

Life after State House

Addressing Unconstitutional Changes in West Africa



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Cover photo

Ghana: In January 2001, John Kufuor was sworn in as President, taking over from outgoing President Jerry Rawlings.

Photo courtesy of the Government of Ghana

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United Nations Office for West Africa

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Acronyms

AHG	Assembly of Heads of State and Government
APRM	African Peer Review Mechanism
AU	African Union
CODESRIA	Council for the Development of Social Science Research in Africa
CPI	Corruption Perceptions Index
ECOSOC	United Nations Economic and Social Council
ECOWAS	Economic Community of West African States
EU	European Union
NEPAD	New Partnership for Africa's Development
OSCE	Organization for Security and Co-operation in Europe
OAU	Organization of African Unity
PRS	Partido da Renovação Social
SRS	Special Representative of the Secretary-General
UN	United Nations
UNAMSIL	United Nations Mission in Sierra Leone
UNMIL	United Nations Mission in Liberia
UNOCI	United Nations Operation in Côte d'Ivoire
UNOGBIS	United Nations Office in Guinea-Bissau
UNOWA	United Nations Office for West Africa

The nature of political power in many African States, together with the real and perceived consequences of capturing and maintaining power, is a key source of conflict across the continent [...]. Where there is insufficient accountability of leaders, lack of transparency in regimes, inadequate checks and balances, non-adherence to the rule of law, absence of peaceful means to change or replace leadership, or lack of respect for human rights, political control becomes excessively important, and the stakes become dangerously high [...]. In extreme cases, rival communities may perceive that their security, perhaps their very survival, can be ensured only through control of State power.

Kofi Annan

Secretary-General of the United Nations¹

Preface

Until the end of the Cold War, changes of government in West Africa tended to be neither smooth nor peaceful. Coups d'état, the preferred and often predicted way of replacing political leaders, were encouraged, internally and sometimes externally, while their legitimacy and legality were rarely called into question.

Nowadays, perpetrators of new coups d'état are more likely to be treated as pariahs, vigorously condemned and subjected to sanctions. The underlying causes of coups d'état, well understood during the Cold War era, seem ignored today. However, coups may not disappear from the scene, unless improved modes of governance and power succession are institutionalized nationally and supported by the international community.

With the end of the East-West confrontation, the democratic space has opened up in Africa as a whole. The promotion and consolidation of democratic governance are increasingly recognized as the most efficient means of preventing conflict and ensuring stability. Peaceful and constitutional

alternation of power is a key indicator of the good health of a democratic system. On the other hand, a violent overthrow of government is too often not the cause but rather the symptom and the consequence of a deeper breakdown, which is usually the illegitimate exercise of power.

This Issue Paper seeks to address the question of how to prevent unconstitutional changes of government in West Africa and, related to this, to encourage incumbent leaders to leave office peacefully at the end of their term of office.

Over the past fifteen years, West Africa has seen welcome progress towards multi-party democracy, enhanced respect for human rights and commitment to accountable governance and the rule of law.

However, this progress has been uneven. Some states now have established effective multi-party democracies which have successfully passed the test of holding free and fair elections and a peaceful transfer of power: Benin,

Cape Verde, Ghana, Mali and Senegal among others. Sadly, however, some elected governments have failed to live up to expectations, and have held on to power, usually often by manipulating constitutions and rigging elections. This opens the way for their violent or unconstitutional removal. In the most unfortunate cases, such as Liberia, political upheavals have brought about external intervention as the only practical way to avert still greater disasters.

These developments point to three general conclusions:

- Peaceful multi-party democracy is attainable in West Africa, and provides by far the best way for its states to achieve stability and development.
- Lessons from success stories in the sub-region should be learnt, and used as a guide for improving the peaceful transfer of power in states that have so far failed to match them.
- However, it cannot be assumed that one size will fit all. Different states in West Africa have had different historical trajectories, and some may adapt to democratic governance more readily than others. Beyond preventing violent seizure of power, one of the challenges is how to help states that have embarked on the road to democratic governance continue to operate successfully, in peace and security.

This Paper is premised on the assumption that *regrettable though they are, coups d'état are almost never spontaneous phenomena. Well before a coup d'état happens, there are usually "signs", "messages", or "calls", warning that if nothing is done the country may witness unspecified (but clear) developments.* The coups of December 1999 in Côte d'Ivoire and September 2003 in Guinea Bissau are typical examples of dramas that were repeatedly announced well in advance. Consequently, reactions such as merely condemning coups d'état and imposing sanctions on the perpetrators after the event are not enough. Prevention appears to be a more effective albeit more difficult option. The conditionality-oriented approaches of the EU (Article 96 of the Cotonou Convention), the USA (Section 508 of the Foreign Assistance Act), and our Organization, the United Nations, need to be revisited to ascertain their effectiveness.

For the past ten years African leaders have been commendably firm in denouncing and outlawing coups d'état on the continent. However, a common characteristic of the policies and declarations by African and international organizations, directed against illegal seizures of power, is that their focus has been on condemning the coup itself as a legally reprehensible act. *Little attention has been paid to the prevention of the basic underlying causes of coups d'état.* It is now clear that this narrowly constitutionalist approach is not enough. If the development,

security and welfare of African societies are to be achieved, there is a need to move beyond post-coup condemnation, and to put in place appropriate institutions and mechanisms of governance that would remove much of the incentive for carrying out an unconstitutional change of regime in the first place. Commenting on the 2003 military coup d'état in Guinea Bissau, the UN Secretary-General emphasized that "the recent removal of the democratically elected President in Guinea-Bissau, however reprehensible, should not be seen as a single event interrupting an ongoing democratic process, but as the culmination of an untenable situation during which constitutional norms were repeatedly violated". Kofi Annan then invited "the international community to consider how to deal preventively with [...] situations, where governments, although democratically elected, defy constitutional order, flout basic practices of governance and thus become an added source of instability".

Failing to address these problems seriously would prolong the misunderstanding between populations and Governments, which are perceived as being removed from domestic concerns and relying on external powers to remain in place. Continued failure will also do nothing towards restoring people's faith in the efficacy or good faith of the international community. This issue Paper offers practical guidelines aimed at consolidating constitutional governance in West

Africa, with recommendations for addressing preventively the issue of violent change of power.

I wish to express my sincere thanks to all UNOWA's partners who helpfully participated in the broad consultations that led to the production of this Issue Paper. These included the ECOWAS Secretariat, the UN peace missions in West Africa (UNOCI, UNAMSIL, UNMIL and UNOGBIS), the Office of President Olusegun Obasanjo of Nigeria, the International Crisis Group, Wilton Park, Human Rights Watch, the Conflict Prevention and Peace Forum, CODESRIA, the African Leadership Forum, the Goree Institute, Lancaster University, and the College of Wooster (Ohio).

Finally, I would also like to address my special thanks to all colleagues at the Department of Political Affairs (DPA) in New York for the good spirit of collaboration between Headquarters and UNOWA, particularly to Under-Secretary-General Ibrahim Gambari, for his unabated support and encouragement.

Ahmedou Ould-Abdallah
Special Representative
of the Secretary-General
for West Africa

The Challenge of Coups d'état in West Africa

When it comes to the unconstitutional overthrow of government, West Africa has an unfortunate leadership position on the African continent. No other sub-region has been so prolific and inventive in the enterprise of coups d'état. A recent analysis of West African coups and conflict shows that,

[b]eginning in January 1955 (in the case of Liberia) or with the date of independence of the other fifteen states, by the end of 2004 [...], West African states had experienced forty-four successful military-led coups d'état, forty-three often-bloody failed coup attempts, eighty-two reported coup plots by elements of the military, and as many as seven terrible civil wars. Indeed, being overthrown or killed in a coup or civil war has been by far the most frequent way West African leaders have lost power, which is another reason to examine coups and violent conflict in the region.²

Since studies have demonstrated the great tendency of a coup in one country to inspire new coups in other countries,³ it could be maintained that for the past 45 years, the unchallenged epidemic of

violent change of political regimes in West Africa has been an unfortunate role model on the continent.⁴

A. West Africa's "Leadership" in Unconstitutional Overthrow of Governments

Among all sub-regions of the continent, West Africa has indeed borne the unenviable reputation and position of leader as regards the frequency of coups d'état; this is so in a number of ways:

- *West Africa sets the standard for independent Africa.* The very first bloody overthrow of a government in independence-era Africa took place in a West African country: Togo.

When it comes to the unconstitutional overthrow of government, West Africa has an unfortunate leadership position on the African continent.

