Policy Brief
Special Edition

Rethinking The African Union's Response to Civilian Coups: A Call for A Paradigm Shift

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IPSS-SOAS Pan-African Policy Brief Series

March 2025

IPSS

SOAS
Centre for
Pan-African
Studies

Executive Summary

The African Union (AU) adopted Agenda 2063 in January 2015, envisioning a prosperous and peaceful Africa with good governance, democracy, and respect for human rights. However, within a decade, some African nations like Burkina Faso, or Mali faced governance and democracy challenges, including military coups. While the AU had measures to address military takeovers, it lacks an effective response to civilian coups and leaders attempting to stay in power indefinitely through changes of Constitutions as witnessed in Congo, Uganda or Togo.[1] Despite the 2007 African Charter on Democracy, Elections,[2] and Governance prohibiting illegitimate and illegal changes to national constitutions, political will from regional (AU, Regional Economic Communities-RECs), national (States and Governments) and non-State actors (civil society actors) to address this issue is lacking.

This policy brief explores the AU's ambivalence towards civilian coups and its implications for its credibility and legitimacy. It argues that the AU's steadfast adherence to postcolonial values, such as the sovereignty of states and non-interference in a state's domestic affairs, contributes to its reluctance to robustly tackle the issue of extended mandates, often referred to as the "third mandate." In essence, there is an urgent imperative for the AU to transition from an organization primarily focused on the interests of Member states to one that prioritises the interests of the African people. An equitable approach to both military and civilian coups that include for example consistency in responses to every irregular changes at the top of states would bolster the AU's legitimacy and also serve as a deterrent to illegal attempts to seize power, ultimately contributing to the achievement of the goals of good governance and democracy outlined in Agenda 2063.

Introduction

Through regional integration, infrastructure development, innovation, and human capital investment, Africa aims to become a continent of peace, stability, and prosperity. In this regard, Agenda 2063's objectives are ambitious and achievable, aiming to eradicate poverty, foster inclusive economic growth, promote gender equality, enhance education and healthcare, ensure environmental sustainability strengthen and governance. With specific regard to the governance issue, a core related aspiration of Agenda 2063 is *an Africa of good governance, respect for human rights, justice and the rule of law*.[3] However, in recent years, the African continent has witnessed a concerning trend with the resurgence of civilian coups in some nations. Despite the AU's concerted efforts to promote democracy, good governance, and the rule of law, these unconstitutional seizures of power pose significant challenges to Africa's stability and progress as they usually lead among others to economic disruption, the violation of human rights, and the weakening of the State's institutions. While the era of military coups may have waned, the emergence of civilian-led coups underscores the persistent fragility of democracy and governance systems in certain African countries.

The AU, through its Peace and Security Council (PSC) and mechanisms such as the African Charter on Democracy, Elections, and Governance, has condemned these illicit power grabs and imposed sanctions on coup perpetrators. However, the recurrence of such incidents on the one hand, and the soft reactions of the AU regarding civilian or constitutional coups on the other hand, highlights the limitations of the AU's current approach in effectively preventing and responding to civilian coups.[4] Moreover, the complex interplay of domestic, regional, and international factors exacerbates the challenge of addressing the root causes of political instability and insecurity.[5]

In light of the persistent threat posed by civilian coups to Africa's democratic governance and stability, there is an urgent need for a paradigm shift in the AU's response strategy. While punitive measures have been a cornerstone of the AU's approach, a more holistic and citizen-centric perspective is necessary to address the underlying socio-political and economic grievances driving such coups. This policy brief argues that the AU must prioritize African citizens' interests and engage in proactive diplomacy, conflict prevention, and inclusive dialogue to foster democratic governance, ensure respect for human rights, and promote sustainable development.

To ensure a robust paradigm shift in the African Union's (AU) management and condemnation of military and civilian coups, it is essential to incorporate

citizen participation through regional parliaments. These parliaments should be granted the authority to oversee and condemn unconstitutional attempts to attain the highest level of state decision-making. This would ensure that the Conference of State is not the sole organ responsible for sanctioning civilian and military coups. Moreover, the AU should establish technical organs to monitor political dynamics within a state before the elections. These organs would act preventively by alerting the AU about the potential risks of civilian or military coups.

