

**A CRITICAL ANALYSIS OF THE UNITED NATIONS AND AFRICAN UNION'S
FAILURE TO PREVENT CONSTITUTIONAL CRISES IN SUB-SAHARAN AFRICA**

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DECLARATION

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ABSTRACT

Unconstitutional changes of government (UCG's) remain a persistent threat to constitutionalism, democratic governance, and regional stability in Sub-Saharan Africa despite the existence of elaborate International and regional legal frameworks. This research critically examines the failure of the United Nations (UN) and African Union (AU) to prevent constitutional crises in the region. It interrogates both the legal and non-legal factors that undermine effective preventive action, with particular attention to the gap between normative commitments and practical enforcement. Adopting a qualitative doctrinal research design, the study analyses primary legal instruments; including the UN Charter, the AU Constitutive Act, the African Charter on Democracy, Elections and Governance (ABDEG), and the Peace and Security Council Protocol alongside secondary scholarly literature and selected case studies from Mali, Guinea, Burkina Faso and Niger. The research is further informed by thematic analysis of institutional practice, official communiqués, and diplomatic responses to recent constitutional crises.

The findings reveal that while both the UN and AU possess robust normative frameworks condemning unconstitutional changes of government, these frameworks are largely declaratory and weakly enforced. At the UN level, sovereignty doctrines, Chapter VII discretion, and geopolitical interests within the Security Council constrain early and decisive intervention. At the AU level, despite stronger anti-coup norms, enforcement is undermined by political will deficits, elite solidarity, institutional capacity limitations and financial dependence. The study further demonstrates that non-legal factors; including diplomatic caution, militarisation of politics, socio-economic grievances, and external geopolitical interests; often override legal obligations and neutralise preventive mechanisms. The research concludes that the persistence of the constitutional crises in Sub Saharan Africa reflects systematic institutional and political failure rather than normative absence.

It recommends strengthening the enforceability of existing legal instruments, enhancing UN and AU coordination, empowering judicial accountability mechanisms, and addressing underlying socio-economic drivers of instability. Ultimately, the study argues that effective prevention requires integrating legal enforcement with political accountability, institutional reform, and inclusive governance.

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LIST OF ABBREVIATIONS

ACDEG - African Charter on Democracy, Elections and Governance

AGA - African Governance Architecture

AU - African Union

ECOWAS – Economic Community West African States

PSC - Peace and Security Council

RECs - Regional Economic Communities

UCG - unconstitutional changes of government

UN - United Nations

CHAPTER ONE

GENERAL INTRODUCTION.

1.1 Introduction

The persistence of unconstitutional changes of government (UCGs) in Sub-Saharan Africa continues to threaten democratic consolidation, constitutionalism, and regional stability. Despite the existence of elaborate legal and institutional frameworks established by both the United Nations (UN) and the African Union (AU) to prevent such occurrences, the continent has witnessed a renewed wave of military coups, constitutional manipulations, and electoral irregularities in states such as Mali, Guinea, Burkina Faso, Niger, and Gabon.¹

The United Nations Charter 1945 entrusts the UN with the primary responsibility for maintaining international peace and security,² while the Constitutive Act of the African Union 2000 embeds democracy and constitutional order as guiding principles, particularly under Articles 4(h), 4(p), and 30, which condemn unconstitutional changes of government and provide for intervention in grave circumstances.³ Likewise, the African Charter on Democracy, Elections and Governance 2007 (ACDEG) links democratic governance to peace and human rights, affirming that unconstitutional seizure or retention of power undermines both.⁴ However, the recurrence of UCGs underscores the widening gap between these normative commitments and their practical enforcement.

Although the AU's transition from the principle of non-interference to non-indifference was designed to enable collective action against serious violations,⁵ its responses remain largely reactive and selective. Ben Kioko notes that while Article 4(h) creates a legal foundation for intervention, political realities continue to obstruct its implementation.⁶ Similarly, Solomon A Dersso argues that the AU's framework against unconstitutional change of government is

¹ UNDP, *Soldiers and Citizens: Military Coups and the Need for Democratic Renewal in Africa* (July 2023) 1–3.

² Charter of the United Nations (adopted 26 June 1945, entered into force 24 October 1945) 1 UNTS XVI arts 1, 24, and Chapter VIII.

³ Constitutive Act of the African Union (adopted 11 July 2000, entered into force 26 May 2001) arts 4(h), 4(p), 30.

⁴ African Charter on Democracy, Elections and Governance (adopted 30 January 2007, entered into force 15 February 2012) preamble and arts 2–3

⁵ Solomon A Dersso, 'The AU's Normative Framework on Unconstitutional Change of Government' in *African Security Review* (2020) 29(4) 10.

⁶ Ben Kioko, 'The Right of Intervention under the African Union's Constitutive Act: From Non-Interference to Non-Indifference' (2003) 85 *International Review of the Red Cross* 807.

normatively advanced but inconsistently applied, limiting its deterrent effect.⁷ At the same time, the UN's reliance on state consent and political compromise, as observed by Paul D Williams, constrains decisive action during internal crises,⁸ and poor coordination between the two bodies, highlighted by Tim Murithi, further delays preventive diplomacy.⁹

The AU's practical application of its legal instruments has been undermined by competing political interests and limited institutional capacity. Aminu Yakubu Imam underscores that the AU's inconsistent diplomatic responses; ranging from strong condemnations to passive observation—have eroded its credibility.¹⁰ Udombana conceptualises the prohibition of UCGs as an African recognition of the right to constitutional democratic governance, elevating democracy to the level of a human right in international law.¹¹ Yet, as Iragi Ntwali and Andrew E Yaw Tchie demonstrate, the AU and UN still struggle with political constraints, sovereignty claims, and financial dependencies that inhibit early and decisive interventions.¹²

1.2 Background to the Study

Sub-Saharan Africa continues to experience recurrent constitutional crises, often manifested through military coups, illegal constitutional amendments, and manipulations of electoral processes to entrench political leaders. According to Marc-André Boisvert, a Military coup d'état is an unconstitutional change of power through violence or threat, perpetrated by a small group, unlike a Revolution, which is carried out by a large group.¹³ although this definition is limited regarding the nature of coups d'état in Africa, it facilitates the understanding of Military coups perpetrated with the help of soldiers. Africa has also experienced several constitutional coups, which are generally the work of civilians in power.¹⁴ Constitutional coups on the other hand do not employ use violence and threats, except where the perpetrators aim to suppress

⁷ Solomon A Dersso, *The African Union's Normative and Institutional Frameworks for Preventing Unconstitutional Changes of Government* (Pretoria University Law Press 2012).

⁸ Paul D Williams, *War and Conflict in Africa* (2nd edn, Polity 2017) 233.

⁹ Tim Murithi, *The African Union and the Challenges of Peacebuilding and Conflict Resolution in Africa* (Institute for Justice and Reconciliation 2008) 42–45.

¹⁰ Aminu Yakubu Imam, 'Unconstitutional Power Shifts in Contemporary Africa: Causes, Consequences, and the Path Forward' (2024) 5(3) *Integrity Journal of Arts and Humanities* 168–176.

¹¹ NJ Udombana, 'Articulating the Right to Democratic Governance in Africa' (2003) 24(2) *Michigan Journal of International Law* 1209.

¹² Iragi Ntwali V, 'The African Union and its Regional Economic Communities Confronted with Coups d'État: Between Condemning and Condoning' (2025) 7 *Frontiers in Political Science* 1404205; Andrew E Yaw Tchie, *Enhancing the African Union's Function in Supporting Transitional Governments in Africa* (Research Report, August 2023).

¹³ Boisvert, M.-A. (2022). Coups d'état in Africa: uniforms back to politics). *Bull. Fran. Paix* 7, 3–4.

¹⁴ Iragi Ntwali V (2025) The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning. *Front. Polit. Sci.* 7:1404205. doi: 10.3389/fpos.2025.1404205

demonstrations of citizens against the bid to manipulate the Constitution to provide undue term extension.¹⁵

Instability has persisted in spite of the establishment of robust international and regional frameworks to safeguard democracy and prevent unconstitutional changes of government.¹⁶ The transparency of the electoral processes is a threat to constitutional transition of government manifested as frequent electoral coups due to the lack of transparency of electoral processes.¹⁷ Election offences are often committed by the ruling parties coupled with the stranglehold on election institutions and the final results of elections, and electoral disputes.¹⁸ This rigidity in electoral processes creates fertile ground to post-electoral crises, human rights violations for contested final results through the repression of opposition party's demonstrations and sometimes to military putsches or armed conflicts.¹⁹

The United Nations under its Charter, bears the primary responsibility for maintaining international peace and security.²⁰ The African Union through its Constitutive Act 2000, supplements this mandate by embedding democracy, peace, and constitutional order as key principles.²¹ Specifically, Articles 4(h), 4(p), and 30 of the African Union Constitutive Act condemn unconstitutional changes of government and provide for intervention in grave circumstances.²² Nevertheless, recent developments in Mali (2020–2021), Guinea (2021), Burkina Faso (2022), Niger (2023), and Gabon (2023) demonstrate the ineffectiveness of these frameworks.²³ Both the United Nations and African Union have often been slow, inconsistent,

¹⁵ Mpiana, J. (2012). The African Union and the management of unconstitutional changes of government. *Rev. Québ. Dr. Int.* 25, 101–141.

¹⁶ Bernal C, 'Informal Constitutional Change: A Critical Introduction and Appraisal' 62(3) *American Journal of Comparative Law*, 2014, 493.

¹⁷ Iragi Ntwali V, 'The African Union and its Regional Economic Communities Confronted with Coups d'État: Between Condemning and Condoning' (2025) 7 *Frontiers in Political Science* 1404205;

¹⁸ Issaka K. Souaré The AU and the challenge of unconstitutional changes of government in Africa ISS Paper 197 August 2009 1

¹⁹ De Gaudusson, J. B. (2003). Les élections à l'épreuve de l'Afrique. *Cah. Cons. Const.* 13, 1–8.

²⁰ Murray, Christina & Wiebusch, Micha. (2018). *Presidential Term Limits and the African Union*.

²¹ <https://www.nyulawglobal.org/globalx>

²² Yusuf AA and Ougergouz F (eds) *The African Union: Legal and Institutional Framework*, Martinus Nijhoff Publishers, Leiden, 2012, 189-190.

²³ *Ibid*

or politically constrained in preventing such crises.²⁴ Their responses tend to be reactive rather than preventive, undermining the credibility of international law and regional diplomacy.²⁵

Within Parliamentary chambers, constitutional courts and election bodies are at the forefront of carrying out, if not facilitating, this other type of coups d'état in Africa.²⁶ Weapons and the military are used as secondary means to protect the institutions that validate fraudulent results, a third term or the extension of a second one.²⁷ There are many factors that have contributed to the failure of democracy in Africa;²⁸ Institutional crises due to the failure of democracy and the imported State. The desire by some independence leaders to free themselves from the grip of the former colonial power. Economic and social crises. The desire by other international players to establish zones of influence on the African continent.²⁹

Coup d'états that are still being perpetrated in an African context are marked by the failure of the first democratic experience of the 1960s. The coming to power of military regimes and their unprecedented longevity, and the failure of democratic consolidation after the democratization wave of the 1990s.³⁰ Whatever the case, these coups have been repeatedly perpetrated, some of them instigated by the former colonial power to overthrow an ally who is escaping their control, and many simply because some soldiers also long for power.³¹

Military regimes also took advantage of the Cold War to consolidate power and have stayed longer than other civilian governments throughout African political history. Military regimes also embraced the policy of non-interference put forward by the Organization of African Unity in favour of newly independent member states.³² The African Union's transition from non-interference to non-indifference in some specific situations, the adoption of the African Charter

²⁴ Bjarnesen J, 'Constitutional Coups have often preceded military ones' The Nordic Africa Institute, October 7, 2021 – on February 1, 2023.

²⁵ Deborah Isser Gael Raballand Michael Watts Diane Zovighian Governance in Sub-Saharan Africa in the 21st Century: Four Trends and an Uncertain Outlook. Policy Research Working Paper 10713

²⁶ Ntwali, V., and N'zouluni, P. (2021). Deserved or undeserved! DR Congo, a philanthropic state where the people live on grants. Paris: Edilivre.

²⁷ Ibid

²⁸ Jean Allain, The true challenge to the United Nations system of the use of force: the failures of Kosovo and Iraq and the emergence of the African union

²⁹ Promotion of durable peace through sustainable development in Africa. Report of the Secretary-General United Nations A/79/226-S/2024/550

³⁰ Miscoiu, S. (2022). Introduction: politics, conflict and globalization in French-speaking Africa in Political systems and conflict dynamics in Africa. What impact for globalization. eds. S. Miscoiuet al. (Paris: Cerf).

³¹ Ibid

³² Mballa, C., and Zogning, F. (2023). African unity 60 years later: different perspectives. *Rev. Int. Écon.* 70, 14–17 Ibid

for Democracy and its dissemination within regional economic communities have not prevented the return of coups after the democratic wave of 1990.³³

Due to the lack of the necessary financial autonomy which has a negative impact on their free decision-making capacity, African regional integration organizations are subject to external political influences which sometimes impose what they should do when any coup d'état occurs, giving no choice than to act in the interests of external players.³⁴ In this context dominated by a certain economic political subservience of African regional integration organizations, ECOWAS has been largely accused by the military putschists of the Sahel for receiving injunctions to take economic and political sanctions against their respective states (Mali, Niger and Burkina Faso).³⁵ The parent organization, the African Union, has not been spared such criticism, especially regarding the way France and certain African states (Nigeria, Cameroon, Congo, DRC and Rwanda) got involved and exerted their influence on the said organization which was supposed to strongly condemn Mahamat Déby Itno son's constitutional coup d'état following the death of his father at the war front, in 2021;³⁶

1.3 Statement of the Problem

Despite the existence of binding legal instruments and institutional mechanisms, both the United Nations and the African Union have failed to prevent the recurrence of unconstitutional changes of government.³⁷ The African Union's principle of "non-indifference" has not translated into effective intervention, while the United Nations' deference to regional organizations under Chapter VIII of the United Nations Charter has often resulted in delayed or fragmented responses.³⁸ Moreover, sovereignty claims, resource limitations, lack of political will, and weak coordination between both organizations have hindered their preventive

³³ Bako, H., and Jobbins, M. (2022). Regional organizations and political instability in West and Central Africa). *Bull. Fran. Paix* 7, 16–18.

³⁴ Diallo, A. (2024). Informational confrontation between ECOWAS and the Alliance of Sahel States. *School of Economic Warfare*. Available at: (<https://www.ege.fr/infoguerre/confrontation-informationnelle-entre-la-communauteeconomique-des-etats-dafrique-de-louest-et-lalliance-des-etats-du-sahel>).

³⁵ Ibid

³⁶ Najah, R., and Lyammouri, R. (2022). Le Tchad face au FACT: une offensive de rebelles et une résistance d'Etat. *Pol. Cent. New South* 2, 1–23.

³⁷ Deborah Isser Gael Raballand Michael Watts Diane Zovighian Governance in Sub-Saharan Africa in the 21st Century: Four Trends and an Uncertain Outlook. *Policy Research Working Paper* 10713

³⁸ Iragi Ntwali V (2025) Page 18 *Front. Polit. Sci.* 7:1404205. doi: 10.3389/fpos.2025.1404205 The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning.

diplomacy.³⁹ Consequently, Sub-Saharan Africa remains vulnerable to constitutional breakdowns that threaten peace and democratic governance.⁴⁰

1.4 Objectives of the Study

1.4.1 General objective

To critically analyse the legal and diplomatic limitations of the United Nations and African Union in preventing constitutional crises in Sub-Saharan Africa.

1.4.2 Specific Objectives

1. To examine the legal frameworks empowering and constraining the United Nations and African Union in the prevention of unconstitutional changes of government.
2. To assess the diplomatic mechanisms adopted by both organizations in addressing constitutional crises.
3. To identify the institutional and political factors that undermine effective preventive action.
4. To propose legal and policy reforms to enhance preventive diplomacy and enforcement mechanisms.

1.5 Research Questions

1. What legal frameworks govern the United Nations and African Union's role in preventing constitutional crises in Sub-Saharan Africa?
2. How effective are their diplomatic interventions in preventing or resolving unconstitutional changes of government?
3. What institutional, political, and sovereignty-related factors account for their repeated failures?
4. What reforms could improve the legal and diplomatic effectiveness of both organizations?