In 1963, Sylvanus Olympio, the first president of the country, was overthrown and murdered following a military coup d'état.⁵

• *West Africa challenges the new Organization of African Unity*

On 24 December 1999, five months after the African leaders' declaration on the unconditional robust prohibition of the coming to power through unconstitutional means, President Henri Konan Bedié was removed from office by elements of the Ivorian armed forces

since July 2002). The very first challenge to the OAU's radical decision to oppose unconstitutional changes of power on the continent came from Côte d'Ivoire. On 24 December 1999, five months after the African leaders' declaration on the unconditional robust prohibition of the coming "to power through unconstitutional means",⁶ President Henri Konan Bedié was removed from office by elements of the Ivorian armed forces following a mutiny turned into a coup d'état.⁷

- *West Africa belies the Great Expectations of a Post-Cold War "New Era of Peace and Democracy".* The international community celebrated the end of the Cold War as "a new era of democracy, peace and unity".⁸ Likewise, meeting in Abuja (Nigeria) at the very dawn of this "new era" (1990), African leaders recommitted themselves "to the further democratization of our societies and to the consolidation of democratic institutions in our countries". They reaffirmed their determination to work together with a view to "permitting a political environment which guarantees human rights and the observance of the rule of law [...] particularly on the part of those who

hold public office".⁹ Unfortunately, while this new faith in the rule of law was being proclaimed, West African constitutional order was repeatedly under assault by various rebel movements. The new eruption of insurrectional violence affected many countries, including Liberia, Sierra Leone, Mali, Guinea Bissau and Nigeria. Some of the rebellions either degenerated or escalated into civil wars, among the bloodiest on the African continent, as were indeed the cases of Liberia and Sierra Leone.¹⁰

Box 1. What Is an Unconstitutional Change of Government?

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

- i) Military coup d'état against a democratically elected Government;
- ii) Intervention by mercenaries to replace a democratically elected Government;
- iii) Replacement of democratically elected Governments by armed dissident groups and rebel movements;
- iv) The refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.

African Heads of State and Government,
OAU Summit, 2000

The following table gives a distribution in time and space of coups d'état in West Africa, from to 1960 to 2005.¹¹

Table 1. Coups Distribution in West Africa: 1960-2005

Date	Benin (1960)	Burkina Faso (1960)	Cape Verde (1975)	Côte d'Ivoire (1960)	Gambia (1965)	Ghana (1957)	Guinea (1958)	Guinea Bissau (1973)	Liberia (est. 1847)	Mali (1960)	Mauritania (1960)	Niger (1960)	Nigeria (1960)	Senegal (1960)	Sierra (1961)	Leone	Togo (1960)
1960																	
1961																	
1962																	
1963	Oct-63																Jan-63
1964																	
1965	Dec-65																
1966	Jan-66					Feb-66							Jan & Jul-66				
1967	Dec-67														Mar-67 & Mar-67 Apr-68		Jan-67
1968	Jul-68									Nov-68							
1969	Dec-69									Sept- 69							
1970																	
1971																	
1972	Oct-72					Jan-72											
1973																	
1974													Apr- 74				
1975													Jul-75				
1976																	
1977																	
1978						Jul-78					Jul-78						
1979						Jun-79											
1980	Nov-80							Nov-80	Apr-80		Jan-1980						
1981						Dec-81											
1982	Nov-82																
1983	Aug-83												Dec-83				
1984							Apr-84				Dec-84						
1985													Aug-85				
1986																	
1987	Oct-87																
1988																	
1989									Dec-89								
1990																	
1991										Mar-91							
1992															Apr-92		
1993													Nov-93				
1994					Jul-94												
1995																	
1996												Jan-96			Jan-96		
1997															May-97		
1998																	
1999				Dec-99				May-99				Apr- 99					
2000																	
2001																	
2002																	
2003								Sep-03									
2004																	
2005											Aug-05						Feb- 05
Date	Benin (1960)	Burkina Faso (1960)	Cape Verde (1975)	Côte d'Ivoire (1960)	Gambia (1965)	Ghana (1957)	Guinea (1958)	Guinea Bissau (1973)	Liberia (est. 1847)	Mali (1960)	Mauritania (1960)	Niger (1960)	Nigeria (1960)	Senegal (1960)	Sierra (1961)	Leone	Togo (1960)

The table above takes into consideration only successful coups, which means “a full-blown seizure of [government] control vesting leadership in a military [or civilian] cabinet”.¹² When

unsuccessful coups attempts are considered, this already dark panorama even appears bleaker. Within the first four decades of African independence, one notices also a great concentration of

coups in the period 1980-2001. It is worth mentioning that this period coincides with both the deepening of the economic crises in many West African states and the progressive liberalization of national political spaces – which was labeled the era of “democratic transitions”.

Today, it is increasingly obvious that faced with the “unabated prevalence of military coups in Africa since the early 1960s”, it has become necessary for African states to develop policy tools “designed to prevent military coups” and help reduce “the long-term coup vulnerability of these states”.¹³

B. Coups d'état in Africa: A Paradoxical Picture

This report is an analysis of the challenge of coups d'état in West Africa. *Its fundamental objective is to examine the various complexities that explain the gap between the condemnation of*

There is unanimity among African governments, the international community and civil society in strongly and unequivocally condemning an unconstitutional overthrow of government as an unacceptable mode of political change.

through which to evaluate potential coup-prone factors and environments with a view to generating early dialogue on possible political and diplomatic means of preventing coups and political disorder from taking place.

The analysis recognizes that potential coup-prone environments may include a combination of factors where a violent unconstitutional change of government may seem unavoidable. However, if early measures are taken to ease tension and mediate over potentially explosive situations, the inevitable may become avoidable.

In terms of coup prohibition, Africa presents a paradoxical picture:

- a) There is unanimity among African governments, the international community and civil society in strongly and unequivocally condemning an unconstitutional overthrow of government as an unacceptable mode of political change.
- b) However, even as the coup d'état is being roundly and vehemently condemned for its debilitating impact on government efficiency, state stability and internal security, there is a noticeable resurgence of unconstitutional changes of government across the continent, including countries that had hitherto enjoyed a longstanding reputation for peace and stability, such as Côte d'Ivoire.

Hence, in spite of manifest efforts aiming at prohibiting unconstitutional removals of governments, there are reasons to believe that given their specific national circumstances and occasionally good leadership, many African countries would hardly stand out as exceptions to the inevitability of coups d'état. In his report on the causes of conflict in Africa, the Secretary-General of the

United Nations drew attention upon this concern:

The nature of political power in many African States, together with the real and perceived consequences of capturing and maintaining power, is a key source of conflict across the continent.

More specifically, the Secretary-General rightly observed that:

Where there is insufficient accountability of leaders, lack of transparency in regimes, inadequate checks and balances, non-adherence to the rule of law, absence of peaceful means to change or replace leadership, or lack of respect for human rights, political control becomes excessively important, and the stakes become dangerously high.¹⁴

Trends in Africa in general and West Africa in particular show that the question of the “absence of peaceful means to change or replace leadership” is crucial in this context: relevant political actors who, in an open and democratic system, may legitimately aspire to gain power, are now left with only two options; either to violently overthrow the government or to start a civil war.

This analysis revolves around four fundamental relationships or connections:

- Firstly, the relationship between specific circumstances that weaken state’s institutions and make it more vulnerable to coups and the inevitability of an unconstitutional

overthrow of government;

- Secondly, the relationship between bad governance and escalation of violence;
- Thirdly, poor civilian-military relations and potential for coups;
- Fourthly, the gap between coup prohibition and coup proliferation.

1. Coup-prone Environment and “Coup Vulnerability”

There are combinations of factors as well as circumstances that may increase the vulnerability of a state to a coup d’état and render

a coup almost unavoidable, thereby making it merely a foregone conclusion to a woeful state of socio-political affairs. Such

combinations of factors underpin a *coup-prone environment*. For instance, actual

or even perceived massive corruption in high offices, coupled with deepening mass poverty, unequal or discriminatory distribution of resources, gross violation of human rights and massive repression, and the appropriation of power by one social or ethnic group, can often be the originating causes of a violent overthrow of a government. They are typically cited as justifications for a coup.

When, in addition to all these factors, there are considerable levels of youth unemployment, with seemingly no

There are combinations of factors as well as circumstances that may increase the vulnerability of a state to a coup d’état and render a coup almost unavoidable, thereby making it merely a foregone conclusion to a woeful state of socio-political affairs.

prospects whatsoever for a decent life and when there is a security sector in urgent need of reform, the coup-prone environment becomes a fertile ground for civil war.

African leaders themselves recognize that “indeed, experience has shown that unconstitutional changes are sometimes the culmination of a political and institutional crisis linked to non-adherence to [...] common values and democratic principles”.¹⁵

2. Bad Governance and Potential for Violence

In a coup-prone environment, when there is a strong feeling that although change is necessary, the government lacks the political will for reform, there is great danger that key stakeholders - among which the armed and security forces,

the unemployed youth and the opposition political parties rank high - may consider that the situation can no longer be tolerated and the only means of effecting an immediate change is insurrectional violence, through either an unconstitutional change of power or a civil war. The recent history of the unconstitutional overthrow of governments in West Africa illustrates this reality (Guinea Bissau, Côte

d'Ivoire, Liberia, Sierra Leone, Guinea and Mauritania among others).

3. Poor Civilian-Military Relations and Potential for Coups

Civilian supremacy has always been a contested concept in Africa even as coups d'état and military governments became the rule, rather than the exception. With the wave of democratization starting in the 1990s, most states in West Africa did not pay sufficient attention to redesigning their civilian-military relations and their security sector governance. Most have not adapted them to the new political

Box 2. The Causes of Conflict and Coups in Africa

I encourage ECOWAS to formulate preventive measures to deal with conflicts created by governments which, although duly elected, violate constitutional norms and flout basic principles of good governance, thus adding to instability in the subregion.