By including the elements mentioned previously in its management of illegal seizures of power, the AU can effectively address the root causes of civilian coups and build resilient democratic institutions across the continent. The hitherto softened approach has undermined the AU's authority and set a troubling precedent for other leaders who might bypass democratic norms, as evidenced by Rwanda's and Uganda's prolonged leadership under Paul Kagame and Yoweri Museveni, respectively. Both leaders have implemented constitutional changes to extend their terms, which some argue equates to a constitutional coup. Despite these apparent democratic regressions, the AU has refrained from significant action, illustrating a gap between the rhetoric of democracy and accountability and the AU's tolerance of anti-democratic practices. This inconsistency risks emboldening other leaders to exploit constitutional provisions for personal gain, creating a cycle of weakened democratic governance across the continent. Thereof, a paradigm shift requires collaboration with regional organizations, civil society, and the international community to support African countries in strengthening governance, promoting accountability, and advancing the principles of democracy and the rule of law. Ultimately, the success of Africa's Agenda 2063 hinges on the AU's ability to navigate these challenges and realize the continent's aspirations for prosperity and peace.

A. African Union's challenges in addressing civilian coups.

1. Examination of the AU's ambivalence towards civilian Coups.

The AU's response to civilian coups has been characterized by ambivalence, reflecting the tension between its commitment to democratic principles and its respect for member states' sovereignty. According to Richard Fosu and Christopher Nyinevi: the AU's inconsistent responses to UCGs is that it has had to choose between adherence to principle and pragmatism, which refers to scenarios: when the AU's interpretation of, or response to, a particular instance of UCG is informed by contextual factors or other circumstances resulting in a soft or accommodating application of its rules and sanctions.[6] While the AU condemns coups and unconstitutional changes of government, its actions often fall short of decisive

measures to prevent or reverse them. Several factors contribute to this ambivalence:

Sovereignty Concerns: The AU's principle of non-interference in member states' internal affairs often limits its ability to intervene effectively in cases of coups. Member states are reluctant to cede authority to external actors, viewing intervention as a threat to their sovereignty.[7]

Political considerations: The AU's response to coups is influenced by political considerations, including regional dynamics and strategic interests. In some cases, member states may refrain from condemning coups to maintain diplomatic relations or advance their agendas, undermining the AU's credibility and effectiveness.[8]

Lack of consensus: Achieving consensus among AU member states on how to address coups can be challenging due to divergent interests and priorities. This lack of unity weakens the AU's collective response and allows coups to occur with impunity. This reality is also visible in other security issues handled by the Organization.[9]

2. Lack of political will to address extended mandates.

The African Charter on Democracy, Elections, and Governance prohibits extended mandates and underscores the importance of respecting term limits for elected officials. However, the AU has often failed to effectively address violations of this principle due to a lack of political will. Several factors contribute to this:

Selective enforcement: The AU's enforcement of the Charter's provisions on extended mandates has been selective, with some leaders facing criticism and sanctions while others escape scrutiny. This inconsistency undermines the credibility of the AU's commitment to democratic governance.

Regional dynamics: Regional power dynamics influence the AU's response to extended mandates, with influential states sometimes tolerating or even supporting leaders who overstay their mandates for strategic reasons. This complicates efforts to hold violators accountable at the continental level.

Weak accountability mechanisms: The AU lacks robust mechanisms for holding member states accountable for violations of democratic principles, including extended mandates. While the Charter establishes institutions such as the African Peer Review Mechanism (APRM), their effectiveness in addressing governance issues remains limited.

B. Shortcomings of current approaches to handle civilian coups.

1. From the Organization of the African Unity (OAU) to the African Union: a short historical perspective of the Black Continent's responses to Unconstitutional Coups.