1.6 Scope of the Study

Geographical Scope: Sub-Saharan Africa, focusing on countries that have recently experienced unconstitutional changes of government.

³⁹ Yusuf AA and Ougergouz F (eds) *The African Union: Legal and Institutional Framework*, Martinus Nijhoff Publishers, Leiden, 2012, 189-190.

⁴⁰ *The African Union at 20: How Far Have We Come? Peace and Security Council Report No 153.* ISS Africa, December 13, 2022. <https://issafrica.org/research/peace-and-security-council-report/peace-and-security-council-report-no-153>.

Thematic Scope: Legal and diplomatic aspects of prevention rather than economic or military intervention.

Temporal Scope: 2010–2024, reflecting the recent resurgence of coups and governance crises.

1.7 Justification

This study is justified by the increasing recurrence of constitutional instability in Africa, which undermines democracy, human rights, and regional peace.

Academically, it contributes to the body of scholarship on international and regional governance, preventive diplomacy, and constitutionalism.

Legally, it clarifies the relationship between sovereignty, international law, and intervention.

Practically, it provides policy recommendations to enhance the coordination and effectiveness of preventive mechanisms within the United Nations and African Union.

Regionally, it supports the objectives of the African Charter on Democracy, Elections and Governance 2007, which promotes democratic transitions and constitutional order.

1.8 Significance

It contributes to the growing body of scholarship on international and regional mechanisms for the prevention of unconstitutional changes of government (UCGs). Whereas most existing research focuses predominantly on the African Union (AU), This study will establish an integrated analysis of both the United Nations (UN) and AU, examining how their legal, institutional, and diplomatic roles intersect and where their failures converge. By doing so, it fills an existing scholarly gap concerning the UN's limited but critical role in regional preventive diplomacy under Chapter VIII of the UN Charter.

Besides the above, the study is legally significant because it assesses the adequacy of current international and regional legal frameworks particularly the AU Constitutive Act (2000), Lomé Declaration (2000), and the African Charter on Democracy, Elections and Governance (2007) in addressing evolving forms of unconstitutional governance such as electoral fraud, constitutional manipulation, and illegitimate term extensions. Through doctrinal and comparative analysis, it clarifies the extent to which these instruments align with international norms of democratic governance, sovereignty, and the Responsibility to Protect.

In addition, the research carries policy relevance for regional and global actors. It offers evidence-based recommendations to strengthen the AU's enforcement mechanisms, enhance

UN-AU coordination, and promote proactive diplomacy that prioritizes prevention over reaction. These insights may inform reforms within the Peace and Security Council (PSC), the African Governance Architecture (AGA), and the UN's regional partnership frameworks, thereby improving the capacity of both institutions to deter future constitutional crises.

Furthermore, the study has practical importance for African governance and peacebuilding. By identifying the political, institutional, and financial constraints that undermine preventive action, it guides policymakers, diplomats, and civil society actors in designing more resilient systems for democratic transitions and constitutional order. Its findings also assist member states in understanding how adherence to regional legal norms strengthens legitimacy and stability.

1.9 Theoretical/Conceptual Framework

This research adopts two key theories:

1. The Responsibility to Protect which reconciles state sovereignty with international responsibility to prevent mass abuses and serious breaches of constitutional order. ⁵
2. Institutionalism which explains how organizational structures, norms, and decision-making dynamics influence institutional effectiveness, particularly in multilateral settings such as the United Nations and African Union. ⁶

1.10 Synopsis

Chapter One: Introduction, literature review and methodology. Chapter Two: non-Legal Frameworks of the United Nations and African Union on unconstitutional change of Government. Chapter Three: legal frameworks of the United Nations and African Union on unconstitutional change of Government; Diplomatic and Institutional Mechanisms. Chapter four: presentation of Findings, and Critical Analysis of the findings. Chapter Five: Discussion, Conclusion and Recommendations

1.12 LITERATURE REVIEW

1.12.1 Introduction

Earlier studies on unconstitutional changes of government (UCGs) in Africa have examined various dimensions of the problem but have rarely integrated both legal and diplomatic perspectives to explain why preventive mechanisms repeatedly fail. This chapter reviews literature on the legal frameworks, diplomatic mechanisms, institutional constraints, and

proposed reforms relating to the United Nations (UN) and African Union (AU) in addressing constitutional crises in Sub-Saharan Africa.

1.12.2 Legal Frameworks Empowering and Constraining the UN and AU

Scholars acknowledge that the AU's legal foundation for intervention against UCGs is strong in theory but weak in execution.⁴¹ Ben Kioko argues that Article 4(h) of the AU's Constitutive Act provides a legal mandate for humanitarian intervention, yet its implementation is obstructed by political realities.⁴² Solomon A. Dersso observes that while the AU's framework is normatively advanced, it remains inconsistently applied across member states.⁴³ He emphasizes that Article 4(p) prohibits governments that come to power through unconstitutional means from participating in AU activities, but this principle is frequently undermined in practice.⁴⁴ Paul D. Williams contends that the UN's dependence on state consent and political compromise severely limits its ability to respond decisively to internal crises,⁴⁵ while Tim Murithi notes that poor coordination between the UN and AU often results in delayed or ineffective preventive measures.⁴⁶

Udombana describes the prohibition of UCGs as an "African recognition of a right to constitutional democratic governance," arguing that democracy itself has evolved into a human right in international law.⁴⁷ Iragi Ntwali links the recurrence of coups to the collapse of Africa's early democratic experiments and the rise of both military and "constitutional coups."⁴⁸ Dersso further critiques the Lomé Declaration (2000) for being non-binding until the adoption of the Constitutive Act and notes that the later Addis Ababa Charter (2007) expanded the definition of UCG to include unconstitutional retention of power and strengthened sanctions against perpetrators.⁴⁹

⁴¹ RENICE AKELLO MIDAR The role of united nation's Security Council and regional arrangements in the maintenance of international peace and security arrangements in the maintenance of I international peace and security: the case of the organization of African unity (OAU)/ African union (AU). University of Nairobi <https://erepository.uonbi.ac.ke/server/api/core/bitstreams/9fdb2d5b-70cf-42be-afc3-d2f112513a04/content>

⁴² African Union, Constitutive Act of the African Union, accessed 11 September 2025

⁴³ Solomon Ayele Dersso, Unconstitutional Changes of Government and Unconstitutional Practices in Africa. June 2016

⁴⁴ Ibid

⁴⁵ Paul D Williams, War and Conflict in Africa (2nd edn, Polity Press 2017).

⁴⁶ Tim Murithi, The African Union and the Challenges of Peacebuilding and Conflict Resolution in Africa (Institute for Justice and Reconciliation 2008).

⁴⁷ N Udombana 'Human Rights and Contemporary Issues in Africa', (2003) 35-106 quoting Crawford J, 'Democracy and International Law', (1993) 64 British Yearbook of International Law 113.

⁴⁸ Iragi Ntwali V (2025) Page 18 Front. Polit. Sci. 7:1404205. doi: 10.3389/fpos.2025.1404205 The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning.

⁴⁹ Addaney M, Nyarko MG, Boshoff E (eds), Governance, Human Rights and Political Transformation in Africa, Palgrave Macmillan, Cham, 2020, 42-43.

1.12.3 Diplomatic Mechanisms in Addressing Constitutional Crises

Aminu Yakubu Imam highlights the inconsistency of the AU's diplomatic responses to coups, ranging from strong condemnation to passive observation.⁵⁰ He advocates for stronger preventive diplomacy, coordinated sanctions, and regional collaboration to uphold democracy.⁵¹ CA Odinkalu argues that where an incumbent refuses to accept electoral defeat, the AU is legally obliged to suspend such regimes under its Constitutive Act.⁵² Iragi Ntwali adds that the AU and regional bodies have integrated anti-coup norms into their institutional frameworks but still struggle with selective application and enforcement.⁵³

1.12.4 Institutional and Political Factors Undermining Prevention

Imam and Ajong agree that the AU's responses are sporadic and insufficient, often weakened by selective enforcement and lack of political will.⁵⁴ Ajong criticizes the African Charter on Democracy, Elections and Governance (ACDEG) for failing to provide sufficient safeguards against manipulation by incumbents, such as delayed election announcements or exploitation of state resources.⁵⁵ Ebobrah notes that the Peace and Security Council (PSC) lacks clarity regarding who initiates or implements diplomatic measures under the Charter.⁵⁶ Ntwali further argues that the AU's institutional weakness is tied to its dependence on external donors, resulting in loss of autonomy and legitimacy.⁵⁷ Financial instability and peer solidarity among leaders, many of whom are themselves beneficiaries of UCGs; further weakens enforcement.⁵⁸

A UN Secretary-General's report (2025) warns that social inequality, poor governance, and exclusion have eroded trust between African states and citizens, creating conditions conducive

⁵⁰ Aminu Yakubu Imam, Unconstitutional power shifts in contemporary Africa: Causes, consequences, and the path forward. *Integrity Journal of Arts and Humanities* Volume 5(3), pages 168-176, October 2024 Article Number: DF4F78006 ISSN: 2811-2407 <https://doi.org/10.31248/IJAH2024.170>
<https://integrityresjournals.org/journal/IJAH>

⁵¹ Ibid

⁵² CA Odinkalu 'Concerning Kenya: The Current AU Position on Unconstitutional Changes in Government' Open Society Justice Initiative in Africa (January 2008).

⁵³ Iragi Ntwali V doi: 10.3389/fpos.2025.1404205 The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning. (2025)

⁵⁴ ML Ajong 'African Charter on Democracy, Elections and Good Governance: Changing Times or another Mirage? The Seriousness of a Challenge.'

⁵⁵ African Union, Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union (Assembly/AHG/Dec.269 (XIV)), February 2, 2010, para 6(ii)(a).

⁵⁶ Ebobrah 'The African Charter on Democracy, Elections and Governance: a new dawn for the enthronement of legitimate governance in Africa?'

⁵⁷ Re-assessing the (Continued) Need for UN Security Council Authorisation of Regional Enforcement Action: The African Union Twenty Years On Marko Svicevic <https://orcid.org/0000-0002-7879-5267>

⁵⁸ AFRICA GOVERNANCE REPORT 2023. UNCONSTITUTIONAL CHANGES OF GOVERNMENT IN AFRICA.

to coups.⁵⁹ Nyinevi and Fosu demonstrate how military actors exploit AU procedural loopholes by quickly appointing civilians to disguise coups as “transitions,” as seen in Egypt and Madagascar.⁶⁰

1.12.5 Proposed Legal and Policy Reforms

Imam recommends proactive and unified AU action, strengthened democratic institutions, and rapid-response diplomatic teams to prevent future coups.⁶¹ McMahon interprets the African Charter on Democracy as a positive step against democratic backsliding but questions whether AU enforcement is genuine or mere “window dressing.”⁶² Ntwali suggests that African leaders must first respect democratic norms at the national level, since AU effectiveness depends on the integrity of member states.⁶³ Nyinevi and Fosu urge consistent condemnation of both military and constitutional coups, arguing that manipulations of constitutions to extend term limits are equally destabilizing.⁶⁴

1.12.6 Legal Frameworks Governing the UN and AU’s Role

The Constitutive Act of the AU (Article 30) explicitly prohibits participation of governments that seize power unconstitutionally. Gawanas praises this as a comprehensive framework but notes that it requires consistent practice to be credible.⁶⁵ Solomon Dersso identifies major gaps in enforcement: lack of a clear definition of UCG, inconsistency in declaring restoration of constitutional order, and divergent interpretations between AU and sub-regional bodies like ECOWAS.⁶⁶ For example, ECOWAS often reinstates countries before elections, while the AU insists on electoral legitimacy.⁶⁷ He also criticizes the AU’s tolerance of “auto-legitimization,”

⁵⁹ Promotion of durable peace through sustainable development in Africa** Report of the Secretary-General 16 July 2025 A/80/179 S/2025/468

⁶⁰ Christopher Nyinevi & Richard Fosu (2023) The African Union’s Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, *African Security*, 16:1, 95-119, DOI: 10.1080/19392206.2023.2195748

⁶¹ Aminu Yakubu Imam, Unconstitutional power shifts in contemporary Africa: Causes, consequences, and the path forward. *Integrity Journal of Arts and Humanities* Volume 5(3), pages 168-176, October 2024 Article Number: DF4F78006 ISSN: 2811-2407 <https://doi.org/10.31248/IJAH2024.170> <https://integrityresjournals.org/journal/IJAH>

⁶² ER McMahon ‘The African charter on democracy, elections and governance: a positive step on a long path’ Open Society Institute, Africa Governance Monitoring and Advocacy Project AfriMAP (May 2007) 3.

⁶³ Iragi Ntwali. The African Union and its regional economic communities confronted with coups d’état: between condemning and condoning. 2025 Doi: 10.3389/fpos.2025.1404205

⁶⁴ African Union, Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union (Assembly/AHG/Dec.269 (XIV)), February 2, 2010, para 6(ii)(a).

⁶⁵ Gawanas B ‘The African Union: Concepts and implementation mechanisms relating to human rights’ in Bösl A & Diescho J (Eds) (2009) *Human Rights in Africa*

⁶⁶ Solomon Ayele Dersso, *Unconstitutional Changes of Government and Unconstitutional Practices in Africa*. June 2016

⁶⁷ Abadir M Ibrahim Evaluating a decade of the African Union’s protection of human rights and democracy: A post-Tahrir assessment. 2012 *AFRICAN HUMAN RIGHTS LAW JOURNAL*

where coup leaders win sham elections to validate their power as in Egypt (2013).⁶⁸ Ultimately, Dersso concludes that AU action remains reactive, not preventive, and fails to address the structural roots of instability.⁶⁹

1.12.7 Effectiveness of Diplomatic Interventions

Andrew E. Yaw finds that AU-supported transitional agreements often lack inclusivity and enforceability.⁷⁰ Military rulers frequently extend transitions, restrict freedoms, or contest electoral results, undermining AU credibility.⁷¹ While coordination with ECOWAS and the UN under the African Governance Architecture (AGA) has improved, Yaw notes persistent challenges, such as weak monitoring and inconsistent application of sanctions.⁷² Nyinevi and Fosu add that AU enforcement of rules prohibiting coup leaders from contesting elections remains erratic, undermining deterrence.⁷³

1.12.8 Institutional, Political, and Sovereignty-Related Factors Behind Failures

According to Yaw, recent coups in the Sahel are driven by poor governance, corruption, and weak institutions, compounded by foreign influence.⁷⁴ Akinola calls for constitutional term limits, depoliticization of the military, and inclusive governance to prevent future crises.⁷⁵ A UNDP (2023) survey found that economic exclusion, corruption, and insecurity drive citizens, especially youth to support coups, believing democracy has failed them.⁷⁶ Nyinevi and Fosu highlight that the AU's neglect of constitutional manipulations and electoral fraud, the new "constitutional coups" has replaced traditional military coups as the chief threat to democracy.⁷⁷

⁶⁸ The African Union at 20: How Far Have We Come? Peace and Security Council Report No 153." ISS Africa, December 13, 2022. <https://issafrica.org/research/peace-and-security-council-report/peace-and-security-council-report-no-153>.

⁶⁹ AFRICA GOVERNANCE REPORT 2023. UNCONSTITUTIONAL CHANGES OF GOVERNMENT IN AFRICA.

⁷⁰ Andrew E Yaw Tchier Enhancing the African Union's function in supporting transitional governments in Africa Research Report August 2023

⁷¹ *ibid*

⁷² Andrew E Yaw Tchier Enhancing the African Union's function in supporting transitional governments in Africa Research Report August 2023

⁷³ Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, *African Security*, DOI: 10.1080/19392206.2023.2195748

⁷⁴ RENICE AKELLO MIDAR The role of United Nation's security council and regional arrangements in the maintenance of international peace and security arrangements in the maintenance of I international peace and security: the case of the organization of African unity (OAU)/ African union (AU). University of Nairobi <https://erepository.uonbi.ac.ke/server/api/core/bitstreams/9fdb2d5b-70cf-42be-afc3-d2f112513a04/content>

⁷⁵ Adeoye O. Akinola and Ratidzo Makombe Rethinking the Resurgence of Military Coups in Africa page 2860 *Journal of Asian and African Studies* 2025, Vol. 60(5) 2847–2863

⁷⁶ UNDP, *Soldiers and Citizens: Military Coups and the Need for Democratic Renewal in Africa* (July 2023).