The international community, and particularly the countries in the region, are right to condemn coups d'état which bring immense suffering to so many countries in Africa. At the same time, we should not be silent when faced with poor standards of governance, which are sometimes the principal cause of those coups d'état. This is particularly the case when governments allow no opportunities for peaceful transition, for example, by canceling or rigging elections. Good governance is essential not just for political stability in the region, but also for development, economic growth and investment.

Kofi Annan
Secretary-General of the United Nations

dispensation - multiparty democracy - a critical ingredient of which is the subordination of the security apparatus to all branches of the constitutional authority and the insulation of the armed forces from politics. As a consequence, the old flawed civilian-military relations (the military considered and considering itself as a legitimate player in politics) and security sector mismanagement (unchecked use and abuse of armed and security forces by the executive) have persisted. This legacy has only added another layer to the mix of coup vulnerability conditions prevailing in most West African states.

4. The Missing Link between Coup Prohibition and Coup Proliferation

A strongly advocated way to combat coups d'état is the imposition of sanctions on coup perpetrators. However, experience shows that it can be ineffective to impose sanctions on coup perpetrators when no preventive measure was imposed on those whose bad governance in the first place provoked their unconstitutional overthrow from power.

Although the international community seems to be comfortable with the imposition of sanctions as a punitive measure on coup perpetrators, evidence suggests that the effectiveness of such sanctions can be extremely limited. In some cases, sanctions have even proven to be counter - productive. This is notably the case when sanctions, once imposed as a first rather than a last resort, end up depriving the international community of any further

means of pressure on the ostracized government.

Another criticism of post - coup sanctions is that the population, not the government, often suffers the

worst effects of them - even though the use of so called “smart” or “targeted” sanctions strives to remedy this loophole. Liberia (or Somalia in the Horn of Africa) is a good example of the unmet expectations from sanctions in a specific kind of political and geopolitical environment.¹⁶ Today, credible studies are increasingly concluding that sanctions are much more about “feeling good” (“something is being done”) than really “doing good” (achieving the objectives for which sanctions are imposed).¹⁷

In some cases, the message associated with sanctions has been erroneously interpreted by the population, notably as an incitation to uprising, which, instead of containing violence and bringing the situation back to normalcy, fuels violence and makes the condition of the ordinary citizen even worse.¹⁸

Clearly, there is a missing link between the conditions in which a coup - prone environment is being created and the time the post - coup sanctions are imposed on coup perpetrators. Even beyond this missing link, post - sanctions climates oftentimes call into question the sanctions regime itself. This is plainly and truly because when

Clearly, there is a missing link between the conditions in which a coup-prone environment is being created and the time the post-coup sanctions are imposed on coup perpetrators.

coup perpetrators remained in power months or years after sanctions were applied, they end up claiming, though dubiously, a political, even a moral victory over the international community which applied the sanctions in the first place. In such circumstances, coup perpetrators even succeed in turning their long-suffering disaffected populations against the international community for the ill effects of the sanctions they applied. What is the conclusion to draw from this dilemma? International sanctions are a double-edged sword, and must be applied with care and skill, based upon a guarantee of effectiveness.

C. Prevention First

In his report on the “Prevention of Armed Conflict”, the UN Secretary-General observes that “perhaps the most pitiful lesson of the past decade has been that the prevention of violent conflict is far better and more effective than cure” and “the cost of not preventing violence is enormous”.¹⁹ Concerning Africa, Kofi

Annan reminds that “by not averting” violence in Africa, both African leaders and the international community “have failed African people”.²⁰ Given the increasing propensity of armed conflicts in Africa to turn into “colossal human tragedies”, he emphasizes that “conflict in Africa poses a major challenge to United Nations efforts designed to ensure global peace, prosperity and human rights for all”; therefore, “preventing such wars” has become “a matter of defending humanity itself”.²¹

Indeed, determined violent efforts to overthrow some illegitimate or undemocratic governments in West Africa have led to some of the most horrendous human tragedies on African soil as we witnessed in Liberia and Sierra Leone. Consequently, while it is important to work towards the prohibition of unconstitutional changes of power, it is equally imperative to strive for the prevention and eradication of those conditions that create coup-prone environments and increase “coup vulnerability”.²²

II.

Condemning Unconstitutional Overthrow of Government: Towards a New Consensus

A. Prohibiting Coups d'état by Decree

To combat the coup epidemic on the continent, African Heads of State and Governments have solemnly declared war against the unconstitutional seizure of power. They have expressed their determination to “immediately and publicly condemn such a change and urge the speedy return to constitutional order”.²³ Accordingly, during the July 1999 Summit of the OAU in Algiers, African leaders strongly condemned violent changes of government, which destabilize and threaten the development of the continent, and urged OAU “Member nations, whose governments came to power through unconstitutional means [...] to restore constitutional legality”.²⁴ Three years later, in July 2002, these leaders, “gravely concerned” about “the resurgence of coups d'état in Africa”, in spite of the July 1999 solemn declaration, conveyed “a clear and unequivocal warning to the perpetrators of unconstitutional change that, under no circumstances will their illegal action be tolerated or recognized by the OAU”.²⁵ They reiterated that whenever an unconstitutional change of Government

takes place, the African union (AU) “should immediately and publicly condemn such a change and urge for the speedy return to constitutional order”. In case of “resistance”, sanctions seeking to ostracize the illegal government from the rest of the African community should be imposed.²⁶

The unconditional rejection of the unconstitutional overthrow of regimes is enshrined as one of the fundamental principles of the African Union. Indeed, Article 4 of the Constitutive Act of the Organization reiterates the

Box 3. Prevention Indeed

We have to get more pre-emptive, anticipate... Regrettably, we have not shown the courage and the determination to move in a timely fashion to prevent situations of crisis from deepening. And when it has gotten out of hand, it has cost us in the subregion and the wider international community much more to resolve the crisis then.

Mohamed Ibn Chambas
Executive Secretary of ECOWAS

Sadly, given the strong obstacles to democratic governance still to be overcome in many states in the sub-region, one cannot claim that this rash of coups d'état is coming to an end.

“condemnation and rejection of unconstitutional changes of governments” by all AU Members States.

Similarly, the leaders of the

E c o n o m i c

Community of West African States (ECOWAS) recommend “zero tolerance for power obtained or maintained by unconstitutional means”.²⁷

B. The Limits of the Politics of Decreed Prohibition

In spite of the official robust rhetoric prohibiting any violent and unconstitutional change of government in West Africa, data on political change in the sub-region show that the tradition of coups d'état remains vibrant.

For the past decade and a half, the region has experienced numerous successful military coups d'état and credible unsuccessful coups attempts.²⁸ Coups and coup plots afflicted thirteen of the region's sixteen states during this period, leaving only Cape Verde, Ghana and Senegal unaffected. Successful coups took place in Côte d'Ivoire, Gambia, Guinea Bissau, Liberia, Mali, Mauritania, Niger, Nigeria and Sierra Leone.

Still more damaging, massive outbreaks of civil conflict have occurred in a number of states, most obviously Côte d'Ivoire, Guinea Bissau, Liberia and Sierra Leone, causing horrendous levels of suffering, death and destruction, and necessitating large-scale intervention by peace-keeping forces, drawn from inside and outside the region.

Sadly, given the strong obstacles to democratic governance still to be overcome in many states in the sub-region, one cannot claim that this rash of coups d'état is coming to an end. Recent examples in Mauritania, Côte d'Ivoire or Togo illustrate this concern.

III.

Coups d'état, a Threat to Regional Security

The devastating effects of coups and violence in West Africa are not limited to the boundaries of the states in which they occur. On the contrary, their contagion spreads very rapidly to neighboring states and the region as a whole.

Coups are first and foremost a national challenge to security and stability. However, in West Africa, a violent change of power in one country usually has strong regional implications:

a) When a violent seizure of power aborts, the perpetrators (at least those who were not captured or killed) leave their country and flee to neighboring states. The case of Ivorian coup plotters finding safe havens in Côte d'Ivoire's neighboring states is a good illustration of such circumstances. Likewise, each time rumors of coup attempts have shaken a state in the sub-region, the first reaction of its political authorities has almost always been to accuse its neighbors. During the August and September 2004 coup attempts in Mauritania for instance, the Mauritanian authorities openly accused Libya and Burkina Faso of

financing the coup plotters. This shows that violent seizure of power or attempts to violently change a

government constitute a threat to regional harmony and stability;

- b) Even when a coup d'état succeeds, it becomes a divisive factor regionally. West African history shows that each time a coup d'état succeeds in the sub-region, the regional community is divided into at least two antagonistic groups of states: Those who are considered to be "friends" of the overthrown leader, thus becoming the foes of the new regime, and those who are sympathetic to the new regime, and are maybe perceived as having been accomplices of the coup perpetrators.
- c) Some coup attempts degenerate into civil wars. This was the case in the September 2002 coup attempt in Côte d'Ivoire, or the violent attempt to overthrow Samuel Doe in Liberia,

The devastating effects of coups and violence in West Africa are not limited to the boundaries of the states in which they occur.

initiated in December 1989 from neighboring Côte d'Ivoire.

