THE EFFICACY OF AFRICAN UNION MULTILATERALISM IN GOVERNANCE:
AN INSTITUTIONAL APPROACH

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Declaration

'I declare that '***The Efficacy of African Union Multilateralism in Governance: An Institutional Approach'*** is my work and that all the sources that I have used or quoted have been indicated and acknowledged using complete references. I further declare that I submitted the thesis to originality checking software. The result summary is attached. I further declare that I have not previously submitted this work, or part of it, for examination at UNISA for another qualification or at any other higher education institution.

25 Feb 2020

Signature   **Date**

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Dedication

…to my wonderful daughter Mishka, you have inspired me to live with meaning, encouraged me to find value on the fringe and pushed me to appreciate that life remains unpredictable, with many pathways and endless possibilities… remain true to discovering the new as you remain grounded in the realities of living well and contributing to a better world…your time is now.

Abstract

African Union (AU) multilateral efforts in governance flounder at the level of implementation and their substantive intervention worth do not accord with the aspirations embodied in adopted normative frameworks and instruments. The research served to uncover the policy and delivery challenges within the overall AU institutional system as a means of providing a perspective on the future of AU governance mechanisms and related intervention modalities. Detailed empirical engagement, through an institutional lens, with norm formation and implementation in *accountability, the rule of law and state capacity*, and related delivery practices, enabled the extraction of crucial efficacy challenges in the AU institutional system. The exploration, using evidence embodied in documents from the AU governance implementation system, served to confirm that the AU continues to struggle between the imperatives of integration through established shared values and the exercise of state sovereignty. Within the policy-delivery nexus, the research points to the importance of agency by AU institutions and how practices and incentives serve to pervert the aspiration for a multilateral value-adding system in governance. In addition to providing a comprehensive historical macro-overview of AU governance intervention and related implementation modalities, the research served to uncover the implementation 'black-box' through a careful and comprehensive study of practices in each of the governance intervention terrains. The institutional focus serves to affirm that answerability for performance in the use of public resource and the structuring of organisations, matter for delivery and the production of substantive regional integration value. The core efficacy challenges at the level of AU multilateral engagements and implementation, such as norm proliferation, the exercise of power and sovereignty, staffing and capacity gaps, point to the need for a substantive and strategic reorientation of the AU governance normative framework and related intervention modalities. As an outcome of the analysis and reflection, a 'norm graduating model' is proposed to accommodate contextual realities in AU Member States on the back of historically hard-fought-for shared values in governance. At the level of implementation modalities, efficacy challenges point to the importance of a more tempered and realistic delivery approach. The primary focus in the immediate term should be on building governance through a diffused peer-engagement strategy culminating in norm compliance and full adherence to the provisions of established AU governance instruments over the long-term.

Key Terms: African Union, African Multilateralism, African Governance, African Integration, African Shared Values, African Governance Architecture, Multilateral Performance, Multilateral Assessment, Institutional Analysis.

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This thesis is a product of a long journey within academia and the world of practice. I was fortunate to have attended theory and research methodology sessions at the University of Pittsburgh in the United States, over twenty years ago. These served to inspire academic rigour, humbled me to the reasons for pursuing such a journey and affirmed the importance of passion derived from the world of practice. I am grateful to have been a Carl Malmberg Fellow at the University and remain thankful to Professor Louis Picard for the opportunity. Although it has taken me over twenty years to arrive at the point of producing this thesis, I do hope that it will stand up to his scrutiny and will be an added reminder of the incredible value he has added to the progress of many African students and scholars. My journey would not have come to fruition without the experience I gained while teaching at the School of Governance at the University of the Witwatersrand. I am grateful to its founding Director, Professor Patrick Fitzgerald and to all others whom I have interacted with at this University. In addition to academic inspiration, the University prompted me to formalise my research intention by bringing to the fore the meaning and vagaries of the academic hierarchy. I remain appreciative to this University for being my home and passion for several years and over two distinct periods in my life – at the beginning of my academic journey and towards the end.

I would not have contemplated this intellectual journey had I not worked in the terrain of governance both at a national level and within multilateral institutions. In this messy world of practice, I was privileged to have engaged with individuals at a senior level, and those who were entering the system. I learned a tremendous amount from officials in the public service, in the AU institutional system and civil society. I remain an ardent admirer of all who contribute to the betterment of the continent in complex institutions and under challenging circumstances. In this journey, my wonderful colleagues and friends, Ms Kgothatso Semela and Professor Anne McLennan have been a constant. While I take full responsibility for the contents of this thesis, in many respects, my analysis is a product of our journey together in the world of AU multilateralism in governance, and many of the ideas arise from our hard work and many smoke-filled interactions discussing our passion for making a difference. I thank them sincerely for this.

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Table of Chapters

Table of Contents

List of Tables

Chapter Seven:

List of Figures

Chapter One:

Chapter Two:

List of Acronyms

AAPAM	African Association for Public Administration and Management
ACBF	African Capacity Building Foundation
ACCORD	African Centre for the Constructive Resolution of Disputes
ACDEG	African Charter on Democracy, Election and Governance
ACERWC	African Committee of Experts on the Rights and Welfare of the Child
ACHPR	African Charter on Human and Peoples Rights
ACRWC	African Charter on the Rights and Welfare of the Child
AEC	African Economic Community
AfDB	African Development Bank
AfrEA	African Evaluation Association
AGA	African Governance Architecture
AGP	African Governance Platform
AMCOD	African Ministerial Conference on Development and Decentralisation
AMDC	African Minerals Development Centre
AMDIN	African Management Development Institutes Network
AMV	Africa Mining Vision
ANCL	African Network of Constitutional Lawyers
AOMA	African Ombudspersons and Mediators Associations
APRM	African Peer Review Mechanism
APSA	African Peace and Security Architecture
ATJPF	African Transitional Justice Policy Framework
AUABC	African Union Advisory Board on Corruption
AUC	African Union Commission
AUCIL	African Union Commission on International Law
AUCPCC	African Union Convention on Preventing and Combating Corruption
AULA	AU Leadership Academy
AUTJP	AU Transitional Justice Policy
CABRI	Collaborative Africa Budget Reform Initiative
CAMPS	Conference of African Ministers of Public Service
CCJA	Conference of Constitutional Jurisdictions in Africa

CESPAM	Centre for Specialisation in Public Administration and Management
CIDA	Canadian International Development Agency
CPSI	Centre for Public Service Innovation
CSO	Civil Society Organisation
CSSDCA	Conference on Security, Stability, Development and Co-operation in Africa
CSVR	Centre for the Study of Violence and Reconciliation
DEAU	Democracy and Electoral Assistance Unit
DFID	Department of International Development
DG	Democratic Governance
DP	Development Partners
DPA	Department of Political Affairs
DPS	Department of Peace and Security
DRC	Democratic Republic of Congo
EAC	East African Community
EC	European Commission
ECOSOCC	Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
EMB	Electoral Management Bodies
EU	European Union
ICC	International Criminal Court
IDEA	Institute for Democracy and Electoral Assistance
IEC	Independent Electoral Commission
IFES	International Foundation for Electoral Systems
IMF	International Monetary Fund
ISS	Institute for Security Studies
JAES	Joint Africa Europe Strategy
JAP	Joint Activity Plan
M&E	Monitoring and Evaluation
MIP	Minimum Integration Programme
MOPAN	Multilateral Organisation Performance Assessment Network
MOU	Memorandums of Understanding

MSWG	Multi Sectorial Working Group
NCOP	National Council of Provinces
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organisations
NHRI	National Human Rights Institutions
NHRIN	National Human Rights Institutes Network
NPM	New Public Management
OAU	Organisation of African Unity
OECD	Of the Economic Cooperation and Development
OFPA	Observatoire des Fonctions Publiques Africaines
OHCHR	Office of the High Commissioner on Human Rights
OSF	Open Society Foundation
OSI	Open Society Initiative
OSIEA	Open Society Institute East Africa
OSISA	Open Society Institute for Southern Africa
PALU	Pan-African Lawyers Union
PAP	Pan African Parliament
PCRD	Post-conflict Reconstruction and Development
PRC	Permanent Representative Committee
PSC	Peace and Security Council
PSD	Peace and Security Department
RCM	Regional Coordinating Mechanism
REC	Regional Economic Communities
SADC	Southern African Development Community
SAIIA	South African Institute of International Affairs
SoGR	State of Governance in Africa Report
STC	Specialised Technical Committees
TCC	The Carter Centre
TI	Transparency International
TP	Technical Partners
UCLGA	United Cities and Local Governments of Africa

UDHR   Universal Declaration of Human Rights

UK   United Kingdom

UN   United Nations

UNCAC   United Nations Convention Against Corruption

UNDESA   United Nations Department of Economic and Social Affairs

UNDP   United Nations Development Programme

UNECA   United Nations Economic Commission for Africa

UNISA   University of South Africa

USAID   United States Agency for International Development

WB   World Bank

WBI   World Bank Institute

Chapter 1: Exploring Interventions in Governance

African Union (AU) multilateral interventions in governance[1] is a complex and dynamic terrain of practice, and subject to wide-ranging analytical and epistemic perspectives. This chapter begins with a background of the AU governance intervention ontological space. The overview of the terrain and related implementation challenges serves to underpin the explorative journey and articulate the core research problem, purpose and questions. Central to framing the research parameters is enunciating a conception of governance that would facilitate aggregating and understanding varied AU interventions. Linked to this is presenting a framework that enables the capturing and examination of the different modalities of multilateral intervention in governance. Before outlining the available theoretical approaches and the specific methodology utilised for the research, an analysis of the challenge associated with measuring the efficacy of multilateral institutions is provided. The governance construct, intervention modalities, theoretical lens and efficacy analysis serve to articulate the conceptual framework and related methodological orientation for the research.

1.0 Introduction

At the opening of the 1st AU Summit in July 2002, the inaugural Chairperson, President Thabo Mbeki of the Republic of South Africa, pronounced that '...we must work for a continent characterised by democratic principles and institutions which guarantee popular participation and provide for good governance. Through our actions, let us proclaim to the world that this is a continent of democracy, a continent of democratic institutions and culture. Indeed, a continent of good governance, where the people participate and the rule of law is upheld' (Mbeki, 2002). Just over a decade and a half later at the 29th AU Summit, held during July 2017, in Addis Ababa, Ethiopia, the Union stood at a critical crossroad in its history. The incoming Chairperson of the 30th AU Summit, President Paul Kagame of Rwanda, remarked that the AU has yet to prove its regional integration and development value (Kagame, 2017). The 29th Summit concluded on the need for substantive reform to close the wide gap between aspiration and reality. The candid reflection during the 29th Summit tangentially serves to encourage more active research-driven analysis on the efficacy of the AU system in, amongst others, its

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[1] All usage of the word 'governance' will be in the forms of the small letter 'g' and not in the form of the capital letter 'G', unless at the beginning of a sentence. This is to avoid confusion in usage when referring to 'Governance' as an area of focus, versus 'governance' as an activity. Each instance of use is contextualised by the contents of the sentence in which it is used.

governance commitments and interventions.

A significant element of the transformation from the Organisation of African Unity (OAU) to the AU was the incorporation of African governance values, norms and standards and related multilateral interventions. Khadiagala and Nganje (2016:1568) articulate the shift as a duality where efforts to deepen integration essentially 'dovetailed with a normative framework anchored on shared responsibilities, commitment to democratic principles and African ownership of African problems'. In stark contrast to the Charter of the OAU, which emphasised 'state sovereignty' and 'non-interference' in internal affairs of African States, the Constitutive Act of the AU established the notion of 'non-indifference' and space for the organisation to intervene on national 'governance' related prerogatives (Kwasi Tieku, 2004). Even before the formal launch of the AU in 2002, there has been a substantive drive towards enhancing the democracy, human rights, participation and anti-corruption role of this African integration institution (Adejumobi & Olukoshi, 2009). By many accounts, the articulated and implied significance of the overall transformative shift has not fully materialised in the governance terrain at the level of AU Member States.

The notion of 'chronic failure' within the AU institutional system and the imperative for substantive change is expressed in the '*Report on the Proposed Recommendations for the Institutional Reform of the African Union'* presented to the January 2017 AU Summit of Heads of State and Government. The report asserts that 'we have a dysfunctional organisation in which member states see limited value, global partners find little credibility, and our citizens have no trust'(Kagame, 2017). The momentum towards internal institutional self-reflection and steps towards the organisational transformation of the AU stands in contrast to an extended period of intellectual dominance of structural realists, for whom the efficacy of the multilateral system, predominantly rests on the exercise of state power and sovereignty (Jaafar, 2018). While substantively accepted by Member States[2] of the AU and lauded by analysts, the Kagame Report, as it is now known, is not predicated on a systematic study or analysis of AU institutional interventions and the limits thereof in the African context.

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[2] All further use of 'Member States' in this thesis is in reference to the 54 Member States of the AU. The Member States are as follows: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cabo Verde, Central African Republic, Chad, Comoros, Congo, the Democratic Republic of Congo, Cote d'Ivoire, Djibouti, Equatorial Guinea, Egypt, Eritrea, Ethiopia, eSwatini, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau. Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Morocco, Mozambique, Namibia, Niger, Nigeria, Rwanda, Saharawi Arab Democratic Republic, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, South Sudan, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

The specific implementation challenge from a realist structural perspective is aptly characterised by Lopes[3] (2016:16) as one where matters of 'realpolitik' and 'classic perception of sovereignty supersede the liberal one when strategic interests and national pride are at stake'. While asserting the realist perspective, Lopes (2016:16) himself concludes that African politics, within the context of multilateralism, is complex and requires 'social analytical approaches and methodological tools that take cognisance of history, social structure and context, political agency and the institutional framework of political action and policy'. Part of the challenge in developing our understanding of what works and what does not in African multilateralism is a propensity to study what has unfolded through the limited lenses of dominating theories from the global north. The intellectual challenge confronted in understanding the politics of change in Africa is articulated by Olukoshi[4] (2017:1) as one where 'the bulk of the knowledge that has been produced …comprises various generations of competing theories and concepts purporting to explain the underlying drivers of politics and policy on the continent on the basis of a pathologised reading of the region…'. The significance of engaging in more detailed research through a broader theoretical lens and by way of a broader methodological framework cannot be overstated. There is a widely articulated need for more substantive research as a basis for alternative theory construction and analysis. However, even as there is a need to broaden perspectives, it is essential to avoid, as Smith notes, (2017:9) 'being hamstrung by grand ambitions of innovative theorising and a perpetual search for difference'. A substantive analysis is derivable from reinterpretations existing frameworks and the introduction of new ways of looking at existing challenges (Smith, 2017).

The more considerable analytical challenge is that AU multilateralism in governance, while engaged with, in practical terms, through the adoption of various legal instruments and by way of active implementation through the AU system[5], remains under-theorised, with limited empirical research and reflective knowledge. Scholars have generally not engaged in descriptive and analytical work to explain and understand the efficacy of multilateral interventions within particular terrines of engagements, such as governance. In the main, the

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[3] Dr Carlos Lopes served as the Executive Secretary of the UNECA between 2012 and 2016. Dr Lopes is currently a Visiting Professor at the University of Cape Town in South Africa and also serves as on the AU Reforms Advisory Committee established by President Paul Kagame.

[4] Professor Adebayo Olukoshi serves as the Regional Director of International Institute for Democracy and Electoral Assistance (IDEA) responsible for Africa and West Asia. IDEA has a Memorandum of Understanding with the AUC in the governance terrain.

[5] AU system' is used in this thesis to characterise the overall organisational system of the AU, which includes relevant policy organs, implementation institutions, linked RECs and partner organisations involved in policy processes and implementation actions. These are detailed in Chapter Two, Section 4 of this thesis.

focus historical has been on issues of power and sovereignty as it relates to peace and security, with limited focus on the sophisticated manner in which the AU functions and the agency exercised within the intervention modalities and implementation activities. Solana and Zas-Carranza (2015) express that there is a dearth of scholarly work on the 'administrative' aspects of multilateral institutions. They provided that while it is understandable that International Relations scholars have an interest in these organisations, it is ' astonishing' on how 'little attention they have attracted from administrative and organisational scholars' (Solana et al., 2015:776). In addition to shifting the focus towards institutions, administrative and organisational scholars have developed a range of methodological tools to facilitate a deeper understanding of multilateralism and the complexities embedded in state-to-state interactions. In further establishing the significance of an institutional approach to AU multilateralism in governance for research, broader reflection and theorisation, it is imperative, to begin with, a brief background of AU multilateral intervention in governance. An outline of the implementation challenges that face the AU and its institutions within the governance fold follows on from the brief historical sketch.

1.0.1 Background to AU Governance Interventions

African countries have, by and large, established modalities that facilitate political dialogue, civic participation and a level of democratic inclusivity in governance. A reality that stands in contrast to the period between the 1960s and the 1980s, where over 30 of the 54 African countries were under military rule or subject to protracted internal conflicts at some stage. Military coup d'états are now seldom heard of, and only a few geographical territories still experience violent clashes (Matlosa, 2014). In most countries, regular multiparty elections have emerged as a shared norm and standards (AUC, 2010:2). There is a broader commitment in the continent to accountability, to the rule of law, and public services delivery to citizens. This journey of democratic governance progress has not been easy or without challenge. There is uncertainty on whether the advancements made are sustainable and if the current modalities of democratic governance will suffice for the future (Matlosa, 2014:25). The treatment of elections as a zero-sum-game, the growth in popular uprisings against democratically elected governments, and a propensity to amend constitutions to allow for political leadership continuity are indicative of the fragility of governance institutions and democracy on the continent (Nathan, 2005).

Since the release of the 1989 World Bank report on *Sub-Saharan Africa: From Crisis to*

Sustainable Development which contended that underlying Africa's slow development is the 'crisis of governance' (World Bank, 1989), several multilateral institutions, bilateral donor and civil society initiatives emerged to support and encourage the democratic governance momentum. The interventions from these organisations varied in orientation and approach. They are broadly inclusive of initiatives directed at improved governance by-way-of support to political level structures, towards those that focus on the more technical aspects of enhancing implementation capacity (Carothers & De Gramont, 2013). The difference in approach is from a combination of the mandate of the organisation and how governance is defined.

By the early 1990s, the efforts of African civil society served to assign a more political orientation to governance issues on the agenda of the continent (Mkandawire, 2007). Many development agencies also began to change their engagement strategies to explicitly incorporate political level support initiatives or related conditions in their development efforts. The changed orientation in the 1990s coincided with the global spread of liberal democratic practices. Authoritarian collapses accelerated dramatically during this period, and the developing world experienced the most intensive levels of democratisation since decolonisation (Carothers et al., 2013). The momentum also spurred a new wave of democracy champions within African multilateral structures. As Landsberg (2012b:3) notes, 'African leaders such as South Africa's Thabo Mbeki, Nigeria's Olusegun Obasanjo, Algeria's Abdulaziz Bouteflika, Mozambique's Joachim Chissano, Ghana's John Kuofor, Ethiopia's Meles Zenawi, Tanzania's Benjamin Mkapa, Senegal's Abdoulaye Wade, and others have all helped shape this new agenda'.

By the launch of the AU in 2002, most African States had introduced constitutional guarantees with provisions for periodic elections, as well as mechanisms for the transfer of power and the renewal of political leadership. Shared values in governance were introduced into the provisions of the AU Constitutive Act, in that it contains a direct reference to upholding human rights and promoting 'good' governance (AUC, 2010). The Act builds upon previous declarations and treaties, such as the 1991 Abuja Treaty, the Lagos Plan of Action and the Conference on Security, Stability, Development and Co-operation in Africa (CSSDCA) (Abass & Baderin, 2002:7). The CSSDCA Solemn Declaration, formally adopted in 2002, detailed a range of core governance values, together with the commitments to give effect to these. In addition to requirements on the need for civil society participation, there are provisions relating to peace, security, democratic governance, human rights and anti-corruption (Adisa, 2002). In addition to the CSSDCA related momentum on governance within the African continent,

Member States of the AU also launched the New Partnership for Africa's Development (NEPAD). The founding document of NEPAD emphasised issues of governance, incorporating elections, human rights, anti-corruption and state capacity. The overall significance of the NEPAD for governance efforts was the founding of the African Peer Review Mechanism (APRM) as an African specific approach to governance improvements through peer-level interactions between African Heads of State and Government (Gruzd, 2014a:10).

By the January 2011 AU Summit on Shared Values, governance standards were in a range of AU instruments and declarations. Legal frameworks, such as those covering humanitarian issues, the youth, gender and culture also incorporate elements of governance. As a result of the deepening momentum, including amongst sub-regional organisations in Africa, the Declaration of the 2011 AU Summit placed attention on the need for a more coordinated approach to governance for broader impact, by way of affirming the existence of an 'African Governance Architecture (AGA)' and by establishing the 'African Governance Platform (AGP)' (AU, 2011d). This platform, with participation from all AU institutions and Regional Economic Communities (RECs) with a governance mandate, was officially launched in 2012 and has since established a series of structures to facilitate a more coordinative approach to governance interventions (Wachira, 2014). The AU has over forty (40) formal instruments and a range of declarations and decisions that incorporate governance considerations (*infra* 2.3.2). However, only a selection of the existing instruments relates to the core governance considerations of accountability to society, the adherence to the rule of law and the modalities for the organisation of the state. These instruments directly embody the governance norms and standards that the Member States of the AU are expected to adhere to as part of their commitment to African integration and shared standards of conduct and practice (AUC, 2010:11). Each of the adopted instrument contains provisions relating to the reporting period for Member States who have ratified (State Parties) and the overall channel for further action by relevant policy structures. Most legal instruments require that Member States provide comprehensive reports every two years from the date of ratification. In some instance, such as in the African Union Convention on Preventing and Combating Corruption (AUCPCC), state parties are required to report at least once a year. The assumption behind reporting is that these should provide a basis for oversight and to secure compliance on the part of AU Member States (AU, 2013). Each instrument provides that the relevant policy structures (Executive Council and the Assembly of Heads of State and Government) may initiate follow-up action on reports. The types of follow-up actions anticipated are not specified in the instruments and are generally

presumed to be some form of sanction in the case of non-compliance. In support of its work, the AU has established elected oversight structures together with related supportive institutional entities in the governance fold (*Infra* Table 60).

The adopted instruments furthermore embody guidance on the institutions responsible for implementation and the roles and responsibilities of particular organs of the Union. In most cases, final authority rests with the Assembly of Heads of State and Government. Within the core governance instruments, there is a diffusion of implementation responsibilities between specially elected bodies or individuals and related support structures (AUC, 2010). In addition to elected structures, the AU has established the African Court on Human and Peoples' Rights[6] (African Court) and the Pan African Parliament (PAP). The current focus of the Court is on all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human rights instrument ratified by the States concerned (Udombana, 2000b). Over time, the African Court would engage with cases brought forward based on other ratified governance instruments. PAP currently only has consultative and advisory powers within the AU and is thus primarily focused on securing the full participation of Africans in the development and economic integration of the continent. After the ratification of a new protocol by Member States, PAP would have legislative powers and be the principal custodian of governance compliance oversight (Dinokopila, 2013).

The summary overview interventions demonstrate that there has been a steady growth in the number of legal instruments and actions directed at enhancing the state of governance in AU Member States. While some of the actions unfolded during the OAU period, many new instruments and processes, such as the African Charter on Democracy, Election and Governance (ACDEG) and APRM, emerged after the formal establishment of the AU (AUC, 2010). The rapid growth and slow pace of implementation have given rise to efforts to secure higher levels of internal coordination within the AU and with RECs, as embodied in AGA and the establishment of the AGP in 2011 (AU, 2011d).

1.0.2 Implementation Challenges

The trajectory of AU multilateral actions in governance reveals an overall substantive concern with implementation and hence, the efficacy of interventions. There is, for many in the AU

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[6] African Court on Human and Peoples' Rights is referred to as the African Court in this thesis to avoid confusion with the African Commission on Human and Peoples Rights and the acronym ACHPR that is used for the African Charter on Human and Peoples Rights.

system, a wide gap between the adoption of legal normative instruments at the level of the AU Summit of Heads of State and Government and actual implementation actions at the level of AU institutions and concomitantly within AU Member States. Landsberg (2012a:116), for example, articulates the perspective by indicating that 'there exists in Africa a very serious policy-to implementation crisis – a gap between stated policy and commitments on the one hand, and the operationalisation of values and instruments on the other'. The 'Discussion Document' leading to the Shared Values Summit in 2012, outlines that the 'capacity and resources for implementation have not matched the progress achieved'. It furthermore provides that implementation has not met expectations and that the non-domestication of instruments remains a matter of grave concern at the level of the AU (AUC, 2010:11). The explanations for the lack of follow-through and implementation at the level of Member States are varied and include a conclusion that the lack of commitment is a reflection of the propensity to only engage on the basis of domestic interests and related claims of sovereignty (Matlosa, 2008; Khadiagala et al., 2016; Lopes, 2016). Landsberg (2012a) notes that the period from 2007 to 2011 experienced a diminishment in the agency, leadership and ownership of the APRM and other initiatives. He thereby concluded that the 'leadership retreat exposed many weaknesses and challenges faced by the APRM and other continental bodies, structures and programmes' (Landsberg, 2012a:114).

The reasons for non-ratification of instruments and non-compliance is often deemed to be much more complicated. They relate both to the lack of capacity within responsible AU institutions and the complexities of internal administrative processes within Member States. The Discussion Document on the Shared Values Summit provides that '(t)he capacity and resources of the Organs and institutions have simply not been adequate to deliver on expectations. Furthermore, limited attention has been focused on monitoring and supporting implementation at the level of Member States' (AUC, 2010:11). The complexities of ratification and some of the related challenges are in a study on ratification of treaties completed by the Legal Counsel of the African Union Commission (AUC, 2009a). Aside from a more legal analysis on the slow pace of ratification, there has been inadequate engagement with the complicated relationship between adoption, ratification and implementation at the level of Member States. An analysis by Kane (2008), provides that there are substantive institutional and policy challenges within the AU system and within the text of particular instruments that render it difficult to secure compliance and full implementation of governance-related commitments. Kane's (2008) exploration points to the complicated relationship between AU adopted governance-related

normative instruments and those adopted at the level of RECs. The reality is that very often the reason for non-ratification or compliance relate directly to the implementation efficacy and AU multilateral institutional capacity.

A further substantive challenge in the terrain of AU governance-related interventions has to do with continuing contestation around the interpretation of adopted governance norms and standards. Even after instruments are adopted and sometimes ratified, Member State and officials from multilateral institutions would engage in debate around the value and limits of specific provisions. As an illustration, one of the principal intellectual architects of ACDEG, Dr Khabele Matlosa (2008:11), argues that 'given the socio-economic, religious, ethnic and gender cleavages that mark diverse African societies, power-sharing arrangements (at both national and sub-national levels) should be institutionalised so as to transform politics from a zero-sum game into positive-sum game'. The comment, while expressed in the context of academic engagement, does bring into sharp focus the overall emphasis in the Charter on majoritarianism in democratic elections.

At a broader level, contestation around adopted norms within inclusive and entirely consensual processes of decision-making at the level of the AU Summit does raise a problem around whether there is an internalisation of adopted governance instruments in multilateral negotiation and when formally accepted. This bringing forward the importance of questioning the overall commitment and hence intended efficacy of multilateralism when it comes to governance commonality for development and integration purposes. The disjuncture also arises when discussing adopted Charters in broader platforms that include civil society and academia. The consequence of post-adoption debates is that they create compliance uncertainty and hence declining levels of commitment to implementation. Reflecting on the principles associated with the Right to Protect, one commentator concluded, based on the crisis in Zimbabwe, that 'different camps are emerging that articulate different local positions on, and express varying degrees of scepticism about the protection principle'(Williams, 2009a). The global challenge that continuing discourse on adopted norms and standards poses is that they create indecision and hence lowers adherence expectations. Linked to this, is the extent to which instrument adoption is a substantive process or just a procedural activity within which decisions to accept an instrument as part of a collective do not reflect the orientation of Member States.