⁷⁷ Abadir M Ibrahim Evaluating a decade of the African Union's protection of human rights and democracy: A post-Tahrir assessment. 2012 *AFRICAN HUMAN RIGHTS LAW JOURNAL*

1.12.9 Reforms to Strengthen Legal and Diplomatic Effectiveness

Yaw recommends that the AU enforce strict timelines for political transitions and apply sanctions consistently against defiant regimes.⁷⁸ Nyinevi and Fosu call for clear AU guidelines defining the military's role in transitions, noting that excessive military involvement slows democratization.⁷⁹ The AU's legitimacy, they argue, depends on its moral authority and the democratic culture of its members.⁸⁰ Greater coordination with RECs and credible enforcement of non-indifference principles are crucial.⁸¹

1.12.10 Gaps in the Literature

Most existing literature is normative, describing what the AU should do rather than explaining why it fails. Scholars tend to analyse the AU and UN separately, ignoring how coordination problems under UN Charter Chapter VIII weaken collective responses. Research has also focused disproportionately on military coups, neglecting the growing phenomenon of constitutional and electoral coups. Few studies analyse the effects of external political influence, donor dependency, and peer solidarity among African leaders on AU decision-making. Moreover, empirical and comparative analyses are scarce, creating a gap that this study addresses through a combined doctrinal and qualitative approach examining both institutions. Limited research was focused on the unconstitutional change of governments in sub-Saharan Africa.

1.12.11 Conclusion

The literature reveals that both the AU and UN possess elaborate legal instruments such as the Lomé Declaration, Constitutive Act, and ACDEG but lack consistent, impartial enforcement. The AU's shift from "non-interference" to "non-indifference" has not translated into effective action, while the UN's reliance on state consent and regional deference has produced inertia. Most research disproportionately emphasizes the AU, leaving the UN's limitations underexplored. Furthermore, non-violent forms of UCG, like constitutional amendments and electoral fraud, remain under-theorized. This study will therefore contribute an integrated legal and diplomatic critique of both institutions, examining how their intersecting mandates,

⁷⁸ African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, July 9, 2002 (the PSC Protocol).

⁷⁹ Andrew E Yaw Tchie Enhancing the African Union's function in supporting transitional governments in Africa Research Report August 2023

⁸⁰ Stacy-Ann Elvy THEORIES OF STATE COMPLIANCE WITH INTERNATIONAL LAW: ASSESSING THE AFRICAN UNION'S ABILITY TO ENSURE STATE COMPLIANCE WITH THE AFRICAN CHARTER AND CONSTITUTIVE ACT. GA. J. INT'L & COMP. L. [Vol. 41:75

⁸¹ *ibid*

political constraints, and institutional weaknesses perpetuate constitutional instability in Sub-Saharan Africa.

1.13 METHODOLOGY.

1.13.1 Research design

The study adopts a qualitative and doctrinal research design grounded in legal analysis and supported by empirical case studies.⁸²

1.13.2 Methods

1.13.2.1 Doctrinal Analysis

Examination of primary instruments such as the United Nations Charter (1945), African Union Constitutive Act (2000), Africa Union Peace and Security Council Protocol (2002), and the African Charter on Democracy, Elections and Governance (2007).

1.13.2.2 Case Study Approach

Comparative analysis of recent constitutional crises in Mali, Guinea, Burkina Faso, and Niger to evaluate the practical application of African Union and United Nations mandates.⁸³

1.13.2.3 Documentary Review

Analysis of Security Council resolutions and reports, official communication, and African Union Peace and Security Council decisions. Basing on rational choice and institutional analysis of historical and strategic positions to understand the various roles of the African Union and its regional integration bodies regarding all forms of coups d'état in the continent.⁸⁴ By examining the literature on coups d'état in Africa and using current events, the study will be able to inform the paradigm shift in the perception of contemporary coups d'état in Africa and sub-Saharan Africa.

1.13.3 Data Sources

1.13.3.1 Primary Sources

Treaties, Conventions, Charters, and official documents of the UN and AU.

⁸² Patton, M. Q. (2002). *Qualitative Research & Evaluation Methods*. Sage.

⁸³ Yin, R. K. (2018). *Case Study Research and Applications: Design and Methods*. Sage Publishers.

⁸⁴ Gazibo, M & Jenson, J. *Comparative politics. Foundations, challenges and theoretical approaches*. 2015

1.13.3.2 Secondary Sources

Books, journal articles, academic dissertations, and credible online reports.

1.13.4 Data Analysis

The data will be analysed thematically, comparing legal provisions against actual diplomatic outcomes to identify patterns of failure and institutional weakness.⁸⁵

1.13.5 Limitations

Limited access to classified diplomatic documents or internal communications of AU and UN missions.

Political sensitivity of ongoing cases may constrain data collection.

Heavy reliance on secondary literature due to security restrictions.

1.13.6 Ethical Considerations

The study will observe strict academic integrity, objectivity, and confidentiality in handling sensitive political issues. All sources will be properly acknowledged following OSCOLA referencing guidelines.

⁸⁵ Yilmaz, K. (2013). Comparison of Quantitative and Qualitative Research Traditions: Epistemological, Theoretical, and Methodological Differences. *European Journal of Education*, 48, 311-325. <https://www.jstor.org/stable/26357806> <https://doi.org/10.1111/ejed.12014>

CHAPTER TWO

NON-LEGAL FRAMEWORKS GOVERNING THE UNITED NATIONS AND AFRICAN UNION IN THE PREVENTION OF CONSTITUTIONAL CRISES IN SUB-SAHARAN AFRICA.

2.1 Introduction

The persistence of constitutional crises in Sub-Saharan Africa, notwithstanding the existence of elaborate international and regional legal frameworks, exposes a structural gap between normative commitments and political reality.⁸⁶ As established in Chapter Three, the United Nations (UN) and the African Union (AU) possess extensive instruments condemning unconstitutional changes of government and promoting democratic governance. Yet coups d'état, constitutional manipulation, and prolonged political instability continue to recur across the region.⁸⁷ This chapter argues that these failures cannot be adequately explained through legal analysis alone. Instead, they are rooted in a complex set of non-legal frameworks that shape how law is interpreted, applied, and frequently side-lined in practice.⁸⁸ These include diplomatic practice, political culture, elite self-preservation, militarisation of politics, socio-economic grievances, institutional weakness, regional contagion effects, and external geopolitical interests.⁸⁹ Collectively, these factors constrain the preventive capacity of the UN and AU and explain why constitutional crises persist despite strong declaratory norms.⁹⁰

2.2 Diplomatic Practice and the Limits of Preventive Action

Preventive diplomacy constitutes the primary non-coercive tool through which the UN and AU seek to avert political crises.⁹¹ Both institutions maintain early warning mechanisms designed to identify risks such as electoral malpractice, constitutional manipulation, and governance decay.⁹² In principle, these mechanisms should enable early engagement before constitutional

⁸⁶ Anél Ferreira-Snyman Intervention with specific reference to the relationship between the United Nations Security Council and the African Union. XLIII CILSA 2010

⁸⁷ Re-assessing the (Continued) Need for UN Security Council Authorisation of Regional Enforcement Action: The African Union Twenty Years On Marko Svicevic <https://orcid.org/0000-0002-7879-5267>

⁸⁸ MXOLISI S. NKOSI, ANALYSIS OF OAU/AU RESPONSES TO UNCONSTITUTIONAL CHANGES OF GOVERNMENT IN AFRICA UNIVERSITY OF PRETORIA April 2010

⁸⁹ Balingene Kahombo, Constitutional Crises and the Jurisdiction of the African Union. *Recht in Afrika – Law in Africa – Droit en Afrique* 25 (2022)

⁹⁰ Getachew M. Dires African Union Gone Awry: A Critical Analysis of its Constitutive Act. Central Connecticut State University May 2024

⁹¹ African Coups Are Making a Comeback.” ISS Africa, October 15, 2021. <https://issafrica.org/iss-today/african-coups-are-making-a-comeback>.

⁹² Fitz-Gerald, Ann. “Towards a Common Doctrine for African Standby Force-Led Peace Operations.” *International Peacekeeping* 22, no. 4 (August 8, 2017): 616–38.

breakdown occurs.⁹³ In practice, however, preventive diplomacy remains deeply constrained by political caution and deference to state sovereignty. Constitutional manipulation; such as the removal of presidential term limits or interference with judicial independence: is frequently treated as a domestic political issue rather than a constitutional violation warranting international response.⁹⁴ Diplomatic engagement is therefore postponed until a coup or overt constitutional rupture occurs.⁹⁵ This reactive posture undermines the preventive logic of international engagement and reflects an institutional reluctance to confront sitting governments prior to open crisis.⁹⁶ As a result, early warning rarely translates into early action, rendering preventive diplomacy largely symbolic.⁹⁷

Preventive diplomacy is intended to identify early warning signs of political instability and constitutional breakdown and to address them before they escalate into full-blown crises.⁹⁸ In the context of Sub-Saharan Africa, both the African Union (AU) and the United Nations (UN) possess early warning mechanisms designed to monitor governance trends, electoral disputes, and constitutional irregularities.⁹⁹ However, in practice, these mechanisms have largely failed to translate early warning into timely preventive action. A clear illustration of this failure can be seen in Guinea prior to the 2021 military coup. In 2020, President Alpha Condé engineered a controversial constitutional referendum that removed presidential term limits, triggering widespread protests and violent repression. Despite clear indicators of constitutional erosion and popular discontent, neither the AU nor the UN engaged in robust preventive diplomacy. The crisis was largely treated as an internal political matter until the military seized power in September 2021, by which time constitutional order had already collapsed.¹⁰⁰

⁹³ Glas, Aarie. "African Union Security Culture in Practice: African Problems and African Solutions." *International Affairs* 94, no. 5 (September 2018): 1121–38.

⁹⁴ Isanga, Joseph M. "The Constitutive Act of the African Union, African Courts and the Protection of Human Rights: New Dispensation." *Santa Clara Journal of International Law* 11 (2013/2012): 267.

⁹⁵ The African Union at 20: How Far Have We Come? Peace and Security Council Report No 153." ISS Africa, December 13, 2022. <https://issafrica.org/research/peace-and-security-council-report/peace-and-security-council-report-no-153>.

⁹⁶ Kioko, Ben. "The Right of Intervention under the African Union's Constitutive Act: From Non-Interference to Non-Intervention." *International Review of the Red Cross* 85, no. 852 (December 2003): 807–26.

⁹⁷ JAMES NGANGA KARIUKI MUIRURI AFRICAN REGIONAL PEACE AND SECURITY UNDER THE AU'S CONSTITUTIONAL FRAMEWORK: CONFLICT OR COMPATIBILITY WITH THE UN AND INTERNATIONAL LAW? the University of Sheffield August 2008. Volume I

⁹⁸ Ntwali G, 'The African Union and its Regional Economic Communities Confronted with Coups d'État: Between Condemning and Condoning' (2025) 10 *Frontiers in Political Science* 1404205 <https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2025.1404205/full> accessed 4 January 2026.

⁹⁹ Ibid

¹⁰⁰ Wiebusch K, 'The African Charter on Democracy, Elections and Governance: Past, Present and Future' (2019) 21 *Journal of African Law* 45 <https://journals.sagepub.com/doi/10.1177/0002039719896109> accessed 4 January 2026.

Similarly, in Mali, prolonged electoral disputes following the 2020 parliamentary elections led to mass protests under the M5-RFP movement.¹⁰¹ These developments constituted clear early warning signs of constitutional instability.¹⁰² Although regional and international actors were aware of the situation, preventive engagement was limited to general calls for dialogue.¹⁰³ The failure to intervene decisively at this stage contributed to the eventual coup in August 2020.¹⁰⁴ These examples demonstrate that preventive diplomacy is often reactive rather than proactive, undermining its effectiveness as a tool for constitutional crisis prevention.¹⁰⁵

2.3 Mediation, Dialogue, and the Normalisation of Unconstitutional Power

Once constitutional crises occur, mediation and political dialogue become the dominant diplomatic responses.¹⁰⁶ Special envoys, ad hoc negotiation frameworks, and transitional arrangements are deployed to restore stability.¹⁰⁷ While mediation is normatively associated with peaceful dispute resolution, its application in Sub-Saharan Africa has often produced outcomes that undermine constitutionalism.¹⁰⁸ Negotiated transitions frequently prioritise elite accommodation over constitutional restoration.¹⁰⁹ Military leaders who seize power unconstitutionally are incorporated into transitional governments, granted extended timelines, or permitted to contest future elections.¹¹⁰ These practices confer legitimacy on

¹⁰¹ African Journal of Law, Political Research and Administration, ‘Challenges of ECOWAS in Imposing Democratic Norms in West Africa’ (2025) 8(1) 55 https://abjournals.org/ajlp/ra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRA_U41EAPKD.pdf accessed 4 January 2026.

¹⁰² Ibid

¹⁰³ Ntwali G, ‘The African Union and its Regional Economic Communities Confronted with Coups d’État: Between Condemning and Condoning’ (2025) 10 Frontiers in Political Science 1404205 <https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2025.1404205/full> accessed 4 January 2026.

¹⁰⁴ Ibid

¹⁰⁵ African Peer Review Mechanism, Africa Governance Report 2023 (AU 2023) <https://aprm.au.int/sites/default/files/files/2023-07/eng-agr-23-1.pdf> accessed 4 January 2026.

¹⁰⁶ MICHA WIEBUSCH CONSTITUTION BUILDING IN THE AFRICAN UNION LAW, POLICY AND PRACTICE University of Antwerp 2020

¹⁰⁷ KRISTIANA POWELL THE AFRICAN UNION’S EMERGING THE AFRICAN UNION’S EMERGING PEACE AND SECURITY REGIME PEACE AND SECURITY REGIME OPPORTUNITIES AND CHALLENGES FOR DELIVERING ON THE RESPONSIBILITY TO PROTECT. THE NORTH-SOUTH INSTITUTE OTTAWA, CANADA ISS MONOGRAPH SERIES No 119, MAY 2005

¹⁰⁸ Kwaku Agyeman-Budu Countering Constitutional Crises within the African Union Framework: Legality, Legitimacy and Suitability. *Recht in Afrika – Law in Africa – Droit en Afrique* 25 (2022)

¹⁰⁹ Abadir M Ibrahim, Evaluating a decade of the African Union’s protection of human rights and democracy: A post-Tahrir assessment. (2012) 12 AFRICAN HUMAN RIGHTS LAW JOURNAL

¹¹⁰ Wiebusch K, ‘The African Charter on Democracy, Elections and Governance: Past, Present and Future’ (2019) 21 Journal of African Law 45 <https://journals.sagepub.com/doi/10.1177/0002039719896109> accessed 4 January 2026.

unconstitutional actors and weaken deterrence.¹¹¹ As Franck argues, democratic legitimacy depends not only on political outcomes but on adherence to lawful processes.¹¹² Where mediation compromises constitutional principles in favour of short-term stability, it contributes to the normalisation of illegality and incentivises future unconstitutional interventions.¹¹³

Mediation is frequently employed by regional and international actors as a conflict-management tool following unconstitutional changes of government.¹¹⁴ While mediation aims to restore stability, its implementation in Sub-Saharan Africa has often had the unintended consequence of legitimising unconstitutional regimes.¹¹⁵ In Mali, following the 2020 and 2021 coups, mediation efforts led by ECOWAS and supported by the AU resulted in transitional arrangements that allowed military leaders to retain significant control over the political process.¹¹⁶ Despite clear violations of constitutional order, transitional timelines were repeatedly extended, enabling the entrenchment of military authority.¹¹⁷ Rather than restoring constitutional governance, mediation effectively normalised unconstitutional rule.¹¹⁸

A similar pattern emerged in Burkina Faso, where successive coups in 2022 were followed by negotiations that prioritised stability over constitutional restoration.¹¹⁹ Military leaders were incorporated into transitional governance frameworks with minimal accountability.¹²⁰ These cases illustrate how mediation, when detached from firm constitutional benchmarks, can weaken deterrence against future unconstitutional changes of government.¹²¹ The

¹¹¹ Sfiso Benard Nxumalo 'Rolling the Boulder Uphill: The African Union, Constitutional Amendments, and the Struggle for Democracy and Rule of Law As-Siyasi: Journal of Constitutional Law E-ISSN 2798-3528, Vol. 4 No. 2 (2024) DOI: <http://dx.doi.org/10.24042/as-siyasi.v4i2.24291>

¹¹² Ibid

¹¹³ SARAH NYAKERARIO ONDUKO DEMOCRATISATION CHALLENGES IN AFRICA AND THE ROLE OF THE AFRICAN UNION SEPTEMBER 2014 UNIVERSITY OF NAIROBI

¹¹⁴ Ibid

¹¹⁵ Cambridge Journal of African Law, 'Presidential Term Limits and the African Union' (2021) 65 Journal of African Law 112 <https://www.cambridge.org/core/journals/journal-of-african-law/article/presidential-term-limits-and-the-african-union/1F134034E67D93524560D31A067779B7> accessed 4 January 2026.