A coup can be defined as the "illegal and overt attempt by the military or other elites within the state apparatus to unseat the sitting executive"[10] while a coup d'état refers to "a seizure of power by a group using the permanent employees of state... to capture and paralyze the nerve ends of continuing government. The coup d'etat is distinguished from a revolution in that it does not aim to alter the social political structure, but merely to substitute one ruling group for another. The coup operates essentially by detaching the employees of the state from their loyalty to legitimate government."[11]

The AU's predecessor, the Organization of African Unity (OAU), had a policy of non-interference in the internal affairs of member states, which often led to silence or muted responses to (military or civilian) coups and civilian wars.[12] This approach was rooted in the principle of sovereignty and the desire to avoid external interference in domestic affairs, considering the colonial experience.[13] As a result, many authoritarian regimes emerged and persisted with little condemnation or action from the OAU. However, towards the end of its existence, the OAU made a significant move with the adoption of the **Lomé Declaration in 2000**,[14] which expressed a zero tolerance for coups and declared that governments which came to power through unconstitutional means would not be allowed to participate in the OAU. Nevertheless, the African Union (AU) has established a firmer stance against military coups, considering them a significant threat to democratic governance and stability in the region.

2. Limited mechanisms for addressing civilian coups.

The AU has made some strides in addressing civilian coups through various mechanisms, including the African Peace and Security Architecture (APSA) and the African Charter on Democracy, Elections, and Governance. However, these mechanisms have been largely ineffective in preventing or responding to coups due to several factors:

a. **Lack of enforcement mechanisms**: while the AU Charter and other legal instruments condemn coups, they lack robust enforcement mechanisms. Member states retain sovereignty over their internal affairs, making it challenging for the AU to intervene effectively in cases of coups.

b. **Inconsistent application**: The AU's response to

coups has been inconsistent, often influenced by political considerations or regional dynamics. This inconsistency undermines the credibility of the AU's stance against coups and weakens its ability to deter future attempts.[15]

**The African Charter on Democracy, Elections, and Governance and the challenges of extended mandates.

As mentioned previously, the charter was adopted in 2007 and aims to promote democratic governance and prevent unconstitutional changes of government. While the Charter outlines principles such as respect for term limits and democratic elections, it has several limitations in preventing extended mandates:

- **Lack of Binding Mechanisms**: The Charter lacks binding mechanisms for enforcement, relying instead on peer pressure and diplomatic means to encourage compliance. This voluntary nature limits its effectiveness in preventing leaders from overstaying their mandates.

- **Weak Monitoring and Accountability**: The Charter establishes institutions such as the African Peer Review Mechanism (APRM) to monitor compliance with its principles. However, these mechanisms have been criticized for their limited effectiveness in holding governments accountable for violations.

- **Limited Scope**: The Charter focuses primarily on democratic governance and electoral processes, neglecting other aspects of governance such as human rights and the rule of law. This narrow focus limits its ability to address the underlying causes of extended mandates and political instability.

C. The paradigm shift: prioritizing African citizens' interests.

1. A theoretical perspective.

The AU must transition from a state-centric approach, which prioritizes the sovereignty of member states, to a citizen-centric approach that places African citizens' interests at the forefront. Originally modelled on its predecessor, the OAU, which primarily focused on the interests of states and their sovereignty, the AU should shift towards prioritizing the rights, welfare, and aspirations of African citizens. This necessary transformation is rooted in a broader understanding that sustainable peace and security are unachievable without the inclusion and well-being of the populace. While the AU's instruments such as the African Charter on Human and Peoples' Rights and the African Governance Architecture framework highlight this shift, its effectiveness in terms of public policy is not yet visible. This mechanism, like the other ones analysed previously not only emphasizes the

importance of democratic governance and human rights but also actively involves civil society in their processes, thus fostering a governance model that is more responsive and inclusive. According to the 2022 Ibrahim Index of African Governance: "eight of the ten highest scoring countries in Security & Rule of Law in 2021 also feature among the ten highest scoring at Overall Governance level. The same is true for the sub-categories Rule of Law & Justice, Accountability & Transparency and Anti-Corruption."[16]

In addition, addressing the issue of extended mandates is critical in upholding democracy and good governance, areas in which the AU has increasingly voiced its commitment. Extended mandates, where leaders amend constitutions to remain in power, undermine democratic principles and often lead to political instability and unrest. By advocating for term limits and the respect for democratic transitions, the AU promotes political pluralism and a more predictable political environment. Such stances reinforce the rule of law and can potentially contribute to the reduction of the incidence of coups, as governments perceived as legitimate are less likely to face overthrow attempts.[17] Moreover, these actions signal to both domestic and international audiences that the AU is serious about its democratic ideals, thereby enhancing its credibility and authority.