At a more grounded state level, there are also substantive challenges relating to engagements within Member States on AU multilateral intervention and related legal instruments. In addition

to the complexities of communication around adopted instruments between different Ministries, the internal legal and political processes for ratification sometimes serve as a stumbling block for implementation. Some countries have to contend with cumbersome and lengthy legal procedures before a treaty is eventually ratified (Maluwa, 2012:34). There are also difficulties associated with the lack of technical capacities, such as in drafting relevant legislation and providing a full assessment of the domestic level implications of ratification (Maluwa, 2012). Linkages between AU institutional process and Member States, and challenges associated with the flow of multilateral information point towards our limited understanding of the efficacy of existing strategies directed at ensuring active follow through with Member States on obligations arising from the adoption of specific governance instruments.

The centrality of AU institutions and their role in the multilateral process is often lost in a broader analysis of the authority exercised by Member States. The weakness of the institutions and the low capacity levels is alluded to in the Kagame Report (2017), but the challenges are not engaged substantively. Aside from broader descriptive overviews of the workings of AU institutions, the complexities of implementing AU governance shared values have not been a subject of intense research or analysis. Some general engagement with the weaknesses of AU institutions is in the report of the Panel set up during the AU Accra Summit in 2006 to audit the performance of the AU, led by Adebayo Adedeji. In its report, the Panel determined that the 'state of internal institutional incoherence and disarray that has been in evidence for some time in the AU itself and between the AU and other institutional mechanisms such as the RECs' (AU, 2007c:190).

Aside from widespread criticism of the AUC as an organisation, there has been limited engagement on the implementation agency and challenges associated with other multilateral governance institutions, such as the Secretariats for the African Commission on Human and Peoples Rights[7] (Banjul Commission), the AU Advisory Board on Corruption and the APRM. The APRM is described as 'a system that was creaking with fatigue, mismanagement and stagnation'(Gruzd & Turianskyi, 2018:2). Institutional challenges and claims of weaknesses are often identified in passing. There is no substantive analysis of the workings of AU multilateral institutions and the general efficacy of the intervention established. Despite the

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[7] The African Commission for Human and Peoples Rights is referred to as the Banjul Commission in this thesis. The acronym AfCHPR is sometimes used by scholars, but this often gets confused for the African Charter on Human and Peoples Rights. The African Commission is popularly known as the Banjul Commission after the name of the city it is located in. Banjul is the capital city of The Gambia.

often alluded to reality, the propensity has been to increase the responsibilities of these institutions without any consideration of what works and what does not in the terrain of governance-related interventions. In this respect, Gruzd and Turianskyi (2018:2) note that 'the APRM has been tasked by the AU with an 'expanded mandate, to track the governance aspects of the AU's 50-year development blueprint, Agenda 2063, and the UN's 17 Sustainable Development Goals. Other ambitions include positioning the APRM Secretariat as a knowledge hub on Governance (although with little visible progress)'.

Perspectives on the implementation challenges within governance broadly range from those that emphasise the role and agency of Member States towards those that grapple with organisational elements embodied in the action of AU institutions. The common thread is that the AU system is not functioning optimally and there is an urgent need for more substantive analysis and measures to improve overall performance. The drive towards introducing immediate rapid changes as part of the overall reform efforts have generally served to shift focus away from building a more in-depth analysis of what works and what does not in AU multilateral interventions in governance.

1.0.3 Framing the Exploration

Building on the initial overview and outline of challenges within AU multilateralism in governance (*supra 1.0.1 & 1.0.2*), this section focuses on articulating the parameters for the research. It includes delineating the broader intended purpose of the analysis. Coupled with this, is an outline of the explorative question and sub-questions that guide the research. The purpose of expressing the explorative framework is to establish the foundations for the choice of research approach and related conceptual framework for the research, as presented at the end of this chapter.

1.0.3.1 Problem Statement

The discussion on the contemporary challenges with AU multilateral intervention on governance serves to provide a broad summary of institutional and implementation difficulty. Execution problems are approached differently by scholars and commentators on AU multilateralism. These differences point, not only, to diverse theoretical approaches, but also variances in research focus and methods across the delivery performance process associated with AU intervention in governance.

A review of scholarship on implementation challenges suggest that, outside of general speculation on the commitment of AU Member States to adopted and domesticate AU multilateral governance norms and standards (Landsberg, 2012a; Matlosa, 2014; Khadiagala et al., 2016; Lopes, 2016), there is inadequate institutional analysis on the 'efficacy' of governance intervention efforts. Available analysis tends to be speculative and range from unsupported comments on the complexities of the legal process (Kane, 2008; Maluwa, 2012), the weaknesses of national institutions (Maluwa, 2012) and, possible mismanagement (Gruzd et al., 2018). Actual workings of AU multilateral institutions remain an intellectual black-box, despite the broader acceptance of their importance for governance-related interventions and hence for development and integration.

An understanding of AU multilateralism is partial and incomplete without an in-depth analysis of what unfolds within AU institutions tasked with implementation responsibilities. An evidence-driven research analysis would serve to fill this gap by engaging in a more detailed uncovering of the 'institutional;' process that unfolds within a specific terrain of engagement, such as in governance. A critical understanding of African multilateralism is not possible outside of the policy context within which it unfolds. The available analysis in AU policy terrains is speculative on 'what works or what does not', as there is minimal reflective immersion in actual practices. Given which, the central societal level problem to be engaged with is as follows:

> AU multilateral institutional efforts in governance have floundered at the level of implementation and their substantive intervention worth do not accord with the integration and development aspirations embodied in adopted normative frameworks and instruments.

Multilateralism in African governance is approached from tapered scholarly lenses that tend to overemphasise the responsibilities and authority of Member States, with limited or no real engagement with the efficacy of intervention as they have unfolded within the institutional structures of the AU. Systematic analysis of implementation and related institutional practices provide insights into AU multilateral governance policy expectations, associated interventions and what would be optimal from a multilateral institutional perspective. The anticipated overall concluding hypotheses would be that there is some degree of causality or correlation between choices made around institutional implementation modalities, practices and approaches and multilateral governance intervention success or failure. This working hypothesis would guide

the analysis, but the research approach would be explorative and inductive. That is, it would seek to generate an operational framework on the efficacy of different AU multilateral intervention in governance. A theoretical model would be the outcome of the research and would entail drawing generalisation through detailed empirical research (Bryman, 2015:24).

1.0.3.2 Purpose of the Research

The difficulty with current perspectives, such as those offered by Landsberg (2012a), Matlosa (2014), Khadila and Nganje (2016), Lopes (2016), Kane (2008), and Maluwa (2012), is that they only provide a partial view of AU multilateralism in governance and hence no substantive insights into initiatives and practices within institutions established to shape interventions and securing compliance for integration purposes. While there is some detailed analysis in areas, such as in election (Aniekwe & Atuobi, 2016), corruption (Ikubaje, 2010), human rights (Murray, 2004) and the APRM (Gruzd, 2014a), these generally fail to make the connections with the overall AU governance agenda. Selective analysis of a governance intervention area is limiting as it does not provide an appreciation of the efficacy of interventions within the overall terrain of governance and hence the concern with the efficacy of AU interventions. Based on current analysis, practitioners are unable to engage with shaping solutions for optimal governance intervention for integration and development across the African continent. The scholarly analysis is also limited, as there is incomplete information on what has and is unfolding in AU governance intervention terrain and what happens in the institutional implementation 'black-box'[8] (Powell et al., 2017).

The research will hence not only serve to fill an information and knowledge gap on the overall AU governance intervention terrain but will also seek to provide a theory-based framework for shaping choices on multilateral governance interventions. While there is a broader understanding of the overall governance discourse at an African level, typified by analysis of normative frameworks, resolutions and decisions, there is no real engagement with actual interventions and organisational processes within the AU institutional system. The analytical biases in approach to African multilateralism are, in part, a reflection of the dominance of the field of international relations when it comes to scholarly work on the AU. The gap in understanding requires that we approach the subject matter from a more institutional outlook and hence draw on theoretical models and approaches that emerge, from 'institutionalism' in

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[8] The idea of a 'black-box' serves to capture the reality that institutions and what unfolds within them, through the actions of individuals, are often dismissed as insignificant (Powell & Rerup, 2017).

International Relations and more prominently from analytical traditions within the field of Public Administration. The overall determination of the research would be to build a substantive understanding of the efficacy of AU multilateralism in governance, without discarding the importance and significance of the broad normative discourse on governance and the analysis of power, authority and sovereignty. The research-based contention is that existing and dominating modes of analysis limit our understanding of AU multilateralism as it ignores the workings of multilateral organisations. The dominant analytical traditions, furthermore, perhaps inadvertently, subsume the agency of institutions and those tasked with the responsibility of implementation, from scrutiny. In keeping with this concern, the following serves as a societal level guiding purpose statement for the research:

> To provide analytical guidance on optimising AU multilateral practices to inform intervention decisions and for the appropriate utilisation of resources for the implementation of governance frameworks and instruments for continental integration and development.

The research has both academic and practitioner value. At a broader level, it may be perceived as an 'implementation evaluation' within existing applied research approaches. It serves to collate implementation and institutional information on AU multilateralism in a manner that facilitates a deeper understanding of the efficacy of governance interventions. The research thereby contributes to closing knowledge gaps in the terrain by providing a theoretical framework for guiding future research and the choices on optimal AU multilateral governance interventions (***infra** 6.4).*

1.0.3.3 Research Questions

The value and limits of AU multilateralism in governance cannot be grasped adequately without engaging with the exercise of power and authority, the normative discourse and most importantly, without a deeper appreciation of the modes of intervention and institutional processes that characterise what gets done. In the process of answering an overall question and related sub-questions, it would be possible to establish an understanding of institutional level agency within AU multilateral engagements in governance. As the approach is to focus on institutional processes and their efficacy, the question and sub-questions are focused on assessing implementation and not on the substantive impact of adopted governance norms and standards. This rationale is detailed further in the 'conceptual framework' established for the research.

The following will serve as the overall research question for the research.

What are the optimal AU multilateral governance interventions from an institutional perspective?

To ensure that the overall question is grappled with substantively, the following sub-questions served to shape the more detailed analysis. The inclusion of these sub-questions assisted in ensuring that the analysis is comprehensive, and conclusions are reliable, relevant and valid on the efficacy of different AU multilateral intervention in governance.

   i.   What are the different AU multilateral governance interventions?

  ii.   How do AU institutional modalities and practices shape governance interventions?

 iii.   How effective are the different institutional interventions for AU Member States?

The research is exploratory and hence directed at confirming the working hypothesis on the agency of AU institutions; namely that there is some degree of causality or correlation between choices made around institutional implementation modalities, practices and approaches, and multilateral governance intervention success or failure. Given the range of variables that shape what unfolds on governance at the level of Member States, it is not possible to establish a correlation between AU multilateral interventions and impact. Using 'institutionalism' and methodological tools derived from Public Administration, the research serves to uncover the patterns of activities that operationalises the intervention and hence establish a perspective on the overall efficacy of such interventions. How this is done, and the full rationale for not including an impact analysis is detailed in the research methodology section of this chapter (see *infra 1.2.1)*.

1.0.3.4 Knowledge Value and Contribution

It is crucial to rearticulate the linkage between the problem, the purpose and research question in order to establish the knowledge value and contribution of the research. Outside of broad speculation on the agency of AU Member States on multilateral governance intervention, there is limited knowledge on what unfolds in the institutional black-box and hence on the normative frameworks adopted and their relationship with what unfolds at a national level. Core to filling the knowledge gap in understanding what would work optimally from an African multilateral perspective on the basis of an in-depth understanding of implementation processes within the AU institutional system. Such an orientation serves to close the knowledge gap, as there is limited institutional analysis of the AU system as a whole.

At the most basic level, there is no substantive scholarly reflections and research on AU multilateral intervention modalities and institutional practices as it relates to governance initiatives. Although there is some literature on AU governance issues, mainly from a peace and security perceptive and especially within the framework of the work of the Peace and Security Council of the AU (*infra* 2.2), AU governance interventions on their own have not been documented systematically or examined as a whole. Available research and analysis focus only on some aspects of the governance agenda, such as on the APRM, African human rights challenges, anti-corruption and elections across AU Member States. The exercise of collating and systematically presenting information on governance intervention represents, in itself, a substantive contribution to knowledge. Presently, there is no single text which captures all that has unfolded within the AU multilateral system on governance. Nor has such information been presented in a manner that facilitates understanding of what has transpired in different areas of governance.

Studies on African multilateralism in governance emanate primarily from the dominant narrative and research traditions in the field of International Relations (Matlosa, 2008; Khadiagala et al., 2016; Lopes, 2016). Structural realist forms of analysis, where the primary focus is on power and authority within the AU system and the exercise of sovereignty by AU Member States, dominate the field. A secondary research approach, from a more idealistic research tradition, arises from those embedded in 'discourse analysis', where the primary mode of research is on the substantive content of documents and related articulation on governance from Member States and other actors in Africa and globally. A comprehensive analysis reflects that there are no research studies of AU multilateralism that emanate from a more 'institutional' tradition that characterises the field of Public Administration. Examining governance intervention and related modalities of implementation from an 'institutional' research tradition would hence make a substantive contribution to our understanding of what works and what does not (efficacy) in AU governance multilateralism. Such an analysis contributes substantively to knowledge as it paves the way for further analysis from a Public Administration tradition and would assist broader actors in understanding the challenges associated with implementation within the AU system.

The research furthermore contributes to knowledge by providing a broad theoretical framework on optimal AU multilateral governance intervention. It thereby further opens the space for those who seek to develop a more engaged institutional analysis of multilateralism in Africa. It also directly responds to the call from Lopes (2016:16) for different 'social analytical

approaches' and to the plea by Olukoshi ([2017](#)) for more internal African reflections that are not rooted in a 'pathologised reading' of Africa.

1.0.4 Conceptualising Governance and Intervention Efficacy

Definitions of governance and what it comprises of differ substantively in the literature and within the overall AU system. Governance interventions that have emerged in the AU system are varied and range from the establishment of specific legal instruments and more nuanced capacity building interventions. It is imperative for the research that a focused definition is provided and conceptually located within a clear framework. A theoretical explanation of what governance entails would also facilitate detailed engagement with related interventions. In addition to outlining the different types of intervention, the research calls for a substantive approach towards assessing the efficacy of AU multilateral interventions in governance. Such an approach aids in outlining the levels of analysis that is relevant for the research and hence the information that is collected, collated and analysed.

1.0.4.1 Framing Governance

How governance is defined, shapes perspectives on the multilateral interventions that would be appropriate. The term has unfolded with varied meaning within African discourse and the AU space. The substantive challenge with the numerous AU instruments and processes as they relate to governance is the lack of an encompassing and agreed framework on what is included or excluded (*infra* 2.1.4). Governance is often considered a cross-cutting issue that features in all sectoral engagements, such as health, education and economic development or constituency specific engagements, such as those on women, refugees, the youth and children ([AUC, 2010:2](#)). A more comprehensive and inclusive approach generally entails a loss of substantive focus. A more prudent approach would be to focus on governance through the lens of AU instruments and resolutions that feature in the AGA. However, even in such an instance, there has been a tendency to brush widely and hence render it challenging to establish a focus for any forms of direct evaluative assessment of the efficacy of interventions.

A further definitional challenge within the AU system is the conflation of perspectives on the governance of the AU multilateral system, versus those that relate to governance interventions directed at establishing commonality and shared values in Member States for integration. The governance of the AU systems relates to the overall responsibilities of the AU and hence the accountability role of different AU structures and the approaches taken towards ensuring that

the AU is a people's driven organisation. While there is some level of overlap between the governance of the AU system and governance interventions, the focus for this research is on the governance actions or activities that unfold to shape practices within AU Member States. There is a thin separation wall between these, as in some instances, such as human rights, actions within the AU systems inherently serve to enhance practices within Member States. Even as these need to be engaged with, appreciating the distinction between the overall governance of the AU system, from governance intervention by the AU is essential for analytical purposes.

Outside of a specific and formal adopted definition within AU multilateralism, the approach taken is to establish a context relevant definition that facilitates more in-depth engagement with the AU multilateral interventions that have emerged historically. Over the last two decades, governance has been a catchword for policymakers and academics in both the north and the south. The varied contributions have often led to different and contradictory definitions of the governance construct (Kjær, 2014). The meaning intended is often contingent on the context in which the construct is used. In its earlier construction, 'governance' was directed at explaining the practice of social steering (Peters & Pierre, 1998:225). Inspiration for a governance approach that would be relevant for evaluative purposes comes from the analytical model that Fukuyama (2011) uses in the 'Origins of Political Order'. According to Fukuyama (2011), societies that achieve a higher level of success do so based on the evolved maturity of three institutions, namely, the state, the rule of law and accountability. In other words, societies that get it right have succeeded in having a state sector that is fit for purpose, inclusive accountability and a legal system predicated on the rule of law. Decay and the necessity for change unfold when institutions are not fit for expected purpose or do not meet new realities and transformative pressures (Fukuyama, 2011). It is not improbable to conceive of interventions that lead to better institutions and higher levels of prosperity, even though change is complex and subject to a range of contingencies. Successful societies are the ones that can combine all three sets of institutions in a stable balance, the achievement of which represents the miracle of modern society (Fukuyama, 2011). To understand the African governance space and the related policy and institutional interventions on the part of the AU, we would hence need to see what has unfolded in each of these areas within the overall system. The following table provides an outline of each area of focus. The areas of inclusion are derived both from, analytical reflection and from what has emerged within the overall AU system in each of the focus areas (*infra* 2.1). Perspectives on what is included within a terrain of focus are somewhat

fluid and tend to evolve with changes in wider society. However, for analytical purposes it remains imperative to delineate what is broadly included in each area. The framework is substantive and focused enough to ensure that specific and more detailed elements of intervention in each area can be accommodated in the analysis. The framework also allows for a reasonable level of differentiation between multilateral interventions relevant to each area of focus.

Table 1: Governance Focus and Areas of Inclusion

Focus	Areas of Inclusion
Accountability	'Accountability' is inclusive of all modalities directed at ensuring that state and state institutions are accountable to the broader society. It is inclusive of modalities directed at ensuring economic inclusivity and democratic participation. Also included are civil society participation and broader practices that facilitate active community engagements. Also included are issues relating to the rights of minorities and the participation of women and the youth.
The rule of law	'The rule of law' is inclusive of all intervention directed at ensuring countries abide by the separation of powers and the rule of law principle. It also includes initiative related to Constitutionalism, Human Rights, the Judiciary and Constitutional changes of government. All matters of justice, including transitional justice and related modalities for ensuring adherence to national laws within the framework of the rule of law.
State capacity	'State capacity' focuses on modalities relating to the overall functioning and responsibility of the state, including initiatives directed at enhancing the capacity of the state to function optimally and to deliver per mandates. The focus will be on the core state system and not necessarily all of the intervention related to building capacity or regulating actions within specific sectorial terrains, such as health, agriculture, infrastructure and related detailed terrains of engagement. Also included here is Anti-Corruption broadly and more specifically as it relates to the agency of state systems.

Source: Abbreviated and consolidated from Fukuyama (2011; 2014) and established AU normative instruments in governance *(infra* 2.1.3)

Outside of collating and framing the parameters of AU multilateral interventions in governance, it would be impossible to provide an overarching substantive perspective on the efficacy of interventions. An overarching framework provided a basis for establishing a balance between detailed analysis of individual interventions, such as in elections, human rights, constitutionalism, state-building and anti-corruption, and the broader need to engage with the overall efficacy of the AU in governance.

Outside of a conception of what governance is constitutive of, it cannot be separated from the philosophical, ideological and related normative perspectives on what it should be at the level of Member States. Such perspective ranges from the more liberal articulation of specific standards of inclusivity related to democracy, towards the more radicle articulation of

inclusivity at a more profound social level and within the economy. As with the AU, normative pronouncements of what governance is, and related standards are often embodied in specific instruments. At a global level, normative pronouncements on governance are in different measurement instruments, such as the Mo Ibrahim Index. Each of the indicator measurement system embodying differential perspectives on what is essential within the governance fold (Best, 2017).   Grindle (2007) outlines the varied definitions of governance and the implied standards from a range of organisation and authors. What is particularly significant in her analysis is the restatement of the conclusion made in an earlier article (Grindle, 2004) that there are 'no magic bullets, no easy answers, and no obvious shortcuts towards conditions of governance that can result in faster and more effective development and poverty reduction'. Even as there continues to be a global and regional impulse towards establishing standards, there is an increased push towards recognising that context and local exigencies often shape what is possible and achievable in governance and hence through related multilateral interventions. The tension in debates is between those who affirm governance standards as key to development and those who argue for a less norm driven approach in practice and analysis. This tension between norm development and the realities of intervention practice and implementation are central to an understanding of the efficacy of AU multilateralism in governance.

1.0.4.2 Conceptualising Governance Interventions

As a step beyond consideration of the substance content dimensions of governance, it is essential to reflect on the different intervention modalities. In general, these range from those directed at ensuring compliance to agreed norms through legal instruments, towards those predicated on information sharing as a strategy to influence actions within AU Member States. While multilateralism has been around for a long time, there is limited scholarly literature which looks at categorising the intervention modalities as they have emerged within multilateral organisations. Aside from a broaden categorisation framework by Börzel (2015) the focus tends to be on the broader consensus building functions performed by multilateral institutions and not on the modalities of intervention or actual work performed. Börzels (2015:6) provides that the instruments for 'governance transfer' vary with respect to the degree to which they interfere with the sovereignty of states, ranging from ' military force and litigation (coercion), sanctions and rewards (negative and positive incentives), financial and technical assistance (capacity building), and fora for dialogue and exchange (persuasion and

socialisation)'.

In the main, the focus within the literature is on particular elements of work performed by multilateral and bilateral institutions across different intervention modalities. In order to provide a lucid summation of the various intervention modalities, it is necessary to provide some form of classification based on a broader reading of the literature and an overarching review of the work of multilateral and bilateral development organisations. An initial study titled 'Mapping of Governance Interventions in Africa' commissioned by the AUC as part of the process leading to the affirmation of AGA and the establishment of the AGP outlined several intervention areas on the basis more extensive research on interventions across Africa. The consultant's report outlined a total of nine (9) intervention areas and detailed some of these across a range of institutions active in the continent in governance. These interventions are outlined in Figure 1 below.

Figure 1: Governance Interventions
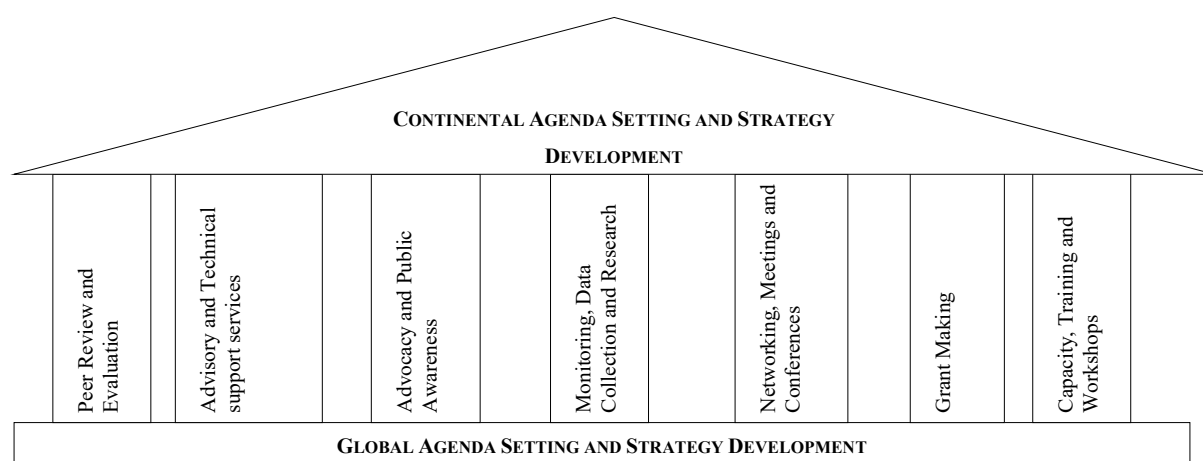
Source: Mapping of Governance Intervention Report (DPA, 2008b).

Although the 'mapping study' was useful for appreciating the spread of intervention possibilities, the scope of coverage was comprehensive and hence included interventions that covered a broader range of institutions, including direct intervention from Development Partners (DP) and Civil Society Organisations (CSOs). The challenge for a research initiative of this nature is to establish a framework that relates to interventions that have unfolded in the AU multilateral system. While legal documents, resolutions and related plans prescribed some interventions, many of the actions that unfold as 'relevant activities' arise from the broader overall agreement amongst Member States and related mandates. The following table is hence constructed based on an expansive reading of interventions that have emerged in the AU system and the broader literature on the work of multilateral and bilateral institutions.

Table 2: Multilateral Intervention Modalities

Intervention Modality	Summary Overview
Compliance and Sanctions	In keeping with established treatise, convention and binding resolutions, this mode of intervention is directed at activities initiated to monitor compliance of agreed governance norms and values and related sanctions. These incorporate strategies directed at ensuring Member States report on compliance with agreed commitment and related strategies for securing implementation or domestication at the Member State level.
Peer Review and Diplomacy	Peer Review in governance has emerged as a central pillar within the AU and reflected in the establishment of the APRM. However, peer-level engagements are also established in several other instruments and an emerging practice across all areas of governance. Aside from formal compliance demands, governance intervention also unfolds within formal diplomatic type engagements from within the AU system
Information and Knowledge Exchange	As with many other multilateral institutions, AU institutions organise numerous events and produce publications directed at sharing information and securing more in-depth exchange amongst Member States. While many of these are directly focused on terrains within which there are specific instruments, they sometimes extend to governance areas that are of broader interest to stakeholders within the terrain.
Capacity Building and Technical Support	Capacity and technical support often related to supporting the implementation of specific agreed governance norms and standards. These range from training interventions for officials and the provision of direct support for actions at the level of Member States through the provisions of technical support staff and related capacity-building efforts.

Source: Authors extraction and interpretation from the literature.

How interventions are clustered varies from the framework provided by Börzel (2015). Direct forms of military or peacekeeping intervention are excluded as these are often a matter of last resort and hence secondary to the more conventional and established modes of governance-related intervention.

1.0.4.3 Efficacy of Multilateral Interventions

A clear conceptual orientation to governance and related intervention modalities provide a pathway for exploring the efficacy of interventions. Such a pathway needs to be coupled with some understanding of how efficacy judgments are made on the value-add of AU multilateralism. The modalities of African multilateral interventions range from legal agreement secured, coupled with related enforcement mechanisms, such as sanctions or adverse resolution, towards the softer initiatives associated with capacity building for compliance purposes. How these unfolded varies across sectors and terrains of engagement. As with many other similar organisations, the AU is criticised for being ineffective. However, even with such criticism, the general literature on the performance of the AU and other similar organisations remains limited in the ability to explain ineffective or effective performance

(Gutner & Thompson, 2010:228).

The predominant realist or neo-realist 'regime effectiveness' literature from International Relations scholars generally focused on state interest and how these shapes what unfolds from within such organisations. Multilateral institutions from such a perspective are the product of state interests, and their performance is generally contingent on delegations and the control mechanisms established (Biermann & Bauer, 2004:190). The realist literature generally perceived performance variations as being a product of the underlying challenges of cooperation and consensus amongst Member States (Gutner & Thompson, 2009:4). Realists do not engage with details on different institutional designs or what unfolds in practice as officials within multilateral institutions implement their mandates.