¹¹⁶ African Journal of Law, Political Research and Administration, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlpra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRU41EAPKD.pdf accessed 4 January 2026.

¹¹⁷ Ntwali G, 'The African Union and its Regional Economic Communities Confronted with Coups d'État: Between Condemning and Condoning' (2025) 10 Frontiers in Political Science 1404205 <https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2025.1404205/full> accessed 4 January 2026.

¹¹⁸ Ibid

¹¹⁹ African Peer Review Mechanism, Africa Governance Report 2023 (AU 2023) <https://aprm.au.int/sites/default/files/files/2023-07/eng-agr-23-1.pdf> accessed 4 January 2026.

¹²⁰ Ibid

¹²¹ African Peer Review Mechanism, Africa Governance Report 2023 (AU 2023) <https://aprm.au.int/sites/default/files/files/2023-07/eng-agr-23-1.pdf> accessed 4 January 2026.

normalisation of unconstitutional power is evident in **Mali and Burkina Faso**, where military leaders who seized power were incorporated into transitional frameworks through AU and ECOWAS-led mediation.¹²² In Mali, despite two successive coups in 2020 and 2021, the transitional military authorities were allowed extended timelines and continued participation in governance, thereby entrenching military dominance.¹²³ Such mediation prioritised stability over constitutional restoration, weakening deterrence against future coups.¹²⁴

2.4 Sanctions, Selective Enforcement, and Political Bargaining

Sanctions constitute the principal coercive diplomatic tool available to the AU and regional organisations, while UN sanctions are rarely applied in purely constitutional crises.¹²⁵ Measures such as suspension from organisational activities, travel bans, and economic sanctions are frequently imposed but unevenly enforced.¹²⁶ Sanctions regimes are weakened by political bargaining, humanitarian concerns, and lack of consensus among member states.¹²⁷ In several cases, sanctions have been lifted without full restoration of constitutional order, signalling that compliance is negotiable rather than obligatory.¹²⁸ This selective enforcement undermines the credibility of anti-coup norms and reinforces perceptions of double standards, thereby reducing the deterrent effect of sanctions as a preventive tool.¹²⁹

Sanctions are a central enforcement mechanism within the AU's normative framework against unconstitutional changes of government.¹³⁰ However, their inconsistent application has

¹²² Cambridge Journal of African Law, 'Presidential Term Limits and the African Union' (2021) 65 Journal of African Law 112 <https://www.cambridge.org/core/journals/journal-of-african-law/article/presidential-term-limits-and-the-african-union/1F134034E67D93524560D31A067779B7> accessed 4 January 2026.

¹²³ Ibid

¹²⁴ African Journal of Law, Political Research and Administration, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlptra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRA_U41EAPKD.pdf accessed 4 January 2026.

¹²⁵ Jeremy Sarkin, (2009) page 1–33 The Role of the United Nations, the African Union and Africa's Sub-Regional Organizations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect. doi:10.1017/S0021855309000011 Printed in the United Kingdom

¹²⁶ RENICE AKELLO MIDAR The role of united Nations Security Council and regional arrangements in the maintenance of international peace and security arrangements in the maintaince of I international peace and security: the case of the organization of African unity (OAU)/ African union (AU). University of Nairobi <https://erepository.uonbi.ac.ke/server/api/core/bitstreams/9fdb2d5b-70cf-42be-afc3-d2f112513a04/content>

¹²⁷ Resolving African crises Leadership role for African States and the African Union in Darfur AJCR 2009/1

¹²⁸ <http://etd.aau.edu.et/dspace/bitstream/123456789/2363/1/106> SC/15249 30 March 2023

¹²⁹ Chitransjali Negi, When the United Nations (UN) Fails: Analysing Landmark Cases of Ineffectiveness and Accountability in Global Crises"

¹³⁰ African Journal of Law, Political Research and Administration, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlptra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRA_U41EAPKD.pdf accessed 4 January 2026.

significantly undermined their deterrent effect.¹³¹ The case of Chad is particularly illustrative.¹³² Following the death of President Idriss Déby, the military installed Mahamat Déby Itno as head of a transitional military council, in clear violation of constitutional succession rules.¹³³ Despite this, the AU refrained from imposing sanctions, citing security concerns and regional stability. In contrast, sanctions were swiftly imposed on military regimes in Mali, Guinea, and Burkina Faso.¹³⁴ This selective enforcement reflects political considerations rather than principled adherence to constitutional norms.¹³⁵ It sends a message that compliance with anti-coup standards is negotiable, thereby weakening the credibility of regional enforcement mechanisms and encouraging future unconstitutional seizures of power.¹³⁶

Selective enforcement of sanctions further undermines deterrence.¹³⁷ Following the **2021 coup in Chad**, the African Union refrained from imposing sanctions despite the unconstitutional succession of Mahamat Déby Itno.¹³⁸ In contrast, sanctions were imposed swiftly in cases such as Mali and Guinea.¹³⁹ This inconsistency reflects political bargaining rather than principled enforcement and signals that compliance with anti-coup norms is negotiable.¹⁴⁰

¹³¹ African Peer Review Mechanism, Africa Governance Report 2023 (AU 2023) <https://aprm.au.int/sites/default/files/files/2023-07/eng-agr-23-1.pdf> accessed 4 January 2026.

¹³² Fombad CM and Steytler N, 'The African Union and the Advancement of Democracy: The Problem of Unconstitutional Retention of Governmental Power' in van der Westhuizen C and Maluwa-Banda D (eds), *African Governance and Democracy: Challenges and Prospects* (Oxford University Press 2021).

¹³³ Ibid

¹³⁴ Cambridge Journal of African Law, 'Presidential Term Limits and the African Union' (2021) 65 *Journal of African Law* 112 <https://www.cambridge.org/core/journals/journal-of-african-law/article/presidential-term-limits-and-the-african-union/1F134034E67D93524560D31A067779B7> accessed 4 January 2026.

¹³⁵ Wiebusch K, 'The African Charter on Democracy, Elections and Governance: Past, Present and Future' (2019) 21 *Journal of African Law* 45 <https://journals.sagepub.com/doi/10.1177/0002039719896109> accessed 4 January 2026.

¹³⁶ Ibid

¹³⁷ African Journal of Law, Political Research and Administration, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlpra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPR_A41EAPKD.pdf accessed 4 January 2026.

¹³⁸ Ibid

¹³⁹ Hegre H, (2023) Reflections on the Evolution of Conflict Early Warning. <https://stabilityjournal.org/articles/10.5334/sta.857> accessed 4 January 2026.

¹⁴⁰ RENICE AKELLO MIDAR The role of United Nations Security Council and regional arrangements in the maintenance of international peace and security arrangements in the maintenance of international peace and security: the case of the organization of African unity (OAU)/ African union (AU). University of Nairobi <https://erepository.uonbi.ac.ke/server/api/core/bitstreams/9fdb2d5b-70cf-42be-afc3-d2f112513a04/content>

2.5 Sovereignty, Elite Solidarity, and Institutional Self-Constraint

Despite the AU's formal shift from non-interference to non-indifference, state sovereignty remains a central constraint on collective action.¹⁴¹ Many African leaders are reluctant to endorse robust enforcement measures against unconstitutional governance due to fears of precedent and political reciprocity.¹⁴² This dynamic produces a form of elite political solidarity, whereby constitutional violations are tolerated to preserve regime security.¹⁴³ At the UN level, sovereignty concerns are compounded by geopolitical interests within the Security Council, where strategic alliances often override normative considerations.¹⁴⁴ As a result, institutional responses are shaped by political acceptability rather than constitutional legality, leading to systematic under-enforcement of established norms.¹⁴⁵

2.6 Political Culture, Executive Dominance, and Constitutional Manipulation

In many Sub-Saharan African states, political authority remains highly personalised and executive power weakly constrained.¹⁴⁶ Constitutions are frequently amended or manipulated to entrench incumbents, weaken opposition, and undermine judicial oversight.¹⁴⁷ Such practices erode constitutional legitimacy and create conditions conducive to military intervention. However, international actors often remain diplomatically silent during periods of constitutional manipulation, engaging only after coups occur.¹⁴⁸ This tolerance reflects an implicit prioritisation of regime continuity over constitutional integrity.¹⁴⁹ As Mbembe observes, post-colonial governance structures often privilege control over accountability, rendering constitutional norms vulnerable to instrumentalization.¹⁵⁰

¹⁴¹ Stronger United Nations Partnership with African Union Possible Due to Revamped Regional Arrangements, Security Council Presidential Statement Says Adoption of African Peace and Security Architecture Road Map (2016-2020) Welcomed. SC/12370 24 May 2016

¹⁴² Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, *African Security*, 16:1, 95-119, DOI: 10.1080/19392206.2023.2195748

¹⁴³ African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, July 9, 2002 (the PSC Protocol).

¹⁴⁴ Ndubuisi Christian Ani, THE AFRICAN UNION NON-INDIFFERENCE STANCE: Lessons From Sudan and Libya *African Conflict & Peacebuilding Review* 6, no. 2 (Fall 2016), 1–22 doi: 10.2979/africonfpeacrevi.6.2.01

¹⁴⁵ Magliveras, K. D., & Gino, J. N. (2002). The African Union: A New Dawn for Africa? *The International and Comparative Law Quarterly*, 51, 415-425. <https://www.jstor.org/stable/3663236>
<https://doi.org/10.1093/iclq/51.2.415>

¹⁴⁶ Ibid

¹⁴⁷ Interlinkages between the development, peace and security, human rights and humanitarian pillars in West and Central Africa

¹⁴⁸ Ibid

¹⁴⁹ Musau, S. (2023). Regional Intergovernmental Organizations to Conflict Prevention and Resolution: The Case of the African Union in the Nile River Conflict. *Open Journal of Social Sciences*, 11, 361-400. <https://doi.org/10.4236/jss.2023.111026>

¹⁵⁰ Ibid

2.7 Militarisation of Politics and Weak Civilian Control

The continued involvement of the military in politics reflects weak civilian oversight, politicised security sectors, and historical patterns of intervention.¹⁵¹ In several Sub-Saharan African states, armed forces perceive themselves as guardians of national stability rather than subordinate to civilian authority.¹⁵² Coups are frequently justified as corrective interventions against corruption or governance failure, narratives that resonate with populations frustrated by civilian leadership.¹⁵³ Where public trust in civilian institutions is weak, international condemnation lacks domestic resonance.¹⁵⁴ The UN and AU possess limited non-legal leverage over national militaries, particularly where civilian institutions are compromised, significantly constraining preventive engagement.¹⁵⁵

2.8 Socio-Economic Grievances and the Crisis of Constitutional Legitimacy

Widespread poverty, inequality, youth unemployment, and economic marginalisation undermine public confidence in constitutional governance.¹⁵⁶ Where democratic institutions fail to deliver socio-economic benefits, constitutional order loses social legitimacy.¹⁵⁷ In such contexts, unconstitutional changes of government may attract public support or passive acceptance, reducing domestic resistance and complicating international restoration efforts.¹⁵⁸ As Collier notes, political instability is often rooted in structural economic exclusion rather than legal failure alone.¹⁵⁹ Legal and diplomatic interventions that ignore these socio-economic realities therefore lack sustainability.¹⁶⁰

¹⁵¹ Strengthening the partnership between the United Nations and the African Union on issues of peace and security in Africa, including the work of the United Nations Office to the African Union Report of the Secretary-General S/2024/629

¹⁵² Ndubuisi Christian Ani, THE AFRICAN UNION NON-INDIFFERENCE STANCE: Lessons From Sudan and Libya African Conflict & Peacebuilding Review 6, no. 2 (Fall 2016), 1–22 doi: 10.2979/africonfpeacevi.6.2.01

¹⁵³ Sifiso Benard Nxumalo Rolling the Boulder Uphill: The African Union, Constitutional Amendments, and the Struggle for Democracy and Rule of Law As-Siyasi: Journal of Constitutional Law E-ISSN 2798-3528, Vol. 4 No. 2 (2024) DOI: <http://dx.doi.org/10.24042/as-siyasi.v4i2.24291>

¹⁵⁴ Ibid

¹⁵⁵ Sifiso Benard Nxumalo Rolling the Boulder Uphill: The African Union, Constitutional Amendments, and the Struggle for Democracy and Rule of Law As-Siyasi: Journal of Constitutional Law E-ISSN 2798-3528, Vol. 4 No. 2 (2024) DOI: <http://dx.doi.org/10.24042/as-siyasi.v4i2.24291>

¹⁵⁶ Dessu, M. K., Dawit, Y., & Roba, D. S. (2020). Why Has the AU Been Silent on the Ethiopian Dam Dispute? ISS Africa. <https://issafrica.org/iss-today/why-has-the-au-been-silent-on-the-ethiopian-dam-dispute>

¹⁵⁷ Ibid

¹⁵⁸ Leguey-Feilleux, J. R. (2009). The Dynamics of Diplomacy. Lynne Rienner Publishers. <https://doi.org/10.1515/9781685856717>

¹⁵⁹ Ibid

¹⁶⁰ Lama, M. P. (2012). Regional Cooperation and Conflict Resolution. Policy Perspectives, 9, 21-25. <https://www.jstor.org/stable/42922682>

2.9 Institutional Weakness and Governance Capacity Deficits

Weak domestic institutions; judiciaries, legislatures, electoral bodies, and oversight agencies are unable to prevent or correct constitutional violations.¹⁶¹ This institutional fragility allows unconstitutional practices to occur without internal accountability.¹⁶² International actors are poorly equipped to substitute for domestic governance structures, particularly in the absence of coercive authority.¹⁶³ Consequently, constitutional crises evolve into prolonged governance failures rather than discrete legal breaches.¹⁶⁴

2.10 Regional Dynamics, Contagion Effects, and External Interests

Constitutional instability in Sub-Saharan Africa exhibits strong regional contagion effects. Successful coups embolden military actors elsewhere, particularly where responses are inconsistent.¹⁶⁵ Selective enforcement of anti-coup norms erodes deterrence and weakens normative diffusion.¹⁶⁶ External actors further complicate responses by prioritising strategic and security interests over constitutional restoration.¹⁶⁷ This geopolitical pragmatism undermines collective pressure and weakens the normative authority of both the UN and AU.¹⁶⁸

2.11 Conclusion

This chapter has demonstrated that the UN and AU's failure to prevent constitutional crises in Sub-Saharan Africa is primarily driven by non-legal frameworks.¹⁶⁹ Diplomatic caution, political self-interest, militarisation, socio-economic exclusion, institutional weakness, and external geopolitical considerations systematically undermine legal norms.¹⁷⁰ The persistence

¹⁶¹ African Journal of Law, Political Research and Administration, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlp/ra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRA_U41EAPKD.pdf accessed 4 January 2026.