In general, whatever its ultimate outcome – successful, failed, or transformed into a civil war – a coup d'état in Africa is almost always a regionally divisive event and a threat to stability. There are few instances

of coups or coup attempts on the continent in which neighboring states have not been either involved or accused rightly or falsely of being accomplices. The April 2004 trial of the authors of an alleged coup attempt in Burkina Faso is a good illustration of that fact.²⁹



Liberia: In January 2006, Ellen Johnson-Sirleaf was sworn in as President, taking over from outgoing Chairman Gyude Bryant.

IV.

When Democratically Elected Leaders Themselves Turn into a Threat to Democracy

Granted that, as argued above, it is obvious enough that leaders who come to or remain in power through fraudulent elections will most probably create conditions inviting coups, a particularly sensitive issue relating to governance emerges when leaders who were democratically elected become a threat to national peace and regional security, through their undemocratic and unconstitutional behavior, once in power.

When an elected leader becomes part of the problems the state is facing, how can one prevent an unconstitutional seizure of power or a violent breakdown of the state (civil war)? How should we react when, amidst the threat of anarchy or chaos fuelled by the erratic and irresponsible behavior of a head of state, the latter is unconstitutionally but expectedly removed from power?

These are critical questions that have to be courageously faced if we are to be serious in addressing the challenge of coups d'état in West Africa, especially in preventing coup-prone environments from taking root. These questions represented a tough challenge for the

African and international communities during the near three-year government of President Kumba Yala in Guinea-Bissau.

A. Case Study: Guinea Bissau

In January 2000, after more than two years of violence and constitutional stalemate in Guinea Bissau,³⁰ Kumba Yala was overwhelmingly elected President, with 72% of the ballots. The elections were unanimously praised as democratic, that is, all-inclusive, free, fair, and transparent.

A few months after his swearing in as Head of State, Kumba Yala increasingly appeared to be both a factor of instability for the country and a great dilemma for democracy.

The President's "style of leadership" ignited a destabilizing process that led his own Prime Minister to accuse

Owing to the undemocratic behavior of the democratically elected president, Guinea Bissau very rapidly relapsed into tension and turmoil, with alleged coup attempts being regularly denounced by the government.

him publicly of being the “sole person behind instability in the country”. Owing to the undemocratic behavior of the democratically elected president, Guinea Bissau very rapidly relapsed into tension and turmoil, with alleged coup attempts “aimed at overthrowing the democratically elected government in Guinea Bissau” being regularly denounced by the government.

On 16 December 2000, the Economic Community of West African States (ECOWAS) deplored in a statement the climate of instability in Guinea Bissau.

The Authority [of Heads of State and Government of ECOWAS] strongly condemned the attempt to overthrow the democratically elected government of Guinea Bissau, and insisted on the need to respect constitutional order and the rule of law in order to strengthen the democratic process in that country.

Eighteen months later, the growing deterioration of the situation in Guinea Bissau led the UN Secretary-General Kofi Annan to raise awareness of the threats to peace and security presented by the ongoing “constitutional impasse”:

[...] the constitutional impasse has, regrettably, persisted, generating in turn increased tensions among the various organs of government, especially between the executive, on the one hand, and the judiciary and the legislature on the other [...]. President Yala himself was criticized for contributing to this atmosphere of generalized apprehensions and tension.³¹

On 9 June 2003, stressing again on the “increasingly volatile political climate” in Guinea Bissau,³² Kofi Annan, once more, sounded the alarm bell:

I regret to say that [...] the overall situation in Guinea-Bissau has not improved. In fact, it has worsened. Amid political and institutional instability, electoral uncertainty has continued to generate tensions [...]. The lack of progress in the constitutional and electoral spheres has been mirrored by a general deterioration in the political climate. Opposition leaders have continued to accuse the Government of arbitrary executive decisions, restrictions imposed on independent media, harassment of political opponents by security officials, the imposition of travel bans on prominent personalities and limitation of access to the mass media by political parties.³³

Ultimately, on 14 September 2003, President Kumba Yala was removed from power by a military coup d'état. This event appeared to many as a logical conclusion to the tragic degeneration of the legitimate power vested in the democratically elected President, a situation that was progressively bringing Guinea Bissau to the brink of disaster.

The military declared that they had seized power in order to save the country from anarchy and to “preserve democracy”. The name chosen by the new junta, the “Military Committee for the Restitution of the Democratic and Constitutional Order”, was emblematic of both the

circumstances of the coup and the reasons of the *unconstitutional* entry of the armed forces into the political arena. For most observers, the feeling was that Guinea Bissau had been teetering on the brink of implosion from which it was saved thanks to the “salutary” intervention of the armed forces.

As far as the occurrence of the coup itself was concerned, nobody was really surprised at it happening, precisely at that moment under those specific circumstances. Bissau Guinean political parties and civil society publicly declared their support to the military junta and praised the armed forces for having released the country from a great threat of chaos. After a meeting with the new military leaders,

Box 4. A Long Awaited Coup d'état

Kumba Yala's ill-fated three and a half year term as president came to an end on September 14th when he was deposed in a bloodless military coup led by the army chief of staff.

The coup was not unexpected as there was growing consensus, both domestically and abroad, that Mr. Yala had become a severe liability to his country and that there was little chance of an exit from this malaise while he remained in office. Domestic reaction to the coup was near universal relief, and even his own Partido da Renovação Social (PRS) party signed a declaration supporting it, together with all the other political parties.

His presidency had been marked by incompetent governance and steadily deteriorating political and economic conditions.

*The Economist Intelligence Unit,
December 2003*

Bissau Guinean political parties and civil society organizations reached the conclusion that “the coup d'état” was “the best solution against the reign of chaos in Guinea Bissau”.³⁴ Three days after the putsch, more than

5,000 people marched in the streets of Bissau, the capital city, as “an expression of support” to the military.

Both the African and the international communities condemned in principle the unconstitutional seizure of power. However, off the record, there was unanimity that the unconstitutional removal of president Yala from power was “a necessary evil for the preservation of stability in the West African sub-region”.³⁵ Many African leaders and political authorities did not hesitate to recognize – in private – that the democratically elected but “unpopular” Kumba Yala had been unable to “promote democracy in his country”.³⁶ *The Economist Intelligence Unit* observed that “Mr. Yala had grown increasingly unpopular. His disruptive style of leadership included frequent cabinet reshuffles and government dismissals [...]. There were continued threats and intimidation of opposition parties [...]. Prior to the coup, there had been clear evidence that Mr. Yala had been preparing to rig the elections”.³⁷ Embarrassment over the coup d'état in Guinea Bissau was perhaps most evident

Both the African and the international communities condemned in principle the unconstitutional seizure of power. However, off the record, there was unanimity that the unconstitutional removal of president Yala from power was a necessary evil for the preservation of stability in the West African sub-region.

in the reaction of the ECOSOC Special Advisory Group on Guinea Bissau. While the Advisory Group stressed that “the international community has condemned the unconstitutional seizure of power”, it also called on this same international community to increase its assistance to Guinea Bissau, especially at that moment when Bissau Guineans were striving to put in place “a credible government”.³⁸

B. The Coup and the Lesson

Three months after the coup, in his report to the Security Council on the situation in Guinea Bissau, the UN Secretary-General analyzed and explained the nature of the relationship between constitutional legitimacy and democratic governance:

*The recent removal of the democratically elected President in Guinea Bissau, however reprehensible, should not be seen as a single event interrupting an ongoing democratic process, but as the culmination of an untenable situation during which constitutional norms were repeatedly violated. I would like to invite the international community to consider how to deal preventively with post-conflict situations, where governments, although democratically elected, defy constitutional order, flout basic practices of governance and thus become an added source of instability.*³⁹

Addressing the Challenge of Coups d'état in West Africa: Key Concerns and Ways Forward

Unfortunately, destabilizing forces continue to represent a great impediment to the consolidation of a democratic culture in Africa. Impediments such as rigged elections, massive corruption, political discrimination and exclusion as well as gross violation of human rights are continually derailing democratic transition and inevitably lead to the dereliction of political authority and the weakening of national and regional stability.

In addition, experience has shown that when such obstacles persist and deepen without any chance for a peaceful change, those who are the victims are inclined to think that “only violence can solve the problem”⁴⁰ or that “the only solution left is a coup d'état”.⁴¹

Democratic legality is therefore not only a matter of holding regular elections, even if these are characterized as being “free and fair”. Elections occur only once every five years or so, whereas democracy, much more importantly, reflects the conduct of government, and the latter's relationship to the people whom it represents.

A. Key Concerns

The question of how to bridge the gap, in a realistic way, between coup prohibition and coup proliferation in West Africa underpins this report. Particular

emphasis is put on the practical assessment of the combined reality of the deficit of good governance, the proliferation of unconstitutional changes of power, the inflation of civil wars in the sub-region and the legitimacy of external preventive intervention. Issues of power legitimacy and power-sharing, resource distribution, rule of law and human rights constitute the heart of the analysis.