The results and performance culture that emerged under the guise of the 'reinventing government movement' or the New Public Management (NPM) momentum of the 1980s served to established a focus on 'outputs and outcomes' and hence on the substantive value and impact of multilateral organisations (Gutner et al., 2010). The mere introduction of the notion of the efficacy implies a level of institutional autonomy and agency over multilateral interventions. A perspective that goes against the more traditional International Relations dominated perceptive that multilateral institutions lack any substantive agency outside of delegation and control exercised by the states which established them in the first instance (Hawkins, Lake, Nielson & Tierney, 2006). While such perceptive continue to persist, more micro-level analysis suggest that institutions do matter and can exercise a varying degree of independent influence of a variety of intervention terrains, including governance (Leon, 2010; Leon, 2011).

Gutner and Thompson (2009:3) outline an analysis of performance by Barnett and Finnemore (2004) wherein it is postulated that such '..bureaucracies may become obsessed with their own rules at the expense of their primary missions in ways that produce inefficient and self-defeating outcomes' (Gutner et al., 2009:3). They nevertheless conclude that the study from Barnett and Finnemore (2004) is limited as they do not go far enough to explain variations across international organisations. However, at a broader level, and from related concern with the value derived from the use of donor funds by multilateral institutions, there has been a move towards establishing and using specific criteria to make judgments on the performance of multilateral institutions. Of particular significance is the propensity is to use amongst others, the Development Assistance Committee of the Economic Cooperation and Development

(OECD/DAC) criteria of efficiency, effectiveness, impact and sustainability for assessing 'development' performance or the fulfilment of objectives (Chianca, 2008:41).   In the terrain of multilateral intervention in governance, this mostly implied a focus on visible governance-related changes within the Member States. The overriding concern driving the results approach is that outside of a more in-depth analysis of impact, there would be a disconnect between delivering on activities engaged upon by development-oriented agencies and the changes that they are expected to produce (Picciotto, 2006). Picciotto (2006) however notes that results based approached have not fully resolved a host of measurement problems that relate both to the power exercised by contractual principles and the many variables that impact on local level anticipated changes. Others are sceptical that causal links are possible between activities, outputs, outcomes and impact. It is, for example, argued that it is difficult to identify if and how an output, such as capacity building, leads to a significant change in a country (Picciotto, 2006). A poorly run multilateral organisation may still achieve results. Biermann and Bauer (2004:191) provide that linking '…observable environmental improvements to the specific influence of an international regime in a meaningful way is virtually impossible regarding the complexity of ecological processes'.

If the debates are taken a step forward, some argue that multilateral organisations can be dysfunctional as a result of the internal structure and organisational culture, and not because of being perverted by the power exercised by their members (Barnett et al., 2004). As Barnett and Finnemore (2004) note that 'rather than designing the most appropriate and efficient rules and procedures to accomplish their missions, bureaucracies often tailor their missions to fit the existing, well-known and comfortable rulebook.' (Lindoso & Nina, 2016:12). A shift towards more micro-level institutional focus builds a realisation that the overall study of multilateral organisations is, understandably, dominated by writings from the field of International Relations. Those with a more significant interest in how institutions function and the more micro-level realities of what unfolds in multilateral institutions have been slow in taking up the challenge (Gutner et al., 2010:2). The overall consequence is that analysis mainly arises from researchers and practitioners linked to development agencies that provide funding for multilateral interventions.

A useful outline of the different models and approaches that exist for developing performance-related judgments on multilateral institutions are from Obser (2007) and Lindoso and Nina (2016). These authors detail frameworks established by donor countries or consortium of countries. There is some independent assessment from multilateral organisations, such as the

World Bank (WB), the United Nations and a few from Donor countries with specific multilateral funding portfolios, such as the Australians, Swedish and Norwegians (Lindoso et al., 2016:20-25). The most established of these, where donor states combine their efforts, is the Multilateral Organisation Performance Assessment Network (MOPAN), launched in 2002 as a network for monitoring the performance of multilateral development organisations. MOPAN mainly unfolds through a joint Annual Survey of multilateral organisations' partnership behaviour with national stakeholders and other donor organisations at the country level. The challenge with MOPAN, as expressed by Obser (2007:23) is that '…both the 'expectation gap' and the 'attribution gap' remain significant problems for multilateral organisation performance assessments by donors. Lindoso and Nina (2016:19) similarly conclude there are many challenges that academics and practitioners face and 'include accurately and robustly measuring effectiveness', and establishing the link between 'organisational outputs to impact'.

It may well be prudent to turn directly to the vast body of literature within the fold of Public Administration and 'institutional studies' to seek inspiration for a framework to assess the efficacy of multilateral interventions in governance. However, as Solana and Saz-Carranza (2015:776) note, it is surprising how 'little attention they have attracted from administrative and organisational scholars'. The general focus of Public Administration scholars has been on the functioning of national governance and implementation institution. Within the broader purview of Public Administration and Institutional Studies, there is a substantive emerging critic of 'one size fits all' approach towards implementation (Grindle, 2007; Andrews, 2010). The common point of departure for such critiques is complex political realities at the level of nation-states and the different motivations driving how people engage with the governance-related intervention (Andrews, 2013; Levy, 2014).

The more national-level analysis of the complexities of change does raise questions around the efficacy of the strategies of African multilateral institutions. While many, such as Andrews (2013) and Levy (2014), have some ideas on works and does not work at a national level, such analysis has never permeated how we view what unfolds as interventions from multilateral institutions. Often, these institutions are perceived as separate, with little agency for what unfolds at the national level and somewhat innocent of what works and what does not. This approach loses sight that multilateral institutions and the contents of outputs and the choices made, reflect a level of agency and hence cannot merely be divorced from our appreciation of what happens at a level of nation-states. A simple line between multilateral decision and actions cannot be drawn. An in-depth analysis of how things unfold within multilateral processes and

the driving incentives and perspectives on needed actions are crucial to understanding the efficacy of governance-intervention. Especially if we are to understand whether these can make a material difference to the governance realities in Africa.

Amongst International Relations scholars, some distinguish between the measurement of multilateral performance on a continuum from outputs, outcomes and impact (Biermann et al., 2004). However, the reality is that performance measured by outcomes and impact may not be appropriate when constrained by factors outside of the organisation's control (Gutner et al., 2009; Gutner et al., 2010). Gutner and Thompson (2010:235) argue well for more micro-level analysis and hence a focus on process and what they term 'midterm outputs'. They also, amongst others, suggest that the critical issue for analysing the performance of International Organisations is framing the focus and level of inquiry. Gutner and Thompson (2010:235) provide a useful diagrammatic framework for thinking through where a study would appropriately be focused. A 'black-box' is imposed on the figure to capture the terrain, which reflects a focus on 'midterm outputs' as provided for by Gutner and Thompson (2010).

Figure 2: Multilateral Performance Matrix

PROCESS-BASED   OUTCOME-BASED

Micro Institutional Activities Intervention Modalities	**Intermediate** Political Power and Sovereignty Policy Compliance	**Macro** Integration Deepened Development Enhancement

MID-TERM OUTPUTS
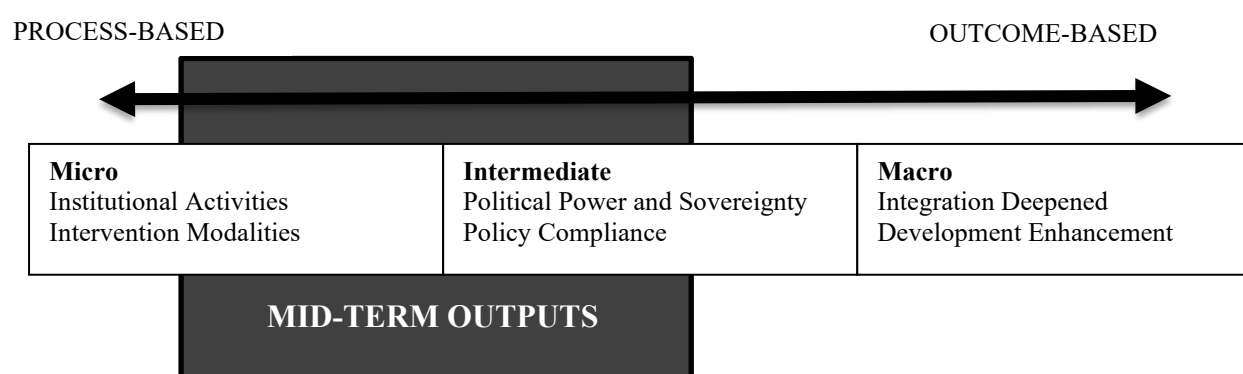
Source: Adapted from Gutner and Thompson (2010:235)

What is most evident from both the growing International Relations and Public Administration literature is that we cannot easily separate the internal and external variables of performance and hence privilege one set over another. Barnett and Finnemore (Barnett et al., 2004:36) provide a useful way of characterising the sources of the performance of a multilateral institution. At an internal (micro) level, these include 'organisational culture, bureaucratic dysfunction, leadership deficit, inadequate staffing and resources, and career self-interest'. At an external (intermediate) level, this includes 'competing norms, lack of consensus on problems, power politics, incoherent mandates, short-sighted principles and on the ground constraints' in Member States (Barnett and Finnemore (2004:36) quoted in Gutner and

Thomson (2009:12).

The focus on mid-term outputs, as proposed by Gutner and Thompson (2010:235) implies an emphasis on both the internal and external in a focused manner. That is, in a way that established the connection between internal institutional action established by multilateral organisations for implementation purposes and related multilateral state engagements as expressed through policy mandates and by way of AU Member State responses to intervention activities. Drawing from the different frameworks established, a focus on mid-level outputs implies analysis at the level of multilateral engagements and implementation. The table below captures the efficacy analysis relevant to each level. It serves to make a distinction between the content of work and agency that emanates at the level of multilateral engagements where agency is primarily exercised by Member States, versus multilateral implementation, where agency is largely contingent on the institutions of multilateralism, and hence officials employed to take administrative leadership.

Table 3: Levels of Analysis

Level	Analytical Terrain
Multilateral Engagements	'Multilateral engagement' analysis is focused on the overall decision process related to the establishment of mandates. It incorporates negotiation processes leading to the adoption of decisions and levels of commitment embedded in these. The bias would be on understanding the agency exercised by Member States in the process. The substantive focus will on the challenges arising from competing norms, power relations and the linkages with 'on the ground constraints' as it related to interactions with the AU.
Multilateral Implementation	'Multilateral Institutional Implementation' analysis will serve to provide a focused analysis of AU institutional practices in the development and implementation of mandates in the governance fold. It incorporates a focus on the plans generated and the activities initiated for implementation. The substantive focus will be on the challenges that arise from organisational culture, leadership approaches, bureaucratic incentives and staffing/resourcing issues.

Source: Extracted from a broader analysis of the literature.

Building on what has emerged from International Relations and Public Administration scholarship is the need to concentrate more on institutional processes and the inherent connection between internal and external factors without losing sight of the focus and level of analysis. A focus on impact and sustainability would suggest an external orientation. Efficiency and effectiveness would suggest an internal focus. Carefully bridging, within the analysis, the internal and external, and yet retaining proper emphasis suggests a more 'institutional approach' and hence a focus on mid-term outputs. In line with a more engaged institutional approach, the word 'efficacy' is borrowed from health research (Kim, 2013) and is used to

denote the value of particular institutional interventions in themselves and not necessarily direct impact in real-world condition. In many respects, such an approach represents a different lens for understanding African multilateralism in governance and is appreciated better in the context of the different schools of thought that have emerged in the broader terrain of exploration.

1.1 Understanding Multilateral Interventions in Governance

A more detailed analysis of African multilateralism and AU multilateral institutions in governance follows in Chapter Two. In order to appropriately locate the research, it is imperative, at this stage, to engage with the different available lenses for research on African multilateralism. While scholarship on the 'multilateralism' and 'multilateral institutions' has increased, it has not emerged as a separate and distinct field of study with specific theoretical constructs, outside of the broad terrain of International Relations or more comprehensive theory construction from the broader social sciences. Some assert that international politics, of which multilateralism is an expression of, is not susceptible to scientific inquiry (Burchill, Linklater, Devetak, Donnelly, Nardin, Paterson, Reus-Smit & True, 2013:1). Noam Chomsky (1994) has gone as far as to claim that international relations ' historical conditions are too varied and complex for anything that might plausibility be called "a theory" to apply uniformly' (Burchill et al., 2013:2).

One challenge in efforts directed at understanding multilateralism and related institutions is the attempts to cast it as requiring theory construction that is separate from broader social science reflections on state formation and mutual coexistence. Even as International Relations emerged as the discipline seeking to theorise and explain cooperative interactions amongst states, it was and continues to be influenced by old disciplines, such as law, philosophy, politics, sociology and economics. It is impossible to entirely separate theoretically driven reflections on African multilateralism from the broader philosophical space. It hence is imperative to draw on what has emerged in the broader social sciences to establish the conceptual parameters for a research undertaking. Engaging with some of the broader theoretical perspectives also provides a base for putting forward a more institutional Public Administration informed approach towards understanding AU multilateralism in governance.

The challenge with theory engagements and seeking to outline existing frameworks is that even when identified, there remain many nuances and variations amongst individual scholars within specific philosophical traditions. Burchill et al. (2013) outline the more influential theories as

articulated within International Relations as including, liberal internationalism, realism, neo-realism and the English School, as well as Marxism and feminism. Anne- Marie Slaughter (2011) provides a similar outline, but includes institutionalism as a viable approach within the field. A more nuanced clustering from Simmons and Martins (2002) categorises the theories as 'realist school of thought', 'rational functionalism' and 'English school' to 'social constructivism'. Purpose generally drives how the theories are clustered and explained., The perspective here is to capture the broader parameters of the perspective and the underlying implied mode of analysis while recognising that there are many nuances in broader philosophical approaches and variations within a seemingly similar tradition. The analysis of analytical traditions is done to put forward an institutional perspective to assess and understand the efficacy of AU multilateral interventions in governance. The use of 'institutionalism' does not serve to dismiss other theoretical approaches, as often no single theory thoroughly explains all aspects and dynamics of international politic interactions (Burchill et al., 2013:23), and hence AU multilateralism in governance. Realist (structuralism) and idealist (liberalism) represent the broad philosophical traditions. Constructivism, while presented by some as philosophical traditions, represents a methodological approach. Institutionalism incorporates both realist and idealistic variations, and hence perceived here as a framework to establish a research focus. To fully appreciate the methodological orientation that would be relevant for the research, it is imperative to engage briefly with each of the broader theoretical tradition and capture their value and limitations. The approach is one of ensuring that the approach embraced for the research does not ignore the value that may be derived from specific theoretical lenses available to understand African multilateralism.

1.1.1 Realism

Realist or neo-realist approaches towards understanding international organisations and international relations continues to be a dominating paradigm (Simmons et al., 2002:329). The emphasis of realists is on sovereignty interests and the power exercised by Member States of the AU (Matlosa, 2008; Khadiagala et al., 2016; Lopes, 2016). The functional efficacy of the AU multilateral system is hence contingent on state interests. Cooperation agreements and implementation actions only unfold when specific state interest is secured. The implementation of formal agreements through bureaucratic actions is contingent on self-interests driven interactions. Member States of the AU will only pursue those actions that will benefit them directly, or that can be used to foster their interest in the future. The overriding emphasis on

the power of states by realists leads them to a dim view of international law and institutions (Slaughter, 2011:2). They generally argue that states may create institutions, such as the AU, but that these institutions will only be able to act per underlying interest and power relations.

Outside of the variations amongst realists, the general proposition is that state commitments define what works or does not work at the level of multilateralism. While most realist tends to dismiss the possibility of agency on the part of international institutions, a few recognise that states may give up some level of agency to multilateral organisations to secure broader interests. Some states may well also use international organisations to force others to adjust and hence make them worst off than before. States may also buy-off cooperation of smaller ones within the overall multilateral system (Simmons et al., 2002:330). Realists of all persuasions perceive power and interest at work in all aspects of cooperation within multilateral organisations.

Realist insights provide a useful basis for engaging with state interests as it relates to agreements and intervention in the AU governance space. The primary focus in understanding what works or does not work and the interest's states might have in establishing and implementing governance norms and standards. More in-depth analysis from such a realist perceptive would be to reflect on the interests within states, and the power exercised by local elites and other domestic forces, on what is agreed to and acted upon concerning AU governance norms and standards. Institutions are treated as mostly reducible to the material interests of powerful domestic or international forces (Burchill et al., 2013:46). They are, at most, variables that can be expected to have effects only on minor issue removed from the struggle for power. These insights cannot be ignored in any analysis of AU governance interventions, as it does pose a question as to why states engage in establishing common governance standards and rules if they are not likely to agree to them in the first place

The weakness of realist perspectives and related structural modes of analysis is that they cannot account for the emergence of normative frameworks and the agency exercised by multilateral institutions. States often comply with values related to humanitarian actions without the threat of coercion or any direct self-interest. When there is norm violation because of the absence of an enforcement mechanism, the moral force of an infringed norm may serve as a significant part of the calculus of both the state and those who judge it (Burchill et al., 2013:49). At the most basic level, AU institutions not only sustain interactions but can be instrumental in judgements and actions from international and local stakeholders as they collect information

on compliance or non-compliance with governance norms and standards.

1.1.2 Idealism

The principal challenge to realism and hence, for a more idealist perspective on AU multilateralism in governance comes from the broad family of liberal theories (Walt, 1998:32). The foundational insight from a liberal theory perspective is that the national character of individual states matters for multilateral relations (Slaughter, 2011:3). A central tenant of liberal perspectives in international relations is that democracies do not attack each other and hence democratic practices need to be spread to secure peace across the world (Khadiagala et al., 2016:1562). While classical liberalism places emphasis on the character of individuals states for broader cooperation, more recent emphasis is on ideas projection into the international system. While there are many nuances, there is a general belief in the superiority of specific forms of governance and that these will or should command consent from all states. Within such a world-view, cultural distinctions and claims of sovereignty will and should fall away when it comes to norms and standards in governance (Fukuyama, 2006).

Rooted in the idealistic frame of liberal perspectives, is a firm belief that global or African norms and standards in governance are derivable from the principles that have evolved from domestic political orders. While there might be divergences on how governance shared-values have evolved within the AU system, the general proposition is that these constitute appropriate standards to be applied to all Member States (Murithi, 2017). Even as some defend state sovereignty and engage multilateralism from a liberal self-interest perspective, the general ideational orientation is that contravention of agreed governance norms and standards can justify interventions in internal affairs (Murithi, 2017). The liberal framework can, in part, explain the rapid growth of AU instruments in democracy and human rights, amongst others. The general caution, however, is the claim that many of these instruments contain ideas that are specific to African realities and hence there is no melting into the universal or the general march of modernisation. The challenge with those who propagate African governance values as separate from western liberal constructs is that, very often, the norms and values are mostly the same (Souaré, 2014).

Idealistic liberal perspectives allow for a deeper appreciation of why states will agree to norms and standards that may not accord with the interest of ruling elites. To counter the superiority of specific ideas, and concomitant governance norms and standards, state representative might find it impossible not to agree within formal processes to specific governance instruments.

Also, they may well be subject to pressure from different domestic and international sources, including civil society. The value of the approach is that it facilitates reflection on the governance frameworks developed outside of any pretence that these only unfold because of state interests. It furthermore also facilitates an appreciation of the agency of wider stakeholders, including donors, on what unfolds within AU governance-related processes. A further distinct value of a liberal perceptive is that it builds an appreciation for what is now termed 'norm entrepreneurs' in the multilateral context (Souaré, 2014), whether these be from a liberal or Pan-African integration perspective.

Within the African governance space, idealists often engage in matters of discourse and related contestations around African perspectives and ownership (Mkandawire, 2007). An argument around distinctively African perceptive on governance issues is often made. Such perspectives include a need to counter dominating western ideas, especially those embodied in liberal perspectives. Idealist within this space includes the Pan Africanist who would argue for deeper integration on the back of African shared values. While there would be contestation around economic liberalism, they do not necessarily substantively articulate governance norms and standards that are different from those articulated by liberal from across the globe.

Ideas often unfold in specific social contexts and take root as a result of the agency exercised by individuals and organisations within the AU multilateral system. What is agreed upon by AU Member States is often not just a reflection of the dominance of specific ideas but may well also be as a result of either capacity strength or weaknesses within specific supportive institutions or institutional processes. The more substantial weakness of the focus on ideas is that there is a lack of appreciation of the context within which ideas unfold and implemented. Including the meaning attached to specific governance documents when an agreement is forged. Idealist focus on norm adoption and implementation outside of any appreciation of the agency and hence the capacity of AU multilateral institutions to implement these. An idealist frame is more geared towards engaging in the superiority of some instruments over others and hence not on the efficacy of interventions that unfold within AU multilateralism in governance. Asserting that AU instruments, for example, in corruption, are different to or better than UN or other regional instruments, does not provide any insights into what works and what does not. It is vital to recognise that it is not possible to delink ideas from institutional processes.

1.1.3 Constructivism

Constructivist approaches emerged mainly as a response to more traditional rational self-

interest explanations of multilateralism and the work of multilateral institutions. In contrast to self-interest explanation, they argue that actors within the multilateral process are inherently social, that their identities and interests are socially constructed and re-constructed on an ongoing basis (Klotz & Lynch, 2014:3). Constructivists are generally critical of value-neutral theorising and argue well that all knowledge is wedded to interests, and that theories should be explicitly committed to exposing and dismantling structures of domination. In general, constructivist appose empirical claims on a single criterion of validity, claiming that such move marginalises alternative viewpoints and moral positions (Klotz et al., 2014). Normative elements, such as those established to drive forward a multilateral agenda, are as crucial as structures, where the focus is on the self-interest of Member States. Shared ideas, beliefs and values have structural characteristics that exert a powerful influence on social and political action.

The value of a constructivist approach is that it allows for deeper peering into the institution of multilateralism and multilateral institutions in a way that goes beyond self-interest or idea-driven explanations. Individuals and stakeholders involved in AU multilateralism are perceived to be social, in that identities is constituted from institutionalised norms, values and social environment in which actions unfold. How engagements unfold is from identity acquisition, as learned through processes of communication, reflection on experience and role enactment. From such a perspective, what unfolds within AU multilateral intervention in governance is shaped by the agency of actors as knowledgeable social and political agents. By re-imagining the social as a constitutive realm of values and practices, and by situating individual identities and interests within such a field, constructivists have placed a sociological inquiry at the centre of analysis (Adler-Nissen, 2016). A constructivists lens allows for peering into AU structures in a manner that builds an appreciation of how norms and practices are shaped and reshaped through communication and various modes of active socialisation. At the level of a focus on AU governance interventions, this approach could well serve to explain the shift and the contradictions that emanate from the choice to move beyond state sovereignty towards none-indifference amongst others. It would also help explain how AU governance-related institutions may well be driven to pursue their interest against the wishes of the States that create them.

Constructivist theories have generally inspired a level of rich empirical analysis into the role of multilateral organisations in setting the standards of appropriateness, diffusing norms, and in mobilising various group socialising mechanisms to shape actors behaviour (Simmons et al.,

2002:339). While helping to shift away from a pure focus on state interest and articulated norms and standards, towards social and institutional context within which actions unfold, a constructivists approach on its own might not provide enough insights into the complex interplay between different variables that shape what unfolds in AU multilateralism in governance. Methodologically, it would be prudent to draw on constructivism and the other broader philosophical traditions to establish an institutional approach towards understanding the efficacy of AU multilateralism in governance.

1.1.4 Institutionalism

Institutionalism, in contrast to the other broader approaches, serves to shift perspectives onto the varied forms of agency exercised within the multilateral process. Institutions, defined as a set of rules, norms, practices and decision-making procedures (Jupille & Caporaso, 1999), serve to overcome the uncertainty that may undermine cooperation and hence deeper African integration. At the most basic level, multilateral institutions, such as the AU, can extend the time horizon for actions and hence create the possibility of compliance over a period. Some institutionalist share realist assumptions and hence focus on multilateral institutions officials both as agents of their principles (Member States) and as agents prone to acting upon their self-interest within the process of shaping and implementing governance interventions(Jönsson & Tallberg, 2008; Amenta & Ramsey, 2010). However, there are others within the broad fold of institutionalism, who cast attention both on historical path dependencies and on institutional norms and values for understanding institutional actions. Institutional approaches to the study of multilateral organisations generally derived from the study of domestic institutions. As with state-level bureaucratic structures, multilateral organisations can develop identities that are distinct to and sometimes separate of constituting states. Such identity emerges through social interactions and mutual understandings or interest, which can lead to an independent bureaucracy or culture (Jaafar, 2018:14) that is either positive or negative for the overall policy momentum of the organisation.

The more recent recurrence of the approach is termed 'New Institutionalism' and derives from the fields of Political Science and Sociology, with two distinct schools of research. The first school (Historical Institutionalism), generally looks at the background framework of institutions, to better understand the norms, they foster. The second school (Sociological Institutionalism), looks towards complex networks of social and economic relationships to understand preference formation within institutions (Caporaso, 1992; Jupille et al., 1999). Both

schools have generated methods and findings, which are of value to the study of African multilateralism in governance. The macro-level analysis undertaken by so much of International Relations research is a perfect setting for New Institutionalist research which could, through a blending of macro and micro-level analysis, shed new light on the relationship between state interests, norm formation and actual implementation within AU governance-related institutions.

Institutional approaches towards analysing and understanding international organisations and multilateralism have generally grown across the world and, in particular, have served to build a deeper understanding of the function and value-add of European Union (EU) institutions (Jupille et al., 1999). Although the field has grown internationally and within the purview of International Relations, there is no evidence of its application towards understanding African multilateralism in any manner. At most, studies are conducted on the administrative leadership of the AU and the functioning of AU structures for multilateralism. Even as there are practice-driven conclusions on the agency of AU institutions and weaknesses in implementation, most studies focus on the more macro-considerations of state interests and norm contestation with the broader world.

While establishing a methodological orientation for substantive engagements with the efficacy of AU governance-related intervention, institutionalism does not provide ready crafted frameworks for collating and analysing information. Outside of creating a basis for more in-depth reflections on institutional processes and linking these more engagingly with the institutions of multilateralism, the approach does not embody specified methodologically ready tools. As the orientation generally embodies a shift away from realist and idealist theoretical models, it pushes us towards considering a more 'constructivist' approach towards understanding AU multilateralism in governance.

1.2 Research Methodology and Approach

Institutionalism, while having a rich history within the social sciences, does not inherently have a methodological orientation suitable for all research endeavours. It is hence vital to engage with the overall methodological challenge when it comes to an understanding of the efficacy of AU Governance intervention. An overview of the value and limits of the dominant philosophical approaches for research follows on from an outline of existing institutional approaches towards analysing the efficacy of multilateralism and more detailed characterisation of qualitative institutionalism as a mode of inquiry for the research. The chosen

research method will be outlined together with the related information required for analysis.

1.2.1 The Methodological Challenge

The efficacy of interventions in governance presupposes specific relationships and hence, some level of causality between intervention and related actions. A search for causality requires the identification and delineation of specific variables and the relationship between these. How variables are connected, differ across theoretical traditions. Such connections also embody assumptions on causality. Agency, from a realist structural perspective, arises from self-interest relationships between Member States and hence predicated on building an understanding of choice by rational actors seeking to maximise their interest. Understanding what works and what does not, requires uncovering national interest that drives states to either act or not act in response to governance initiatives (Matlosa, 2008; Khadiagala et al., 2016; Lopes, 2016). From a methodological perspective, this approach implies looking at decisions or non-decisions purely by establishing causality with country-based interests. Practically, this implies looking at variables relating to proposed actions, the response of Member States and the specific interests that explain actions. A realist perceptive is useful for deepening our understanding of possible self-interest arguments on why some things work or do not. They do not, however, encourage engagement with the complexity of decision-making that unfolds in a range of institutions and on actual interactions within multilateral processes and institutions. National level interest nevertheless remains an element of concern and cannot be excluded from sound analysis. However, more engaged research cannot be limited to these as it would fundamentally exclude the complex ways in which agency unfolds and is exercised in multilateral processes and at the level of Member States.