¹⁶² Fafore, O. A. (2016). The African Union and Peace and Security in Central Africa. *Journal of African Union Studies*, 5, 51-66. <https://www.jstor.org/stable/26893814>

¹⁶³ Ndubuisi Christian Ani, THE AFRICAN UNION NON-INDIFFERENCE STANCE: Lessons From Sudan and Libya *African Conflict & Peacebuilding Review* 6, no. 2 (Fall 2016), 1–22 doi: 10.2979/africonfpeacebrevi.6.2.01

¹⁶⁴ Legrenzi, M., & Marina, C. (2013). Regionalism and Regionalization in the Middle East: Options and Challenges. International Peace Institute. <https://www.jstor.org/stable/resrep09496>

¹⁶⁵ Ibid

¹⁶⁶ Stacy-Ann Elvy THEORIES OF STATE COMPLIANCE WITH INTERNATIONAL LAW: ASSESSING THE AFRICAN UNION'S ABILITY TO ENSURE STATE COMPLIANCE WITH THE AFRICAN CHARTER AND CONSTITUTIVE ACT. *GA. J. INT'L & COMP. L.* [Vol. 41:75

¹⁶⁷ Lama, M. P. (2012). Regional Cooperation and Conflict Resolution. *Policy Perspectives*, 9, 21-25. <https://www.jstor.org/stable/42922682>

¹⁶⁸ Magliveras, K. D., & Gino, J. N. (2002). The African Union: A New Dawn for Africa? *The International and Comparative Law Quarterly*, 51, 415-425. <https://www.jstor.org/stable/3663236> <https://doi.org/10.1093/iclq/51.2.415>

¹⁶⁹ Abadir M Ibrahim, Evaluating a decade of the African Union's protection of human rights and democracy: A post-Tahrir assessment. (2012) 12 *AFRICAN HUMAN RIGHTS LAW JOURNAL*

¹⁷⁰ Ibid

of constitutional crises therefore reflects not the absence of law, but the dominance of political realities that render law subordinate to power.¹⁷¹ Effective prevention requires a holistic approach integrating legal enforcement with political accountability, institutional strengthening, security sector reform, and socio-economic inclusion.¹⁷²

¹⁷¹ Abadir M Ibrahim, Evaluating a decade of the African Union's protection of human rights and democracy: A post-Tahrir assessment. (2012) 12 AFRICAN HUMAN RIGHTS LAW JOURNAL

¹⁷² Ibid

CHAPTER THREE

LEGAL FRAMEWORKS GOVERNING THE UNITED NATIONS AND AFRICAN UNION IN THE PREVENTATION OF CONSTITUTIONAL CRISES IN SUB-SAHARAN AFRICA.

3.1 Introduction

The prevention of constitutional crises occupies a central position within contemporary international and regional governance discourse.¹⁷³ In Sub-Saharan Africa, repeated coups d'état, unconstitutional changes of government, and systematic constitutional manipulation have persisted despite the development of elaborate legal frameworks at both the global and continental levels.¹⁷⁴ The United Nations (UN) and the African Union (AU) have formally committed themselves to the promotion of constitutionalism, democratic governance, and the rule of law.¹⁷⁵ Nevertheless, these commitments have not translated into effective prevention of constitutional breakdown.¹⁷⁶ This chapter critically examines the legal frameworks governing the UN and AU's engagement with constitutional crises in Sub-Saharan Africa. It argues that while these frameworks are normatively ambitious, they are structurally constrained by legal ambiguity, sovereignty doctrines, weak enforcement mechanisms, and political discretion.¹⁷⁷ As a result, international and regional legal regimes operate more as declaratory instruments than as effective tools of prevention.¹⁷⁸

3.2 The United Nations Charter and Constitutional Crises

The UN Charter constitutes the foundational legal framework for international peace and security.¹⁷⁹ Article 2(1) affirms the sovereign equality of states.¹⁸⁰ The provision establishes the legal boundaries within which the UN must operate.¹⁸¹ Constitutional crises, including coups d'état and unconstitutional changes of government, are not expressly recognised under the

¹⁷³ African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, July 9, 2002 (the PSC Protocol).

¹⁷⁴ African Union, Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union (Assembly/AHG/Dec.269 (XIV)), February 2, 2010, para 6(ii)(a).

¹⁷⁵ African Union Commission, Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Government in Africa, 17-19 December 2009.

¹⁷⁶ Ibid

¹⁷⁷ Iragi Ntwali V The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning. 2025. Doi:10.3389/fpos.2025.1404205

¹⁷⁸ Ibid

¹⁷⁹ Gawanas B 'The African Union: Concepts and implementation mechanisms relating to human rights' in Bösl A & Diescho J (Eds) (2009) Human Rights in Africa

¹⁸⁰ Ibid

¹⁸¹ Constitutive Act of the African Union (2000).

Charter as threats to international peace.¹⁸² Articles 2(4) and 2(7) restrict the use of force and prohibit intervention in matters essentially within domestic jurisdiction.¹⁸³ Consequently, unconstitutional governance is generally treated as an internal political matter unless it escalates into armed conflict or regional instability.¹⁸⁴ This legal framing significantly constrains preventive engagement.¹⁸⁵ In practice, constitutional crises rarely meet this threshold until violence has already occurred, rendering UN action reactive rather than preventive.¹⁸⁶

The United Nations' response to constitutional crises is fundamentally shaped by the principle of non-intervention in domestic affairs enshrined in Article 2(7) of the UN Charter.¹⁸⁷ Constitutional governance, including the manner in which governments come to power, is generally regarded as falling within a state's internal jurisdiction.¹⁸⁸ As a result, the UN is legally constrained from intervening in cases of unconstitutional change unless such crises escalate beyond domestic boundaries.¹⁸⁹ UN involvement is typically triggered only when internal instability rises to the level of a threat to international peace and security under Article 39 of the Charter.¹⁹⁰ This high threshold means that early constitutional breakdowns; such as term-limit manipulation, electoral fraud, or unconstitutional succession are often tolerated until they produce regional insecurity, armed conflict, or humanitarian crises.¹⁹¹ Consequently, the

¹⁸² Yusuf AA and Ouguergouz F (eds) *The African Union: Legal and Institutional Framework*, Martinus Nijhoff Publishers, Leiden, 2012, 189-190.

¹⁸³ Fombad CM and Steytler N, 'The African Union and the Advancement of Democracy: The Problem of Unconstitutional Retention of Governmental Power' in van der Westhuizen C and Maluwa-Banda D (eds), *African Governance and Democracy: Challenges and Prospects* (Oxford University Press 2021).

¹⁸⁴ United Nations (1945). Charter of the United Nations. <https://www.un.org/en/sections/un-charter/un-charter-full-text>

¹⁸⁵ Issaka K. Souaré The AU and the challenge of unconstitutional changes of government in Africa ISS Paper 197 August 2009 1

¹⁸⁶ Promotion of durable peace through sustainable development in Africa. Report of the Secretary-General United Nations A/79/226-S/2024/550

¹⁸⁷ African Peer Review Mechanism, *Africa Governance Report 2023* (AU 2023) <https://aprm.au.int/sites/default/files/files/2023-07/eng-agr-23-1.pdf> accessed 4 January 2026.

¹⁸⁸ Ibid

¹⁸⁹ Wiebusch K, 'The African Charter on Democracy, Elections and Governance: Past, Present and Future' (2019) 21 *Journal of African Law* 45 <https://journals.sagepub.com/doi/10.1177/0002039719896109> accessed 4 January 2026.

¹⁹⁰ Cambridge Journal of African Law, 'Presidential Term Limits and the African Union' (2021) 65 *Journal of African Law* 112 <https://www.cambridge.org/core/journals/journal-of-african-law/article/presidential-term-limits-and-the-african-union/1F134034E67D93524560D31A067779B7> accessed 4 January 2026.

¹⁹¹ Ntwali G, 'The African Union and its Regional Economic Communities Confronted with Coups d'État: Between Condemning and Condoning' (2025) 10 *Frontiers in Political Science* 1404205 <https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2025.1404205/full> accessed 4 January 2026.

UN's legal framework promotes a reactive rather than preventive approach to constitutional crises.¹⁹²

Constitutional crises fall primarily within the domain of domestic jurisdiction under **Article 2(7)** of the UN Charter.¹⁹³ As a result, the United Nations is legally constrained from intervening in internal governance matters unless such crises escalate into threats to international peace and security under **Article 39**.¹⁹⁴ This legal structure means that unconstitutional changes of government are rarely addressed at an early stage, reinforcing the UN's reactive rather than preventive posture.¹⁹⁵

3.3 Chapter VII Discretion and Political Selectivity

Even where constitutional crises generate broader instability, Security Council action remains subject to political discretion.¹⁹⁶ The veto power of the permanent members introduces a geopolitical filter through which legal obligations are interpreted and applied.¹⁹⁷ The absence of consistent jurisprudence recognising unconstitutional changes of government as threats to international peace has resulted in selective enforcement.¹⁹⁸ Similar crises have elicited markedly different responses depending on strategic interests rather than legal principle.¹⁹⁹ This inconsistency undermines the credibility of the UN's normative commitment to constitutional governance and weakens deterrence.²⁰⁰ As Franck observes, legitimacy in international governance depends on both normative clarity and consistent application.²⁰¹ The

¹⁹² African Journal of Law, Political Research and Administration, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlp/ra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRA_U41EAPKD.pdf accessed 4 January 2026.

¹⁹³ Jallow I, 'The Effectiveness of the Continental Early Warning System in the African Peace and Security Architecture' (University of Pretoria LLM thesis, 2021) <https://repository.up.ac.za/items/5eabeb50-d850-4b7d-b649-29665668eb7c> accessed 4 January 2026.

¹⁹⁴ Hegre H. 'Reflections on the Evolution of Conflict Early Warning' 2023 <https://stabilityjournal.org/articles/10.5334/sta.857> accessed 4 January 2026.

¹⁹⁵ Fombad CM and Steytler N, 'The African Union and the Advancement of Democracy: The Problem of Unconstitutional Retention of Governmental Power' in van der Westhuizen C and Maluwa-Banda D (eds), *African Governance and Democracy: Challenges and Prospects* (Oxford University Press 2021).

¹⁹⁶ Ibid

¹⁹⁷ RENICE AKELLO MIDAR The role of United Nations Security Council and regional arrangements in the maintenance of international peace and security arrangements in the maintenance of international peace and security: the case of the organization of African unity (OAU)/ African union (AU). University of Nairobi <https://erepository.uonbi.ac.ke/server/api/core/bitstreams/9fdb2d5b-70cf-42be-afc3-d2f112513a04/content>

¹⁹⁸ Ibid

¹⁹⁹ BEN KIOKO The right of intervention under the African Union's Constitutive Act: From non-interference to non-intervention IRRC December 2003 Vol. 85 No 852

²⁰⁰ Ibid

²⁰¹ Deborah Isser Gael Raballand Michael Watts Diane Zovighian Governance in Sub-Saharan Africa in the 21st Century: Four Trends and an Uncertain Outlook. Policy Research Working Paper 10713

discretionary nature of Security Council action therefore represents a fundamental legal weakness in the UN framework.²⁰²

The UN's primary mandate is the maintenance of international peace and security, not the enforcement of constitutional democracy within states.²⁰³ As a result, the Security Council tends to prioritise stability over constitutional legitimacy.²⁰⁴ Internal political crises receive sustained attention only when they generate cross-border consequences such as refugee flows, terrorism, or regional instability.²⁰⁵ This approach is evident in cases such as Mali, where sustained UN engagement followed the escalation of internal political instability into armed conflict.²⁰⁶ Earlier constitutional irregularities, including disputed elections and governance failures, did not attract meaningful preventive intervention.²⁰⁷ This institutional focus limits the UN's capacity to address unconstitutional changes of government at an early stage, allowing unconstitutional regimes to consolidate power before international action is taken.²⁰⁸

The UN's response to unconstitutional changes of government is shaped by its primary mandate to maintain international peace and security rather than to enforce constitutional governance.²⁰⁹ As a result, the Security Council is more likely to act where internal crises generate regional instability, refugee flows, or armed conflict.²¹⁰ This approach limits early preventive engagement and allows unconstitutional regimes to consolidate power before international attention is triggered.²¹¹

²⁰² Hegre H, et al, 'Reflections on the Evolution of Conflict Early Warning' (2023) 9 *Stability: International Journal of Security & Development* 857 <https://stabilityjournal.org/articles/10.5334/sta.857> accessed 4 January 2026.

²⁰³ Ibid

²⁰⁴ Wiebusch K, 'The African Charter on Democracy, Elections and Governance: Past, Present and Future' (2019) 21 *Journal of African Law* 45 <https://journals.sagepub.com/doi/10.1177/0002039719896109>

²⁰⁵ Cambridge Journal of African Law, 'Presidential Term Limits and the African Union' (2021) 65 *Journal of African Law* 112 <https://www.cambridge.org/core/journals/journal-of-african-law/article/presidential-term-limits-and-the-african-union/1F134034E67D93524560D31A067779B7>

²⁰⁶ Ntwali G, 'The African Union and its Regional Economic Communities Confronted with Coups d'État: Between Condemning and Condoning' (2025) 10 *Frontiers in Political Science* 1404205 <https://www.frontiersin.org/journals/political-science/articles/10.3389/fpos.2025.1404205/full>

²⁰⁷ Ibid

²⁰⁸ African Journal of Law, Political Research and Administration, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlpra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRA_U41EAPKD.pdf

²⁰⁹ Ibid

²¹⁰ Fombad CM and Steytler N, 'The African Union and the Advancement of Democracy: The Problem of Unconstitutional Retention of Governmental Power' in van der Westhuizen C and Maluwa-Banda D (eds), *African Governance and Democracy: Challenges and Prospects* (Oxford University Press 2021).

²¹¹ Ibid

3.4 Chapter VIII and Deference to Regional Organisations

Chapter VIII of the UN Charter encourages the use of regional arrangements in maintaining peace and security.²¹² In the African context, this has resulted in systematic deference to the AU and sub-regional bodies such as ECOWAS.²¹³ While subsidiarity promotes regional ownership, it has also produced institutional diffusion of responsibility.²¹⁴ The UN often refrains from decisive engagement pending regional consensus, even where regional bodies lack the political unity or enforcement capacity to act effectively.²¹⁵ This legal deference creates gaps in preventive action and allows constitutional crises to escalate unchecked. Rather than reinforcing regional capacity, Chapter VIII practice has often facilitated UN disengagement.²¹⁶

Both the UN and AU legal frameworks demonstrate a structural inability to address internal constitutional breakdowns proactively.²¹⁷ While the AU has developed stronger normative instruments condemning unconstitutional changes of government, enforcement remains inconsistent.²¹⁸ The UN, on the other hand, remains constrained by legal doctrines prioritising sovereignty and peace over democratic governance.²¹⁹ This institutional design results in a governance gap where internal constitutional crises are insufficiently addressed until they escalate into broader security threats.²²⁰ Consequently, the failure of these institutions lies not in the absence of norms, but in their inability to ensure internal constitutional peace within states.²²¹ This failure directly undermines democratic consolidation and long-term stability in

²¹² Stronger United Nations Partnership with African Union Possible Due to Revamped Regional Arrangements, Security Council Presidential Statement Says Adoption of African Peace and Security Architecture Road Map (2016-2020) Welcomed. SC/12370 24 May 2016

²¹³ Ibid

²¹⁴ Chitranjali Negi, 'When the United Nations (UN) Fails: Analysing Landmark Cases of Ineffectiveness and Accountability in Global Crises'

²¹⁵ Ibid

²¹⁶ Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, *African Security*, 16:1, 95-119, DOI: 10.1080/19392206.2023.2195748

²¹⁷ Ibid

²¹⁸ *African Journal of Law, Political Research and Administration*, 'Challenges of ECOWAS in Imposing Democratic Norms in West Africa' (2025) 8(1) 55 https://abjournals.org/ajlpra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRU_U41EAPKD.pdf

²¹⁹ *Cambridge Journal of African Law*, 'Presidential Term Limits and the African Union' (2021) 65 *Journal of African Law* 112 <https://www.cambridge.org/core/journals/journal-of-african-law/article/presidential-term-limits-and-the-african-union/1F134034E67D93524560D31A067779B7>

²²⁰ Jallow I, 'The Effectiveness of the Continental Early Warning System in the African Peace and Security Architecture' (University of Pretoria LLM thesis, 2021) <https://repository.up.ac.za/items/5eabeb50-d850-4b7d-b649-29665668eb7c>

²²¹ African Peer Review Mechanism, *Africa Governance Report 2023* (AU 2023) <https://aprm.au.int/sites/default/files/files/2023-07/eng-agr-23-1.pdf>

Sub-Saharan Africa.²²² Throughout this chapter, the analysis focuses on the failure of international and regional institutions to prevent internal constitutional breakdowns, rather than on the regulation of inter-state armed conflict or external military intervention.