Unfortunately, destabilizing forces continue to represent a great impediment to the consolidation of a democratic culture in Africa.

1. Intervention, Authority and Legitimacy

Experience shows that conflict prevention calls necessarily for a policy of intervention, whether internal or external. The question of intervention usually poses the challenge of legitimacy,

especially given the high risk of political instrumentalization.

In a world of sovereign states – and sovereign leaders – the question of how to deal preventively and pre-emptively with coup-prone behaviors and circumstances logically implies these two others:

- Who is endowed with the legitimate authority to establish what is “wrong” and what is “right” in the behavior of a sovereign leader, and in what circumstances?
- According to what institutional arrangements (international community, regional organizations, civil society ...) and formalities should the decision to act preventively or pre-emptively be taken and implemented?

Experience shows that conflict prevention calls necessarily for a policy of intervention, whether internal or external. The question of intervention usually poses the challenge of legitimacy, especially given the high risk of political instrumentalization.

Ultimate legitimate authority can rest only with the people of the state concerned. The basic principle of democracy is that the people of a country should be the arbiters of their own destiny. It is for them, not for anyone else, to decide who their rulers should be, and to judge whether those rulers are indeed governing on their behalf. The objective of any externally established procedures and criteria must be to help those people exercise their rights, not to substitute them for imposed or imported criteria, however

benevolent these latter may be. If not, then national sovereignty loses to external interventionism.

One key feature of democracy is that it is a learning process. Voters have to discover for themselves whom they can and cannot trust, and which policies do and do not work. This learning process has to be established through regular participation, both through elections and in other ways, as a result of which people can adapt or reverse previous decisions that turn out to be in need of amendment. The central function of any monitoring process must therefore be to ensure that the people of the country concerned retain the ability to adapt or reverse decisions; it is not for the monitors to step in as soon as they feel that the people have made a bad decision.

These complex and multifaceted questions underpin the dilemma and threats contained in a pre-emptive approach to unconstitutional changes of power. Indeed, a “censor-approach” to a policy of coup prevention must be handled very carefully, within the context of clearly defined thresholds and benchmarks, in order to make impossible any instrumentalization of what, in principle, appears to be a noble ambition but which, in practical terms, could become a powerful and perverse tool in the service of external interests and hidden agendas.

2. Intervention, Diplomacy and Institutions

Both the African Union and ECOWAS, as already mentioned, have established the principle that, under circumstances in which the people of the state

concerned have been deprived of the ability to determine their own destiny, the appropriate international institutions have the right to become involved, in order to assist in the restoration of democratic legitimacy. The institutions endowed with this authority are at a global level, the United Nations; at a continental level, the African Union; and at the regional level, the Economic Community of West African States. While exercising this ultimate authority, these may engage the assistance of other institutions or actors as they judge appropriate.

The responsibilities of these institutions in the event of clearly illegal seizures of power have already been established. The following guidelines are designed to suggest criteria according to which they may operate under circumstances, prior to such an illegal seizure of power, in which a *coup-prone environment* can be clearly identified and “coup vulnerability” easily assessed.

B. Ways Forward: Towards a Policy of Coups Prevention

The issues raised have many complexities that need to be addressed. A credible policy of coup prevention calls for five

fundamental questions at least pertaining to indicators or benchmarks, mechanisms, thresholds, political

instrumentalization as well as checks and balances. The following table gives what could be considered as the key components of a policy of coup prevention and the critical questions that need to be addressed as appropriate in each area.

1. Indicators

Priority should be given to the determinant factors of instability, which, if not promptly addressed, can ultimately lead to violence and a likely unconstitutional overthrow of government. The relevant factors of instability taken into consideration include:

Democratic legality is therefore not only a matter of holding regular elections, even if these are characterized as being “free and fair”.

Table 2. Preventing Coups in West Africa: Issues and Areas of Action

Areas of Action	Issues to be Addressed
Indicators	What indicators do we have to assess whether a leader is failing his/her people and country and, consequently, is betraying the mandate granted to him/her by the people?
Mechanisms	Through what mechanisms – institutional and others – should the “degree” of illegitimacy and harmfulness of an elected leader be assessed and action taken?
Thresholds	What is the threshold beyond which inconsistencies in the behavior of a head of state become a determinant threat to national – and perhaps regional – peace and security?
Instrumentalization	Once it has been admitted that the erratic and irresponsible behavior of a head of state is becoming dangerous for his/her own people (and the sub-region) and time is ripe to stop him/her being a threat to national/regional security, what safeguards should be established to make sure that the decision taken will not be instrumentalized for personal gains or hidden agendas?
Checks and Balances	Who will judge the judges? How can the objectivity and impartiality of those who seek to take remedial action be assessed and guaranteed?

- Constitutions may not be considered wholly legitimate, especially if written by non-democratic governments.**
- The manipulation of Constitutions for personal interest, notably the changing of constitutional provisions to allow the incumbent leader the opportunity to benefit from an additional term in power when, in fact, he/she has served his/her constitutional term limit;
 - The rigging of elections in order “to win at all costs”;
 - The politics of exclusion and discrimination in the sharing of national power and wealth;
 - The appropriation of power by a social or ethnic group;
 - Threats against the media;
 - Breach against the independence of the legislative power;
 - The existence of widespread corruption;
 - The patent use of armed and security forces against the opposition;
 - Patent ethnic manipulations.
- The following indicators are suggested, in order to identify the presence of a coup-prone environment:
- a) Blatant Breaches of Constitutional Principles

Box 5. Life after Power

Since the onset of political transition (in Africa in early 1990s), positive examples of peaceful successions and of political relinquishing power are increasing (...). This new trend in African politics raises questions of the role and status of former leaders, as well as the support provided to them. One of the hallmarks of functioning democracies is that provision for political leaders once they leave office is both made and respected. This stands in contrast to the tendency since independence for former leaders in Africa, whether they are virtuous or vicious, and regardless of constitutional indemnities and other settlements, to suffer marginalization, vilification, humiliation, persecution, and even at times imprisonment and death by execution. With democratization, there is increasing recognition that those incumbents leaders who accept democratic change should be eligible for the same sort of benefits, privileges and protections that former heads of state and government in other countries enjoy.

Many African countries have made constitutional and legal provisions for former heads of state (...). At a minimum they guarantee former presidents security, provide them with diplomatic privileges and immunities and make some arrangements for their material well-being (...). Reaching agreement on the degree to which the financial and material needs of former leaders and their dependent will be met by the state is part of the democratization process. Whatever arrangements are instituted should be linked to the office, and not to individual incumbents. Moreover, stipulating such provisions in constitutions provides some protection against future reversals.

Global Coalition for Africa, 1999

As the analysis in this report shows, there is a growing consensus that it is important to rule out unconstitutional changes. However, we should be aware that:

Constitutions may not be considered wholly legitimate, especially if written by non-democratic governments. This can be particularly problematic if the constitutional successor to the head of State is not considered to have democratic legitimacy. In some cases «constitutionalism» - a respect for the principles of legality and consensus - needs to take precedence over a strict adherence to the text of the constitution.⁴²

Fortunately, the surge of constitution-making in West Africa over recent years has seen the key elements required for stable democratic rule entrenched, formally at least, in the great majority of the region's national constitutions. Some of the more important provisions are:

- Guarantees of free political organization, ensuring the rights of opposition political parties;
- Guarantees of an independent judiciary and electoral commission;
- Term limits for the head of state or government;
- The incorporation of human rights into the constitution;
- Provisions to ensure that the government is accountable for its actions, through open procedures enforced by independent arbiters.

The first line of defense against arbitrary rule should therefore be to encourage states within the region to ensure that their constitutions incorporate “best practice” provisions, such as those noted above, and to monitor the government’s adherence to those provisions; convincing evidence that governments are flouting their own constitutions provides the most important early warning of future trouble.

Term limits, by which the head of state or government can serve at most only two terms of four or five years each, are a key benchmark for constitutional governance.

Term limits, by which the head of state or government can serve at most only two terms of four or five years each, are a key benchmark for constitutional governance. There is now abundant evidence that regular alternation to high office improves the quality of governance, and greatly increases the effectiveness of democracy. In his address to the 2004 Summit of the African Union’s heads of State and Government, the UN Secretary General, speaking of the need for a “new spirit of democratic empowerment in Africa”, emphasized that,

[i]n every African country [...] politics must be inclusive, and a careful institutional balance must be preserved - including regular free and fair elections, a credible opposition whose role is respected, an independent judiciary which upholds the rule of law, a free and independent press, effective civilian control over the military, and a vibrant civil society.