A more liberal or idealist perspective closes the realist gap by casting light on the development and promotion of shared values within multilateral processes. From a research perspective, it would turn attention towards the discourse within the multilateral processes and to the normative agency exercised by multilateral institutions. In this context, the focus would shift towards the substance of debates on the values to be upheld and general contestation around these. The variable to be considered from such a perspective are the values of agents involved in the process, including those from Member States. Causality would be between the agreements derived, the support these have and the commitment to optimal implementation or related disjuncture between values and what unfolds in practice (Khadiagala, 2015; Murithi, 2017). The problem with this is that it excludes interests and that the values articulated, and

actions related to these, are a product of institutional processes and related negotiations or engagements.

An institutional approach to research builds on both the realist and idealistic tradition but seeks to engage actions and inactions that emerge from the range of implementation actions that shape multilateral interactions (Caporaso, 1992; Jupille et al., 1999). In the main, the focus will be on AU established institutions but incorporate some analytical linkages on implementation at the level of Member States. While the relationship between AU institutions and actual actions by national institutions is vital for determining causality and hence the efficacy of interventions, causality in such a context is not an easy matter and influenced by many variables. Tracing causality is difficult, but necessary to demonstrate what intervention would work better in a multilateral context. In the absence of doing tracer studies within the framework of this research, the approach would be to look at relationships to highlight elements of complexity and to capture the challenges that confront each mode of intervention. As the focus is mainly on the role and value-add of AU institutions, the approach has been to look at the choices made, the historical, sociological and economic incentive that shape such choices and hence the limits and value of identified interventions. In essence, it entailed tracing the modalities and incentives structures on what drives people to acts in particular circumstances.

1.2.2 Qualitative Institutional Analysis

Institutionalism, as a theoretical frame, does not in itself directly imply a specific research method. At most, it implies a spread of research approaches directed at uncovering institutional practices and related motivations for actions or inactions. By implication, it suggests a more 'constructivist' research method. Constructivism, stresses that structural continuity and processes of change are based on the agency (Klotz et al., 2014:3) embodied in institutions and processes, and as exercised by individuals. Rather than granting priority to either structure, ideas or agency, constructivism generally views these as being constructed and reconstructed on an ongoing basis.

A constructivist approach requires a level of openness to the terminology used in alternative schools of thought. In the constructivist perspective, norms, rules, languages, cultures, and ideologies are a phenomenon that creates identities and guides actions (Klotz et al., 2014:4-5). Constructivist approaches furthermore imply situating research question within spatial, historical and socio-structural contexts. As multiple meanings may coexist in tension with each other, constructivist also ask how and why particular practices prevail in specific contexts.

Such a framework offers a researcher with the ability to assess the meaning attached to actions and why there is a preference of one over another. A constructivist approach inevitably pushes research work into a hermeneutical circle of ever deeper and more implicit interpretation of what has unfolded. Such an exercise implies appreciating the uniqueness of situations through a comprehensive understanding of what has unfolded (Klotz et al., 2014:14). Structural approaches, be they driven by realist or idealistic assumption, focus on the possibilities and constraints on actions. Constructivist claims generally tend towards reality as it exists, rather than as provided for within particular epistemologies. It is hence, a methodology that acknowledges contingency and context and better suited to an institutional approach to AU multilateralism in governance.

In establishing the boundaries for the analysis, it is imperative to indicate that the focus would be on understanding the workings of AU multilateralism in governance as it relates to institutions established for such purposes. The focus cannot, however, be done, without looking at the presumed or expected response or engagement from Member States. Attempting to understand what unfolds within Member States would push the research beyond what is possible and hence render it impossible to have focus. In looking at such causality, it is hence here only necessary to look at the interactions as is presumed within multilateral processes and that arises from the specific relationships crafted between multilateral institutions and specific state structures or actors at the national level. The focus in this context would be on the relationship and not on the functioning of state-level institutions. Extending the causality approach would imply a much more in-depth analysis and would require a focus only on one aspect of intervention and hence a tracer study to determine all forms of interactions of a state with the multilateral institution. Such a detailed analysis would render it impossible to do a global analysis of the efficacy of governance interventions. A broader case-based analysis may well be prudent for understanding the details of what transpires within AU Member States but is beyond the scope of this research.

The primary focus here would be on doing an institutional analysis of those organisations and actors that occupy the multilateral space itself. It would hence be a focus on the institutions established by the AU for implementation and related processes within which there is participation from Member States and other stakeholders. It would seek to uncover the logic of choices made, how resources flow, the activities engaged upon and the general actions or inactions that unfold. This form of institutional analysis comes from a long tradition of understanding the exercise of agency within multilateral processes.

1.2.3 Research Approach

A constructivist institutional approach, while not implying a single research strategy, does entail providing a complete story based on a broader range of documents and a reinterpretation of previous studies. In this way, a scholar can use texts, including official documents, to uncover evolving practices and hence, general preference patterns (Klotz et al., 2014). The challenge for research from an institutional perspective is that there are no established research frameworks or tools that comfortable fit the orientation. It thus stands before the researcher to establish the framework and the specific tools to be utilised and explain the validity of the approach used. Building on Barnetter and Finemore (2004) framework explained previously, a constructivist institutional approach would, by its nature, emphasis organisational practices and the inherent connection between internal and external factors without losing sight of the focus and level of analysis. In practice, this also entails doing both a historical and contemporary analysis of what has unfolded in AU multilateralism in governance and hence the decisions on actions or the failure to act. Such an approach does not suggest a neutral characterisation of development as they have unfolded since the formation of the AU but instead implies a specific form of analysis from the perspective of institutionalism.

The research approach entailed an engaged analysis of all that has emerged from across the three areas of governance focus (accountability, the rule of law and the state) and across the spectrum of the four areas of governance interventions (Compliance and Sanctions; Peer Review and Diplomacy; Information and Knowledge Exchange; and Capacity Building and Technical Support). In line with a constructivist approach, the methodology involves providing a historical description and analysis of AU governance interventions and the key drivers or logic of choices made. This approach allowed for a fuller demonstration of agency exercised by the range of actors engaged in the multilateral process. In support of the methodological orientation, attention would then focus on uncovering what, why and how actions unfold and the incentives driving those involved in implementation.

Given the complexities of working through governance areas and related terrains of intervention, it is imperative to paint a broad overview of developments in the governance area, before engaging in detail around specific interventions. Within each terrain, it was not possible to capture every intervention that emerged historically as these often cover a wide range of inconsequential initiatives. The approach has been towards gathering the more prominent activities that capture the logic of intention and not every initiative, such as minor or less

significant actions. Embedded in the research approach is hence an exercise in making choices around what to include and what to exclude within the analysis. The choice of what to include and exclude is on the extent to which an initiative is a good illustration of an intervention and is materially able to shed light on the agency exercised within AU institutions. The need to make such research choices is driven, in part, by recognising that no matter how much data is collected and collated, it is not possible to know every specific activity that has unfolded in all of the terrains of intervention in governance. It is important to note that very often, governance activities would emerge as a result of partnership arrangements between AU institutions and external stakeholders and hence are not adequately recorded as AU interventions within the overall system. Analysis invariably embodies the theoretical 'institutionalist' assumption that underpins the research. As articulated, a constructivist orientation serves to guard against substantive bias. Such an approach also served to ensure that the research is context-specific and hence 'avoids the trapping of having to wrestle with the tensions between generalisation and detail' (Klotz et al., 2014:21).

1.2.4 Research Data and Usage

The choice of research tools is driven by the data sources that are most relevant for such an institutional analysis. Substantive reliance is on primary sources of information, such as official reports, memorandum, meetings reports, strategic plans, audits and evaluation reports on AU multilateralism in governance. Interviews are not a direct source of evidence in this study, as these are subjective on institutional processes and decision-driving motivations. While there are many, who would propagate interviews as being essential to construct a more detailed ethnography of what unfolds institutionally, the perspective here is that these are limited in that they provide largely an ex-post reflection of implementation actions that have unfolded (Lamont & Swidler, 2014). Social Scientist generally viewed documents primarily as sources of evidence and as holders of passive content. The central research strategy is consequently associated with styles of content or thematic analysis (Prior, 2008). Consistent with the views of Prior (2008:821), the approach here is to see documents as 'active agents in the world, and to view documentation as a key component of dynamic networks rather than as a set of static and immutable 'things''. The formal content of documents is only a part of the story and hence need to be contextualised and interpreted within the framework of institutional interactions and human agency. Official documents provide direct and valid evidence of what has unfolded AU multilateralism in governance and hence, the most objective source of data

for the articulated research method and approach.

Atlas Ti[9] was utilised for searching, coding documents and extract the required information for analysis. The database contained over 5500 primary documents from within the AU system and partner institutions, such as donors and technical partners. Where necessary and appropriate, some are referenced in the thesis either directly or within footnotes. A coding system was used to search documents to develop a comprehensive appreciation and understanding of AU multilateralism in governance. The document database included all OAU and AU Assembly decisions and resolutions, reports from within AU Departments, internal memorandum, planning and events reports. A summary of the data sources, categories and search code on all documents collected, collated and analysed is in **Annexure One**.

Given the scale of documents collected and collated for the study, it is not possible to reference all of these in the analysis. The approach taken was one of only drawing on specific documents as an illustration or to provide examples of evidence utilised for analysis and related conclusions on the efficacy of the AU governance intervention system. It is thus vital to appreciate that the need to balance having a critical macro-overview of governance interventions, together with a more detailed institutional understanding, exposes a limitation of a study of this nature. While too much of detail will detract from the purposes of building an overall perspective of the efficacy of AU interventions in governance, it was essential to engage in some elements of detail in the data analysis process to ensure that conclusions derived are based on available substantive evidence.

1.2.5 Literature Review and Analysis

In addition to the primary sources of data for the research, there is the use of secondary literature sources[10]. Substantive scholarly work on AU governance intervention contains primary data sources. A review of secondary published literature would conventionally seek to provide a critical summary of existing knowledge in the terrain of research focus (Bryman,

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[9] ATLAS.ti is data management and research tool that helps a researchers uncover and systematically analyse complex phenomena hidden in unstructured data. The program provides tools that let the user locate, code, and annotate findings in primary data material, to weigh and evaluate their importance, and to visualize the often complex relations between them.

2015:8). Alternatively, such a review could serve as a framework to synthesise existing information for evaluating or analysing its value for the research (Onwuegbuzie & Weinbaum, 2017). The challenge for research of this nature is that the literature is both a source of data and a source for shaping the parameters of the analysis. The approach is consistent with the literature methods propagated by Onwuegbuzie and Weinbaum (2016:284) which entails a 'more multidimensional, interactive, emergent, iterative, systematic, dynamic, holistic, and synergistic process of exploring, interpreting, synthesising, and communicating information that is extracted from a comprehensive literature review'.

As a more multidimensional approach has been utilised as it relates to the literature engaged with, it is imperative to provide a brief explanation so that this approach is appreciated. The wider available global literature and more specific African literature has been central to constructing an overall historical outline of AU intervention in governance. In addition to informing the overall background to AU governance intervention (*supra* 1.0), the more detailed characterisation of intervention *(infra* 2.1 and 2.2*),* historical assessments have been used to shape the historical outlined contained in each of the substantive chapters (i*nfra* 3.1, 4.1 and 5.1). In the analysis of the different ways in which African multilateralism has been engaged with *(supra* 1.1), an analysis is provided of the wider literature that has emerged on the AU. Section 1.04 provides a substantive review of the wider literature as it relates to governance, multilateralism and the efficacy of governance interventions. As indicated, the wider literature is also engaged upon and incorporated within the detailed data related evidence outlined in Chapter 3, 4 and 5.

1.2.6 Referencing approach

The referencing approach used in the thesis is primarily the Harvard approach. This referencing style uses the author name and year of publication within the text to indicate the source utilised. Extensive use is made of footnotes for the purposes of explaining data utilised. However, the approach remains consistent with the Harvard method and is directed at ensuring that a reader has a fuller appreciation of the sources and data used in the information presented and concomitant analysis. This approach is necessary, given the range of primary documents utilised and related authorship within AU institutions.

In the list of sources at the end of the thesis, a separation is made between secondary literature and primary document. Primary documents include official public documents available from the AU archives database and are referenced accordingly. In addition, the listing includes

internal documents from AU governance implementation institutions. However, direct reference is only made to those that are used as an illustration or referred to in the narrative of the thesis and does not include all the documents contained in the database outlined in *Annexure One*. In the list of sources, secondary documents are listed before the primary documents. This approach to listing serves to ensure that there is a full appreciation of the primary documents utilised, relative to the secondary sources of information and data.

1.2.7 Research Ethics and Clearance

Substantive attention has been focused on utilising information and documents that are within the broader public realm and hence available on AU websites and related sources. However, for the purposes of a deeper exploration of institutional processes, it proved necessary to utilise internal documents that are not necessarily publicly available. Permission for utilising such documents was obtained from a senior AUC official and was included in the ethics clearance process (see *Annexure Two*: Ethical Clearance). To ensure that rights are protected, and the information shared and analysed do not infringe on an individual's right to privacy, careful attention was focused on ensuring that names of officials are only used were necessary and unavoidable.

As the analysis embodies some questioning of the efficacy and value of work within AU institutions, it has the potential of influencing future policy perspectives and resource flows to organisations. This is, however, an inevitable product of research and analysis and hence unavoidable. However, careful attention was directed at ensuring that the analysis is understood to be focused on the efficacy of organisations and units and not necessarily on the performance of individuals within such institutions. Public officials and institutions are nonetheless subject to wider accountability imperatives, and it is inevitable that their work is a matter of wider public discourse and scrutiny. A careful balance has been established at ensuring that the research serves to uncover institutional realities and modalities of performance without impacting on the reputation and standing of individuals. Data collection, collation and analysis was constantly informed by general ethical standards for scholarly research and the more specific ethics standards and procedures required by students in tertiary institutions. In summary:

i. The rights of individual public officials named in thesis or that may be gleamed from the evidence and analysis in the research process were carefully protected. Where relevant, the right to anonymity of individuals who were a subject of the research was

upheld throughout the research process.

ii.   The research ethics requirements of the University and those derived from global agreements and conventions have been considered, respected and applied. Care has been taken to ensure that no reputational harm is suffered by either institution. The benefits of the research are greater than any critic of the institutions that emerged from the analysis.

It is imperative to recognise and appreciate that the process of data collection unfolded long before the formally articulated research endeavour. While the past experiences of the author within multilateral institutions may serve to shape some elements of the analysis, personal observations, and information derived in confidential sessions have not been used for the research. The permission to use documents collected and collated over a long period of time was also derived before the ethics clearance application process unfolded as part of the research process.

1.2.8 Conceptual Framework

A conceptual framework serves as the overall foundations for the research, the information collated, and the analysis that followed. In line with the overall analysis of the problem, purpose and the research questions, the framework served to integrate the various strands and articulate how the research unfolded. The overall research bias embedded in the methodology and approach is towards building an explorative understanding the workings of AU institutions as they engage in implementing mandates within the fold of governance. Given the historical bias towards realist macro-level analysis and more idealist pronouncements on multilateralism, the approach seeks to build an institutional perspective on what has unfolded and the efficacy of such intervention in the face of the governance challenges. Table 4 below provides an overview of the conceptual framework used to guide the research and detailed analysis. A summary explanation of each area follows from the overview. In substance and form, the table provides an outline on how each of the substantive chapters (accountability, rule of law and state capacity) is structured.

Table 4: Overview of the Conceptual Framework

Focus Areas	Intervention Modalities	Level of Analysis	Organising Framework	
			Section	**Details**
The rule of law Accountability State Capacity	Compliance and Sanctions Peer Review and Diplomacy Information and Knowledge Exchange Capacity Building and Technical Support	Multilateral Engagements Multilateral Implementation	Introduction	An analytical overview of the focus so that the reader grasped the full breadth of inclusion in each of the governance focus areas.
			Overview of Interventions (Secondary and Primary Data)	A substantive historical and dense analytical outline of what has unfolded in the focus area at an AU multilateral level.
			Areas Analysis (Primary Data)	A descriptive-analytical overview of AU multilateral practices across intervention modalities. Substantively explaining implementation methods in each area.
			Institutional Analysis	In line with the theoretical framework, a global analysis of the institutional realities and the choices made. The analysis is done both at the level of Multilateral Engagements and the level of Multilateral Implementation.
			Efficacy of Interventions	Core challenge related themes are derived from the area and institutional analysis. The themes are presented as core implementation challenges.
			Conclusion	Brief conclusions derived on what works and what does not on the basis of the preceding analysis.

Source: Summary as derived from analysis and review embodied in Chapter 1.

The following provides a more detailed explanation for the overall elements of the conceptual framework. This outline further serves to ensure appreciation of the fact that the data collected, and collated, and related analysis is embodied in the three core chapters that are central to the focus for the research. It is important to appreciate further that framework serves to ensure that each of the substantive chapters may be viewed as a standalone explanation and analysis of governance intervention within the identified focus areas.

- *Focus Areas*: Governance definitions are varied and embody within them a perspective on what is included for research purposes. In the analysis of African governance discourse and related literature, it is evident that there is a need to articulate clearly a conception of governance. A comprehensive systematic approach would hence require looking at the rule of law, accountability and the state as the broader areas of

governance focus. However, it has to be appreciated that actions in each of the terrains are interconnected, and not all intervention elements would fit neatly into one focus area. ***Overlaps and some repetition*** are inevitable but do not detract from the overall value of the three categorised focus areas for the analysis.

- ***Intervention Modalities:*** The terrains of intervention, as embodied in the ontology of actual AU multilateral initiatives and that emanate from the literature are, a) Compliance and Sanctions, b) Peer Review and Diplomacy, c) Information and Knowledge Exchange, and d) Capacity Building and Knowledge Exchange. The terrains of engagements are defined broadly by the different modes of governance-related interventions from within AU institutional system. These are the different type of activities that are identifiable within the established intervention categories. Activities often cross over between different categories and sometimes overlap. Where this is relevant and impacts on the substance, this is indicated in the detailed analysis. Interventions initiatives are generally distinguishable by the core motivation, which serves to establish them.

- ***Level of Analysis:*** The levels of analysis vary across each of the focus areas and in part of contingent on how initiatives have unfolded. This variation is in part a reflection of the level of engagements and type of agency exercised by both Member States representatives and those who exercise implementation authority within AU institutions. In keeping with the constructivist approach, the research analysis draws on the guidance embedded in the general literature related to institutional analysis and, in particular, the framework extracted from, amongst others, Barnetter and Finemore ([2004](#)). It served to uncover the drivers and choices around interventions established, and hence, the agency exercised within AU institutional processes. The analysis focused on the two interconnected levels of multilateral engagement and multilateral implementation as it pertains to institutional actions within AU multilateralism in governance.

- ***Organisational Framework***: Each substantive chapter under the broader heading of the areas of governance focus for brevity and logical flow in data presentation and analysis. A brief historical overview of what has unfolded is provided to facilitate the

more detailed level of engagement that follows on how implementation unfolds in each of the intervention areas. The institutional analysis focuses on multilateral engagements and implementation to extract the core efficacy challenges in the governance focus area. The extracted issues are presented as the core thematic 'efficacy of intervention' challenges. Overlapping and common challenges feature in the consolidated analysis derived from each of the substantive chapters.

In keeping with the conceptual framework articulated and the research approach, the thesis unfolds over six core chapters. *Chapter One* served to establish the framework for exploring AU multilateral intervention in governance. *Chapter Two* provides a descriptive summary of AU governance intervention as it relates to continental integration, the multilateral institutions involved, and the related policy development and implementation process. *Chapters Three* to *Five* serve as the core data and analytical chapters for the study. Each chapter provides a history of interventions in the area of focus, together with a detailed outline of intervention and related analysis. Central to each of these chapters (3 to 5) is the extraction of the core efficacy challenges as it related to AU governance interventions[11]. *Chapter Six* serves to provide both a consolidated analysis and a perspective on the future. Core to the *final chapter (seven)* is responding to the research purpose through the provision of a governance graduation normative framework and value-adding matrix to guide AU multilateral interventions in governance. It also serves to highlight potential areas of future research and related proposals on the future.

1.2.9 Limitations of the Study

It is inevitable that a study of this nature would have some substantive limitations. In seeking to understand the working of AU institutions of multilateralism reliance has been placed on formal documents and related institutional decision processes. In so doing, the study does not incorporate the range of informal interactions that shape the decisions made and hence individual internal motivations for implementation and related actions. The general methodological perspective is that formal documents reflect what has unfolded and hence the most authoritative source of decision making and related motivations. However, it cannot be discounted that these documents and decisions are often influenced by a range of stakeholders

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[11] As there is no firm separation wall between accountability, the rule of law and state capacity, or between different intervention modalities, some repetition of description and analytical duplication is inevitable. However, careful attention was focused on ensuring that this is minimal and only done where it proved necessary for optimal flow and logic of analysis.

and motivations that can only be articulated by way of direct interviews with individuals.

While interviews or a survey of stakeholders, including Member States may be revealing, the overall orientation here is that these would be subjective and be shaped by an attempt to explain choices and actions after they have unfolded. In general, it is highly unlikely that individual will reveal the reasons why they acted in certain ways, outside of trying to justify these as optimal within context. As the study is wide in scope, a detailed ethnography of actors and their motives was large beyond the scope of what is possible. Such a detailed approach would also only be relevant if one were engaged in only one or a limited range of actual decision and implementation processes within governance. While it may be useful to understand individual decision-making through interviews, it would be difficult to derive objective conclusions on what informed decisions based on possible contending views. While interviews could have enriched the study content, it is highly unlikely that they would have fundamentally changed the analysis and conclusion as these were derived from the formal documents that are current in AU institutions and reflect what actually transpired.

The study is qualitative and explorative in nature as it seeks to provide a more institutional understanding of AU governance interventions. While it is predicated on a broad overall hypothesis on the efficacy of multilateral institutions, the range of variables renders it difficult to construct a quantitively oriented model to measure the efficacy of AU interventions. Establishing causality between norm establishment and active implementation is impossible for a study of this nature. A more detailed quantitative study, which incorporates a survey, would require that the study and analysis be more focused on a specific element of governance intervention focus. The study is hence limited by the overall broadness of its orientation.

A more detailed study of governance intervention in specific terrains may well have been possible if there was substantive prior research on actions that unfold within the AU institutional system. Most studies on the AU have been wider in focus and have not engaged in internal institutional processes. A further substantive limitation of the study is that it could not engage with details of what emerges as the level of individual Member States. To a large extent, reliance is on AU documents and related interactions with Member States. To fully understand how AU Member States, respond to AU governance interventions, it would have been prudent to engage each through a survey or related forms of research engagement. Such a study would be much wider and beyond the scope of what was possible. The many variables that shape the responses of Member States would also have had to be considered. Despite the

methodological and other possible limitations, the study nevertheless served to establish a substantive and justified perspective on the value and limits of AU multilateral intervention in governance.

1.3 Conclusion

A key challenge for research engagements on AU multilateral interventions in governance is that it is a complex and dynamic terrain of practice, and subject to wide-ranging analytical and epistemic perspectives. A central analytical difficulty is the absence of an overarching operational perspective on what to include for research purposes. The approach here is to provide a more encompassing but manageable perspective on the core governance focus areas. The research terrain is dominated by realist from within the field of International Relations who focus on state power as it pertains to multilateralism and hence fails to engage with the granular realities of institutional actions as it relates to implementation. An institutional approach, as it unfolds in the chapters that follow allows for a more substantive understanding of organisational processes that shape the relative efficacy of AU multilateral interventions in governance.

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Chapter 2:   Integration and Interventions in Governance

AU multilateral governance norms, values, standards and related implementation actions are intertwined with the continents political, economic and social integration trajectory. Perspective and action on governance have both served to shape the trajectory and have been influenced by dominant and contested integration orientations within the AU. In order to establish an overall perspective on engagements in governance, this chapter provides a historical overview of the integration trajectory as it pertains to governance interventions and related actions. The different governance intervention modalities are elaborated upon in a way that allows for appreciation of the intention underlying each. An analytical description of the AU institution of multilateralism, AU governance implementation organisations and other stakeholders that have a role and influence over governance interventions and related initiatives follows from the elaboration. Core to the descriptive analysis that follows is a summary overview of the AU policy and delivery process as it pertains to multilateral governance engagements and implementation.

2.0 Introduction

AU multilateral integration initiatives unfold both at a normative policy discourse level and in the terrain of active implementation initiatives. The aspiration and related commitments to intervene in the terrain of governance emerged gradually within the OAU and were affirmed more broadly with the launch of the AU in 2002 through the articulated shift from 'sovereignty' towards 'non-indifference'(Vandeginste, 2013:4). It is imperative to engage both with how governance considerations evolved within the overall integration journey and, in particular, with how conceptions of governance find practical expression in AU specific intervention, ranging from shared values to the APRM and the AGA in order to understand the AU governance intervention journey.

It is essential at this juncture to reemphasise the analytical distinction made between the governance of the AU as a multilateral institutional system, versus AU related governance interventions. While there are overlaps and two are substantively connected in particular areas of governance concern, such as human rights and the rule of law, the governance of the AU is generally articulated in the context of the democratisation of the integration process and hence securing the AU as a people's driven organisation. The interest for the research is centrally on the issue of AU governance interventions directed at building commonality at the level of

Member States for more profound forms of integrations.

Of importance for more in-depth scrutiny, is an outline of the institutional parameters of AU multilateralism and multilateral implementation. The overview of AU multilateral structures incorporates an exploration of the role of RECs in governance interventions, in so far as they are perceived as the 'building blocks of the AU' (Fagbayibo, 2013:426). Civil Society Organisation (CSOs), Developmental Partners (DP) and United Nations (UN) organisations have historically played a significant role in AU governance intervention efforts and hence their role and influenced are analytically engaged. The overview of AU governance implementation institutions builds on the outline of AU multilateralism and directed at providing a more granular perspective on how the AU functions and how implementation unfolds. While there are many nuances, implementation dynamics and complexities within implementation processes, the overall objective is to provide a globalised perspective to pave the way for the more detailed analysis that follows in subsequence chapters. Building on the integration overview as it relates to governance interventions, a synopsis, on the AU policy process and how implementation unfolds, is provided. The global overview of AU governance interventions, as intertwined with integration, is significant, as it serves to provides a basis for more detailed engagements on the efficacy of AU multilateralism in the terrain. While the contents of the sections that follow are intended to be descriptive, the approach taken is to engage the integration process and related practices from the lenses of seeking to understand the institutional architecture of AU governance interventions.

2.1 Governance and Integration

Regional integration is reflected on from a range of different perspectives, with a wide array of approaches and theoretical perspectives. Schneider (2017) provides a clear outline of the differential meaning associated with integration. At one level, it could refer to a process of change from a lack of cooperation towards increased convergence in a variety of areas. On the other hand, it could refer to practices aimed at creating common standards associated with agreed ideas, values and objectives. Integration could take many forms, ranging from informal arrangements to various degrees of interaction, which embody a transfer of sovereignty to a regional structure (Schneider, 2017:2). This diversity in approach and perspectives in many ways resembles the history of integration in the African continent. A diversity that has also prompted some to suggest that there are no natural regions and that they are constructed deconstructed and continuously reconstructed (Schulz, Söderbaum & Öjendal, 2001:3).