3.5 Responsibility to Protect and Its Legal Limits

The Responsibility to Protect (R2P), endorsed by the UN General Assembly in 2005, represents a normative shift from non-intervention to sovereignty as responsibility.²²³ However, R2P is narrowly confined to genocide, war crimes, ethnic cleansing, and crimes against humanity.²²⁴ Constitutional crises do not fall within R2P's legal scope unless accompanied by mass atrocity crimes.²²⁵ Moreover, R2P implementation requires Security Council authorisation, reintroducing political discretion and veto constraints.²²⁶ As a result, R2P offers no viable legal basis for preventing unconstitutional changes of government, reinforcing the UN's structural inability to intervene at early stages of constitutional breakdown.²²⁷

3.6 The African Union's Normative Legal Framework

In contrast to the UN, the AU has developed explicit legal norms condemning unconstitutional changes of government.²²⁸ The Lomé Declaration on Unconstitutional Changes of Government (2000) represents the foundational articulation of the AU's anti-coup regime.²²⁹ The Declaration identifies unconstitutional changes to include military coups, mercenary interventions, refusal to relinquish power after elections, and constitutional manipulation.²³⁰ Despite its normative clarity, the Lomé Declaration is non-binding and lacks enforcement mechanisms, relying primarily on political condemnation.²³¹

²²² Hegre H. Reflections on the Evolution of Conflict Early Warning' 2023 <https://stabilityjournal.org/articles/10.5334/sta.857> accessed 4 January 2026.

²²³ Jeremy Sarkin, The Role of the United Nations, the African Union and Africa's Sub-Regional Organizations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect *Journal of African Law*, 53, 1 (2009), 1–33 doi:10.1017/S0021855309000011 Printed in the United Kingdom

²²⁴ Ibid

²²⁵ Resolving African crises Leadership role for African States and the African Union in Darfur *AJCR* 2009/1

²²⁶ Ibid

²²⁷ <https://etd.aau.edu.etdspace/bitstream/123456789/2363/1/106> SC/15249 30 March 2023

²²⁸ Deborah Isser Gael Raballand Michael Watts Diane Zovighian Governance in Sub-Saharan Africa in the 21st Century: Four Trends and an Uncertain Outlook. Policy Research Working Paper 10713

²²⁹ Ibid

²³⁰ Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, *African Security*, 16:1, 95-119, DOI: 10.1080/19392206.2023.2195748

²³¹ Ibid

3.7 The AU Constitutive Act and the Principle of Non-Indifference

The AU Constitutive Act marks a significant departure from the Organisation of African Unity's strict non-interference doctrine.²³² Article 4(p) condemns unconstitutional changes of government, while Article 30 mandates suspension of governments that come to power unconstitutionally.²³³ However, Article 30 is punitive rather than corrective.²³⁴ Suspension excludes regimes from AU participation but does not compel restoration of constitutional order.²³⁵ Furthermore, Article 4(h), which permits intervention in grave circumstances, is limited to mass atrocity crimes and does not extend to unconstitutional governance.²³⁶ This legal architecture reflects a tension between normative ambition and operational restraint, resulting in symbolic enforcement rather than effective prevention.²³⁷

3.8 The Peace and Security Council Protocol

The Protocol Relating to the Establishment of the Peace and Security Council (PSC) equips the AU with mechanisms for early warning, preventive diplomacy, sanctions, and peace support operations.²³⁸ In theory, these tools provide a comprehensive legal framework for crisis prevention.²³⁹ In practice, their activation depends on political consensus among member states, many of whom face similar constitutional vulnerabilities.²⁴⁰ Financial dependence on external donors further constrains the AU's autonomy, limiting its ability to deploy coercive measures independently.²⁴¹ The PSC framework therefore suffers from institutional weakness rather than legal insufficiency.²⁴²

²³² Stacy-Ann Elvy THEORIES OF STATE COMPLIANCE WITH INTERNATIONAL LAW: ASSESSING THE AFRICAN UNION'S ABILITY TO ENSURE STATE COMPLIANCE WITH THE AFRICAN CHARTER AND CONSTITUTIVE ACT. GA. J. INT'L & COMP. L. [Vol. 41:75]

²³³ Ibid

²³⁴ Getachew M. Dires African Union Gone Awry: A Critical Analysis of its Constitutive Act. Central Connecticut State University May 2024

²³⁵ Ibid

²³⁶ Isanga, Joseph M. "The Constitutive Act of the African Union, African Courts and the Protection of Human Rights: New Dispensation." Santa Clara Journal of International Law 11 (2013 2012): 267.

²³⁷ Ibid

²³⁸ African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, July 9, 2002 (the PSC Protocol).

²³⁹ Ibid

²⁴⁰ Isanga, Joseph M. "The Constitutive Act of the African Union, African Courts and the Protection of Human Rights: New Dispensation." Santa Clara Journal of International Law 11 (2013 2012): 267.

²⁴¹ African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, July 9, 2002 (the PSC Protocol).

²⁴² Ibid

3.9 The African Charter on Democracy, Elections and Governance

The African Charter on Democracy, Elections and Governance (ACDEG) represents the AU's most comprehensive legal instrument on constitutionalism.²⁴³ It obliges states to promote democratic governance, respect constitutional order, and prohibit unconstitutional changes of government.²⁴⁴ Despite its normative strength, ACDEG suffers from low ratification rates and weak enforcement mechanisms.²⁴⁵ There is no independent monitoring body with coercive authority, and compliance relies heavily on political goodwill.²⁴⁶ As a result, ACDEG functions more as a normative benchmark than as an enforceable legal regime.²⁴⁷ Article 49 creates obligations for reporting but it carries no sanctions for non-compliance.

3.10 Human Rights Law and Constitutional Crises

The African Charter on Human and Peoples' Rights provides an additional legal framework relevant to constitutional crises, particularly where unconstitutional governance is accompanied by human rights violations.²⁴⁸ However, human rights enforcement mechanisms remain slow and non-coercive.²⁴⁹ The failure to integrate human rights adjudication into AU responses to constitutional crises further weakens the legal framework's preventive potential.²⁵⁰

3.11 Sub-Regional Legal Regimes and Fragmentation

Sub-regional organisations, particularly ECOWAS, have developed robust legal instruments prohibiting unconstitutional changes of government.²⁵¹ While these regimes have occasionally demonstrated greater enforcement capacity, their coexistence with AU and UN frameworks has resulted in normative fragmentation.²⁵² Divergent thresholds for action, inconsistent

²⁴³ African Union, Declaration on the Principles Governing Democratic Elections in Africa, AHG/Decl.1 (XXXVIII), 2002, June 3, 2023.

²⁴⁴ African Union, African Charter on Democracy, Elections and Governance, January 30, 2007,

²⁴⁵ African Union, Report of the Commission on Governance, Constitutionalism and Elections in Africa (Assembly/AU/9 (XXVI)), January 31, 2016, para. 27.

²⁴⁶ African Union Commission, Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Government in Africa, 17-19 December 2009.

²⁴⁷ African Union, Report of the Ministerial Meeting on the Draft African Charter on Democracy, Elections and Governance and revising the Lomé declaration on unconstitutional government changes in Africa, 25-29 June 2006

²⁴⁸ Addaney M, Nyarko MG, Boshoff E (eds), Governance, Human Rights and Political Transformation in Africa, Palgrave Macmillan, Cham, 2020, 42-43

²⁴⁹ Ibid

²⁵⁰ African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, July 9, 2002 (the PSC Protocol).

²⁵¹ African Union, 'Regional Economic Communities', on May 19, 2022. - (RECs)

²⁵² Ibid

coordination, and overlapping mandates complicate collective responses and undermine legal coherence.²⁵³

3.12 Critical Assessment of Legal Frameworks in Practice

The application of these legal frameworks in recent Sub-Saharan African constitutional crises reveals a consistent pattern of under-enforcement.²⁵⁴ In Mali, Guinea, Burkina Faso, and Niger, legal instruments were invoked rhetorically but applied selectively and inconsistently.²⁵⁵ The central problem is not the absence of law, but the lack of binding enforcement mechanisms and political will to operationalise existing norms.²⁵⁶ Legal frameworks are subordinated to diplomatic caution, sovereignty concerns, and elite self-interest.²⁵⁷

3.13 Conclusion

This chapter has demonstrated that the UN and AU possess extensive legal frameworks aimed at preventing constitutional crises in Sub-Saharan Africa.²⁵⁸ However, these frameworks are constrained by sovereignty doctrines, political discretion, weak enforcement mechanisms, and institutional fragmentation.²⁵⁹ The result is a system in which legal norms exist primarily at the declaratory level, with limited preventive effect.²⁶⁰ This legal failure sets the foundation for the non-legal constraints examined in Chapter Two and explains why constitutional crises persist despite strong normative commitments.²⁶¹

²⁵³ African Union, Declaration on the Principles Governing Democratic Elections in Africa, AHG/Decl.1 (XXXVIII), 2002, June 3, 2023.

²⁵⁴ African Charter on Maritime Security, Safety and Development of 2016.

²⁵⁵ Bernal C, 'Informal Constitutional Change: A Critical Introduction and Appraisal' 62(3) American Journal of Comparative Law, 2014, 493.

²⁵⁶ Bjarnesen J, 'Constitutional Coups have often preceded military ones' The Nordic Africa Institute, October 7, 2021 – on February 1, 2023.

²⁵⁷ Ibid

²⁵⁸ Rumbidzai Dube, fighting unconstitutional changes of government or merely politicking? A critical analysis of the African Union response. October 2010

²⁵⁹ Kithure Kindiki, the normative and institutional framework of the African Union relating to the protection of human rights and the maintenance of international peace and security: A critical appraisal 2003 AFRICAN HUMAN RIGHTS LAW JOURNAL

²⁶⁰ Getachew M. Dires African Union Gone Awry: A Critical Analysis of its Constitutive Act. Central Connecticut State University May 2024

²⁶¹ Ibid

CHAPTER FOUR DATA ANALYSIS, PRESENTATION, AND INTERPRETATION OF RESULTS.

4.1 Introduction

This chapter provides a detailed analysis, presentation, and interpretation of the findings arising from the study on the failure of the United Nations (UN) and the African Union (AU) to prevent constitutional crises in Sub-Saharan Africa. The analysis moves beyond description to explain institutional failure, enforcement gaps, and the structural incapacity of preventive mechanisms. Given the doctrinal and qualitative nature of the research, the analysis is based on a systematic examination of legal instruments, institutional practice, official communiqués, and selected case studies.²⁶² The chapter moves beyond description to critically interrogate how and why existing frameworks have failed to translate normative commitments into effective preventive outcomes.

4.2 Nature and Sources of Data

The study relied on qualitative data drawn from both primary and secondary sources. Primary sources included international and regional legal instruments such as the UN Charter, the AU Constitutive Act, the African Charter on Democracy, Elections and Governance (ACDEG), the Protocol Relating to the Establishment of the Peace and Security Council, UN Security Council resolutions, AU Peace and Security Council communiqués, and official statements issued in response to coups and constitutional crises.²⁶³ Secondary sources comprised peer-reviewed journal articles, scholarly books, policy reports, and evaluations by organisations such as the International Crisis Group and the African Union Commission.²⁶⁴ Case studies were purposively selected from Sub-Saharan Africa to reflect recurring patterns of unconstitutional changes of government.²⁶⁵ These included Mali, Guinea, Burkina Faso, and Niger.²⁶⁶ The

²⁶² Getachew M. Dires African Union Gone Awry: A Critical Analysis of its Constitutive Act. Central Connecticut State University May 2024

²⁶³ Diallo, A. Informational confrontation between ECOWAS and the Alliance of Sahel States. School of Economic Warfare. 2024

²⁶⁴ CA Odinkalu 'Concerning Kenya: The Current AU Position on Unconstitutional Changes in Government' Open Society Justice Initiative in Africa (January 2008).

²⁶⁵ Boisvert, M.-A. (2022). Coup's d'état in Africa: uniforms back to politics.

²⁶⁶ Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, African Security, DOI: 10.1080/19392206.2023.2195748

selected cases span different sub-regions and time periods, allowing for comparative assessment and identification of systemic trends rather than isolated failures.²⁶⁷

4.2.1 Source Analysis

The primary sources include:

1. UN legal instruments: UN Charter, R2P doctrine, Security Council resolutions, and General Assembly documents.
2. AU legal instruments: Constitutive Act, African Charter on Democracy, Elections and Governance (ACDEG), PSC Protocol, and Lomé Declaration.
3. Case studies: Mali (2012, 2021), Guinea (2021), Burkina Faso (2015, 2022), and Niger (2023).
4. Secondary sources: Academic journal articles, books, reports from International Crisis Group, and AU/UN evaluations.

Each source was systematically reviewed to extract information on: The occurrence and nature of constitutional crises, The normative legal provisions applicable, Actual responses by UN and AU, Timing, consistency, and effectiveness of interventions.²⁶⁸

4.3 Method of Data Analysis

Data was analysed using qualitative doctrinal and thematic analysis.²⁶⁹ Doctrinal analysis was employed to interpret the scope, content, and legal implications of the relevant instruments governing UN and AU action.²⁷⁰ Thematic analysis was used to identify recurring patterns across cases, particularly in relation to legal enforcement, political responses, timing of interventions, and outcomes.²⁷¹ This combined approach ensured that legal norms were assessed in light of actual institutional practice.²⁷²

²⁶⁷ Iragi Ntwali V. The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning. 2025 Doi:10.3389/fpos.2025.1404205

²⁶⁸ Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, African Security, DOI: 10.1080/19392206.2023.2195748

²⁶⁹ Ibid

²⁷⁰ Andrew E Yaw Tchie Enhancing the African Union's function in supporting transitional governments in Africa Research Report August 2023

²⁷¹ Iragi Ntwali V. The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning. 2025 Doi:10.3389/fpos.2025.1404205

²⁷² Ibid

4.3 Thematic Analysis

The data was coded into thematic categories corresponding to the study's objectives:

1. Legal Constraints and Frameworks: UN; Sovereignty limitations, Chapter VII discretion, R2P applicability. And AU; ACDEG enforcement, PSC protocols, normative declarations.²⁷³
2. Non-Legal Constraints: Political will and elite interests, Diplomatic culture and consensus politics, Institutional capacity and resource limitations and Historical legacies and socio-economic factors.²⁷⁴
3. Patterns of Intervention: Delayed response or inaction in early-stage coups, Selective enforcement depending on geopolitical interests, Limited coercive action or sanctions despite clear normative breaches.²⁷⁵

4.4 Presentation of Findings

The findings reveal several recurring patterns across the examined cases.²⁷⁶ First, both the UN and AU consistently issued statements condemning unconstitutional changes of government and reaffirming commitment to constitutional order.²⁷⁷ In most instances, the AU acted more swiftly than the UN by suspending affected states from its activities, consistent with Article 4(p) of the Constitutive Act and the ACDEG.²⁷⁸ However, these responses were largely symbolic. Sanctions, where imposed, were often limited, inconsistently applied, or lifted prematurely without full restoration of constitutional order.²⁷⁹ UN responses were even more restrained, often confined to expressions of concern or calls for dialogue, unless the crisis escalated into widespread violence or threatened regional security.²⁸⁰ Across the case studies, early warning indicators were present but failed to trigger decisive preventive action.²⁸¹ In Mali

²⁷³ Promotion of durable peace through sustainable development in Africa** Report of the Secretary-General 16 July 2025 A/80/179 S/2025/468

²⁷⁴ Ibid

²⁷⁵ Bjarnesen J, 'Constitutional Coups have often preceded military ones' The Nordic Africa Institute, October 7, 2021 – on February 1, 2023.

²⁷⁶ UNDP, Soldiers and Citizens: Military Coups and the Need for Democratic Renewal in Africa (July 2023).

²⁷⁷ Promotion of durable peace through sustainable development in Africa** Report of the Secretary-General 16 July 2025 A/80/179 S/2025/468

²⁷⁸ Bingham T, *The Rule of Law*, Penguin Books, London, 2010, 37.

²⁷⁹ AFRICA GOVERNANCE REPORT 2023. UNCONSTITUTIONAL CHANGES OF GOVERNMENT IN AFRICA.

²⁸⁰ Ibid

²⁸¹ Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, *African Security*, 16:1, 95-119, DOI: 10.1080/19392206.2023.2195748

and Guinea, constitutional manipulation and governance deterioration preceded the coups, yet neither organisation intervened effectively at the preventive stage.²⁸² This demonstrates a gap between early warning and early response.²⁸³

4.4.1 Presentation of Findings; Findings are presented through qualitative synthesis and illustrative tabular summary.

Country	Year of Crisis	AU Response	UN Response	Outcome
Mali	2012	Suspension; mediation	Security Council statements	Transitional government established after delay
Mali	2021	Suspension; condemnation	Limited statements; no enforcement	Coup consolidated; interim government recognised regionally
Guinea	2021	Suspension; sanctions threat	Limited engagement	UN Coup accepted de facto; constitutional order disrupted
Burkina Faso	2015	Sanctions; regional mediation	Advisory statements	Partial restoration of order
Burkina Faso	2022	Limited mediation	Non-binding statements	Military takeover consolidated
Niger	2023	PSC deliberation; suspension	UN statements; action	no Crisis ongoing; limited preventive impact

This pattern demonstrates that both the United Nations and the African Union prioritise normative signalling over coercive prevention, thereby allowing unconstitutional regimes to consolidate power before meaningful intervention occurs. This table demonstrates recurring patterns of normative declaration without decisive enforcement.