Also, the prioritization of citizens' interests not only aligns with democratic norms but also enhances the AU's credibility and effectiveness in deterring illegal power seizures. When the population perceives the AU as an advocate for their rights and a watchdog against government excesses, they are more likely to support and cooperate with its initiatives. A citizen-centric approach can lead to more robust civil societies that hold their governments accountable, creating a deterrent against coups. Leaders are less inclined to attempt to seize or maintain power through unconstitutional means if they face unified opposition from both their citizens and a continental body like the AU. This dynamic can lead to a more stable political landscape across the continent, where the rule of law and democratic governance are respected and upheld.

Based on the previous arguments, the AU's transition from a State-centric to a citizen-centric is imperative for several reasons:

- **Democratic Legitimacy**: placing citizens' interests at the centre of AU policies and initiatives enhances the organization's democratic legitimacy. By focusing on the needs and aspirations of African people, the AU can better fulfil its mandate to promote democracy, human rights, and good governance.

- **Addressing Extended Mandates**: a citizen-centric approach necessitates addressing extended mandates, which undermine

democracy and perpetuate authoritarianism. By holding leaders accountable for violating term limits and overstaying their mandates, the AU can promote democratic transitions and strengthen governance across the continent.

- **Enhancing Accountability**: Prioritizing citizens' interests requires greater accountability from AU member states and institutions. By fostering transparency, accountability, and responsiveness, the AU can ensure that governments serve the needs of their people and are held accountable for their actions.

1.1 *Implications of a paradigm shift for AU's legitimacy.*

1.1.1 *Implications for AU's Legitimacy.*

The paradigm shift towards prioritizing citizens' interests has significant implications for the AU's legitimacy:

- **Enhanced legitimacy**: Embracing a citizen-centric approach enhances the AU's legitimacy by demonstrating its commitment to serving the interests of African people. This legitimacy is essential for gaining the trust and support of both member states and citizens. For instance, the AU's failure's to respond boldly in Niger bolstered Nigerien support for the military coup in Niamey.

- **Strengthened governance**: By promoting democracy, human rights, and good governance, the AU can contribute to building more inclusive and accountable political systems across Africa. This, in turn, enhances the organization's legitimacy as a credible actor in promoting and upholding peace, stability, and development.

- **Greater public engagement**: Prioritizing citizens' interests fosters greater public engagement and participation in AU initiatives and decision-making processes. This inclusive approach strengthens the AU's legitimacy and credibility by ensuring that its policies reflect the diverse needs and perspectives of African societies.

1.1.2 *Impact on deterrence of illegal power seizures.*

Prioritizing citizens' interests is essential for deterring illegal power seizures and promoting democratic stability for several reasons:

- **Strengthened norms and standards**: by upholding democratic principles and condemning unconstitutional changes of government, the AU sends a clear message that illegal power seizures will not be tolerated. This helps to establish and reinforce norms against coups and authoritarianism.

- **Support for democratic transitions**: A citizen-centric approach encourages support for peaceful and democratic transitions of power, thereby reducing the incentives for illegal power seizures. By promoting inclusive governance and electoral processes, the AU can contribute to building resilient democratic institutions.

- **Regional Cooperation**: Prioritizing citizens' interests fosters greater cooperation among AU member states in addressing common challenges, including political instability and insecurity. By working together to uphold democratic norms and prevent coups, African countries can build a more stable and prosperous continent.

2. A practical perspective.

The African Union (AU) has grappled with the challenge of civilian and constitutional coups, where leaders manipulate legal frameworks to extend their mandates unlawfully. To address this, a citizen-centric approach in regional governance is imperative. This involves reforms in legal frameworks, a rebalancing of power between regional bodies, the establishment of monitoring organs, and harmonization of responses to civilian coups. By analyzing empirical examples, we can outline practical steps for implementing these reforms effectively.