Within the framework of enduring African discourse on unity, Adebayo (2010:37) puts forward that integration cannot be understood 'exclusively in terms of economic processes and the institutional mechanisms' but has to be reflected on by way of the 'associated political visions and actions'. The more nuanced approach to integration reflects, to some extent, the tensions embedded in how different actors within the African integration terrain have come to view the overall process and hence the trajectory and value of AU multilateralism. It is imperative to cast a net over the historical trajectory of normative debates on integration in the continent to appreciate the variances in perspectives on the optimal approach to multilateralism. In casting the net, reference is both to the broader discourse or 'vision' establishing events and related policy documents, as well as actual implementation initiatives that have unfolded over the period. Such an approach allows for a deeper understanding of governance-related activities and actions that have unfolded within the AU. The African journey has broadly been one of shifting from an initial post-independence emphasis on sovereignty and non-interference, towards one of non-indifference, shared values and the desire for optimal governance intervention impact at the level of AU Member States.

2.1.1 Sovereignty and Non-Interference

African anticolonial activists, including those from within the diaspora, were crucial to the initial perspectives on African integration and a shared future. Of significance is the 1945 Pan African Congress in Manchester, where young Africans, such as Kwame Nkrumah, Jomo Kenyatta and others evoked the idea of independence and African unity. Soon after Ghanaian independence, Nkrumah organised the first All African People's Conference in Accra. At this Conference, Nkrumah explicitly articulated a perspective that 'there can be no solution to our political and economic problems' without integration (Mohammed, 2015:97). Since this initial momentum, many other continent-wide African unionist movements, defined by the African cities at which they met, emerged and proposed their idea and mechanism for the unification of Africa. The movements include the Casablanca, the Monrovia and Brazzaville Groups (Adogamhe, 2008). The Casablanca Group proposed a more centralised system for economic and political integration, and the Brazzaville Groups proposed a more conservative phased approach to integration. The Monrovia Group was perceived to be somewhere in the middle between the two approaches (Gnaka, 2009:46).

Full political unity versus a more conservative incremental approach, defined integration debates before, during and after the formal launch of the Organisation of African Unity (OAU).

During the Opening Session of the launch, Emperor Haile Selassie of Ethiopia appealed for a sacrifice of differences to establish an organisation that would serve to construct the foundations for unity (Adogamhe, 2008; Dirar, 2016:88). While Nkrumah's ideas for political integration were opposed by many, it remained core to continuing engagements around the mode and pace of African integration (Adejo, 2001; Bujra, 2004:2). The compromise which paved the way for the formal launch of the OAU allowed for the recognition of the geographical boundaries inherited at independence. The common interest of African countries is discussed without prejudice to the principle of non-interference in the internal governance affairs of Member States. The political unity project is left at the level of the loose coordinating role entrusted to the institutions of the OAU (Adejo, 2001; Laporte & Mackie, 2010; Mohammed, 2015:99). The OAU was reduced mostly to an annual assembly which did not seem to be able to muster the will to push the more activist agenda of continental unification further (Olukoshi, 2010:46).

Although the OAU included as an objective the 'promotion of international cooperation having due regard to the charter of the UN and the Universal Declaration of Human Rights'(Kindiki, 2003:101), its primary objectives were the speedy decolonisation of all territories in Africa, the unity of the continent and the defence of the territorial integrity of states (Akokpari, 2004:244-245). The consequence of the initial emphasis on sovereignty and the full political and economic liberation from colonialism was the absence of any discourse on governance, as it relates to how Member States engaged with issues on the rule of law, accountability and state capacity. While there were some indications of a shift in the late 1980s, and early 1990s the approach was very nuanced and reflected in the June 1993 'Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes taking place in the World'. Within the Declaration, the Assembly committed itself to further democratisations but asserted that all countries would 'determine, in all sovereignty, their system of democracy on the basis of their socio-cultural values, taking into account the realities of each of our countries' (OAU, 1993).

Governance issues and concerns were considered matters outside of the scope of the work of the OAU and hence not subject to any forms of direct consideration or multilateral intervention. As far as in 1992, the OAU Assembly of Heads of State and Government found it necessary to reaffirm its approach in a 'Resolution on the Strengthening of Cooperation and Coordination among African States' within which emphasis was placed on the OAU Charter provisions on the strengthening of solidarity and the non-interference in the internal affairs of Member States

(OAU, 1992). The adoption of the resolution at the time reflecting ongoing internal tension within the OAU between integrationist and those who sought to reaffirm sovereignty in the face of a growing demand for democratisation from civil society actors, amongst others.

2.1.2 Economic Crisis and Non-Indifference

The substance shifts towards governance considerations largely emanated as a result of deepening debt-related economic crisis facing many African countries in the 1980s. During this period of imposed Structural Adjustments, Africa regional cooperation and integration were, not a priority concern to the World Bank (WB) and the International Monetary Fund (IMF). These institutions were, in fact, hostile to the sub-regional cooperation and integration projects that were in existence (Olukoshi, 2010). The state adjustment focus was to be on internal policy and structural economic imperatives within OAU Member States. While WB adjustments were unfolding across the continent, the discourse on unity remained central for many, and the African political leaders attempted to give attention at various moments to how cooperation and integration could be intensified and accelerated as a collective response to overcome the economic crises that were overwhelming their countries. African Heads of States and Governments met in a summit in Lagos, Nigeria, in 1980 at which they approved the Lagos Plan of Action (D'Sa, 1983). The commitment to a path of united action, underpinned by an agenda of economic integration, was agreed upon, complete with a time frame and implementation milestones. Elements of the Plan of Action were later to be carried forward and written into the 1991 Abuja Treaty establishing the African Economic Community (AEC) (Bujra, 2004; Olukoshi, 2010).

The Lagos Plan of Action and the Abuja Treaty represented the first direct effort to emphasise the importance of governance for development and hence an initial step away from the predominant focus on sovereignty and non-intrusion into the internal affairs of Member States (Kouassi, 2007). The governance concerns substantively unfolded within the context of the Conference on Security, Stability Development and Cooperation in Africa (CSSDCA). The formal CSSDCA process was adopted at the Extraordinary OAU Summit held in Sire, Libya, in September 1999 (Lloyd & Murray, 2004). The 36th OAU Summit in Lomé adopted the Solemn Declaration on the CSSDCA, acknowledging that it served to consolidate the work of the OAU. Of importance to CSSDCA was that it incorporated the 1990 African Charter for Popular Participation in Development. Central to the areas that emerged within CSSDCA and related action-plans adopted at the 1st Summit of the AU in Durban, South Africa, was the

identified need for 'democratisation, good governance and popular participation' within Member States (Lloyd et al., 2004:168). The CSSDCA process coincided with the establishment of NEPAD and the development of the 'strategic framework for socio-economic development of the continent'. While CSSDCA was perceived to be focused on governance and NEPAD on economic issues, both of the adopted documents contained specific provisions relating to governance. The NEPAD base-document went as far as articulating concrete future-oriented actions which culminated in the establishment of the APRM (Gelb, 2002).

Amidst the reflections and debates that took place amongst Heads of State and Government, a resolution was reached to dissolve the OAU and replace it with the AU, with a new Constitutive Act and Organs. The AU was formally founded in 2000 in Lome, Togo, where its Constitutive Act was adopted [12]. The Union emerged as a conscious design to give a new impetus to African integration and unity. At an overall level, the discourse began to shift away from non-interference towards the more nuanced perspective of non-indifference, thereby inferring a more active role for the continental body on the internal affairs of Member States (Kindiki, 2003). The substantive shift towards governance consideration was driven by both the political imperative of countering WB imposed structural adjustment, through the CSSDCA process and by internal African recognition of the link between governance and development as reflected in the NEPAD base document (Olukoshi, 2010).

The CSSDCA process served as a fundamental formal counter perspective to the dominance of the WB institutional approach to governance (Nathan, 1992:215). The CSSDCA was driven both by civil society actors and by OAU Member States. There was a shared African orientation on the need to shift towards a more holistic approach towards governance, which substantively incorporated the active participation of Africans in the development trajectory of the continent. CSSDCA also served as the foundations for the eventual establishment of the Economic, Social and Cultural Council (ECOSOCC) as the structure for ongoing civil society participation within the AU (Adisa, 2002). When coupled with the governance considerations within the NEPAD founding document, the general African orientation on governance was less on the institutions of the state, as has emerged from the WB and as emphasised in other parts of the

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[12] The adoption of the Constitutive Act was the first stage in the process towards the formal launch of the AU. The formal launch took place in 2002 in Durban and only after the Constitutive Act was ratified by Member States. As the Constitutive Act is ratified on different dates by Member States, it is generally not accorded a specific date as with conventional national legislation. In each instance of usage, 'Constitutive Act' is in reference to the founding AU document, akin to a national constitution. Many commentators generally ascribe the 26th of May 2001 as this was the date that the Constitutive Act came into force after full ratification by all Member States of the AU.

world. The more holistic African perspectives on governance set the stage for more extensive engagements on African governance issued through the emerging shared values agenda of the AU.

2.1.3 Shared Values and the APRM

The birth of the AU generally served to reignited deliberations on the question of the political unity of the continent. The proposal for a complete political unification of Africa was expressed by the Libyan leader Muammar Ghaddafi, during the Extra-Ordinary Summit of the OAU held in Sirte, Libya on 9 September 1999, and at the 4th Ordinary Session of the Assembly of Heads of State and Government, held in Abuja, Nigeria on 30 and 31 January 2005 (Edo & Olanrewaju, 2012). These proposals were received with mixed feelings, thus sustaining the historical pull between those who desired rapid and full integration, versus those who propagated a gradualist approach (Elvy, 2012). A 'Grande Debate' on the proposed Union Government took place at the level of Heads of State and Government at the 9th Ordinary Summit in Accra, Ghana, during July 2007. During the debate on the proposed Union Government in Accra, the divergent perspectives between maximalists and the gradualists were reaffirmed, albeit in a different institutional context of the AU (Wapmuk, 2009:661; Laporte et al., 2010:52).

The Arab Spring in North Africa and the collapse of the Gadhafi regime in Libya, to some extent, served to close the chapter on a Member State-driven maximalist approach to integration. While the debates remain alive, the creation of the AU has allowed these to permeate dialogue on issues of sovereignty and shared values within specific terrains of engagement. Although the AU Constitutive Act provided for non-indifference to internal state realities, how this strategy is interpreted suggest that the divergence remain very real within policy and institutional processes (Adejumobi et al., 2009). At a more institutional level, substantive governance-related efforts unfolded under the leadership of Alpha Konari, the first Chairperson of the AUC. These efforts are reflected in, amongst others, the adoption of ACDEG and the AUCPCC. During the tenure of Konari, the AU approved Strategic Plan of the Commission incorporate a direct focus on what was termed 'shared values' (AUC, 2004) which embraced matters relating to governance and hence an affirmation of the agency of the AU as a collective process and the AUC as a multilateral institution with a level of active agency.

The compromise between maximalist and gradualist in the OAU period serve to establish an

institutional entity with limited agency beyond arranging the Summit of Head of State and Government. In the period of the AU, the debate moved away from permeating summit dialogues towards more detailed policy work and hence the enhanced agency of AU institutions (Olukoshi, 2010). As the AU Constitutive Act provided some level of authority to specific Organs and structures, it served to increase the overall agency of institutions. At the level of discourse on integration, the consequence of the shift from the OAU toward the AU is one within which maximal and gradual become matters of judgement and contestation in specific policy terrains (Olukoshi, 2010). The strength of the gradualist and more tempered approach to integration eventually reflected itself in the interactions between the AUC and a selection of RECs. Building on the initial foundational document which asserted that RECs 'were the building blocks of the AU', the Commission, through the Department of Economic Development established a process to develop a Minimum Integration Programme (MIP) that directly involved RECs. The logic of the MIP was that it would clearly define the terrains for integration and change in a staged manner, with clearly articulated roles and responsibilities. The strategy covered several areas of focus of the AU and RECs and hence incorporated issues related to governance. In this respect, the MIP provided for the ratification of the ACDEG and the establishment of regional peer-review mechanisms (AU, 2009c). While MIP generated some interest and a level of active commitment from RECs, it has been overtaken by the Agenda 2063 process introduced under the leadership of the Chairpersonship of Dr Dlamini Zuma.

Under the overall rubric of the 'shared values', there was a substantive attempt within the AU processes to articulate a set of values that by and large reflect a specific conception of what governance entails. The table below is extracted from a document entitled "The Ascendancy of Shared Values in the African Union Government". The document is an annexure to the Report of the Ministerial Committee on the Union Government, which was noted by the Assembly (AUC, 2010). The table is an aggregation of the shared values at the individual, state or regional level.

Table 6: Shared Values in the African Union

At the individual level	At the state or regional level
1. Basic rights to life, identity and opportunity	1. Sovereignty and the interdependence of states
2. Basic Freedoms (Expression and worship)	2. Adherence to the the rule of law
3. Tolerance	3. Democracy and Representation of the popular will
4. Participation in governance	4. Care for the weakest
5. Solidarity with each other in times of joy and in times of sadness	5. Self-reliance (economic and social)
6. Dignity and Respect	6. Justice
7. Justice	7. Law and order
8. Sense of Fairness	8. Equity and equality
9. Equality of persons (Gender, race, sex etc.)	9. National determination
10. Respect for age	10. Solidarity of states (brother's keeper)
11. Integrity	11. Stability of environment
12. Community spiritedness	12. Security
13. Self determination	

Source: Report of the Ministerial Committee on the Union Government (AU, 2008d; AUC, 2010)

Outside of the inclusion of the table as an attachment to a Ministerial Report, it had no real formal status within the overall AU system and the listed 'shared values' has had no substantive influence or value in the governance initiatives of the AU. In formal terms, the real 'shared values' in governance would only be those that are within the framework of the Constitutive Act and all other legal instruments of the AU. In such instances, the values espoused serve to establish a compliance obligation amongst those countries that have formally ratified such instruments.

Outside of the direct AU internal momentum on shared values, the APRM rapidly developed its approaches and related practices for peer engagements on governance (OAU, 2002). The APRM does not in its core establishment documents, articulate a consistent definition of governance outside of expressing four assessment areas. These are: (i) democratic and political governance, (ii) economic governance and management, (iii) corporate governance and (iv) socio-economic development. To many NEPAD and the APRM served to establish an orientation towards governance that substantively links the idea of good governance to economic development (Herbert & Gruzd, 2008). The general notion being that 'good governance' involves the creation of the conducive socio-economic, legal, political and institutional environments to foster the state's material strength; to free people from the evils of abject poverty, preventable diseases, ignorance, squalor and idleness; to provide the citizenry with the voice to choose those who rule over them, to hold those in power accountable when they do not work for the greater good, to demand transparent structures and to fight down

socially regressive policies, and to treat every citizen equal without regard to gender, race, ethnicity, religion, and creed. A substantive critic of NEPAD and APRM suggest that it merely served to re-establish the WB perspective on governance and hence, the imposition of neo-liberally inspired conditions for economic growth (Bond, 2009).

Notwithstanding the critics, the assessment areas identified, together with further details, served to substantively broaden how governance is perceived and what the related imperatives are for governance at the level of Member States. Details are in the guiding objectives, standards, criteria and indicators for the assessment. For example, the sphere of democratic and political governance is guided by the overall objective to 'consolidate a constitutional political order in which democracy, respect for human rights, the rule of law, the separation of powers and effective, responsive public service are realised to ensure sustainable development and a peaceful stable society'(Kanbur, 2004; Grimm, Nawrath, Roth, Triebel & Utz, 2009). Nine key sub-objectives are drawn from the overall objective. These are conflict prevention; constitutional democracy including periodic political competition and the rule of law; human rights; separation of powers; accountable civil service; fighting corruption; protection of women's' rights; children's rights and of the rights of vulnerable groups (APRM, 2015).

While the APRM approach suggests a degree of comprehensiveness in coverage, it generally embodies some level of confusion around the logic of peer engagements as a basis for appreciating localised realities and the application of specific standards that Member States have to adhere. This tension between specific normative pronouncements, as contained in AU legal instruments, and the anticipated relativism embodied in the peer review process was particularly evident in the instance of the APRM review of Ethiopia. The response of the Ethiopian President was particularly sharp in this instance as he accused the APRM Panel of failing to appreciate Ethiopian realities and the developmental model that was appropriate to Ethiopia (APRM, 2011)[13] . The ongoing challenges for APRM continue to be one of finding the balance between peer engagement and the application of particular governance standards. The general push from civil society organisations that participate actively in the establishment of the APRM questionnaire has been on the application of specific standards as part of the peer-review process and less on an openly appreciative process (Gruzd, 2014a).

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[13] The response of the President is contained as an Annexure to the report on the 14th APRM Summit deliberations on Ethiopia (APRM, 2011:359)

2.1.4 AGA and AU Reforms

In the years leading towards the Shared Values Summit in 2011, there was a growing concern with the proliferation of instruments and institutions, but with limited overall governance impact. This concern is in the discussion document leading to the Shared Values Summit (AUC, 2010). A crucial response within the AU institutional system was to engage in the process of bringing together the numerous organisations and related process to facilitate better coordination and impact. The initiative culminated in the development of a Declaration for the Shared Values Summit that affirmed the existence of an AGA based on what has historically unfolded and hence the establishment of the AGP (AU, 2011d). The logic of the AGP is that it would facilitate effective coordinative action amongst AU institutions and RECs in the fold of governance and overcome the challenge associated with multiple instruments with overlapping mandates, such as is reflected in the ACDEG and the APRM process. Within a year of the adoption of the Declaration, the Department of Political Affairs of the AUC established a Secretariat for the Platform, the Rules of Procedure for the functioning of the platform, several sub-committees and an implementation work-plan (Wachira, 2014).

When establishing the overall AGA framework, there was no specific definition of governance. In the main, the approach was to delineate governance by a broad notion of specific instruments that fall within the broader purview of governance and the institutional mechanisms that were a part of the focus of AGA. Wachira (2014) provides that AGA takes at least 24 different norms and standards into account, including the AU Constitutive Act. The formally adopted instruments are in the table below, together with a brief explanation of the overall orientation.

Table 5: African Union Governance Instruments

Governance Instrument	Orientation
Charter on Human and Peoples Rights (AU, 1981).	The Charter promotes protecting human rights and fundamental freedoms on the African continent. It incorporates the right to participate in government and related protections from arbitrary state action.
Charter on Democracy, Elections and Governance (AU, 2007a)	This Charter is central to governance as it sets down requirements related to elections, participation and accountability to society. It incorporates issues of constitutionalism, the separation of power and adherence to the rule of law.
African Peer Review Mechanism (APRM) – Questionnaire (APRM, 2015)	The APRM is described as more of a process than an instrument. Its questionnaire nevertheless embodies instrumental elements in so much as it poses a range of normative questions on the optimality of governance and accountability in countries.
Convention on Preventing and Combating Corruption (AU,	The Convention outlines the obligations of African states in the areas of corruption prevention, criminalisation, international cooperation

2003a).	and asset recovery. It covers a range of offences including bribery, diversion of property by public officials, trading in influence, illicit enrichment and money laundering.
Charter on Values and Principles of Public Service and Administration (AU, 2011a).	The aim of this Charter is the modernisation of service delivery by public institutions within Member States. It incorporates provisions relating to the development of state capacity and the protection of the right of public servants and citizens in the delivery process.
Charter on the Values and Principles of Decentralisation, Local Governance and Local Development (AU, 2014b).	This charter is focused on promoting decentralisation, local governance and local development in Africa. It incorporates provisions directed at protecting local government institutions as vehicles for local democracy and delivery.

Source: Adapted and consolidated from relevant AU Charters, Conventions and Instruments[14].

In addition to these listed legal governance instruments, numerous other declarations, resolutions and decisions of the AU embody some focus on governance. These are captured in the table below:

Table 6: Declarations, Resolutions and Decisions relevant to Governance

Declaration, Resolution and Decision	Year of Adoption	Place Adopted
Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes taking place in the world	1990	Addis Ababa Ethiopia
Declaration on the Code of Conduct on relations between States	1994	Tunis Tunisia
Agenda for the Re-launch of Africa's Economic and Social Development	1995	Cairo Egypt
Algiers Declaration on Unconstitutional Changes of Government	1999	Algiers Algeria
Grand Bay (Mauritius) Declaration and Plan of Action	1999	Mauritius
Lomé Declaration for an OAU Response to Unconstitutional Changes of Government	2000	Lomé Togo
CSSDCA Solemn Declaration	2000	Lomé Togo
OAU/AU Declaration on Principles Governing Democratic Elections in Africa	2002	Durban South Africa
New Partnership for Africa's Development (NEPAD) Declaration on Democracy Political Economic and Corporate Governance	2002	Durban South Africa
Memorandum of Understanding on Security Stability Development and Cooperation in Africa	2002	Durban South Africa
Kigali Declaration on Human Rights in Africa	2003	Kigali Rwanda
Solemn Declaration on Gender Equality in Africa (SDGEA)	2004	Addis Ababa Ethiopia
Decision of the 12th AU Assembly on the Resurgence of the Scourge of Coups d'état in Africa	2009	Addis Ababa Ethiopia
Decision of the 14th AU Assembly on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacities of the African Union to Manage such Situations	2010	Addis Ababa Ethiopia

Source: Discussion document on the Shared Values Summit (AUC, 2010)

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[14] For a full list of these and their contents see https://au.int/en/treaties.

Outside of the listed instruments, resolutions and decisions, governance relevant contents are contained in a particular sector or constituency-based initiatives, such as those on the youth, gender issues and children. As the AGP process unfolded, the thoughts of what is to include are embedded in an operational document through the implied contents of the clusters of the Platform. The AGA Platform has five thematic clusters: (1) governance, (2) human rights (including transitional justice), (3) democracy, (4) constitutionalism and the rule of law, and (5) humanitarian affairs (AUC, 2015a). Under the Rules of Procedure of the AGP, each cluster is obliged to mainstream the cross-cutting issues of knowledge and data generation and management, gender equality and empowerment (Wachira, 2014).

The logic of the clusters and what is included in each is never fully explained by the AGA Secretariat. The inclusion of humanitarian affairs is perceived to be because this portfolio of work is within the DPA of the AUC. Since establishment, only one or two of the clusters have had meetings, and there is general uncertainty around their operationalisation and the substantive value they would add to the overall objective of the AGP[15] (DPA, 2013). The consequence of the clustering approach and related work of the AGA Secretariat has been to broaden the mandated focus and hence a loss of substantive strategic engagements on building the coordination and impact-related efforts that the AGP was meant to facilitate[16]. Since 2012, the Secretariat of the AGP within the AUC initiated several activities related to shared values in the form of cluster meetings and a range of consultative conferences and events.[17] Of particular significance was the introduction of an annual Conference on Democratic Governance Trends (*infra* Table 7). The Secretariat also focused on arranging consultative sub-regional events with youth and gender communities as it related the overall theme of the AU for the year. During 2018, some events on 'fighting corruption' were arranged. The general orientation was that the events were vital for consultation and participation in AGA and generally within the AU[18].

The growing frustration with the efficacy of the AU and general difficulties with

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[15] For a full account of the discussions on establishing the AGA clusters see the Report of the Governance, Human Rights and Elections Division on the Retreat to fine tune The 2013-17 Strategy and Action Plan of the African Governance Architecture and Platform, Kuriftu Resort, Debre Zeit, Ethiopia, 26-28 March 2013 (DPA, 2013).

[16] To appreciate the difficulties of implementation and establishing the clusters, see for example Report on the Consultative Meeting on the Action Plan of the African Governance Platform on the Strategy to Ratify the African Charter on Democracy, Election and Governance was held in Lome, Togo, 7-8 August 2012 (DPA, 2012c).

[17] For a full account of some of the work of AGP, see the report of the Commission on Governance in Africa (With Focus on the African Governance Architecture and Elections) presented to the AU Assembly in 2015 (AU, 2015b).

[18] Details on the activities of the AGA Secretariat are contained on a dedicated website http://aga-platform.org.

implementation culminated with the reform process introduced through the leadership of President Paul Kagame. While the reform exercise covers a broader terrain of issues that impact on the overall AU system, there is substantive recognition of the limited governance impact of the AU and its institutions. The initially introduced reform process focused attention on promoting the APRM as the premier lead institution on governance matters and proposed that it would serve to monitor governance in the continent (Kagame, 2017). The APRM itself has suggested that it constitutes a broadening of its role (see Gruzd *et al.* 2018), rather than a substantive strategy to overcome historical coordinative and impact challenges within the governance fold.

The decisive step forward in the institutional reform of the AU emerged during the Eleventh Extraordinary Session of the Assembly of the AU held during November 2018. In this Summit, there were formal decisions on the overall structure of the AUC and the funding of the APRM (AU, 2018b). Contrary to the initial concern on duplication and overlapping roles in the governance space, the decisions of the Summit is muted substantively on building the efficacy of the overall AU system in governance. Of some significance to the evolution of governance implementation efforts was the restructuring of the AUC, which entailed the merging of the peace and security and political affairs portfolios under a single Commissioner (AU, 2018b). The precise implication of this for governance intervention have not been spelt out, beyond the general assumption of the need for active synergy between AGA and the African Peace and Security Architecture (APSA). The Summit further determined that the APRM will provide leadership on the development of an annual State of Governance in Africa Report (SoGR). The decision of Summit provides that the report will serve to assess the status of Member States governance in five areas: leadership, constitutionalism and the rule of law, the nexus between development and governance, and the role of RECs. The decision further provides that the 2019 report will establish the basis for future regular and continuous monitoring and tracking of governance trends in all Member States (AU, 2018b).   The Summit also affirmed the full integration of the APRM into the AU by the direct provision of its programme and operational budget, hence removing an obligation of participating states to make a direct contribution to the APRM Secretariat (AU, 2018b).

The first Africa Governance Report produced by the APRM Secretariat in collaboration with

AGA ([APRM, 2019](#)) was delivered at the February 2019 Summit of the AU[19]. The Summit decision on the report provides that Member States should consider the recommendations and urges countries 'to develop national governance reports as a self-assessment tool for promoting good governance in line with the recommendations of the Report'. ([AU, 2019c](#)) . The report's recommendations are generic and substantively mirror the outcomes of the Shared Values Summit, which include a call for greater coherence and coordination between the AU and RECs.

2.2 Governance Interventions

The historical overview of the governance and integration journey of the AU provides a generalised outline of what has unfolded. It does not, however, fully capture the actual interventional modalities and the different types of interventions that have unfolded. As these are core to detailed data and analysis, it is imperative to provide an overview of the modalities of intervention in order to appreciate the evolution of governance considerations within the AU system. As outlined *(supra* 1.0.1), some interventions are prescribed in legal documents, resolutions and related plans. Many nevertheless unfold as 'activities' arising from the agency exercised by AU implementation institutions. It is necessary to draw on broader literature as it relates to each area of multilateral governance intervention in order to broadly outline the core intervention modalities as a basis for more detailed analysis in later chapters. The 2004 AUC Strategic Plan outlined a series of 'missions' ranging from capacity building, advocacy, brainstorming and follow up evaluations ([AUC, 2004](#)). The 2009 Strategic Plan under the Chairpersonship of Jean Ping moved away from the mission approach and focused solely on articulating a range of strategies without any enunciation of missions or the nature of interventions ([AUC, 2009b](#)). Agenda 2063, on the other hand, asserts a more results orientation without any detailed specification on intervention beyond very general assertion on the developing guidelines on implementation, monitoring and evaluation ([AUC, 2015b](#)). Aside from the initial 2004 strategic plan, the AUC has generally not focused attention on specifying its specific value-add to achieve strategic results. The strategic modes of value-adding intervention in governance are hence derived both from what emerges in the literature and from evolved activities in the fold of AU multilateral interventions (*supra* 1.0.1). In line with the research framework the four areas of intervention within the governance space are 1)

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[19] The report prepared by APRM in collaboration with the AGA Secretariat was presented, but copies of it have not been distributed and generally not available online. Whilst a copy was email to this author, it has not been widely distributed.