In West Africa, even, or indeed especially, in those countries of the region that appeared to have achieved a stable and effective government, such as Côte d’Ivoire under President Houphouët-Boigny or The Gambia under President Jawara, the failure to establish sound processes of renewal made possible by a change of leadership proved, in the long run, to undermine the achievements that those leaders appeared to have established. In other cases, such as Benin, Ghana or Mali, the incumbent president’s retirement opened the way for a more democratic election than had he continued indefinitely in power. *Any attempt by incumbent rulers to change term limits, even if accompanied by apparent expressions of popular demand (which are almost invariably orchestrated by the government or groups close to the power), should immediately trigger external concern.*

In his speech just mentioned above, Kofi Annan, referring to the necessity of “institutional balance” in the functioning of the state, emphasized:

This institutional balance cannot be achieved without the peaceful and constitutional change of power. There is no truer wisdom, and no clearer mark of statesmanship, than knowing when to pass the torch to a new generation.

b) Rigged or Suspect Elections

Since democratic elections are the single most important and visible means through which the people express their legitimate authority, it is essential that these take place in an atmosphere that is

fully free and fair. Elections throughout West Africa are already monitored by a large number of organizations, the most important of which are internal to the states concerned. For most purposes, it will therefore be necessary only for responsible international and regional institutions to ensure that these organizations are themselves able to monitor elections in a free and responsible manner, and to take notice of their findings. *Clear evidence of rigging or manipulation, or breaches of internationally accepted electoral procedures, should therefore trigger external concern.*

c) Breaches of Human Rights and Civil Liberties

The clearest indicator of the development of a coup-prone environment outside periods of elections is provided by systematic and continuing breaches of human rights, as evidenced by respected and credible national, regional and international human rights monitoring organizations. *Arbitrary arrests, attacks against the media, torture, “disappearances” and state-sponsored killings are amongst the most important abuses that should trigger external concern.*

In addition to these individual rights, two further major indicators of concern relate to the discriminatory treatment of identifiable groups of people within West African states.

Firstly, as the result of the circumstances of their formation, West African states characteristically encompass groups of people who may be identified by criteria of religion, ethnicity or race.

Governments and political parties are likewise commonly distinguished by different levels of identification with such groups. Processes of exclusion or discrimination in the sharing

of national power and wealth between groups, taking account of their circumstances and needs, play a correspondingly important part in alienating excluded groups from national life, and leading not only to a coup-prone environment, but to levels of social division that can radicalize parochial identities and readily trigger intense levels of communal violence. *Clear evidence of such discrimination should therefore trigger external concern.*

Secondly, one significant source of political problems throughout the West African region is that of citizenship: the rules according to which individuals are judged to belong, or not to belong, to a particular national polity. This problem has arisen for a number of reasons:

- The failure to address as appropriate state boundaries inherited from colonization, which leads to the division of indigenous societies between national territories;
- The high level of migration within the region, over many generations;
- The association of the idea of citizenship with the territorial unit

The existence of widespread corruption, especially in societies beset by mass poverty and very high levels of youth unemployment, has a deeply corrosive effect on trust in government and contributes immeasurably to crime and political disorder.

from which an individual's ancestors ultimately derive, regardless of where that individual may have been born or brought up; and

- The use of citizenship rules for personal benefit, especially by politicians seeking to exclude particular individuals or groups from political participation. The instrumentalization of citizenship is to a significant extent a problem of democratization, since it seeks to deprive individuals of the rights that

The clearest indicator of the development of a coup-prone environment outside periods of elections is provided by systematic and continuing breaches of human rights, as evidenced by respected and credible national, regional and international human rights monitoring organizations.

democracy would otherwise give them. Today's Côte d'Ivoire is a good example of the difficulties of and ambiguities on the issue of citizenship and nationality in West Africa, a region with a long tradition of cross-border movements of persons and important ethnic and cultural interactions across states' boundaries;

- Deepening poverty which increases pressure on land and resources and in turn exacerbates xenophobia.

Considering the specific geopolitical context of West Africa, the question of citizenship and national identity lends itself to a regional solution, ideally within the context of ECOWAS, by which regional states would agree on common rules to determine who "belongs" to each of them. Such rules might well require marginal individuals to decide in which state they wished to exercise their citizenship rights, at the

same time obliging them to abandon their claim to citizenship of other states with which they had some association; but they would also deny states the right to disown individuals who were judged to be their own citizens. *Evidence of the manipulation of citizenship or residence rules within particular West African states must therefore be a source of regional concern.* Besides, one of the fundamental objectives of ECOWAS is to move towards a collective identity and community citizenship, with rights and privileges attached to this new status.

d) High and Continuing Levels of Corruption

Since their inception West African states have been facing corruption as a major problem. Corruption has its origins in a combination of many factors, ranging from the perverse and discriminatory way in which the region has been incorporated into the global economy, through to the sense of personal and social obligation which many people understandably feel towards those who are most closely connected with them. In some cases, however, it has attained levels of gross and egregious theft, for which no possible moral or historical justification can be advanced, and which has played a major role both in the impoverishment of the region as a whole, and specifically in the alienation of its peoples from rulers; the latter and the coterie connected to them are justly regarded as enriching themselves at the expense of the ordinary people for whose benefit they are supposed to govern. The existence of widespread corruption, especially in societies beset by mass poverty and very high levels

of youth unemployment, has a deeply corrosive effect on trust in government and contributes immeasurably to crime and political disorder. Transparency International, the global coalition against corruption, recently published its Corruption Perceptions Index for 2005,

and as can be appreciated from the table below, West African states feature at the bottom end of ranking of corruption, with low marks out of a maximum of 10, indicating low levels of trust or high levels of perceived corruption.

Table 3. Corruption Perceptions Index 2005: West African States

Country rank (among 158 countries assessed)	Country	2005 CPI score*	Confidence range**	Surveys used***
65 th	Ghana	3.5	3.2-4.0	8
70 th	Burkina Faso	3.4	2.7-3.9	3
80 th	Senegal	3.2	2.8-3.6	6
89 th	Benin	2.9	2.1-4.0	5
94 th	Mali	2.9	2.3-3.6	8
103 th	Gambia	2.7	2.3-3.1	7
127 th	Niger	2.4	2.2-2.6	4
129 th	Sierra Leone	2.4	2.1-2.7	3
142 th	Liberia	2.2	2.1-2.3	3
152 th	Côte d'Ivoire	1.9	1.7-2.1	4
154 th	Nigeria	1.9	1.7-2.0	9

Source : Transparency International⁴³

While levels of corruption are difficult to assess, and measures such as those provided by organizations such as Transparency International can be no more than approximations, regional and international institutions are entitled to

keep a close eye on apparent corruption levels within the region, and to take appropriate action when these raise issues of concern. To this extent, international development partners could:

[...] assist ECOWAS in the preparation of annual reports on transparency in each of its member states. Independent bodies, including audit firms and appropriate civil society organizations, such as local chapters of Transparency International, could be sub-contracted to undertake much of the necessary research for these reports which would highlight progress in the fight against corruption and point out where additional work is needed. In addition, the accountancy profession should be promoted at universities and, as part of corporate responsibility programs, major international accountancy firms might consider mentoring aspiring young accountants in West Africa to build up the region's capacity in this area.⁴⁴

2. Mechanisms

It would be difficult to devise any mechanism for ensuring good governance in the region that did not enjoy the support of key regional intergovernmental organizations

Wherever possible, the mechanisms through which to assess the conduct of elected leaders must be domestic ones. Given the fragility of democracy in the region, however, these domestic actors may well need support, both from within the region and beyond. Key mechanisms correspondingly include:

a) Domestic constitutional mechanisms

The constitutions of the great majority of states within the West African region already contain provisions intended to

Box 6. Addressing Coup Vulnerability

First, control strategies are likely to decrease vulnerability to coups when they recognize and promote the distinctive institutional interests and autonomy of the military. Second, control strategies are likely to decrease vulnerability to coups when they do not insidiously manipulate or interfere with the internal affairs of the military. Third, control strategies are likely to decrease vulnerability to coups when they do not use the military against the political opposition. Logically, when a state's control strategies lack these characteristics, its long-term coup vulnerability is likely to increase. Similarly [...], when the control strategies entail the exercise of power without the consent of the people, the use of undemocratic means to retain power, and the violation of rights and neglect of the needs of citizens, coup vulnerability will increase.