4.5 Interpretation of Results

Analysis of the data reveals several critical insights:

²⁸² Ibid

²⁸³ Root Causes of Conflicts in Africa Must Be Addressed beyond Traditional Response, Special Adviser Tells Security Council Debate on Silencing Guns Speakers Highlight Link between Durable Peace, Inclusive Development Policies. SC/15249 30 March 2023

1. Legal frameworks are robust but under-enforced: Both the UN and AU possess instruments to prevent unconstitutional changes, but sovereignty constraints, political discretion, and procedural requirements limit early intervention.²⁸⁴
2. Non-legal factors dominate outcomes: Political will, elite self-interest, and institutional capacity frequently determine whether legal norms are operationalised.
3. Consistency and selectivity issues: Interventions are applied unevenly across countries, indicating that political and strategic interests often supersede legal obligation.
4. Fragmentation and coordination gaps: Overlapping mandates between UN, AU, and sub-regional organisations create confusion, reducing the effectiveness of preventive measures.

The results demonstrate that constitutional crises persist due to a combination of legal insufficiency, political constraints, and systemic institutional weaknesses, confirming the research hypothesis.²⁸⁵

4.5.1 Understanding of Findings

The findings indicate that the failure to prevent constitutional crises is not attributable to a lack of normative clarity.²⁸⁶ Both the UN and AU possess well-defined legal standards condemning unconstitutional changes of government.²⁸⁷ Rather, the core problem lies in enforcement and political commitment.²⁸⁸ From a legal perspective, the UN's reliance on state sovereignty and the discretionary nature of Chapter VII action limit its capacity for early intervention. Constitutional crises are rarely categorised as threats to international peace until violence erupts.²⁸⁹ Consequently, the UN's preventive role remains legally and politically

²⁸⁴ Root Causes of Conflicts in Africa Must Be Addressed beyond Traditional Response, Special Adviser Tells Security Council Debate on Silencing Guns Speakers Highlight Link between Durable Peace, Inclusive Development Policies. SC/15249 30 March 2023

²⁸⁵ Jeremy Sarkin, The Role of the United Nations, the African Union and Africa's Sub-Regional Organizations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian Intervention and the Responsibility to Protect *Journal of African Law*, 53, 1 (2009), 1–33 doi:10.1017/S0021855309000011 Printed in the United Kingdom

²⁸⁶ Sfiso Benard Nxumalo Rolling the Boulder Uphill: The African Union, Constitutional Amendments, and the Struggle for Democracy and Rule of Law As-Siyasi: *Journal of Constitutional Law E-ISSN 2798-3528*, Vol. 4 No. 2 (2024) DOI: <http://dx.doi.org/10.24042/as-siyasi.v4i2.24291>

²⁸⁷ Musau, S. (2023). Regional Intergovernmental Organizations to Conflict Prevention and Resolution: The Case of the African Union in the Nile River Conflict. *Open Journal of Social Sciences*, 11, 361-400. <https://doi.org/10.4236/jss.2023.111026>

²⁸⁸ Ibid

²⁸⁹ Magliveras, K. D., & Gino, J. N. (2002). The African Union: A New Dawn for Africa? *The International and Comparative Law Quarterly*, 51, 415-425. <https://www.jstor.org/stable/3663236> <https://doi.org/10.1093/iclq/51.2.415>

constrained.²⁹⁰ The AU's framework is more progressive, particularly through the ACDEG and the PSC Protocol.²⁹¹ Nonetheless, enforcement is undermined by political solidarity among member states, fear of setting precedents, limited resources, and dependence on external funding.²⁹² The AU's reluctance to impose sustained and robust sanctions reflects a tension between normative ambition and political reality.²⁹³

Non-legal factors further exacerbate these legal weaknesses.²⁹⁴ Political elites often prioritise regime survival over constitutional compliance, while socio-economic grievances and weak institutions create fertile ground for military intervention.²⁹⁵ These realities limit the deterrent effect of legal norms.²⁹⁶

4.6 Implications for Research Questions

1. RQ1 (Legal frameworks): Both UN and AU frameworks are normative and declaratory but lack coercive power for early intervention.²⁹⁷
2. RQ2 (Non-legal factors): Political, diplomatic, and socio-economic conditions frequently override legal mandates.²⁹⁸
3. RQ3 (Effectiveness of intervention): Interventions are inconsistent, delayed, and largely symbolic.²⁹⁹

²⁹⁰ Lama, M. P. (2012). Regional Cooperation and Conflict Resolution. *Policy Perspectives*, 9, 21-25. <https://www.jstor.org/stable/42922682>

²⁹¹ Legrenzi, M., & Marina, C. (2013). Regionalism and Regionalization in the Middle East: Options and Challenges. International Peace Institute. <https://www.jstor.org/stable/resrep09496>

²⁹² Leguey-Feilleux, J. R. (2009). *The Dynamics of Diplomacy*. Lynne Rienner Publishers. <https://doi.org/10.1515/9781685856717>

²⁹³ Fafore, O. A. (2016). The African Union and Peace and Security in Central Africa. *Journal of African Union Studies*, 5, 51-66. <https://www.jstor.org/stable/26893814>

²⁹⁴ Bamidele, S. (2016). Re-Assessment of African Union Security Architecture and Emerging Security Challenges in Africa. *Journal of African Union Studies*, 5, 137-165. <https://www.jstor.org/stable/26893859>

²⁹⁵ Re-assessing the (Continued) Need for UN Security Council Authorisation of Regional Enforcement Action: The African Union Twenty Years On Marko Svcevic <https://orcid.org/0000-0002-7879-5267>

²⁹⁶ Balingene Kahombo, Constitutional Crises and the Jurisdiction of the African Union. *Recht in Afrika – Law in Africa – Droit en Afrique* 25 (2022)

²⁹⁷ African Coups Are Making a Comeback.” ISS Africa, October 15, 2021. <https://issafrica.org/iss-today/african-coups-are-making-a-comeback>.

²⁹⁸ Fitz-Gerald, Ann. “Towards a Common Doctrine for African Standby Force-Led Peace Operations.” *International Peacekeeping* 22, no. 4 (August 8, 2017): 616–38.

²⁹⁹ Ias, Aarie. “African Union Security Culture in Practice: African Problems and African Solutions.” *International Affairs* 94, no. 5 (September 2018): 1121–38.

4. RQ4 (Recommendations for reform): Structural strengthening of legal instruments, capacity building, and political accountability mechanisms are necessary to improve preventive effectiveness.³⁰⁰

The analysis directly addresses the research questions of this study. It confirms that while legal frameworks exist at both international and regional levels, their preventive effectiveness is severely limited by sovereignty constraints, selective enforcement, and political considerations.³⁰¹ It also demonstrates that non-legal factors play a decisive role in shaping outcomes, often overriding formal legal obligations.³⁰²

4.7 Conclusion

This chapter has shown that constitutional crises in Sub-Saharan Africa persist due to a complex interaction between legal inadequacies and non-legal constraints. Preventive mechanisms remain reactive and inconsistent, highlighting the need for comprehensive reform. These findings inform the conclusions and recommendations set out in the next chapter.

³⁰⁰ African Coups Are Making a Comeback.” ISS Africa, October 15, 2021. <https://issafrica.org/iss-today/african-coups-are-making-a-comeback>.

³⁰¹ Isanga, Joseph M. “The Constitutive Act of the African Union, African Courts and the Protection of Human Rights: New Dispensation.” *Santa Clara Journal of International Law* 11 (2013 2012): 267.

³⁰² Abadir M Ibrahim, Evaluating a decade of the African Union’s protection of human rights and democracy: A post-Tahrir assessment. (2012) 12 AFRICAN HUMAN RIGHTS LAW JOURNAL

CHAPTER FIVE DISCUSSION CONCLUSION AND RECOMMENDATIONS

5.1 Integrated Discussion

The data analysis and thematic interpretation show that the failure of UN and AU preventive action is not accidental but systemic. Legal frameworks exist but are weakened by sovereignty doctrines, discretionary enforcement, and institutional constraints. Non-legal dynamics; political will, elite self-preservation, resource scarcity, and socio-economic pressures amplify these weaknesses. Consequently, constitutional crises persist despite normative instruments.

5.2 General Conclusion

This dissertation set out to critically analyse the legal and diplomatic failure of the United Nations and the African Union to prevent constitutional crises in Sub-Saharan Africa. Through an examination of legal frameworks, institutional practice, and non-legal dynamics, the study has demonstrated that the persistence of unconstitutional changes of government reflects systemic weaknesses rather than normative absence. The UN remains constrained by sovereignty, political discretion within the Security Council, and a narrow conception of threats to international peace and security. The AU, despite possessing stronger anti-coup norms, struggles with enforcement due to political resistance, limited capacity, and structural dependence on member states and external partners. Together, these limitations undermine the credibility and deterrent effect of both organisations.

5.3 Key Findings

The study establishes four central findings. First, legal frameworks governing constitutional order are largely declaratory and lack effective enforcement mechanisms. Second, preventive action is undermined by political will deficits and elite solidarity. Third, early warning systems are insufficiently linked to decisive response mechanisms. Fourth, socio-economic and historical factors continue to shape patterns of political instability in the region.

5.4 Recommendations

5.4.1 Legal and Normative Reforms

There is a need to strengthen the enforceability of existing legal instruments. The AU should accelerate universal ratification and domestic implementation of the ACDEG. Clear guidelines

should be developed to ensure automatic and proportionate sanctions following unconstitutional changes of government. At the UN level, greater recognition should be given to severe constitutional breakdowns as threats to international peace, enabling earlier Chapter VII engagement.

5.4.2 Institutional and Operational Reforms

The AU Peace and Security Council should be provided with sustainable funding to enhance its operational independence.³⁰³ Early warning mechanisms must be directly linked to mandatory response options, reducing reliance on ad hoc political decision-making. Improved coordination between the UN, AU, and Regional Economic Communities is essential to avoid fragmented responses.³⁰⁴

5.4.3 Judicial and Accountability Mechanisms

Regional judicial bodies, particularly the African Court on Human and Peoples' Rights and relevant sub-regional courts,³⁰⁵ should be empowered to adjudicate disputes arising from unconstitutional changes of government.³⁰⁶ Judicialization would reduce over-reliance on political discretion, provide authoritative interpretation of governance norms, and strengthen accountability beyond diplomatic condemnation.

5.4.4 Political and Diplomatic Reforms

Peer accountability mechanisms should be strengthened within the AU to reduce elite protection of unconstitutional regimes. Diplomatic engagement should move beyond quiet diplomacy where constitutional violations are clear and persistent. Consistency in response is crucial to restoring institutional credibility.

³⁰³ Marc Weller, *The Oxford Handbook of the Use of Force in International Law*, <https://dokumen.pub/the-oxford-handbook-of-the-use-of-force-in-international-law-hardcovernbsped-0199673047-9780199673049.html>

³⁰⁴ Hubert Kinkoh, *POLICY BRIEF: Coups are back in Africa: What are continental and regional responses missing?*, <https://issafrica.s3.amazonaws.com/site/uploads/PB-186.pdf>

³⁰⁵ Murray, Christina & Wiebusch, Micha. (2018). *Presidential Term Limits and the African Union*.

³⁰⁶ https://eprints.soas.ac.uk/31033/1/Wiebusch_The%20African%20Charter%20on%20Democracy%20C%20Elections%20and%20Governance.pdf Micha Wiebusch, Chika Charles Aniekwe, Lutz Oette, Stef Vandeginste, *The African Charter on Democracy, Elections and Governance: Past, Present and Future*, *Journal of African Law*, 63, S1 (2019), 9–38 © SOAS University of London, 2019
doi:10.1017/S002185531900007X

5.4.5 Socio-Economic and Governance Reforms

Long-term prevention requires addressing underlying socio-economic drivers of instability. Investment in inclusive governance, youth employment, and institutional reform should form part of preventive strategies. Civil society and local actors must be meaningfully included in early warning and response processes.

5.5 Ultimate Reflections

Preventing constitutional crises in Sub-Saharan Africa requires more than normative commitments. It demands political courage, institutional capacity, and sustained engagement with the structural causes of instability. While the UN and AU possess the foundational tools for prevention, meaningful reform and consistent application are essential if constitutionalism is to be effectively protected in the region.

Bibliography

1. The Charter of the United Nations (1945)
2. The Constitutive Act of the African Union (2000) –
3. The African Charter on Democracy, Elections and Governance (2007)
4. The Lomé Declaration on Unconstitutional Changes of Government (2000)
5. African Union, African Charter on Democracy, Elections and Governance, January 30, 2007,
6. African Union, Report of the Commission on Governance, Constitutionalism and Elections in Africa (Assembly/AU/9 (XXVI)), January 31, 2016, para. 27.
7. African Union, Lomé Declaration of July 2000 on the framework for an OAU response to unconstitutional government changes (AHG/Decl . 5 (XXXVI), July 11, 2000.
8. African Union Commission, Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Government in Africa, 17-19 December 2009.
9. African Union, Report of the Ministerial Meeting on the Draft African Charter on Democracy, Elections and Governance and revising the Lomé declaration on unconstitutional government changes in Africa, 25-29 June 2006.
10. African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union, July 9, 2002 (the PSC Protocol).
11. African Journal of Law, Political Research and Administration, ‘Challenges of ECOWAS in Imposing Democratic Norms in West Africa’ (2025) 8(1) 55 https://abjournals.org/ajlpra/wp-content/uploads/sites/6/journal/published_paper/volume-8/issue-1/AJLPRA_U41EAPKD.pdf accessed 4 January 2026.
12. African Union, Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union (Assembly/AHG/Dec.269 (XIV)), February 2, 2010, para 6(ii)(a).
13. African Union, Declaration on the Principles Governing Democratic Elections in Africa, AHG/Decl.1 (XXXVIII), 2002 , June 3, 2023.
14. AFRICA GOVERNANCE REPORT 2023. UNCONSTITUTIONAL CHANGES OF GOVERNMENT IN AFRICA.
15. African Union, 'Regional Economic Communities , on May 19, 2022. - (RECs)'
16. African Charter on Maritime Security, Safety and Development of 2016.

17. African Coups Are Making a Comeback.” ISS Africa, October 15, 2021.
<https://issafrica.org/iss-today/african-coups-are-making-a-comeback>.
18. African Peer Review Mechanism, Africa Governance Report 2023 (AU 2023)
<https://aprm.au.int/sites/default/files/files/2023-07/eng-agr-23-1.pdf> accessed 4 January 2026.
19. Abadir M Ibrahim, Evaluating a decade of the African Union’s protection of human rights and democracy: A post-Tahrir assessment. (2012) 12 AFRICAN HUMAN RIGHTS LAW JOURNAL
20. A.K. Abebe, “The African Union’s hypocrisy undermines its credibility.” Foreign Policy, (27 August 2020), <https://foreignpolicy.com/2020/08/27/the-african-unions-hypocrisy-undermines-its-credibility/>.
21. Aminu Yakubu Imam, Unconstitutional power shifts in contemporary Africa: Causes, consequences, and the path forward. Integrity Journal of Arts and Humanities Volume 5(3), pages 168-176, October 2024 Article Number: DF4F78006 ISSN: 2811-2407
<https://doi.org/10.31248/IJAH2024.170> <https://integrityresjournals.org/journal/IJAH>
22. Addaney M, Nyarko MG, Boshoff E (eds), Governance, Human Rights and Political Transformation in Africa, Palgrave Macmillan, Cham, 2020, 42-43.
23. Andrew E Yaw Tchie Enhancing the African Union’s function in supporting transitional governments in Africa Research Report August 2023
24. Anél Ferreira-Snyman Intervention with specific reference to the relationship between the United Nations Security Council and the African Union. XLIII CILSA 2010
25. Athumani H, ‘Uganda’s Supreme Court Upholds Lifetime Term for Museveni’ Voice of America, April 19, 2019 on May 12, 2022. –
26. Balingene Kahombo, Constitutional Crises and the Jurisdiction of the African Union. Recht in Afrika – Law in Africa – Droit en Afrique 25 (2022)
27. Bernal C, ‘Informal Constitutional Change: A Critical Introduction and Appraisal’ 62(3) American Journal of Comparative Law, 2014, 493.
28. Bjarnesen J, 'Constitutional Coups have often preceded military ones' The Nordic Africa Institute, October 7, 2021 – on February 1, 2023.
29. Biryabarema E, ‘Uganda’s top court upholds ruling on extending president’s rule’ Reuters, April 18, 2019 – , on April 15, 2022
30. Bingham T, The Rule of Law, Penguin Books, London, 2010, 37.
31. Constitutive Act of the African Union (2000).