Compliance and Sanctions, 2) Peer Review and Diplomacy, 3) Information and Knowledge Exchange and 4) Capacity Building and Technical Support

2.2.1 Compliance and Sanctions

A dominant perceptive in the literature is that compliance with international or regional laws established through multilateral institutions is mostly contingent on the political will to secure compliance through relevant sanctions and state self-interest in the compliance process. Hence, the extent to which an AU Member States behaviour is compliant with ratified instruments or adopted norms will largely depend on the power it exercises relative to other States. In such a context, sanctions and other forms of direct intervention are the only available modality for coercing a recalcitrant state towards full compliance (Elvy, 2012:81). An alternative articulated approach is that shared rules and norms, for example, in governance, will serve to reform a state decision-making process, thereby encouraging a state to comply in order to reap the longer-term benefits. Accordingly, governance-related violation will occur when the conditions supporting compliance are weak and when norms are ambiguous (Elvy, 2012:81). To appreciate 'compliance and sanctions' as a mode of intervention within the purview of AU multilateralism in governance it is thus essential to draw both from the literature on power and authority within the AU compliance system and on scholarly and related work on the operational modalities for securing compliance.

As indicated, much of the literature tends to focus on the legal basis for AU intervention and the exercise of power. At the level of authority, many commenters reflect on the change from the OAU to the AU and related implications for compliance with agreed norms and standards. The shift implied for many a greater willingness to intervene in situations of crisis or where there are governance failures and concomitant acts of violence (Cilliers & Sturman, 2002a). In particular, Article 23(2) of the Constitutive Act provides that 'any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of transport and communications links with other Member States, and other measures of a political and economic nature to be determined by the Assembly' (Cilliers et al., 2002a:97). The modalities and actual work of the AU Peace and Security Council (PSC) in situations of governance distress and violence has been substantively documented by a variety of scholars (Nathan, 1992; Abass et al., 2002; Cilliers et al., 2002a; Engel & Porto, 2009; Williams, 2009b; Vines, 2013; Williams, 2014) active in the peace and security terrain. However, outside of the more direct forms of peacekeeping and diplomatic intervention

through a decision of the PSC, there is limited reflective work on the modalities for securing compliance in the governance terrain. The primary instrument for 'compliance and related sanctions' would be the Constitutive Act and related provisions on governance. Article 4(m) provides for "respect for democratic principles, human rights, the rule of law and good governance". Article 4(o) provides for "respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities". Article 4(p) provides for the "condemnation and rejection of unconstitutional changes of government"(AU, 2002a). The frameworks adopted by the AU also provides that sanctions can be imposed on any Member State for non- payment of assessed contributions, violation of the principles enshrined in the Constitutive Act, non-compliance with the decisions of the Union and unconstitutional changes of government.

AU sanctioned interventions in a number of crisis situations, such as in Kenya, South Sudan, Cote d'Ivoire, Mauritania, Libya, the Democratic Republic of Congo are well documented and subject to more extensive scholarly reflection (Nathan, 1992; Abass et al., 2002; Cilliers et al., 2002a; Engel et al., 2009; Williams, 2009b; Vines, 2013; Williams, 2014). What is perhaps less a subject of scholarly reflection is actual efforts towards monitoring compliance and the imposition of sanctions outside of the suspension of AU membership. Beyond the provisions and instruments associated with APSA, there is a range of adopted legal instruments in the governance terrain that imply compliance and sanctions for failure to domesticate after ratification. Even before engagements with the levels of compliance, there are substantive challenges concerning the legal ratification of relevant governance-related instruments. These have been aptly analysed by Tiyanjana Maluwa (2012:33) who concludes that various factors determine the slow rate treaty ratification, among these, are a 'lack of political will; administrative lethargy; inadequacy or lack of the necessary bureaucratic coordination and cooperation among relevant branches of government; and the lack of technical capacity.' While full ratification of adopted governance instruments represents a concern within the AU multilateral system, the more considerable challenge relates to securing and monitoring actual compliance. In addition to the modalities established through the PSC and the AUC, specific treaty monitoring bodies, such as the African Commission on Human and Peoples Rights and the AU Advisory Board on Corruption have been established for such purposes. While scholars (Landsberg, 2016; Lopes, 2016) are quick to point out that compliance with treaties is a huge problem, there is hardly any institutional analysis of the monitoring and compliance processes that fall primarily within the operational agency of established multilateral institutions.

The general assumption is that when there is agreement over an instrument, and the AU adopts, it will be followed by ratification and actions towards compliance by Member States. All of the legal governance instruments embody some element of sanction related to non-compliance. In each instance, the legality of ratified instruments, also implies that individuals or organisations in Member States may take the matter of non-compliance to a local Court or to a regional or continental legal structure to force compliance (Mutua, 1999). In general terms, the most effective instruments for compliance within the multilateral and bilateral sphere in Africa has been in the form of conditionality's relating to loans or aid (Hernandez, 2017). Such instruments have nevertheless not been available to the AU in any direct way as it has never really been a donor or a provider of loans, outside of the work of the African Development Bank (AfDB). In general, the AU does not have direct authority over the use and disbursement of AfDB funds. The only real conditionality to force particular kinds of governance-related actions have been from the WB and bilateral donors. Such practices emerged in the 1980s and unfolded well into the 1990s and continue in some parts of the continent and among some development partners (Carothers et al., 2013).

Existing scholarship on Member State compliance and related sanctions as instruments for AU multilateralism mostly focuses on security issues and actions or inactions at the level of Member States (Nathan, 1992; Abass et al., 2002; Cilliers et al., 2002a; Engel et al., 2009; Williams, 2009b; Vines, 2013; Williams, 2014). Aside from the modalities for reporting on compliance with the African Charter on Human and Peoples Rights, there is no substantive literature on the practices established to secure ratification and compliance with all governance instruments and adopted norms and standards. To appreciate these and to analyse the efficacy of such intervention, reliance is placed on information about what has and is unfolding within AU institutions. In general terms, all the adopted instruments either embody directly or indirectly a commitment to impose some form of sanction for non-compliance[20]. However, there is no consistent view of this within the AU beyond the notion that a failure to comply would either result in appropriate action from the Executive Council or Assembly. Alternatively, and a complement to AU Assembly related processes is the view that the AU Court will serve as a channel for ensuring compliance when its authority is fully established (Ssenyonjo, 2018:39). The ability to exercise some form of sanction for compliance purposes

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[20] As illustration, Article 46 of the African Charter on Democracy, Elections and Governance provides that the 'Assembly and the Peace and Security Council shall determine the appropriate measures to be imposed on any State Party that violates this Charter'(AU, 2007a).

is very nuanced and will be reflected on in further detail in each of the governance focus areas.

2.2.2 Peer Review and Diplomacy

Conventionally, 'peer-review' is associated with academic practices wherein a critical examination of written work seeks to ensure compliance with research standards and as a means for securing quality (Kanbur, 2004:159). The practice of 'peer review' as it relates to multilateralism, is defined as a systematic examination and assessment of the performance of a state by other states as a means for helping the state adopt better practices, comply with established standards and improve its policy-making (Pagani, 2002:15). The practice of 'diplomacy' is generally associated with all forms of external engagements by emissaries of States. However, within multilateral governance-related processes, it is associated with multilateral driven initiatives where designated 'diplomats' are sent to engage with state and non-state actors where governance crisis is unfolding and especially where there is political violence. Peer Review and Diplomacy are conceptually linked as they both represent 'softer' forms of engagement on governance-related challenges.

Some multilateral organisations use peer-review practices in specific terrains of policy engagement (Gruzd, 2014b). The practice has become synonymous with the policy development and learning approaches used by the Organisation for Economic Co-operation and Development (OECD). The methodological orientation for peer-review fundamentally defined the practices prevalent in the OECD (Kanbur, 2004). The OECD does not exercise any direct power over its Member States, and neither does it establish overall legal frameworks to govern practices within Member States. In the main, the focus is to encourage change through active research initiatives predicated on the collation and comparison of information from Member States in a variety of engagement terrains, including in governance. The Governance Unit in the OECD has for years engaged in a range of comparative studies in specific areas and presented these for discussion to Member States. In general, the responses to these include a desire to effect change within OECD States in light of 'technical conclusion' on shortfall (Kanbur, 2004).

Within the AU context, the idea of utilising reviews as the basis of exerting pressure towards conformity with standards is associated with the methodological orientation of the APRM. The value of the APRM for African governance has been engaged with by some scholars (Kanbur, 2004; Gruzd, 2011; Wachira, 2014) and the general orientation is that it represents substantive hope for change and compliance with appropriate governance standards. However, there is

criticisms of the APRM from an ideological perceptive (Bond, 2009) and based on weaknesses associated with the practice of self-review (Jordaan, 2006; Killander, 2008a). To some, it embodied, amongst others, a 'self-protective impulse' in the country self-assessment phase of the review. Some opponents of the APRM argue that its theory of change is overly idealistic as it works on the questionable assumption of peer pressure as a driver of positive behavioural change. Proponents counter that a sanctions-based system will risk losing the support of participating states (Bello, 2016). Within the practice of peer-review, the general view is that the value of the process is that it can give rise to peer pressure by way of public scrutiny that will influence change and bring about corrective actions (Hope, 2005).

While the APRM Secretariat has a general monopoly over the use of the 'peer-review' concept within AU multilateral processes, there are those who argue for the further diffusion of 'peer-review' into other terrains, such as the 'extractive industries' (Bello, 2016). There is also recognition that 'peer- review' practices are embedded in several continental and regional instruments. In the area of human rights, the idea of review as a basis for exerting pressure is in the global Universal Periodic Review and to a large extent the methodology that characterises the work of the Banjul Commission (Murray, 2004). Whilst the process around the APRM has evolved and is relatively sophisticated, in that a separate report is produced by APRM Panel, relative to the Country Report (Killander, 2008b), the practice in other terrains, such as the African Charter on Human and Peoples Rights (ACHPR) remains relatively similar, but at a much lower level and mainly involving officials from Member States. Peer review is also the presumed methodology of the Advisory Board on Corruption[21]. The process presumed in ACDEG is unclear on the related compliance process. Member States are expected to submit reports every two years to the Commission (AU, 2007a). Even as the practice of peer review as a form of AU multilateral intervention is associated with the APRM, the interest for the study is substantively on engaging with the efficacy of such a mode of intervention for governance in Africa. The literature on the efficacy of multilateral peer-review processes for governance remains nascent outside of the general critic of APRM practices and institutional modalities.

Beyond the broader strategy of peer-review, it has also become common practice to deploy AU multilaterally diplomatic missions to engage on governance crisis that emerges within Member

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[21] In particular, the Convention provides that 'state parties to co-operate and encourage each other in taking measures to prevent corrupt public officials from enjoying ill-acquired assets by freezing their foreign accounts and facilitating the repatriation of stolen monies to the countries of origin' (Olaniyan, 2004:82) .

States. Diplomatic efforts around peace and security are primarily associated with the work of the Panel of the Wise established within the Peace and Security Architecture of the AU. The efficacy of the work of the Panel of the Wise has been review by Jo-Ansie Van Wyk (2016), who concludes that its track record on preventive diplomacy and the reducing conflict remains mixed due to the complexity of African conflicts, its limited mandate and structural location. Outside of the expectation that the Panel of the Wise would serve as the central vehicle for governance-related crises, the AU approach in practice is a little more complicated. It incorporates the appointment of notable senior individuals (such as former Heads of State) for governance-related diplomatic missions (Williams, 2009a; Williams, 2009b), or the affirmation of a leading role for a particular President and country in a situation of crisis, or the deployment of senior officials, including the Chairperson of the AU in specific circumstances. As the practice emanates from within the AU Peace and Security Community, the general approach has been for the designated diplomats to engage with representatives from States and non-state actors to avoid or overcome crisis or conflict situations. The practice has since permeated other areas of work and includes the deployment of diplomatic missions related to elections, the ratification of instruments, the implementation of specific charters and even to encourage adherence to adopted standards[22].

To some, this form of diplomacy represents an example of African solutions for African problems in practice. This notion carries the idea that African actors should have the space to decide on policy prescripts in seeking to address the continent's vast political and socio-economic problems. From a scholarly and theoretical point of view, "quiet" or "soft" diplomacy possess several characteristics, as elucidated by Graham (2006:17). It embodies, amongst others, personal or direct diplomacy between heads of state or government or senior officials and tactful negotiation with all stakeholders in a non-threatening atmosphere. This form of governance-related diplomatic intervention is purported to enjoy a great deal of currency throughout Africa, because of its reliance on "personal and multi-lateral" forms of engagement, as well as the back-up of regional and continental institutions (Landsberg, 2016).

Analysis of African intervention efforts mostly, either centre on the deployment of peacekeepers in instances of deep conflict, such as in Somalia, the Democratic Republic of Congo (DRC) and Darfur or specific experiences, such as in Kenya, Libya or Cote d'Ivoire

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[22] The work of the AUC DPA in preventative diplomacy is detailed in the Report of the Commission on Governance in Africa (With Focus on the African Governance Architecture and Elections) (AU, 2015b).

(Cilliers & Sturman, 2004; Engel et al., 2009; Williams, 2009b; Vines, 2013; Van Nieuwkerk, 2014; Williams, 2014; Van Wyk, 2016; Murithi, 2017). There is no broader analysis of the different types of diplomatic missions and their relative value for governance practices within Member States. Success, as in the instance of Kenya, is generally attributed to African diplomatic efforts (Juma, 2009). Failures, on the other hand, are either because of the lack of unity and capacity (Apuuli, 2012) or to interference from countries outside of Africa (Sithole, 2012:112). The analysis generally unfolds from a 'realist' prism and do not engage with the modalities of diplomatic engagements as they unfold from within AU institutions themselves. While not discarding power and the agency of individuals (either Presidents or other notables) deployed by the PSC or the Commission itself, the analysis generally fails to capture the efficacy of institutional modalities established to support all forms of governance-related diplomatic intervention efforts. In general, the analysis tends to focus on the institution of multilateralism itself, rather than the supportive actions that emanate from the multilateral institution itself. Without discarding agency, the supportive groundwork and shape of diplomatic efforts often unfold because of the actions or inactions of officials within the AU institutional system itself.

2.2.3 Information and Knowledge Exchange

Initiatives directed at enhancing information and knowledge exchange appear to be prevalent within AU governance-related multilateral practices. However, such 'intervention strategies' are hardly ever reflected upon and, it would appear, generally perceived as a soft intervention and secondary to more significant compliance-related initiatives. This perception is surprising, given the range of research and event-related reports produced within the AU multilateral space. Part of the challenge as Barnett and Finnemore (1999:699) note is that existing theories often pay little attention to how multilateral organisations behave and the autonomy that they exercise. Such autonomy is particularly evident in the information resources produced and in the numerous knowledge related event that these institutions organise.

Though it is argued that information resources and knowledge events, such as meetings, workshops and conferences are only instrumental in the larger frame of fulfilling particular implementation functions, the reality is that the exercise of agency is through choices made on what these are and the contents and actors included or excluded within such processes. In the absence of any literature which engages this mode of governance-related intervention, it may well be prudent to look at the role of information and knowledge broadly within the purview

of multilateral organisations. The agency exercised within the terrain of governance-related intervention through information and knowledge is perhaps best illustrated in the work of the WB, which at a point in time began to define itself as a 'knowledge bank'. In 1996, the then president of the Bank, James Wolfensohn rebranded the Bank by articulating a formal vision of a "Knowledge Bank" as a provider of information expertise on development (Teresa & Bessma, 2013).

The multilateral organisation that, perhaps more than others, articulates the importance of its knowledge and information role is the OECD. In contrast, to the World Bank, the OECD lacks the formal power and authority to secure compliance with its decisions. The OECD is therefore pushed towards becoming a vehicle for knowledge construction and dissemination of transnational research and policy ideas embracing a wide range of contemporary issues, including within the governance fold (Mahon & McBride, 2009:84). The knowledge value of the OECD is characterised as one where it 'provides a mechanism for selected states to engage in the process of mutual recognition of the superiority of the social and economic policies that are central to their identities' (Porter & Webb, 2007:12). The information and knowledge role of the OECD is generally perceived to be within the broader terrain of its overall emphasis on 'peer-engagements' as a change-inducing strategy (Porter et al., 2007; Mahon et al., 2009).

The AUC or other AU institutions with a governance mandate have never really articulated precise information and knowledge functions. The lack of definition is probably as a result of perceiving knowledge related initiatives as only instrumental to terrains of responsibility as it pertains to their mandates. A preliminary analysis from reports suggests that information and related knowledge products and events are for many in AU institutions a core functional activity and hence an essential mode of intervention when it comes to governance[23]. AU multilateral governance institutions engage in all manner of partnership with other organisations and mobilise huge amount of donor resources for all types of events in the governance terrain. The work that unfolds in this respect and analysis of the value of such interventions for Member States remains outside of scholarly reflection or evaluative analysis. In general, there is limited scholarly work on the information and knowledge role of multilateral organisations aside from the work of the OECD and the World Bank. In an in-depth analysis of the knowledge role of the World Bank, John and Richard Toye (2005:1)

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[23] A review of the AU website reflects that the Commissions Departments arrange events on a weekly basis. In addition to capacity within Departments, the AUC has an established divisions dealing the organisation of Conference and Events in the Office of the Deputy Chairperson of the Commission (AUC, 2014a).

conclude that the 'production of social knowledge in all international organisations is problematic, because of their nature as a form of public bureaucracy'. Academic analysis on the role of the OECD as it pertains to information and knowledge has been positive, and the general conclusion is that the diffusion of knowledge product and peer-events fundamentally serve to drive change and shape the identities of participating Member States (Porter et al., 2007; Mahon et al., 2009). The general proliferation of events and publications associated with all multilateral organisations do point to the general importance accorded to information and knowledge produces and processes as modes of intervention for change at the level of Member States.

A growing scholarly body of work, from a particular lens, is on the 'norm entrepreneurship' role of multilateral organisations. One commentator from within the AU institutional system describes norm entrepreneurship as an exercise wherein an organisation 'takes up a cause, and employs the necessary skills and resources to convince members of the group about the appropriateness or inappropriateness of the cause, with or without explicit incentives or enforcement mechanisms for conformers or deviators' (Souaré, 2014). Based on an analysis of AU responses to unconstitutional changes in government, Souaré (2014:92) concludes that the shift in the AU reflects a 'bold undertaking to break up with the status quo and chart a new way forward'. Souaré (2014) substantive contribution is recognising the agency that emanates from within the AU multilateral institutional system. Finnemore and Sikkink (1998) provide an appreciative perspective on the information and knowledge related events arranged by international organisations in their analysis of 'International Norm Dynamics and Political Change'. The different organisational platforms or events provide norm entrepreneurs and the organisations they inhabit with spaces to secure the support of state actors to endorse their norms and hence allow for their inclusion as part of their agenda (Finnemore et al., 1998:900). The available literature point to the importance of appreciating information and knowledge as a critical form of intervention from within multilateral institutions. However, it is also vital that to engage with this from a critical perceptive of recognising that they sometimes unfold, as Barnett and Finmore (2004) reminds us, as practices that come at the expense of an international organisation's primary mission.

2.2.4 Capacity Building and Technical Support

Aside from the emphasis on capacity building in Agenda 2063, the AU as a multilateral organisation has never formally fully defined itself as having a capacity building or technical

support function towards its Member States in the governance terrain. A preliminary analysis of reports in the terrain of governance nevertheless suggests that substantive resources are expanded in providing support to Member States, in for example to the terrain of elections[24]. To understand these, it is hence vital to engage with the broader literature as it relates to the role and value-add of international organisation in such form of assistance to Member States. Capacity building as an exercise is generally closely linked to technical co-operation and assistance. In international development discourse terrain, technical assistance as a change-inducing modality is thought to have unfolded after World War II along with the emergence of the UN. As a practice, technical assistance initiatives are conceived as furnishing states with expert advice. In essence, it is a 'linear' apolitical transfer of knowledge from the developed to the underdeveloped world (Wilson, 2007:186). The rapid growth of such assistance culminated in the establishment of the United Nations Development Programme (UNDP) as the technical assistance arm of the UN. Within the broader multilateral and bilateral aid system, the modalities of 'technical assistance' changed over time to absorb criticism, particularly as it relates to the difficulties of transferring technical know-how and capacity across socio-economic contexts (Wilson, 2007:183).

Wilson (2007) traces the evolution of the criticism of technical assistance and, in particular, the failure to secure adequate in-country participation and ownership. He notes that this resulted in a change from technical assistance to technical cooperation to denote more equal relationships. As a result of further reflections in the early 1990s by the World Bank and UNDP, the language shifted towards the more encompassing construct of 'capacity'. Capacity-building is a term embodying a less instructive and much more empowering approach, where developing countries would be enabled to define their problems (Wilson, 2007:190). The intense interest in 'capacity development' within multilateral institutions is a more recent occurrence. A review of the literature suggests that it first appeared in the 1970s to describe intervention directed at supporting local government and was often used as a synonym for 'management improvements' (Venner, 2015:86). Within the broader purview of governance, capacity development is defined to 'encompass the development of institutions, the reform of political and legal systems, and far-reaching change in the recipient country's social organisation'(Venner, 2015:90). Discussions on capacity development generally point to the

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[24] In the report to the Commission to the Assembly on Governance in Africa (With Focus on the African Governance Architecture and Elections) indications are that ' (n)ot less than 20 Members States have benefitted from the AUC capacity building programme for EMBs' (AU, 2015b:21).

fact that it cannot be perceived as politically or culturally neutral. Based on substantive experience with capacity development, the UNDP expressed the view that the efforts to strengthen skills, processes and systems do not produce the intended results if they fail to engage the inherently political realities of the context. They further provide that to be effective, capacity development requires the creation of political and social incentives and effective mobilisation for strong ownership and commitment (Analoui & Danquah, 2017).

The term 'capacity' is generally entrenched in 'governance' related interventions and implies some level of policy prescription. It justifies specific programmes and incorporates a range of activities, including direct training, workshops, the production of manuals, information products and the placement of technical staff in Member States institutions. While debates around the utility of capacity based intervention, given contextual realities and the difficulties of driving change through top-down initiatives continue, the practices are generally entrenched within multilateral processes (Andrews, 2013; Andrews, Pritchett & Woolcock, 2013; Levy, 2014). While it features as a strategy and option in AU multilateral interventions, documented evidence of this happening within Member States is limited, and if exercised generally unfolds from supportive partnerships between the AU and other better-placed capacity building institutions. This mode of support often characterises the work of the African Capacity Building Foundation (ACBF)[25]. While recently described as the 'capacity building arm of the African Union'[26], the ACBF retains an arm's length link to the AU. The United Nations Economic Commission for Africa (UNECA) has also positioned itself to provide direct capacity and technical support to the AU and its Member States in specific terrains of governance[27]. Discussion on capacity building generally tends to focus on the development of capacity within AU institutions themselves and less on them embodying the function of building capacity within Member States for governance.

As capacity building and development is included explicitly within direct forms of AU multilateral interventions in governance, it is crucial that these are engaged upon from the perspective of the global challenges that confront such activities, and their substantive value add. In particular, it is imperative to appreciate that within the wider literature (Andrews, 2013; Andrews et al., 2013; Levy, 2014) there is deep scepticism with the value of capacity-related intervention as they embody for many a top-down 'best practice' orientation to the substantive

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[25] For details on the work of the ACBF see https://www.acbf-pact.org/.
[26] See decision of the January 2017 Summit (AU, 2017a)
[27] The role of the UNECA is more recently captured as one of 'repositioning ECA as premier think tank in Africa' and captured in a Report on 'ECA – 60 Years in Step with African Development'(UNECA, 2019).

governance realities that face AU Member States. Levy (2015:238) provides a critic of the best practice approach to capacity development and governance reforms. He concludes that the central challenge has to less to do with the 'endpoint than with the journey of getting from here to there'. Outside of the fact that many suggest that 'the generic 'theory of change' on which governance initiatives for state capability are based is deeply flawed' (Andrews et al., 2013:2) they continue to be perceived as necessary forms of intervention from multilateral institutions, such as the AU.

2.3 African Multilateralism

It is crucial to establish the difference between African regional integration and African multilateralism. The discussion on regional integration focused on the institution of multilateralism, hence concentrating on the less formal element of debates and shifting values on African integration and governance interventions. African multilateralism has a deeper significance for agency beyond that exercised within the institution of multilateralism (Renard, 2016:20). The institution of multilateralism may manifest itself in, formal organisation, but its significance arises from less formal practices and norms of international society. Multilateral institution, on the other hand, focuses on the formal organisation elements characterised by a permanent location, distinct headquarters, a secretariat with staff and budgetary allocation (Caporaso, 1992:602).

The importance of maintaining this distinction is that multilateral institutions and the institution of multilateralism do not always mirror one another broadly or within specific issue areas. Without overstating the agency of African multilateral institutions, it is essential that there is some engagement with actual multilateral institutions, as separate to integration efforts and the institution of multilateralism. The institution of multilateralism exists whenever there are formal or even informal interactions amongst more than two countries (Caporaso, 1992:602). These do not necessarily entail having formal organisation structures outside of those within the countries themselves or those joint interactive structures temporarily created to facilitate dialogue. While the institution of multilateralism may be related to multilateral institutions in a cause and effect manner, the organisational entities provide arenas within which actors learn to alter perceptions of interest and beliefs. The institution of multilateralism may, in turn, spawn, maintain, alter, and undermine specific organisations (Renard, 2016). Given expectations of agency and the prominence of Political Science and International Relations in the study of African multilateralism, the literature has been dominated by writings on the

institution of multilateralism, with very little attention being focused on multilateral institutions themselves ([Gutner et al., 2010:2](#)). This neglect of institutions is, in part, a reflection of the intellectual leaning towards the political nature of multilateralism and regional integration.

2.3.1 African Union Institutions of Multilateralism

The institution of multilateralism exists whenever there are formal or even informal interactions amongst more than two countries. At the level of the AU, formal multilateral engagements unfold through several established institutional structures and organs. While supported by the AUC and other Secretariat structures within the AU system, they represent terrains of formal multilateral engagements and hence platforms for decision-making and policy construction. Appreciating these is important as they provide insights in how mandates are established and hence the expectations that States have of implementation-related multilateral institutional structures[28]. Rather than provide a detailed outline of the modalities of the institutions of multilateralism, the approach here is to provide an analytical overview of role relative to actual implementation structures. The figure below provides a broad overview of the macro-political structures of the AU. A generic descriptive overview of the structures of the AU is in an 'African Union Handbook' ([AUC, 2014a](#)) produced by the AUC[29]. Oxfam has produced a similar compendium on the structures and functioning of the AU. The primary purpose of the Oxfam compendium has been to guide civil society organisations on their interactions with the AU, its structures and institutions ([Oxfam International, 2012](#)).

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[28] In providing an overview of the AU institutions reliance is placed on the Handbook of the AU. The Handbook is now in its sixth 2019 edition and was first published in 2014. ([AUC, 2014a](#)).

[29] The African Union Handbook has been produced by the AUC with support from the Embassy of New Zealand as part of a 'commitment towards accountability, as well as providing a valuable guide to structures and work of the AU'.

