democratic elections thrive on citizen participation in the selection of their leaders. The AUC during elections observation mission takes note so citizens participation in the electoral process. On one hand, the AUEOM report review an increase in electoral process in Members States by citizens observers groups (domestic observation). This trend is on the increase in countries where there exist vibrant civil society organizations. On the other hand, there is a noticeable reduction in voter turnout on Election Day in most Member States. This due largely to weaknesses in civic education and reduced confidence in electoral processes. Thus the trend is voter apathy which needs to be address through vibrant civic education and building confidence in electoral processes.

90. The AUC also deploys election observation missions to observe elections in all its Member States. On average the AUC deploys 15 elections observation missions every year. The objectives of the African Union Election Observation Missions (AUEOM), among others, are to provide an accurate and impartial reporting or assessment of the quality of elections in Africa including the degree to which the conduct of the elections meets international, continental and regional standards; offer recommendations for improvement of future elections; and demonstrate AU's interest in and support for elections and democratization process to ensure that the conduct of genuine elections

¹⁶ .Artilce 17(1), African Charter on Democracy, Elections and Governance.

will contribute to the consolidation of democratic governance, peace and stability in Africa. Recent improvements in AUEOMs include the introduction of the long term election observation methodology and the deployment of pre-election assessment missions in line with the African Union Guidelines on Electoral Observation and Monitoring Missions.

91. Since the 1990s a lot has been done to enhance transparent and credible elections. With all AU accepting multiparty democracy and holding regular elections, the future of democratization on the continent contain within the context of the Agenda 2063. However, it needs to be noted that a number of challenges need to be addressed for the continent to further consolidate democracy. Some of the challenges include:

- i) Funding for the organization of democratic elections by most Members States are not secured. Thus most member states depend largely on external partners to fund their elections;
- ii) There are limited funds available to the AUC to provide technical assistance to Member States holding elections. The Democracy and Electoral Assistance Fund receives inadequate contributions from Member States making it impossible for the AUC to offer the needed assistance to member states that require it. Currently, there is overdependence by the AUC on partner funding for elections observation and related activities;
- iii) There is also inadequate human resource capacity for the AUC to provide the needed support to Member States in the area of democracy, elections and governance;
- iv) Elections continue to be sources of tension and in some cases violence on a scale that have potential to destabilize the continent;
- v) The outcomes of most elections on the continent are quite often disputed thus making is difficult for forging national consensus after elections;
- vi) Internal disagreement over constitutional term limits remains a major source of tension in a number of Member States.

92. The Democracy and Electoral Assistance Fund should be adequately funded by Member States to guarantee adequate sources of funding for supporting the AUC democracy and election related activities and programmes. Efforts should be made by African Union Members to make adequate funding available for the management of elections. Timely release of funding for elections would also contribute the holding of transparent and credible elections.

E. CONCLUSION

93. There is no doubt that democratic and participatory governance is one of the key drivers and enablers for Africa Agenda 2063. This is so because, building capable and

developmental states required for the Agenda to succeed is a fundamentally governance issue. Besides, one of the popular aspirations which arose during stakeholder consultations on Agenda 2063 speaks directly to popular demands for democratic governance and human rights on the continent. In this report, we have chronicled the state of governance in Africa today with special focus on the African Governance Architecture and elections. With respect of governance, we have focused spotlight on seven (7) key issues namely (a) Public Sector Governance and Service Delivery; (b) Decentralization and Local Governance; (c) Corruption and Illicit Financial Flows; (d) Urban Development and Housing; (e) Human Rights and Transitional Justice; (f) Unconstitutional Changes of Government; (h) Diversity Management.

94. The assessment of the state of elections has focused attention on four (4) issues namely: (a) Election Management and Financing; (b) Political Parties; (c) Electoral Violence and (d) Citizen Participation. The report has highlighted progress made thus far, including on the operationalization of the African Governance Architecture and the holding of peaceful, credible and democratic elections. Challenges have also been noted and policy responses by AU, RECs and Member States proposed.

2015

Report of the commission on governance in Africa (with focus on the African governance architecture and elections)

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