32. Bako, H., and Jobbins, M. (2022). Regional organizations and political instability in West and Central Africa). *Bull. Frans.*
33. Bamidele, S. (2016). Re-Assessment of African Union Security Architecture and Emerging Security Challenges in Africa. *Journal of African Union Studies*, 5, 137-165. <https://www.jstor.org/stable/26893859>
34. Ben Kioko, 'The Right of Intervention under the African Union's Constitutive Act: From Non-Interference to Non-Indifference' (2003) 85 *International Review of the Red Cross* 807.
35. Boisvert, M.-A. (2022). Coup's d'état in Africa: uniforms back to politics.
36. Cambridge Journal of African Law, 'Presidential Term Limits and the African Union' (2021) 65 *Journal of African Law* 112 <https://www.cambridge.org/core/journals/journal-of-african-law/article/presidential-term-limits-and-the-african-union/1F134034E67D93524560D31A067779B7> accessed 4 January 2026.
- 37.
38. CA Odinkalu 'Concerning Kenya: The Current AU Position on Unconstitutional Changes in Government' Open Society Justice Initiative in Africa (January 2008).
39. Christopher Nyinevi & Richard Fosu (2023) The African Union's Prohibition of Unconstitutional Changes of Government: An Uneasy Choice between Fidelity to Principle and Pragmatism, *African Security*, DOI: 10.1080/19392206.2023.2195748
40. Chitranjali Negi, When the United Nations (UN) Fails: Analysing Landmark Cases of Ineffectiveness and Accountability in Global Crises"
41. Clarke, V., & Virginia, B. (2013). *Successful Qualitative Research: A Practical Guide for Beginners*. Sage Publications.
42. Creswell, J. W., & Creswell, J. W. (2013). *Qualitative Inquiry and Research Design: Choosing among Five Approaches* (3rd ed.). Sage Publications Deborah Isser Gael Raballand Michael Watts Diane Zovighian Governance in Sub-Saharan Africa in the 21st Century: Four Trends and an Uncertain Outlook. Policy Research Working Paper 10713
43. De Gaudusson, J. B. (2003). Les élections à l'épreuve de l'Afrique.
44. Dessu, M. K., Dawit, Y., & Roba, D. S. (2020). Why Has the AU Been Silent on the Ethiopian Dam Dispute? ISS Africa. <https://issafrica.org/iss-today/why-has-the-au-been-silent-on-the-ethiopian-dam-dispute>
45. Diallo, A. (2024). Informational confrontation between ECOWAS and the Alliance of Sahel States. School of Economic Warfare. Available at:

(<https://www.ege.fr/infoguerre/confrontation-informationnelle-entre-la-communauteeconomique-des-etats-dafrique-de-louest-et-lalliance-des-etats-du-sahel>).

46. Fafore, O. A. (2016). The African Union and Peace and Security in Central Africa. *Journal of African Union Studies*, 5, 51-66. <https://www.jstor.org/stable/26893814>
47. Fitz-Gerald, Ann. "Towards a Common Doctrine for African Standby Force-Led Peace Operations." *International Peacekeeping* 22, no. 4 (August 8, 2017): 616–38.
48. Ebobrah 'The African Charter on Democracy, Elections and Governance: a new dawn for the enthronement of legitimate governance in Africa?'
49. ER McMahon 'The African charter on democracy, elections and governance: a positive step on a long path' Open Society Institute, Africa Governance Monitoring and Advocacy Project AfriMAP (May 2007)
50. Fombad CM and Steytler N, 'The African Union and the Advancement of Democracy: The Problem of Unconstitutional Retention of Governmental Power' in van der Westhuizen C and Maluwa-Banda D (eds), *African Governance and Democracy: Challenges and Prospects* (Oxford University Press 2021).
51. Gawanas B 'The African Union: Concepts and implementation mechanisms relating to human rights' in Bösl A & Diescho J (Eds) (2009) *Human Rights in Africa*
52. Gazibo, M., and Jenson, J. (2015). *Comparative politics. Foundations, challenges and theoretical approaches*. Montréal: Presses de l'Université de Montréal.
53. Getachew M. *Dires African Union Gone Awry: A Critical Analysis of its Constitutive Act*. Central Connecticut State University May 2024
54. Glas, Aarie. "African Union Security Culture in Practice: African Problems and African Solutions." *International Affairs* 94, no. 5 (September 2018): 1121–38.
55. Hegre H, et al, 'Reflections on the Evolution of Conflict Early Warning' (2023) 9 *Stability: International Journal of Security & Development* 857 <https://stabilityjournal.org/articles/10.5334/sta.857> accessed 4 January 2026.
56. Isanga, Joseph M. "The Constitutive Act of the African Union, African Courts and the Protection of Human Rights: New Dispensation." *Santa Clara Journal of International Law* 11 (2013 2012): 267.
57. Iragi Ntwali V *The African Union and its regional economic communities confronted with coups d'état: between condemning and condoning*. (2025) *Front. Polit. Sci.* 7:1404205. doi: 10.3389/fpos.2025.1404205

58. Issaka K. Souaré the AU and the challenge of unconstitutional changes of government in Africa ISS Paper 197 August 2009 1
59. Interlinkages between the development, peace and security, human rights and humanitarian pillars in West and Central Africa
60. Intervention and the Responsibility to Protect Journal of African Law, 53, 1 (2009), 1–33 doi:10.1017/S0021855309000011 Printed in the United Kingdom Jean Allain, The true challenge to the United Nations system of the use of force: the failures of Kosovo and Iraq and the emergence of the African union.
61. Jallow I, 'The Effectiveness of the Continental Early Warning System in the African Peace and Security Architecture' (University of Pretoria LLM thesis, 2021) <https://repository.up.ac.za/items/5eabeb50-d850-4b7d-b649-29665668eb7c> accessed 4 January 2026.
62. JAMES NGANGA KARIUKI MUIRURI AFRICAN REGIONAL PEACE AND SECURITY UNDER THE AU'S CONSTITUTIONAL FRAMEWORK: CONFLICT OR COMPATIBILITY WITH THE UN AND INTERNATIONAL LAW? the University of Sheffield August 2008. Volume I
63. Jeremy Sarkin, The Role of the United Nations, the African Union and Africa's Sub-Regional Organizations in Dealing with Africa's Human Rights Problems: Connecting Humanitarian
64. Kithure Kindiki, the normative and institutional framework of the African Union relating to the protection of human rights and the maintenance of international peace and security: A critical appraisal 2003 AFRICAN HUMAN RIGHTS LAW JOURNAL
65. KRISTIANA POWELL THE AFRICAN UNION'S EMERGING THE AFRICAN UNION'S EMERGING PEACE AND SECURITY REGIME PEACE AND SECURITY REGIME OPPORTUNITIES AND CHALLENGES FOR DELIVERING ON THE RESPONSIBILITY TO PROTECT. THE NORTH-SOUTH INSTITUTE OTTAWA, CANADA ISS MONOGRAPH SERIES No 119, MAY 2005
66. Kwaku Agyeman-Budu Countering Constitutional Crises within the African Union Framework: Legality, Legitimacy and Suitability. Recht in Afrika – Law in Africa – Droit en Afrique 25 (2022)
67. Lama, M. P. (2012). Regional Cooperation and Conflict Resolution. Policy Perspectives, 9, 21-25. <https://www.jstor.org/stable/42922682>

68. Legrenzi, M., & Marina, C. (2013). Regionalism and Regionalization in the Middle East: Options and Challenges. International Peace Institute.
<https://www.jstor.org/stable/resrep09496>
69. Leguey-Feilleux, J. R. (2009). The Dynamics of Diplomacy. Lynne Rienner Publishers.
<https://doi.org/10.1515/9781685856717>
70. Magliveras, K. D., & Gino, J. N. (2002). The African Union: A New Dawn for Africa? The International and Comparative Law Quarterly, 51, 415-425.
<https://www.jstor.org/stable/3663236> <https://doi.org/10.1093/iclq/51.2.415>
71. MICHA WIEBUSCH CONSTITUTION BUILDING IN THE AFRICAN UNION LAW, POLICY AND PRACTICE University of Antwerp 2020
72. M. Awad, “Transitional Roadmap, July 2013: An Overview of Egypt’s Transitional Roadmap Issued in July 2013’ (Carnegie Center for International Peace, 2013). <https://carnegieendowment.org/2013/07/12/transitional-roadmap-july-2013/h3ih>.
73. Mballa, C., and Zogning, F. (2023). African unity 60 years later: different perspectives. Rev. Int. Écon.
74. Merriam, S. B., & Elizabeth, J. T. (2016). Qualitative Research: A Guide to Design and Implementation. John Wiley & Sons.
75. Miscoiu, S. (2022). Introduction: politics, conflict and globalization in French-speaking Africa in Political systems and conflict dynamics in Africa. What impact for globalization. eds. S. Miscoiu et al. (Paris: Cerf).
76. ML Ajong ‘African Charter on Democracy, Elections and Good Governance: Changing Times or another Mirage? The Seriousness of a Challenge.’
77. Musau, S. (2023). Regional Intergovernmental Organizations to Conflict Prevention and Resolution: The Case of the African Union in the Nile River Conflict. Open Journal of Social Sciences, 11, 361-400. <https://doi.org/10.4236/jss.2023.111026>
78. MXOLISI S. NKOSI, ANALYSIS OF OAU/AU RESPONSES TO UNCONSTITUTIONAL CHANGES OF GOVERNMENT IN AFRICA UNIVERSITY OF PRETORIA April 2010
79. Ndubuisi Christian Ani, THE AFRICAN UNION NON-INDIFFERENCE STANCE: Lessons from Sudan and Libya African Conflict & Peacebuilding Review 6, no. 2 (Fall 2016), 1–22 doi: 10.2979/africonfpeacrevi.6.2.01
80. Patton, M. Q. (2002). Qualitative Research & Evaluation Methods. Sage.
81. Paul D Williams, War and Conflict in Africa (2nd edn, Polity Press 2017).

82. Peshkin, A. (1993). The Goodness of Qualitative Research. *Educational Researcher*, 22, 23-29. <https://www.jstor.org/stable/1176170> <https://doi.org/10.3102/0013189X022002023>
83. Promotion of durable peace through sustainable development in Africa. Report of the Secretary-General United Nations A/79/226-S/2024/550
84. Promotion of durable peace through sustainable development in Africa** Report of the Secretary-General 16 July 2025 A/80/179 S/2025/468
85. Re-assessing the (Continued) Need for UN Security Council Authorisation of Regional Enforcement Action: The African Union Twenty Years On Marko Svcevic <https://orcid.org/0000-0002-7879-5267>
86. Resolving African crises Leadership role for African States and the African Union in Darfur AJCR 2009/1
87. Root Causes of Conflicts in Africa Must Be Addressed beyond Traditional Response, Special Adviser Tells Security Council Debate on Silencing Guns Speakers Highlight Link between Durable Peace, Inclusive Development Policies. SC/15249 30 March 2023
88. Rumbidzai Dube, fighting unconstitutional changes of government or merely politicking? A critical analysis of the African Union response. October 2010
89. SARAH NYAKERARIO ONDUKO DEMOCRATISATION CHALLENGES IN AFRICA AND THE ROLE OF THE AFRICAN UNION SEPTEMBER 2014 UNIVERSITY OF NAIROBI
90. Sifiso Benard Nxumalo1Rolling the Boulder Uphill: The African Union, Constitutional Amendments, and the Struggle for Democracy and Rule of Law As-Siyasi: *Journal of Constitutional Law* E-ISSN 2798-3528, Vol. 4 No. 2 (2024) DOI: <http://dx.doi.org/10.24042/as-siyasi.v4i2.24291>
91. Snape, D., & Spencer, L. (2003). The Foundations of Qualitative Research. In J. Ritchie, & J. Lewis (Eds.), *Qualitative Research Practice: A Guide for Social Science Students and Researchers*. Sage Publications.
92. Solomon A Dersso, *The African Union's Normative and Institutional Frameworks for Preventing Unconstitutional Changes of Government* (Pretoria University Law Press 2012).
93. Stacy-Ann Elvy THEORIES OF STATE COMPLIANCE WITH INTERNATIONAL LAW: ASSESSING THE AFRICAN UNION'S ABILITY TO ENSURE STATE COMPLIANCE WITH THE AFRICAN CHARTER AND CONSTITUTIVE ACT. GA. J. INT'L & COMP. L. [Vol. 41:75
94. Stake, R. E. (2010). *Qualitative Research: Studying How Things Work*. The Guilford Press.

95. Strengthening the partnership between the United Nations and the African Union on issues of peace and security in Africa, including the work of the United Nations Office to the African Union Report of the Secretary-General S/2024/629
96. Stronger United Nations Partnership with African Union Possible Due to Revamped Regional Arrangements, Security Council Presidential Statement Says Adoption of African Peace and Security Architecture Road Map (2016-2020) Welcomed. SC/12370 24 May 2016
97. The African Union at 20: How Far Have We Come? Peace and Security Council Report No 153.” ISS Africa, December 13, 2022. <https://issafrica.org/research/peace-and-security-council-report/peace-and-security-council-report-no-153>.
98. Tim Murithi, The African Union and the Challenges of Peacebuilding and Conflict Resolution in Africa (Institute for Justice and Reconciliation 2008). and 3.
99. UNDP, Soldiers and Citizens: Military Coups and the Need for Democratic Renewal in Africa (July 2023).
100. United Nations (1945). Charter of the United Nations. <https://www.un.org/en/sections/un-charter/un-charter-full-text>
101. Wiebusch K, ‘The African Charter on Democracy, Elections and Governance: Past, Present and Future’ (2019) 21 Journal of African Law 45 <https://journals.sagepub.com/doi/10.1177/0002039719896109> accessed 4 January 2026.
102. Yilmaz, K. (2013). Comparison of Quantitative and Qualitative Research Traditions: Epistemological, Theoretical, and Methodological Differences. European Journal of Education, 48, 311-325. <https://www.jstor.org/stable/26357806> <https://doi.org/10.1111/ejed.12014>
103. Yin, R. K. (2018). Case Study Research and Applications: Design and Methods. Sage Publishers.
104. Yusuf AA and Ouguergouz F (eds) The African Union: Legal and Institutional Framework, Martinus Nijhoff Publishers, Leiden, 2012, 189-190.
105. Murray, Christina & Wiebusch, Micha. (2018). Presidential Term Limits and the African Union.
106. https://eprints.soas.ac.uk/31033/1/Wiebusch_The%20African%20Charter%20on%20Democracy%20and%20Elections%20and%20Governance.pdf Micha Wiebusch Chika Charles Aniekwe Lutz Oette Stef Vandeginste the African Charter on Democracy, Elections and Governance: Past, Present and Future.

Journal of African Law, 63, S1 (2019), 9–38 © SOAS University of London, 2019
doi:10.1017/S002185531900007X

107. Marc Weller the Oxford handbook of the use of force in international law.
<https://dokumen.pub/the-oxford-handbook-of-the-use-of-force-in-international-law-hardcovernbsped-0199673047-9780199673049.html>
108. Hubert Kinkoh POLICY BRIEF Coups are back in Africa what are continental and regional responses missing?
<https://issafrica.s3.amazonaws.com/site/uploads/PB-186.pdf>
109. RENICE AKELLO MIDAR The role of United Nations Security Council and regional arrangements in the maintenance of international peace and security arrangements in the maintenance of international peace and security: the case of the organization of African unity (OAU)/ African union (AU). University of Nairobi
<https://erepository.uonbi.ac.ke/server/api/core/bitstreams/9fdb2d5b-70cf-42be-afc3-d2f112513a04/content>