Figure 3: Macro Political Structures

Assembly of Heads of State and Government	African Peer Review Forum

Executive Council of Ministers of Foreign Affairs

Permanent Representatives Committee (PRC)	Specialised Technical Committees (STCs)

Peace and Security Council (PSC)

Pan African Parliament (PAP)	African Court

Economic, Social and Cultural Council (ECOSOCC)

Regional Economic Commissions (RECs)
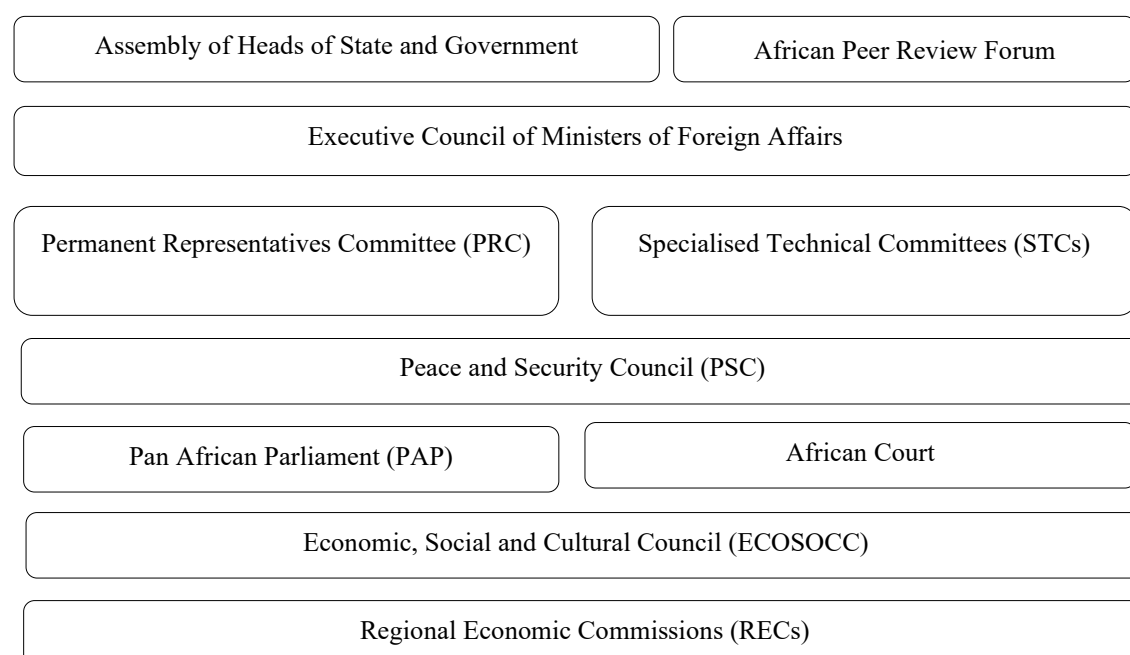
Source: Information extracted from the AU Handbook 2019 (AUC, 2014a) and the Oxfam Compendium (Oxfam International, 2012).

At the apex of the overall systems is the Assembly of Heads of State and Government. The AU Assembly is the political organs of the Union, headed by a Chairperson who is 'elected after consultations amongst Member States' (AUC, 2014a:27). The Assembly meets at least once a year in ordinary session and when approved by a two-thirds majority, in extraordinary session. In line with the practice established within the OAU, the Summits of the Heads of State is held twice a year. The January Summit is typically held in Addis Ababa, at the Headquarters of the AUC, and the mid-year Summit takes place in another Member State (OSISA and Oxfam, 2009:6). The Assembly of Heads of State and Government is considered the highest decision-making body and receives reports from other established organs and the Executive Council of the AU. The Assembly is tasked with authority to determine policies of the Union and monitor implementation. Also, it has the authority to adopt the budget, receive and consider reports of other organs, and appoint principles officers of other AU Organs (AUC, 2014a:27). In general, decisions are based on consensus or, failing which, by a two-thirds majority. Decisions may be in the forms of binding regulations, directives to Member States or non-binding recommendations, declarations and resolutions. Within the broader governance fold, an African Peer Review Forum of participating Heads of State and Government is established. This structure meets typically before the Summit and functions as the platform for actual peer-review engagements and to receive reports from the APRM Panel and Secretariat (OAU, 2002).

A substantive critic of the functioning of the AU is that the Assembly is often overwhelmed with many agenda items and documents, and there is never enough time to focus on strategic issues (Kagame, 2017). The shift towards one Summit a year and a more manageable agenda of strategic issue, as part of the AU reform process, suggest a substantive recognition that the structures that involve Heads of State and Government, such as the APRM forum, have not functioned optimally. It is hence difficult to conclude that the decisions of Summit have the substantive buy-in from Heads of State and Government. As part of the reform process, the AU Summit in July 2017 decided to reduce the number of Summits to one a year, with the second Summit focused on interactions between the AU and RECs (AU, 2017c).

At a secondary and lower level, the AU has an Executive Council, made up of Ministers of Foreign Affairs or those designated by Governments and usually meets before the Assembly to consider all submission and decisions to be made by the Assembly. The Executive Council also receives reports from Specialised Technical Committees (STCs) composed of Ministers or other Senior Officials and from Conferences of Ministers convened directly by Member States or through the efforts of the AUC. The overall logic of establishing STCs was that they would serve to provide oversight over programmes and projects relevant to their areas of focus. The Constitutive Act provided for the establishment of seven specific STCs, but this was enlarged to fourteen in order to incorporate a broader thematic focus. The STCs of particular relevance for governance is the STC on Public Service, Local Government, Urban Development and Decentralisation (AUC, 2014a:60-67). It has taken some time for the formal establishment of STCs as the main conduit for programmatic work within the AU system. AU Departments have had a history of arranging meetings of Ministers and officials in particular areas of policy consideration outside of the STC process. The agency of officials during these meetings is relatively high as they determine the agenda and substantive content issues for consideration and engagement[30]. There has been an ongoing concern on the number of Ministerial meetings convened and on the relative efficacy of such arrangements. In the terrain of governance, the AUC has arranged meetings and conferences on a variety of governance issues in, for example, the areas of Public Administration, Local Governance and Anti-Corruption. The approach has generally been of an ad-hoc nature. In 2014, the Conferences of Ministers of Public Service and Local Governance were incorporated as the STC in Public Service, Local Government, Urban Development and Decentralisation. The substantive push

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[30] See for example the AUC DPA report to the Executive Council on the 5th Pan African Conference of Ministers of Public Service (AU, 2006b).

for the establishment of the STC arose from the effort of Ministerial meetings that were held in local government outside of the AUC and through the structure of the African Ministerial Conference on Development and Decentralisation (AMCOD) (Aschmann, 2011:71).

In the broader governance intervention terrain, the more significant and influential AU Organ is the PSC. The PSC primarily grew out of an ad hoc process to reform the Mechanism for Conflict Prevention, Management and Resolution, which had been adopted by the OAU Assembly of Heads of State and Government in June 1993. Article 2.1 of the PSC Protocol established it as 'a standing decision-making organ for the prevention, management and resolution of conflicts'(AU, 2002c). It hence serves as collective security and early-warning arrangement to facilitate timely and efficient response to conflict and political crises in Africa. Article 3 of the PSC Protocol outlines six objectives for the institution. These are to promote peace, security and stability in Africa; anticipate and prevent conflicts; promote and implement peacebuilding and post-conflict reconstruction activities; coordinate and harmonise continental efforts in the prevention and combating of international terrorism in all its aspects; develop a common defence policy for the Union; and encourage democratic practices, good governance and the rule of law, as well as protect human rights and fundamental freedoms (Williams, 2009b:607).

The PSC has fifteen members elected by the AU Executive Council: five elected for terms of three years, and ten for terms of two years. According to Article 5 of the PSC Protocol, the Council's membership is according to the principle of 'equitable regional representation and rotation' (thus the five regions of north, west, central, east and southern Africa present candidates for election). The article also lists criteria on which to judge prospective candidates. These include an assessment of whether the state in question is in good standing (whether it has paid its dues, and respects constitutional governance and the rule of law), and whether it is willing and able to shoulder the responsibilities that membership would place upon it (Cilliers et al., 2004:100). Historically, the PSC has primarily focused on responding to a crisis, where conflict has emerged and not on structural issues that encourage 'bad governance'. Most of the countries that have become the focus of the PSCs deliberations have experienced a coup or armed insurgency. Outside of the instances when the PSC takes place during the Summit period, its meetings are attended mainly by members of the Permanent Representative Committee (PRC) (Levitt, 2003).

The PRC is made up of Ambassadors from Member States. In the main, it is constitutive of

Heads of Mission of representative countries based in Addis Ababa. Submission to the PRC arises from the AUC and all other multilateral institutions, including the PSC. As the PRC meets more often and its members are involved in day-to-day interactions at the level of AUC. It is widely considered the most powerful body in the AU and makes decisions regarding budgets and submission to higher level organs (Lisakafu, 2016). More detailed engagements unfold at the levels of PRC and its sub-committees. Lisafaku (2016) provides a detailed analysis of the PRC and concludes that it lacks transparency in its operations. The PRC is nonetheless instrumental in determining what features in the decision-making process during Summits. The AU reform process incorporates concerns around the functioning of the PRC and the substantive authority it tends to exercise around the overall implementation system (Kagame, 2017). The PRC has historically been a vital connection between multilateral institutions and the institutions of multilateralism. The role and power that the PRC has, is recognised by AU governance implementation institution. The AUC DPA has arranged some specific PRC related engagements on governance issues as a means for securing broader commitment, and in particular, more appropriate budgets for interventions[31]. At one of these meetings in 2017, the PRC went as far as committing towards established a sub-committee to deal with governance intervention issues (DPA, 2015)[32]. In recognition of the fact that the PRC exercises undue authority over implementation matters, a vital element of the AU reform process has been to reduce the power of the PRC by reaffirming the authority of Ministers of Finance on all budget-related issues within the AU system (Kagame, 2017).

In addition to the listed Organs, the AU has established the African Court on Human and Peoples' Rights (African Court) and the Pan African Parliament (PAP). The current focus of the Court is on all cases and disputes submitted to it concerning the interpretation and application of the African Charter on Human and Peoples' Rights and any other relevant human

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[31] The first such meeting was held as 'Brainstorms Between the PRC and the ACHPR on the 4th to 5th May 2007 in Lesotho. On consequence of the meeting was an increase in the budget of the ACHPR. The second was held as a retreat between the Department of Political Affairs of the AUC and the PRC and took place on the 13th to 15th July 20009 in Kenya. One outcome of the retreat was a general commitment to increasing the budget of the Department. A further such meeting was held from the 3rd to 4th September 2015 in Arusha Tanzania and focused on the African Governance Architecture. A key outcome here was the commitment to establish a sub-committee to deal with issues of governance. There is nevertheless no evidence that this has happened.

[32] The report from the meeting provides that 'Members of the PRC to prioritise establishing a PRC Sub-Committee on Governance, Democracy, Human Rights and Elections to ensure that the Member States effectively participate and engage in strengthening democratic governance in Africa and are fully appraised of and engaged on the work of the AGA Platform. The Secretariat of the AGA Platform and the Office of the Legal Counsel to develop Terms of Reference for the establishment of the Sub-Committee for consideration by the PRC' (DPA, 2015).

rights instrument ratified by the States concerned ([Udombana, 2000b](#)). The Court is, over time, expected to engage with cases brought forward based on other ratified governance instruments. PAP currently only has consultative and advisory powers within the AU and is hence primarily focused on securing the full participation of Africans in the development and economic integration of the continent. After the ratification of a new PAP-related protocol by Member States, it would have legislative powers and may become the principal custodian of governance compliance oversight ([Dinokopila, 2013](#)).

African level integration has, to some extent, been similar and different to what has unfolded in other parts of the globe. Beyond smaller issue related integration efforts, such as the Southern African Customs Union or the Franc Finance Zone, there have, since independence many efforts toward regionalisation and the establishment of related structures ([Hartzenberg](#)). Numerous sub-regional African structures emerged since the 1960s, and there are currently over twenty African multilateral formations of varying membership. The relationship between these and the more considerable Africa wide momentum as reflected in the formation of the OAU and then the AU has varied over the years ([Aniche, 2015](#)). The current approach, with many nuances, is that a selection of RECs constitutes the building blocks of the AU. The AU has formally recognised the RECs listed in the table below for ongoing engagement.

Table 7: RECs Recognised by the AU

Name	Member States	Location of Head Office
Arab Maghreb Union (UMA)	Algeria, Libya, Mauritania, Morocco and Tunisia	Rabat Morocco
Common Market for Eastern and Southern Africa (COMESA)	Burundi, Comoros, DR Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia and Zimbabwe	Lusaka Zambia
Community of Sahel–Saharan States (CEN–SAD)	Benin, Burkina Faso, Cabo Verde, Central African Republic, Chad, Comoros, Côte d'Ivoire, Djibouti, Egypt; Eritrea, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Libya, Mali, Mauritania, Morocco, Niger, Nigeria, São Tomé and Príncipe, Senegal, Sierra Leone, Somalia, Sudan, Togo and Tunisia	Tripoli Libya
East African Community (EAC)	Burundi, Kenya, Rwanda, Uganda, Tanzania and South Sudan	Arusha Tanzania
Economic Community of Central African States (ECCAS)	Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, DR Congo, Equatorial Guinea, Gabon and São Tomé and Príncipe	Libreville Gabon

Economic Community of West African States (ECOWAS)	Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia Mali, Niger Nigeria, Senegal, Sierra Leone and Togo	Abuja Nigeria
Intergovernmental Authority on Development (IGAD)	Djibouti, Eritrea, Ethiopia, Kenya, Somalia, South Sudan, Sudan and Uganda	Djibouti Djibouti
Southern African Development Community (SADC)	Angola, Botswana, DR Congo, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia and Zimbabwe	Gaborone Botswana

Source: As extracted from the AU website (www,au.int) and related Assembly decision (AU, 2006a).

Outside of directly recognising the listed RECs for ongoing interactions, the general practice within specific areas, such as in governance, is to engage within a consultative process and in meetings with a broader range of RECs, including those not formally listed as recognised. In term of its practices and for representation purposes, the AU has designated five regions. These are in the table below.

Table 8: AU Geographical Regions

Region	Designated Members
North Africa	Algeria, Libya, Mauritania, Morocco, Sahrawi and Tunisia
Central Africa	Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, DR Congo, Equatorial Guinea, Gabon and São Tomé and Príncipe.
Southern Africa	Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Zambia and Zimbabwe.
West Africa	Benin, Burkina Faso, Cabo Verde, Côte d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger Nigeria, Senegal, Sierra Leone and Togo.
East Africa	Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Mauritius, Seychelles, Somalia, South Sudan, Sudan and Uganda

Source: African Union Handbook (AUC, 2014a)

Aside from consultations between selected Member States within regions during Summit events and related process, the designated regions have no further standing or role. More often than not, formal consultations, as it relates to championing specific policy perspectives or the appointment of individuals for various positions would unfold within the structures of formally established RECs. Even as RECs are recognised as being key to the AGA and hence part of the AGP, there role and interventions in the governance space have generally varied. While ECOWAS, SADC and the EAC have established several governance-related initiatives, and almost all RECs involve themselves in the observation of elections, the levels of active

involvement in governance remain limited (Wachira, 2017). In some instance, such as Anti-Corruption several RECs have established instruments and, in other areas, such as democracy, there has been some replication of existing AU instruments.

2.3.2 African Union Implementation Institutions in Governance

Historically, analysis of the AU has tended to treat the institutions in singular terms, with little attention to implementation institutions and the complex oversight and implementation arrangements established for these. Aside from the established Policy Organs, the overall AU approach has been to create implementation institutions with elected individuals at the apex of the institutions[33]. The existence of these structures, somewhat separate from appointed officials serves to create a layer of added complexity to multilateral interactions and implementation processes. The different elected structures within the governance intervention fold are outlined in the table below. The period of election and the actual status varies across each of the structures. All positions, aside from the individuals elected to lead the AUC, are considered of a part-time nature. Members of the African Commission on International Law are elected by the Executive Council. All other individuals are elected directly by the Assembly of Heads of State and Government. As with all other elected positions, there is an emphasis on ensuring regional representation in elected structures (AUC, 2014a).

Table 9: Elected Oversight Structures

Structure	Number	Appointment Period
Chairperson, Deputy Chairperson and Commissioners of the African Union Commission	11 Members	Four years renewable once
African Peer Review Panel of Eminent Persons	7 Panellists	Four years by rotation
Commissioners of Human and Peoples Rights	11 Members	Six years renewable once
Members of the Advisory Board on Corruption	11 Members	Two years renewable once
Judges of the African Court	11 Judges	Six years renewable once
African Commission on International Law	11 Members	Five years fixed
African Committee of Experts on the Rights and Welfare of the Child	11 Members	Five years fixed

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[33] A complete listing of these structures is provided in the AU Handbook (AUC, 2014a)

Source: Information extracted from the websites of each of the structures.

At the level of the AUC, the primary mandate for matters within the broader governance portfolio are with the elected Commissioner of Political Affairs. There is in practice mandate overlap with the roles established for the Commissioner for Peace and Security and, to a lesser, extent with the Commissioner for Social Affairs, amongst others. The Chairperson and Deputy Chairperson of the AUC engage in all areas of the mandate. While actual authority and responsibilities of elected bodies and individuals vary across institutions, the general orientation is that they function at a more 'policy guidance' level and hence not directly involved in implementation. Formal rules and actual practices nevertheless vary across structures. The elected individuals and structures often exercise direct authority over plans and central to approving implementation level actions. The terms of office of elected individuals range from two years' renewable in the instance of the Advisory Board on Corruption and six years in the case of the Banjul Commission.

By virtue of their elected status, through the provisions of relevant instruments, the structures established within the broader governance fold are considered AU Organs with direct reporting lines to the Executive Council and the Assembly of Heads of State and Government. Each of the 'elected structures' is supported by an 'administrative secretariat'. As the intended analysis seeks to build a substantive perspective on overall implementation efficacy, it is crucial that these be captured. The figure below outlines the 'administrative head' of the structures established and their physical location.

Table 10: Administrative Implementation Structures in Governance

Elected Structure	Administrative Structure	Physical Location
Chairperson, Deputy Chairperson and Commissioner at the AUC (11 Members)	AUC Director of Political Affairs and Officials	Addis Ababa Ethiopia
African Peer Review Panel of Eminent Persons (9 Panellists)	Chief Executive Officer and Secretariat	Midrand South Africa
Commissioners of Human and Peoples Rights (11 Members)	Executive Secretary and Secretariat	Banjul The Gambia
Members of the Advisory Board on Corruption (11 Members)	Executive Secretary and Secretariat	Arusha Tanzania
African Commission on International Law (11 Members)	AUC Legal Counsel and Officials	Addis Ababa Ethiopia
African Committee of Experts on the Rights and Welfare of the Child (11 Members)	Director of Social Affairs and Officials	Addis Ababa Ethiopia
Judges of the African Court (11 Judges)	Registrar of the Court and Court Officials	Arusha Tanzania

Source: Information extracted from the websites of each of the structures.

While the definition of the mandate of elected members is within relevant instruments, their policy oversight role, relative to 'administrative' and 'operational' leadership is not fully specified, and the actual division of roles varies between each institution and often contingent on the personalities of the elected and administrative heads. In theory, the 'administrative head' is appointed on merit, subject to AU country quota framework and related rules. In practice, appointments are influenced by high levels of active lobbying within AU systems, often giving rise to appointments driven by choice of lobbying Member States[34]. The number of fixed establishments posts at the level of the administrative structures is limited as salaries are dependent on the core operating budget of the AU (Engel, 2015). Despite attempts to increase the size of organisational structures, consummate with mandate demands, this has proven difficult for most AU institutions. The more substantial consequence of this reality is a heavy reliance on funded contracted positions, linked to budgets made available by donors (Pharatlhatlhe & Vanheukelom, 2019) or donor-funded positions through partner organisations. These include the European Commission (EC), the United Nations Development Programme (UNDP), International Institute for Democracy and Electoral Assistance (IDEA), the United Kingdom established Department for International Development, and the German development agency Deutsche Gesellschaft für Internationale Zusammenarbeit GmbH (GiZ)[35]. These organisations either a) appoint persons directly and second them to the relevant Departments for contract periods, with the possibility of extension, or b) provide the resources for direct appointments, as additional to the fixed establishment.

Each of the adopted governance instruments embodies guidance on the institutions responsible for implementation and the roles and responsibilities of particular Organs of the Union. In most cases, final authority rests with the Assembly of Heads of State and Government. In the core governance instruments, there is a diffusion of implementation responsibilities between specially elected bodies or individuals and related support structures. Outside of writings on the substantive mandate of the governance-related institutions, there is very little analysis of the internal operations of the AU established institutions and the workings of the official levels structures that have implementation responsibilities. Within a year of the adoption of the Declaration on Shared Values, the AUC's Department of Political Affairs set out to establish a further internal structure to support the AGP. This structure is known as the Secretariat of AGA

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[34] The challenges associated with recruitment and appointments in AU institutions has been highlighted in reports (AU, 2007c) and more recently has been the subject to deep contestation within the AUC (Allison, 2018b)
[35] Information has been extracted from various AU DPA documents relating to donor support.

and, in theory at least, reports directly to the Chairperson and Bureau of the AGP, elected in terms of the Rule of Procedure of AGA. In real terms, accountability for resources used and for all actions is through the Director and Commissioner of Political Affairs. AGP has established several sub-committees to facilitate the anticipated coordination work. While the Declaration on Shared Values and related summit decisions refers to the informal status of the AGP (AU, 2011d), DPA attempted to formalise the role through the rules of procedure and hence a relatively formal perspective on membership and related structures (Wachira, 2017). The Membership of AGP is in the table below.

Table 11: Members of the African Governance Platform

Organisation	Location
African Commission on Human and Peoples' Rights	The Gambia
African Committee of Experts on the Rights and Welfare of the Child	Ethiopia
African Court on Human and Peoples' Rights	Tanzania
African Peer Review Mechanism	South Africa
African Union Advisory Board on Corruption	Tanzania
African Union Commission on International Law	Ethiopia
African Union Commission (Department of Political Affairs)	Ethiopia
The Economic, Social and Cultural Council	Ethiopia/Zambia
The NEPAD Planning and Coordinating Agency	South Africa
The Pan-African Parliament	South Africa
The Peace and Security Council	Ethiopia
The Regional Economic Communities (RECs)	Varied locations

Source: Information extracted from the AGA Framework Document (AUC, 2015a)

The adopted AGP Rule of Procedure further provides that it may incorporate any further Organ or Institution that may be given the mandate or established by the Assembly to promote governance, democracy and human rights. Outside of a broader indication that the AGP includes all structures with some element of governance, the incorporation of vastly different entities, with some conflation of role separation between structures such as PAP, the African Court and others is not explained. At a more operational level, the indications are that the AGP will arrange meetings of the platform at two levels. That is meetings of the Chairperson of elected structures and meetings of the Heads of Administrative Institutions (Wachira, 2014). The Rules of procedure further provide that AGA Platform has five thematic clusters: (1) governance, (2) human rights (including transitional justice), (3) democracy, (4)

constitutionalism and the rule of law, and (5) humanitarian affairs (AUC, 2015a). The full logic of the clusters and what is included is not fully explained and generally anticipated that the participating individual from members would define the work of each cluster. The work of the Secretariat is funded by DP, including the salaries of officials located within the AGA Secretariat.

2.3.3 AU Partners in Governance

Within the governance fold, AU Organs and Institutions have actively sought to and established a variety of implementation partnerships for their work. Some of the partner relationships emerge within the overall AU system, such as those with the UN and others are the product of specific interactions between individual institutions and different partners. In general, the partnership established can be divided into three broad categories. These are partnership arrangements with civil society and technical partner organisations, those with UN organisations and others established with DP[36]. Given their relative impact on Governance engagements, it is worth providing a descriptive overview of all three categories of partnership.

2.3.3.1 Civil Society and Technical Partners

Civil society engagements in the AU unfolded at two levels. The first is through the established Economic, Social and Cultural Council (ECOSOCC). In line with the adopted statute, ECOSOCC is as an advisory organ of the AU. It can give recommendations on existing policies and programs, as well as propose programs fitting to the principles of the AU. ECOSOCC is meant to function as the connecting organ between civil society formations and the AU, and through that contributor to the promotion of human rights, gender equality, child rights, the rule of law, good governance and democratic principles (AU, 2004). ECOSOCC has several Committees that mirror Departments in the AU Commission, including one that focuses on Political Affairs. While elected ECOSOCC officials are invitees at numerous consultations by Departments and other structures involved in governance, the level of active engagements and representation on issues is deemed to be very limited and of no substantive consequence (Houghton 2005).

The challenge for ECOSOCC has and continues to be on the level of representation it provides.

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[36] The categories have been established after a detailed review of primary documents from AU governance implementation institutions, including concept notes, meeting reports, planning documents and memorandum related to meetings arranged with external partners.

Many civil society organisations that are active in the governance space are not members of ECOSOCC, as they do not comply with the strict, but limiting statutory requirements that at least 50 per cent of the resources of the CSO is from the membership to the CSO. A further requirement is that CSOs need to be registered in a Member State of the Union or either meet the general conditions of eligibility for the granting of observer status or be a proven or registered diaspora CSO for at least three years (Sturman & Cilliers, 2003). ECOSOCC has generally struggled to sustain a level of active membership and perceived as being dysfunctional (Houghton 2005). The perception of dysfunctionality is confirmed by reports stating that the quality and substance of debates in ECOSOCC have been inferior, raising the concern that fora were used more in order to endorse past decisions than to influence future ones. The overall concern with the role and function of ECOSOCC led to an AU Assembly decision that a study should be conducted on its role and function and is to be presented to the Assembly (AU, 2014c).

The more active and influencing form of civil society activism has been through direct engagements with AUC Departments and relevant institutions. Many regional and global civil society organisations that are active in advocacy within the governance space have perceived the AU as an optimal channel to lobby for particular governance orientations and ensure that Member States are accountable in terms of the provisions of the Constitutive Act and adopted instruments. A number have also engaged the AUC for promoting specific policy orientations. Some of these have emerged as both advocacy groups and as indirect 'donors' or 'technical partners' to the AUC. Through active advocacy, participation at meetings, workshops and conferences and by-way of sponsoring specific activities, partners can exercise a level of agency on what gets done within the AU system (Kane & Mbelle, 2007).

AU institutions in the governance space have historically engaged with a variety of Civil Society Organisations. These range from well-resourced international non-governmental organisations, such as Oxfam and the Open Society Foundation (OSF), towards more technically focused institutions, such as Transparency International (TI), the Mo Ibrahim Foundation, the South African Institute of International Affairs (SAIIA), the Institute for Sustainable Africa (EISA) and Centre for Violence and Reconciliation (CSVR). In addition to these, there are organisations, such as the International Foundation for Electoral Systems

(IFES) and inter-governmental organisations such as International IDEA[37]. The relationships with these organisations range from those that have established formal Memorandums of Understanding (MOUs) with specific AU structures, towards those that cooperate through participation in various meeting and by way of providing a combination of indirect funding and technical support.

Engagements between AU institutions and civil society partners is a terrain of intricacy as it often entails a push for such interactions both from AU officials and individuals from such organisations. AU officials are driven to establish partnerships as they often lack the direct capacity to engage in delivering all elements of their mandate and often have to mobilise technical capacity and resources through such arrangements (Kane et al., 2007). Civil society organisations of varying status, size and reach are often driven towards such engagement for influence and as a channel for mobilising further funding in their areas of interest and focus. Many organisations can use their access, either formal or informal, as a means for mobilising resources from traditional donors for AU related work. The following table provided a full listing of organisations that have been working with AU institutions at a more technical level. The list is not meant to be exhaustive and hence only serves as an illustration of some of the active partnerships established and the nature of the collaboration.