Babacar N'Diaye, *The Challenge of Institutionalizing Civilian Control*

ensure transparency and good governance within the states concerned, and these provide the first means through which to regulate the conduct of governments, and ensure peaceful succession to high office. It is only when these provisions are inadequate, or have clearly failed to operate in the way intended, that other mechanisms are required.

b) Political Parties

Political parties are inherently competitive and self-interested organizations, and should have no direct role in establishing the conditions for good governance. Thought needs to be given, however, to arrangements for ensuring that opposition

parties enjoy a stable role within the political system, which encourages them to behave constructively – without, for example, seeking to exacerbate divisions within the society, or “knocking on the door of the barracks” to encourage military intervention. A number of countries in the sub-region have established a legal framework that regulates the existence of opposition and political parties, their functioning, with rights and duties, as well as the nature of the interaction and relationship with the Government. Mali has adopted a “Charter of political parties”.⁴⁵ Benin both such a Charter and a “statute of the opposition”.⁴⁶

c) Domestic Civil Society

Domestic civil society organizations, and notably human rights monitoring groups, have a key role in checking on the behavior of governments. Such groups have proliferated in recent years, and perform a valuable service. To a very large extent, they depend on the personal courage, civic responsibility and professional integrity of a small number of often extraordinarily dedicated individuals, several of whom have lost their lives as a result. The critical requirement here is to ensure that they retain an independent voice and perform their functions effectively and impartially, without being “captured” either by government or opposition political forces.

d) Regional Civil Society

In other democratizing regions of the world, notably central Europe and south/central America, effective linkages have been forged between civil society groups in neighboring countries. Such

linkages have been instrumental in helping both to build up regional “best practice” policies, and to protect groups, in particular countries,

against harassment by their home governments. They have however been very weak in Africa, where each group has tended to operate within its own national setting, showing little concern for developments elsewhere, which (in keeping with common African assumptions about national “sovereignty”) have been regarded as beyond their proper remit. Accordingly, civil society organizations should be encouraged to think and act regionally in promoting compliance with good governance norms. In this area West African civil society organizations with relevant expertise in governance issues could play an important role.

e) Global Civil Society

“Global” civil society organizations, such as Amnesty International, Human Rights Watch, Transparency International, Oxfam or Global Witness, among others, are in practice based in Western democratic states, even though many of them have made serious efforts to broaden their base, through the recruitment of leading members of their permanent staff and their supervisory councils, on a worldwide basis. They remain heavily dependent on their own sense of professional commitment, rather than on any formalized system of accountability. They remain unequalled, both as sources

Thought needs to be given, however, to arrangements for ensuring that opposition parties enjoy a stable role within the political system, which encourages them to behave constructively

Unconstitutional and violent governance as well as unconstitutional and violent change of government are among the most important causes of armed conflict in West Africa.

of generally reliable information, and as lobbying agencies, notably with the governments of developed industrial states. It is questionable, however, whether they should have a formal role in mechanisms to be devised for ensuring constitutional rule in West Africa or for that matter in any other sub-region.

f) Regional Intergovernmental Organizations

It would be difficult to devise any mechanism for ensuring good governance in the region that did not enjoy the support of key regional intergovernmental organizations, either in terms of the general criteria to be employed, or much more problematically with regard to specific cases to which these criteria were to be applied. On the other hand, governments and intergovernmental institutions tend to have a strong tendency to favor fellow governments against opposition arising from the domestic society. In West Africa, the two regional organizations whose support would be required are ECOWAS and the AU, both of which are formally committed to maintenance of high standards of governance.

The ECOWAS Protocol on Democracy and Good Governance⁴⁷ establishes a number of “constitutional convergence principles” and modalities for appropriate democratic governance. ECOWAS stresses that these “constitutional convergence

principles” are to be “shared by all Member States”. The principles include:

- Separation of powers – the Executive, Legislative and Judiciary;
- Empowerment and strengthening of parliaments and guarantee of parliamentary immunity;
- Independence of the Judiciary: Judges shall be independent in the discharge of their duties;
- The freedom of the members of the Bar shall be guaranteed; without prejudice to their penal or disciplinary responsibility in the event of contempt of court or breaches of the common law.

As far as the issue of peace and constitutional transition to power is concerned, the West Africa organization makes it clear that “every accession to power must be made through free, fair and transparent elections” and West Africa should apply “zero tolerance for power obtained or maintained by unconstitutional means”.

The African Union represents a supplementary layer of accountability in governance issues. According to the African Heads of State and Government, the adoption by all members states of the AU’s “principles as a basis for the articulation of common values and principles for democratic governance in our countries (...) will considerably reduce the risks of unconstitutional change on our Continent”. The Pan-African organization’s principles include:

- “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 the 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;
- Organization 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 stake-holders;
- 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;
- Guarantee and promotion of Human Rights”.

Likewise, NEPAD, especially under its Democracy and Political Governance Initiative acknowledges that “development is impossible in the absence of true democracy, respect for human rights, peace and good governance” and recommends “a series of commitments by participating countries to create or consolidate basic governance processes and practices”. Therefore, NEPAD has established “global standards of democracy, the core components of which include political pluralism, allowing for the existence of several political parties and workers” unions, and fair, open and democratic elections periodically organized to enable people to choose their leaders freely; these standards would help avoid the overthrow of governments through violence. This is “in line with the principles of democracy, transparency, accountability, integrity, and respect for human rights and promotion of the rule of law”. These are clearly defined Objectives, Standards, Criteria and Indicators of good governance, as part of its peer review mechanism.

Unconstitutional and violent governance as well as unconstitutional and violent change of government are among the most important causes of armed conflict in West Africa. These conflicts are no longer limited within the borders of a given state. Their impact

Should a situation likely to lead to a coup d’état or a breakdown in civil order persist, despite informal efforts to deal with the problem, it may then become necessary for regional and international institutions to take formal notice of the situation, in order to prompt public and official efforts at conflict prevention and management.

The ultimate sanction would then be some kind of recall procedure, under which an individual who consistently failed to govern in accordance with publicly recognized criteria, upheld both by the constitution of the state concerned and by the regional and international communities, would be deprived of the right to rule.

and consequences reverberate across borders and destabilize the whole sub-region. This places the necessity to address the issue beyond the sole capacity of regional organizations. The UN is hailed as an important actor: "Conflict in Africa poses a major challenge to United Nations efforts designed to ensure global peace, prosperity and human rights for all. Although the United Nations was intended to deal with inter-State warfare, it is being required more and more often to respond to intra-State instability and conflict".⁴⁸

The UN, operating through the Security Council, must be the ultimate arbiter of the legitimacy of remedial action, in collaboration as necessary with regional organizations and other institutions.

3. Thresholds

International action in pursuit of global standards of good governance may be taken at different levels, for each of which an appropriate threshold needs to be devised.

a) Informal Engagement

The first level occurs when the behavior of a government arouses sufficient concern to draw the problem to international attention, at which point it may be

Box 7. Conflict and Coup Prevention

The primary responsibility for conflict prevention rests with national Governments, with civil society playing an important role. The main role of the United Nations and the international community is to support national efforts for conflict prevention and assist in building national capacity in this field (...).

One of the principal aims of preventive action should be to address the deep-rooted socio-economic, cultural, environmental, institutional and other structural causes that often underlie the immediate political symptoms of conflicts (...).

Governments that live up to their sovereign responsibility to resolve peacefully a situation that might deteriorate into a threat to international peace and security and call on the United Nations or other international actors for preventive assistance as early as needed, provide the best protection for their citizens against unwelcome outside interference. In this way, preventive action by the international community can contribute significantly to strengthening the national sovereignty of Member States.

The time has come to translate the rhetoric of conflict prevention into concrete action (...).

I am under no illusion that preventive strategies will be easy to implement. The costs of prevention have to be paid in the present, while its benefits lie in the distant future. The main lesson to be drawn from past United Nations experiences in this regard is that the earlier the root causes of a potential conflict are identified and effectively addressed, the more likely it is that the parties to a conflict will be ready to engage in a constructive dialogue, address the actual grievances that lie at the root of the potential conflict and refrain from the use of force to achieve their aims.

Kofi Annan
Secretary-General of the United Nations

helpful to take action at a confidential and informal level through the United Nations or, where appropriate, through other informal contacts. The Special Representative of the Secretary-General for West Africa is indeed explicitly mandated to undertake such missions which, being themselves informal, do not require any formal threshold to trigger their operation, and depend on the personal judgment of the Special Representative. Given the sensitivity of issues of this kind, and the often deep resentment of governments at having their behavior publicly criticized, the informal stage is in practice judged to be the most likely effective course of action to pursue.

b) Formal Engagement

Should a situation likely to lead to a coup d'état or a breakdown in civil order persist, despite informal efforts to deal with the problem, it may then become necessary for regional and international institutions to take formal notice of the situation, in order to prompt public and official efforts at conflict prevention and management. The threshold for intervention at this stage would be appropriately determined in the light of:

- Evidence of serious Human Rights abuse, signaled by domestic or international monitors;
- The flouting by the government of its own constitution, or attempts to change that constitution to the benefit of the incumbent regime;
- Serious breakdown of public order, which can plausibly be ascribed to the behavior of the government;

- Rigging of elections, and
- Disregard of informal warnings and pressures on all parties concerned to bring about an improvement in the situation.

At this point, which was for example clearly reached in the cases of Guinea-Bissau, Liberia and Mauritania, the appropriate international institutions (which would normally be ECOWAS, acting in close collaboration with the African Union and, when necessary, the United Nations), would be empowered to undertake missions designed to bring the seriousness of the situation to the attention of the parties concerned, and to mediate in or arbitrate over the crisis in order to find solutions.

c) Sanctions

In cases where, despite the attempts of the regional and international community to resolve problems of governance in specific regional states in the ways outlined above, and where these problems constitute a clear and present danger to the stability of the region and especially of neighboring states, the relevant regional and international institutions would be empowered to impose sanctions, as a preventive measure, equivalent to those that are already authorized for dealing with cases of illegal seizures of power.

Though this is a drastic and exceptional step, it should be noted that it has

Just as in the sphere of domestic democratic governance, therefore, the actions of the regional and international communities in dealing with these very sensitive issues must be guided by the twin principles of transparency and wide participation.

already been taken with regard to one democratically elected West African President, Charles Taylor of Liberia. In that case, this action resulted not only from Taylor's abuse of office within Liberia, but also from his demonstrable involvement in the promotion of conflict within neighboring states, and his indictment for human rights abuses by the international tribunal for Sierra Leone.