▸ *Reform of legal frameworks for Direct Election of Regional MPs.*

The current system of indirect elections of regional Members of Parliament (MPs) often disconnects citizens from the legislative and therefore monitoring process of political dynamics. By allowing citizens to directly elect their regional MPs, the AU can enhance accountability and representation of regional leaders and representatives. Direct elections would empower citizens to choose leaders committed to democratic principles, reducing the likelihood MPs being liable to political parties associated with Supreme Leaders. Subsequently, regional MPs can enjoy greater political maneuverability in addressing civilian coups.

For instance, the Economic Community of West African States (ECOWAS) could serve as a model. By reforming the 1993 Revised treaty establishing the Community Parliament to facilitate direct elections, ECOWAS could enhance its legitimacy and responsiveness to citizens' needs. In this regard, a recent study published by the European Journal of Political Economy suggested that direct elections increase people's trust in State and Political institutions.[18]

▸ *Rebalancing Powers between Regional Organizations' Conference of Heads of States and Regional Parliaments.*

To grant more legitimacy to sanctions and other punitive measures against coups, a balanced power-sharing compromise between the conference of Heads of States and regional parliaments is essential. This balance ensures that decisions are not solely in the hands of political elites but are subject to parliamentary scrutiny and approval. In this regard, the AU's Peace and Security Council (PSC) could, for instance, require endorsement from a directly elected Pan-African Parliament (PAP), in response to unconstitutional changes of government. This would ensure that punitive measures, such as sanctions, have broader support and are more likely to be effective. It will also undermine the growing idea of a "syndicate of Heads of states" driven only by the imperative to secure their seats and sustain their political regimes. Furthermore, empirical evidence from the European Union (EU) supports this model. The EU's balance of power between the European Parliament and the European Council has enhanced policy legitimacy and effectiveness.[19] African regions can learn from this model to ensure that power-sharing leads to more robust and accepted interventions against coups.

▸ *The establishment of Monitoring and Technical Organs (MTO).*

Monitoring and technical bodies are essential for timely actions to deter unlawful power grabs. These bodies should utilize clear, objective indicators, such as the involvement of Civil Society Organizations (CSOs), opposition parties, and public referendums in constitutional amendments. In cases like Burundi and Togo, where constitutional coups have taken place, such monitoring mechanisms could have prompted swift, preventive actions. Strengthening the African Peer Review Mechanism (APRM) to oversee political developments and flag risks of power consolidation would be a step forward. Key indicators could include the frequency of amendments, especially those affecting presidential term limits, the extent of civil society involvement, and public sentiment on term limits.

To reduce reliance on individual states' political will to activate these early action measures, mechanisms could be embedded directly into the mandates of the African Union (AU) and Regional Economic Communities (RECs), allowing independent triggers for intervention. For example, automatic reviews following certain governance indicators related to public/popular participation, or independent verification by third-party observers, could lessen states' discretionary power over activating responses. In this regard, NGO Freedom House demonstrated, in a study conducted by Sarah Repucci, that countries with robust monitoring mechanisms and active civil society participation are less likely to experience undemocratic power shifts.[20] Establishing these organs would provide the AU and RECs with the tools needed to preemptively address the roots of constitutional coups.

▶ *Harmonization of AU's and REC's responses to civilian coups.*

Consistency in addressing civilian coups across the AU and its RECs is also essential to thwart civilian coups issues. Indeed, discrepancies in responses undermine the credibility and effectiveness of regional interventions. Therefore, the AU and RECs must adopt uniform strategies and policies when dealing with civilian coups. The Southern African Development Community (SADC) and ECOWAS have occasionally shown differing responses to similar situations. To harmonize their approaches, the AU should establish a unified framework for responding to coups. This could include standardized sanctions, diplomatic measures, and support for democratic transitions. Also, important, the AU and REC should provide incentives to leaders to peacefully relinquish power by the end of their mandate and reasons to people to resist any leader's illegal attempt to seize or confiscate power through civic education and material or logistical support aiming at addressing some of their daily lives' challenges. But this approach is very context dependent.[21] Nonetheless, empirical evidence shows that when regional bodies coordinate their responses, the likelihood of successful democratic restoration increases. Harmonizing responses would ensure that civilian coups are met with consistent and effective regional action.

Policy Recommendations

The African Union's approach to managing civilian coups and the challenge of extended mandates requires a robust and nuanced strategy that engages both the AU and its member states in a concerted effort. The persistence of coups and the troubling trend of extended mandates pose serious threats to the democratic stability of the continent. These issues are exacerbated by a historical ambivalence towards military and civilian coups and a prevailing lack of political will among some member states to genuinely enforce constitutional limits. The following policy recommendations can pave the way toward a better understanding and implantation of the urgently needed transition from a state-centric to a citizen-centric governance model.

▶ Reform the legal frameworks that establish regional institutions to allow for the direct election of regional Members of Parliament (MPs). Its implementation goes through the:

 * **Drafting of legislation**: Member states should draft and ratify amendments to the constitutions of regional bodies, such as the Pan-African Parliament, to facilitate direct elections.

 * **Public awareness campaigns**: By conducting campaigns to educate citizens on the importance of participating in direct elections for regional MPs.

 * **Pilot projects**: Implement pilot projects in select member states to test and refine the direct election process of Regional MPs before a continent-wide rollout.

▶ Rebalance powers and responsibilities between the AU's conference of Heads of States and regional parliaments to enhance legitimacy in punishing and sanctioning coups. This goes through the necessary following steps:

 * **Constitutional amendments**: Amend the AU's Constitutive Act to grant regional parliaments a more significant role in decision-making processes, especially regarding sanctions and military interventions.

 * **Joint decision-making Committees**: Establish committees comprising representatives from both the Heads of States and regional parliaments to oversee decisions related to coups and extended mandates.

 * **Regular reviews**: Conduct regular reviews and assessments to ensure that power-sharing arrangements are functioning effectively and equitably.

▶ Create proactive mechanisms that intervene effectively in response to governance risks. It suggests embedding independent triggers for action within the AU and RECs' mandates to reduce reliance on individual states' political will. The following measures are proposed:

 * **Objective Action Indicators (OAI)**: Develop precise, objective indicators to prompt timely interventions, such as the extent of civil society participation, opposition party engagement, and use of public referenda in constitutional amendments.

 * **Enhanced Regional Monitoring Units (ERMU)**: Set up regional monitoring units that include political analysts, representatives from CSOs, and legal experts. These units would continuously observe political shifts and the use of presidential term amendments as consolidation tools, providing regular risk assessments.

 * **Routine Reporting and Recommendations (RRR)**: Ensure consistent, independent reporting to the AU with actionable recommendations for pre-emptive responses when indicators reveal heightened risks.

▶ Ensure consistency between the African Union (AU) and Regional Economic Communities (RECs) in addressing civilian coups. This

recommendation can be implemented through the adoption of:

- **Unified Protocols**: Develop and adopt unified protocols for responding to civilian coups across the AU and RECs, based on the African Charter on Democracy, Elections, and Governance (ACDEG).

- **Joint Training Programs**: Implement joint training programs for AU and REC officials on the unified protocols and best practices for intervention.

- **Coordination Mechanisms**: Establish coordination mechanisms, such as regular joint meetings and communication channels, to ensure coherent responses to coups.

▶ Prioritize the promotion of dialogue and consensus-building among member states to foster a culture of democratic values and mutual accountability. This goes through:

- **Peer Review Mechanism**: Strengthen the current African Peer Review Mechanism (APRM) to facilitate regular and constructive dialogue among member states about democratic practices and governance challenges.

- **Democratic Forums**: Organize bi or tri-annual forums where member states can share experiences, challenges, and successes in upholding democratic norms.

- **Technical Assistance**: Provide technical assistance and resources to member states to support the implementation of democratic reforms and peer review recommendations.

Endnotes

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4. For example, Uganda's President Yoweri Museveni, in power since 1986, pushed through a constitutional amendment in 2017 that removed the age limit for presidential candidates, allowing him to run for a sixth term in 2021. Despite protests and criticisms, the AU took no significant action, offering a muted response. The failure to react boldly and strongly to such moves sends a signal that constitutional manipulations will not face serious repercussions from regional bodies like the AU.

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