4. The Risk of Political Instrumentalization

One danger of any mechanism that may prompt a change of government is that it may be hijacked for personal gain or other selfish purposes by individuals who stand to benefit from it. This is in some degree inevitable. Politicians everywhere seek self-serving goals, notably power and prestige, and in this respect democratic political systems are not different from any other. One cannot take the politics out of what is necessarily a highly political process.

The critical thing about democracy, however, is that politicians are obliged to seek power within an open and competitive setting, in which success depends on attracting public support, notably in the form of votes. The way to ensure that the forms of accountability with which we are concerned are not used for personal gains or hidden agendas is firstly to ensure that any exercise of accountability is backed by popular support and validated through free and fair elections, and secondly that free media are able to subject it to the scrutiny necessary to reveal the hidden agendas of its supporters.

5. Checks and Balances

Exactly the same principles apply to the need to assess the objectivity and impartiality of those, in the regional and international communities as well as within the countries concerned, who seek to impose sanctions and controls on leaders who are deemed to have become a threat to their own people, or to the peace and stability of the region as a whole. Objectivity and impartiality are not normal features of the political process, domestic or international. National and regional leaders, and indeed international institutions, have their own interests and agendas, and are subject to strong pressures which often emanate directly or indirectly from the most powerful actors in modern global politics. No institution or procedure can be wholly insulated against these pressures.

Just as in the sphere of domestic democratic governance, therefore, the actions of the regional and international communities in dealing with these very sensitive issues must be guided by the twin principles of transparency and wide participation. When, for example, an issue threatens to become a source of division between West African states, it may be helpful to involve the African Union more fully in the process. In cases where the appropriate criteria for judging a regime are called into question, the Objectives, Standards, Criteria and Indicators for the African Peer Review Mechanism⁴⁹ may be used to provide guidance, even in cases that are not subject to the APRM process itself. In other cases, as in Sierra Leone, evidence provided through internationally

authorized legal processes may be of considerable value in helping to resolve contested issues.

from a failure to take necessary preventive action at the appropriate time, must be the ultimate criterion.

At all times, the welfare of West Africa's people, and the immense amount of human misery that is likely to follow



Senegal: In April 2000, Maitre Abdoulaye Wade was sworn in as President.

VI.

Conclusion

Inasmuch as the question of unconstitutional change of power in West Africa is concerned, this study has strived to provide what the UN Secretary-General called in his report on the causes of conflict in Africa, “a clear and candid analysis” of the issue at stake. The central argument of the document has been that **the most effective way to put an end to the perpetration and perpetuation of unconstitutional changes of power in West African states must go beyond post-coup condemnation and sanctions. It must focus on preventing the creation of coup-prone environments and eliminating coup-provoking or coup-precipitating policies and behavior.** The report encompasses a range of practical guidelines and policy actions aimed at bringing about conditions that help definitely turn the page on unconstitutional and violent changes of power in the sub-region. Such a **new policy of coup prevention** supposes a **multi-pronged approach**, elements of which are already suggested in the report.

As the analysis makes clear, **the reduction of coup vulnerability will greatly depend on the policies and the behavior of**

incumbent heads of state. It depends, not only on the ability to entice and sustain good governance norms and expectations, but also, if need be, on the political will to correct policies and behavior that deviate from acceptable norms. There are already in existence, at the continental and sub-regional levels, regimes that enable the monitoring and correction of policies and behaviors of member states. Relevant clauses of the African Union Peace and Security Council Protocol and the NEPAD Peer Review Mechanism, as well as the 2001 ECOWAS Protocol on Democracy and Good Governance to a large extent provide the appropriate monitoring and corrective frameworks. For greater certainty of practice, aspects of these frameworks need to be strengthened to fulfill more effectively their monitoring and corrective potential. However, they present the advantage of being already in existence as part of the norms-setting arsenal of the continent and the sub-region. The voluntary (and thus limiting) Peer Review Mechanism instituted by NEPAD constitutes a propitious avenue through which West African states can pursue the creation of conditions that will reduce coup vulnerability.

These states should adopt the NEPAD process as it currently stands, but they should add a missing critical aspect: **a compulsory peer review once every year. Regular scrutiny will enable the identification and correction of coup producing environments, behavior or policies.**

While most African states have so far chosen to abstain from voluntary peer review, it is very likely that given the proper campaign and the leadership (and pressure) of the leaders of states that have already volunteered for it, a **sub-regionally binding instrument** could be accepted. The institutionalization of a West African annual peer review and its fair and responsible exercise will immeasurably improve governance, in addition to providing a ready instrument to prevent bad situations from reaching crisis proportions.

Pertinent aspects of the AU Peace and security Council Protocol is **another avenue for monitoring and bringing needed corrections to the policies and behavior of states that could endanger domestic as well as regional peace and stability and lead to coups d'état.** Article 3 of the Protocol states that its objectives are, among others, to “promote peace, security and stability in Africa” (which is also one of the areas where the Council performs its functions) and to “anticipate and prevent conflicts.” Another critical objective of the protocol is to “Promote and encourage democratic practices, good governance and the rule of law, human rights and fundamental freedoms, respect for the sanctity of human life...”. Furthermore, in its article 7, the Protocol empowers the Chairperson of

the AU Commission and the Council to “anticipate and prevent disputes and conflicts, as well as policies that may lead to genocide and crimes against humanity.” The same article stipulates that these decision-making organs can “institute sanctions whenever an unconstitutional change of government takes place in a Member State, as provided for in the Lomé Declaration.”

The ECOWAS Protocol, similarly, in its article 45 provides for (limited) sanctions to be imposed on a member state where “democracy is abruptly brought to an end by any means or where there is massive violation of human rights.” In both the AU and ECOWAS protocols, as this Paper makes clear, the missing element, which needs to be added to strengthen what is evidently a willingness to address resolutely situations in breach of democratic norms, is to extend sanctions - and preventive actions - against the unconstitutional exercise of power, and against policies and behavior that in the opinion of the international community endanger peace and security, stability and the welfare of member states and sub-regions.

One approach to creating required conditions must be to provide incentives to incumbent heads of states to leave power gracefully when their constitutional mandate ends and to resist the temptation and pressure to amend the constitution, and while in power to pursue policies, and conduct themselves in a way consistent with the good governance regimes set up by sub-regional and continental instruments. Such incentives must include complete immunity from prosecution by national

courts and tribunals for acts and decisions made as head of state, with the noticeable exception of crimes of war and crimes against humanity. Often, it is for fear of prosecution, humiliation, or retaliation that many heads of state choose to remain in power indefinitely and at all cost. The systematization of immunity in national constitutions will ease these fears, prevent incumbents from carrying out acts pertaining to crimes of war and crimes against humanity and, when time comes, encourage them to relinquish power. Whatever the incentive “package” chosen, it must remain clear that **amnesty is without prejudice to international jurisdictions and other national jurisdictions retaining their competence in certain criminal matters and that this amnesty cannot extend to gross violation of human rights anyway.**

Furthermore, **outgoing heads of state should be guaranteed financial security through a pension system to ensure that their legitimate financial needs are met once they leave power.** Other arrangements should be made in accordance with specific national political and institutional settings to **involve former heads of state on a continuing basis in national political life and bestow on them membership in consultative and/or decision-making bodies at the highest level of the state.** This will serve to send strong signals that “there is life after State House” and that even after leaving power a head of state remains relevant to the national life and his/her views are taken into consideration. Such measures will go far beyond the symbolic recognition and meet the desire of many former leaders to continue to bring what they believe to be a still needed

contribution to aspects of national life they may care sincerely about for a variety of reasons. However, to avoid any conflict of interests, this participation in national life should be on the condition that the role played by former heads of state would not hinder his or her successor’s work and potentially create tension. For instance, former heads of state should not remain as chairmen of a political party especially when that party is too dominant.

These recommendations can be incorporated in regional instruments or in the national legislation of individual states in the form of a **Statute of Former Heads of State.** This Statute could specify the conditions required to qualify for its benefits and privileges. **These conditions could center on the strict respect for constitutional term limits and other minimum governance benchmarks.** It could be updated and adapted as changes in respective countries and the sub-region warrant.

Finally, as this report points out, **amendments to a democratic constitution to enable an incumbent to run again for office when an existing constitution makes him/her ineligible is often an unmistakable sign of trouble ahead.** Amending the constitution is not necessarily contrary to democracy, indeed, it enables democracies to adapt to new realities, to be more responsive to the evolving needs of a country, and become stronger. However, **when an amendment to a constitution is self-serving and is muscled through a political system in spite of strong opposition and the clear dangers of instability it often provokes, it becomes corrosive to democracy.** To avoid such self-serving amendments, it should

be a general rule and indeed a specific provision in constitutions of the sub-region that amendments to a constitution that involve the change in term limits or any major aspects of the powers of the executive shall not benefit the incumbent.

Such a rule, when adopted on a regional basis will contribute significantly to the reduction in the tendency to raid constitutions in order to remain in office indefinitely or acquire exorbitant powers.

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