Table 12: Technical Partners in Governance

Organisation	Nature and Area of Collaboration
IDEA[38]	International IDEA has an MOU with the AUC to support areas of governance. IDEA has worked with the DPA over the years and has established numerous joint activity plans. IDEA has appointed individuals for secondment to the AUC since 2009. IDEA has actively arranged numerous governance-related events with DPA over the past years and has supported a variety of DPA initiatives through direct and indirect funding and technical support.
Open Society[39]	The Opens Society has actively worked with the DPA since its establishment. In the main, the focus of Opens Society has been on advocacy work around various instruments of the AU and in providing support for active civil society engagements. In addition to supporting civil society engagements with the APRM, it has supported initiatives relating to the popularisation of ACDEG through PAP and provides technical support to the Advisory Board on Corruption.

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[37] In compiling this list, reliance was placed on a range of AUC DPA documents on meetings held, plans and related memorandum. It is not possible to list all of these here. Where relevant reference is made to specific documents within detailed discussions that unfold in each of the governance areas.

[38] As illustration of the partnership see Speech by Vidar Helgesen, Secretary-General, International IDEA Launch of the African Union Commission and International IDEA Joint Activity Plan (Helgesen, 2008).

[39] Opens Society work with the AU DPA is reflected more recently in the funding provided for the production of a report on 'Civil Society Perspectives on African Union Member State Commitments to Democratic Governance'(WITS School of Governance, 2017).

Oxfam[40]	Oxfam role and support has varied over the years and generally focused on ongoing advocacy work. The organisation actively engages AU institutions on implementation and has arranged numerous civil society engagements around ACDEG implementation.
EISA[41]	EISA has an MOU with the DPA and has been an active partner in the terrain of elections. In addition to providing training for elections observation, it has arranged numerous election-related events with the AUC. EISA also provides technical support for most election observation teams of the AU and maintains a data system of elections observation for the AUC.
IFES[42]	IFES is active in supporting election management bodies across the African continent. IN the main, it has provided technical support to the AUC in the forms of seconding an official to work with the AUC on elections matters since around 2007.
ECDPM[43]	ECDPM is mainly focused on elements related to the African-EU partnership and engagements around governance within such processes. It has however historically provided technical support to the AUC and was initially instrumental in developing the initial perspectives around AGA and the AGP.
SAIIA[44]	SAIIA has established a unit dealing with governance and the APRM. In the main, it has supported the APRM process by providing technical support for the development of the APRM Questionnaire. More recently it has focused attention on civil society engagements with the APRM at a country level.
CSVR[45]	CSVR has an MOU with the AUC focused on issues of transitional justice. CSVR has led the process of establishing the AU Transitional Justice Framework. Within this process, it has supported numerous engagements for the development and further implementation of the framework.

Source: Extracted from primary documents and related information from TP organisations.

Outside of the formal structured relationships, many civil society organisations remain regionally active in matters related to governance within Member States without necessarily having structured relationships with the AU. As their influence is often within particular areas of governance focus, these are engaged within the detailed chapters that follow. In addition to civil society organisations, there are a number of other African associational and multilateral organisations, such as the African Ombudsman and Mediators Association (AOMA), the African Parliamentary Union (APU), The Pan African Lawyers Union (PALU) and the African Management Development Institutes Network (AMDIN) that engage with AU institutions within implementation processes[46]. A general review of the nature and number of collaborative activities between AU institutions involved in governance implementation suggest that there is a substantive push for such collaboration from both AU institutions and CSOs. Their value and role in building the overall efficacy of AU multilateralism in governance are crucial for further

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[40] Oxfam has established a liaison office at the level of the AU (Oxfam International, 2019)

[41] EISA has a formal MOU with the AU DPA mainly focused on elections (EISA, 2019)

[42] Some elements of the history of the relationship are contained in a book from the first IFES individual seconded to the AUC DPA (Dundas, 2012).

[43] ECDPM initially led the drafting of the concept documented related to the establishment of AGA and the AGP.

[44] SAIIA works with civil society on APRM issues and has a structured MOU with the APRM Secretariat.

[45] CSVR has mainly focused on the drafting of the Transitional Justice Policy Framework and has worked with the DPA on wider human rights issues.

[46] As extracted from various documents of the AU DPA relating to conferences and workshops arranged. Including participants lists and related documents.

analysis.

2.3.3.2 Development Partners

Development Partners (DP) have historically been very active in supporting the overall progress of the AU, including the work that has unfolded in the governance fold. At a global level, the AUC has historically actively worked with DP on channelling support directly through the AU approved budget (Engel, 2015). Engel (2015:17) estimates that DP funding for the programme budget of the AU has increased from 27,3 per cent in 2007 to 71.8 per cent in 2015. The Broad of Auditors Report on the AU lists over 100 specific donors to the AU in 2017 (AUC, 2018f). The AUC has established a forum for Development Partners, and meetings are held regularly for planning and reporting purposes. These meetings range from meetings with technical institutions established with partners, such as DFID, GiZ, and the EC, amongst others and meetings at a more political level with relevant Ministries from the countries identified[47].

The most significant initial development partner within the AU governance intervention fold was the European Commission (EC). During the initial AU establishment period, it provided direct earmarked budgetary support for specific governance activities. The initial EC approach was followed in later years by direct budget support to the AUC as part of a larger pool, with some resources devoted to governance and the appointment of senior governance officials within the Department of Political Affairs of the AUC. Over the years the terrain has attracted further support from other traditional donors, such as the Department of International Development (DFID), GiZ, the United States Agency for International Development (USAID), the Spanish Cooperation Agency for International Development (AECID) and Scandinavian donors, such as Sweden, Denmark and Norway (AUC, 2018f). While some of the support is in the form of direct budgetary support through the AUC, others are provided indirectly through organisations, such as IDEA, IFES, EISA, UNDP and the UN Democracy Fund. The flows of resources and hence, the influence of donors is relatively complex and sometimes shaped by DP related prioritise (Pharatlhatlhe et al., 2019). While there have been assertions on donor control through budget support and funding, how resources flow and related accountabilities are often complex and subject to a range of engagements. New donors, such as China and India,

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[47] Information extracted from a range of documents, including more recent financial statements of the AUC and documents from AUC DPA on meetings with donors. There are no consolidated documents on donors in governance.

have not focused any direct attention to governance-related support. The table below broadly captures some of the more prominent DP and the funding channel. The outline is significant as it serves to provide a synopsis of the operations of donors and concomitantly the direct or indirect influence on the agency of officials within the AU institutional system.

Table 13: Development Partners in Governance[48]

DP	Nature and Support Channel
EC	The EC has been a substantive donor for governance-related efforts within the AUC. Building on support during the early phase of AUC establishment, EC supported broaden within its overall budgets support to the AUC. Since the 2011 Shared Values Summit, support has increased and includes direct support to civil society organisation and AU institutions involved in governance interventions. EC support also shapes and is shaped by the ongoing engagements through the Joint Africa Europe Partnership Strategy. A significant area of EC funding support includes election observations.
GiZ	GiZ has actively supported AUC work since establishment. In addition to directly funding and seconding officials to the DPA, amongst others, it has supported numerous activities and consultancies relating to several governance instruments. Core to more recent support has been on the establishments and operationalisation of the AGP. GiZ support includes direct funding of events and, in some instances, providing such funding through the financial structures and systems of relevant AU institutions.
DFID	DFID support in governance substantively evolved after the Shared Values Summit in 2011. While DFID sought to provide direct budget support, limitation in the AUC system served to channel the support through IDEA. Funding includes the provision of consultants in annual contracts and the funding of a variety of events related to governance interventions.
Scandinavian Countries	Norway, Denmark and Sweden have provided support for governance intervention through a variety of channels, including through UN agencies and specific technical partners, such as IDEA. Direct support through AU budgets has been limited and only on particular areas of engagement within AU implementation institutions. Sweden has provided support for Anti-Corruption work through the UNECA.
CIDA and USAID	Both the Canadian International Development Agency (CIDA) and USAID have provided indirect and some level of direct support for AU interventions in governance. USAID provided support to IFES in its efforts within the AUC on elections and has provided support for civil society engagements on ACDEG. CIDA has, amongst others, provided support for APRM and other governance intervention processes.
AECID	The Spanish government has provided substantive support for governance-related intervention in Africa through the UNDP. The support substantively focused on engagements related to State Capacity. The support is located in ongoing engagements between UNDP and the AUC on cooperation in the broader governance terrain.

Source: Information extracted from a variety of AU DPA documents.

The AU budget process and approach has been conservative, as Member States are often concerned about the institutions capacity to absorb. The overall orientation towards the generally approved budget is to limit annual growth to a certain percentage (Engel, 2015:13). One consequence of this is that DP would search for an alternative channel of supporting the

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[48] The table is constructed on the basis of information scattered in a range of internal AUC DPA planning documents and related correspondence with DP. It is not possible to reference this information to a specific document. A search was conducted of DP in over 5000 documents using Atlas Ti to ensure that the table is an accurate reflection of the supportive work of dominant DP in the governance fold.

work of the AU. In the instance of peace and security-related issues, the channel has historically been through the Peace and Security Fund established within the overall structure of APSA (Vines, 2013). In the instance of governance, DP's have been able to channel funding directly to specific structures, such as APRM or the Court. In addition to such channels, some partners also providing funding on activity bases either through AU systems, by way of direct expenditure or through TP or UN agencies. In a few instances, support of AU related initiatives is through the activities of civil society organisations without any direct inputs from AU institutions[49].

The levels of DP support for AU Governance initiatives and their influence levels is impossible to quantify as its difficult to ascertain the full scale of support. In general, the level of resources available appears to be more than the capacity to absorb, hence leading to indirect support through technical organisations. While there is speculation that DP's determine the AU agenda as they control the funding, direct evidence of such influences is limited. However, some interactions based information suggest that DP would exercise influence on activities to be funded for accountability purposes and also to fit into their priority concerns for a given period, which at times may include incorporating priority constituencies, such as women and youth (Pharatlhatlhe et al., 2019).

2.3.3.3 United Nations Institutions

The UN has, over time, emerged as a partner to the AU in Africa and has established particular modalities for shaping support. UN institutions, such as UNDP, would mobilise resources from traditional development partners based on having established an active partnership with the AU. In addition to appointing officials for direct and ongoing engagements with the AUC, the UN has formally established a Regional Coordinating Mechanism (RCM) to facilitate joint prioritisation and actions (AUC, 2016b). The RCM meets annually with AU institutions to establish priority terrains of support, and this included some deliberation on governance and related terrains (UNECA, 2019:113-114). Within this process, AU and UN institutions would present their initiatives and hence provide some indication of areas of priority for more active coordination. In some instances, this would result in joint initiatives to be funded by DP[50]. Funding for such initiatives would flow through the relevant UN agency. The most active in

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[49] As extracted from a range of AU DPA documents.
[50] A classic example of such an initiative is the UNECA and AU Regional Anti-Corruption Programme for Africa (2011 – 2016) funded by Norway (UNCEA, 2011).

the governance space has been the UNDP and UNECA.

The UNECA has historically engaged with the AUC in several joint activities, where the resources are managed directly by the UNECA. Agreements are with officials, with limited direct oversight from Member States or Organs of the AU. In the governance area, the UNECA has, for example, been very active in producing the African Governance Report, and has historically arranged the African Governance Forum and provided direct support for national-level APRM processes. After some restructuring in 2011, the UNECA moved away from some of these areas and shifted towards, for example, Anti-corruption and issues related to the governance of natural resources. The UNDP has historically been a significant partner for governance initiative through its Africa Office in Addis Ababa. This office was initially located in Johannesburg, South Africa and relocated only in 2011. UNDP, through its global Head of Governance, mobilised substantive resources for its Africa governance engagements in 2008 (UNDP, 2012). To this end, an initiative was established for affirmation by the AUC for implementation by the UNDP. The programme substantively focused on areas of AU mandate and related activities in governance, but expenditure and related activities were under the overall direct control of UNDP officials[51].

As with the relationship between AU institutions and DP, the relationships with UN institutions is often complex, unfolding in a variety of different ways within the governance intervention terrain[52]. While the RCM provides some level of active coordination, UN agencies construct specific relationships with AU institutions and actively mobilise funding to sustain implementation activities. In general terms, AU institutions would have little or no control over how resources are allocated and utilised. The arrangements are complicated, and the levels of partnership involvement often vary, even where activities directly relate to established AU governance intervention.

2.4 Policy Making and Implementation in Governance

In order to understand the policy process and the realities of implementation practices, it is essential to engage with details around such processes. The purpose of the more detailed analysis in the Chapters that follow is to build an institutional understanding of the efficacy of

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[51] Details on the approach and orientation of the UNDP are captured in the Outcome Evaluation UNDP Regional Programme for Africa (2008-2013) (UNDP, 2012).

[52] The complexity of relationships between the AU and UN system is somewhat embodied in the Outcome Evaluation UNDP Regional Programme for Africa (2008-2013) (UNDP, 2012).

AU intervention in governance. However, before engaging in the detailed policy and implementation activities, through an institutional lens, it is essential to provide a broad analytical overview of the policy and implementation process, as it is generally perceived to be. On the outset, it is essential to recognise that even though it is conceivable to provide a broad and general overview of the policy process and implementation actions, the reality within the AU system, as with any organisation, there is always a gap between envisaged processes and what unfolds in practice. To this end, it is important to capture some elements of nuances policy-making and implementation. Outside of documents relating to the structure of the AU, related budgets and programme plans, there is no substantive document on the policy and implementation procedures beyond primary documents explaining planning and budgeting in the AU.

2.4.1 Policy Process and Decision Making

The policy-making process of the AU is complex, and each instance of policy development may well provide a different story on initiation, development, completion and decision. The focus here is to capture the general modalities and manner in which ideas become policies and to make the distinction between different types of policies, such as in the form of declarations, resolutions and decisions[53]. This outline is done broadly through the lens of policy-making within the governance space and not necessarily as it involves wider policy issues within the broader AU portfolio.

While the descriptive overview of AU multilateral institutions indicates the functions, authority and role of each structure, it does not fully capture the policy-making process and the related decision procedure. Even as the structure indicates authority, it is essential to recognise that authority is allocated to a particular structure based on past decisions or the content of particular legal instruments[54]. In general, the Assembly of Heads of State and Government is considered the highest decision-making body in the AU and has overall authority over the activities of the Union. The Executive Council and the PRC, however, exercise substantive authority as they are the main conduit for all documents, declarations, resolution and decisions to be made by

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53 In constructing a picture of the policy process and decision-making within the AU system extensive use was made of the African Union Handbook (AUC, 2014a), the Oxfam Compendium on the AU (Oxfam International, 2012), the Open Society Institute for Southern Africa (OSISA) and Oxfam publication Strengthening Popular Participation in the African Union: A Guide to AU Structures and Processes (OSISA and Oxfam, 2009) and related secondary literature.
54 The text The African Union and its institutions by Akopi et al (2008a) provides some useful analytical engagements with the institutional structures of the AU and hence utilised to enrich the overview provided.

the Assembly ([Packer & Rukare, 2002:375](#)). The PRC and Executive Council would also hence have the authority on deciding what would go through and what would not. In general, there are three forms through which policy gets established[55]. These are as follows:

I.   *Declarations:* These often relate to a topic of a general nature discussed at a Summit. Most often, they would relate to the chosen theme for the Summit. As an illustration, during the Shared Values Summit in January 2011, the Assembly made a Declaration on Shared Values. In many cases, such Declaration would be followed up with a Resolution on future actions.

II. *Resolutions:* This form of decision is a step forward on the Declaration and directed at instructing further actions from implementation and other institutions. The summit would hence establish a resolution that outlines further actions on a given issue or concern.

III. *Decisions:* These are more binding forms of outcomes from the Assembly and creates an obligation on the part of the AU and its institutions. Decisions typically provide direction on the next steps. As an illustration, a decision on a Charter, Convention or Treaty. Such a decision would be in the form of an instrument adopted by the Assembly.

Decisions to be made by Summit would conventionally arise from a recommendation made by the Executive Council. In other words, the Executive Council would decide to recommend the adoption of declarations, resolutions and decision to the Summit. Recommendation to the Executive Council would arise from the PRC ([OSISA and Oxfam, 2009:39](#)). The channel for a particular decision is established in instruments. In some instances, reports would have to be presented directly to the Executive Council or Assembly and do not have to pass through specific structures. All formal organs have direct administrative support from the Secretary of the Commission and related office. The conventional practice is for Member States to establish a Drafting Committee led by a Member of the PRC or Minister from the country that is currently chairing the AU[56]. This committee retains the final responsibility for the agenda and related draft decisions. The committee would also hence make adjustments to initially prepared declarations, resolutions and decisions.

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[55] The different types of decisions arrived at are not specified in any of the available AU document and hence derived from an analysis of numerous AU Assembly documents. All outcomes of AU summits are generally published on the AU website as Decisions, Declarations and Resolution of the Summit.
[56] This practice and the specific role of the Secretary of the Commission has not been formally documented within the AU system. This is based on the authors experience and participation within the Committee process during the Summit on Shared Values.

While there are provisions relating to decision-making based on a majority within AU authority structures, the general practice has been to make decisions based on consensus. In the instance of particular legal instruments, Member States can register their reservations when a decision is made (Udombana, 2002:92). The practice of registering reservations is seldom used and is noted in the instance of numerous human rights instruments, where Egypt is recorded to have expressed reservations (Allain & O'shea, 2002). While decisions are accepted as a conclusion of the full meeting of relevant Organs, including the Assembly, the reality of practice indicates that very often Heads of State and Government may not even be in a room when a specific decision is made. This reality is attributable to the complicated way in which Summit proceedings unfold and the reality of time pressures on Heads of State[57].

Decisions of the Assembly and Executive Council would often emerge as a result of work that has unfolded months before each of the Summits. The AUC and other organs of the AU prepared documents well in advance of a Summit. Member States pre-approve the majority of what is presented in Summit for decision. While there are multiple different channels by which a document might come before Assembly for a decision, the typical route is through expert meetings, followed by Ministerial Meeting and then submitted through the relevant Organs (Oxfam International, 2012). The following diagram broadly captures the process before the formal submission through relevant Organs.

Figure 4: AU Policy Process
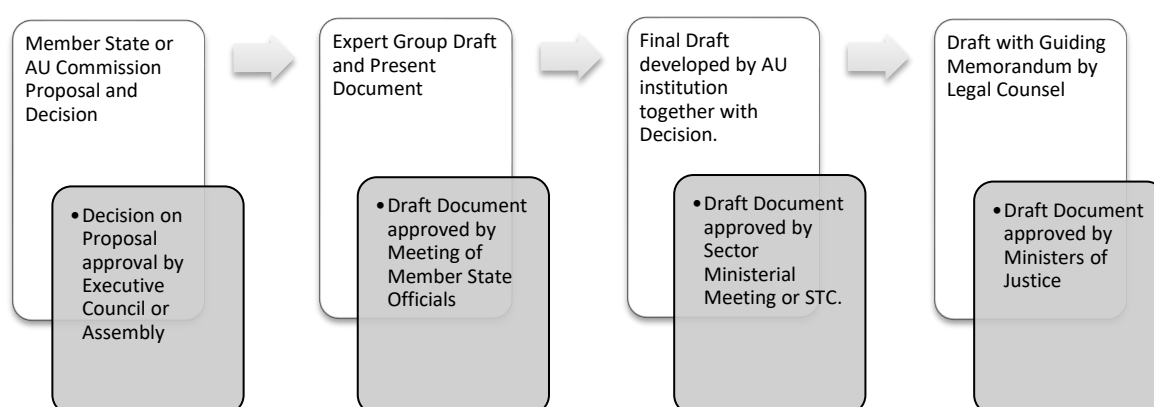
Source: Adapted from the AU Handbook (AUC, 2014a), the Oxford Compendium (Oxfam International, 2012) and the Oxfam OSISA Guide for Civil Society (OSISA and Oxfam, 2009). The diagram captures the broad policy process. However, the actual way in which policy proposal emerges is complicated, and sometimes an initiative may arise from different sources,

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[57] The challenges associated with the Assembly have been noted within the AU reform process (Kagame, 2017)

including from a civil society organisation or a Member State. The approach has also changed since the formation of the AU. A decision was made that all documents that have a legal dimension would need to be channelled through the Legal Counsel of the AU and hence through a Meeting of Ministers of Justice, now established as an STC.

The general assumption on a decision is that the relevant structure of the AU would initiate actions and that Member States will take forward implementation in the instance where they are directly affected. The process by which this happens would typically entail some level of follow up between Ministries of Foreign Affairs and other responsible Ministries. In the instance of legal treaties, convention and charters, the general AU approach is that Member States would sign, hence indicating the commitment to ratification. Signature is followed typically by ratification within the Member States and hence the depositing of a given instrument with the Legal Counsel of the AU. All legal instruments have provisions relating to when an instrument would come into force. Typically, an instrument would come into force only after 15 countries have ratified and deposited the instruments. The period between adoption and ratification by a minimum number can take between three to seven years (Maluwa, 2012).

2.4.2 Organisation and Implementation

How implementation unfolds is complex and, in part, driven by a combination of an overall long-term Strategic Plan, such as Vision 2063 and shorter-term annual programme plans. In practice, planning is influenced by the availability of resources, both from the approved operational and programme budget of the AU and earmarked budgets in specially established accounts, such as in the instance of the Democracy Fund established in terms of ACDEG. Further planning outside of the programme budgets also emerges from specific arrangements with DP and Civil Society Partners that make available resources. The formally approve programme budgets often only reflect an aspect of what is intended for a year. Some implementation activities and budgets are located within specific channels and hence not subject to the full and direct authority of AU implementation structures ((Maluwa, 2012; Pharatlhatlhe et al., 2019).

The overall organisational and implementation modalities of the AU have been evolving since establishment and have been subject to continuing reform and related improvement efforts. The current system reflects some elements of central oversight and control, coupled with high levels of decentralisation through directly negotiated arrangements between partners and specific

implementation institutions.[58] The complexities of management, budgets and implementation within the AU institutional system is captured in the 2007 Audit Report on the African Union (AU, 2007c). In some instances, implementation institutions have direct sources of funding channelled through specific accounts with different accountability arrangements (Engel, 2015). The following diagram provides a macro-overview of authority and responsibility within the implementation process. In general terms, overall decision authority over programmes and budgets reside with the Executive Council and Assembly.

Figure 5: AU Implementation Authority and Responsibility
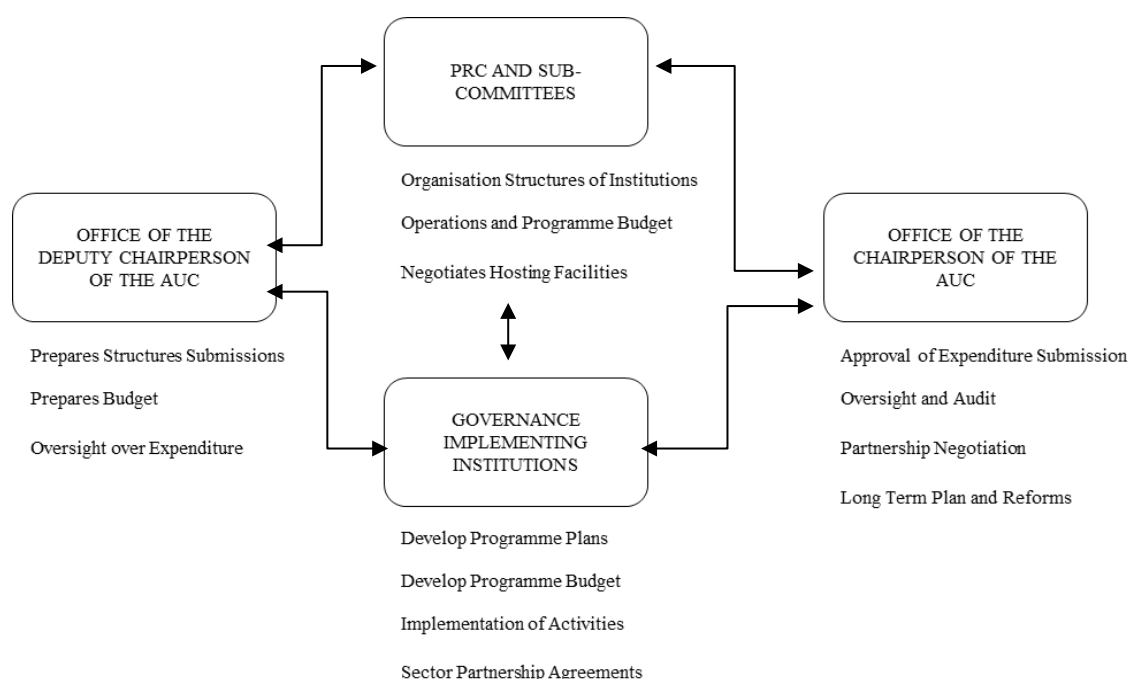
Source: Information extracted from a variety of AUC budget and planning documents.

In general terms, governance implementation structures of the AU would present both their operational and program budget for approval through an administrative and higher-level decision process. The Office of the Deputy Chairperson of the Commission has overall responsibility for the budget process and would typically also include within the budget, commitments from DP in the form of direct budget support. Direct budget support, in most cases, would be earmarked following DP priorities or because of past negotiations on what is budgeted. Seldom are DP budgets allocated for general purposes or according to the priorities

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[58] Details on the process and implementation practices, including budget allocation approaches are not well documented for external stakeholders and largely remain a 'black box' for detailed scholarly analysis. In the main, reliance has been placed on a scattering of internal AU DPA documents to understand the implementation approaches and related budget practices.

established by the AUC. Within the programme planning and budget process, AU institutions would present the activities planned for the period. While internal guidance exists on the structure and format, the complexity is that guidelines are provided on possible budget amounts for the coming period as they relate to programme implementation and not real budgets arising from actual contributions. As Member States do not contribute consistently and sometimes fail to make actual transfers of finances in the expected period, certainty around programme implementation is often rendered difficult.

The operating budget of the AU is generally in keeping with the structures and personnel numbers approved. The structure of the AUC since its establishment has been within the framework of the approved organogram at the Summit held in Mozambique in 2003 and generally referred to as the Maputo Structure (AU, 2003b). This structure has been adjusted modestly over the years, and organograms have been approved for new mandated structures. While some structural expansion is sometimes approved because of demands from implementation institutions, the operationalisation of these is often contingent on expected budget growth and hence not all formally sanctioned posts are filled unless there a decision on allocating the requires budget[59].

Aside from the filling of formal posts for implementation, AU institutions are guided by their programme budgets for active implementation. In many instances, the programme budget only reflects a part of what would unfold for the year. The actual implementation would be through a combination of initiatives arising from the programme budgets and the resources channelled through other sources (Engel, 2015). Using the budgets and programmes to determine what unfolds is hence not a feasible strategy. Outside of the formal AU programme and budget process, structures and units would outline broad plans for internal guidance on what would unfold during the year. Many of these plans would also be contingent on the capacity available, beyond the individual appointed to the fixed establishment. Hence, plans would often incorporate the work efforts of individual seconded to the AU through various appointment modalities. While some individuals are appointed on contracts through specifically earmarked funds channelled through the AU, others would typically be appointed directly by partners and seconded to the AU institutions. In general, officials in the AU system would have some authority on who is appointed and may well be part of interview panels arranged by partners.

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[59] See for example Report of the PRC Advisory Sub-Committee on Administrative, Budgetary and Financial Matters to the Executive Council (AU, 2008e).

Implementation is mostly event-driven and contingent on what budgets have been set aside for the period. At a secondary level, studies and related activities are contingent on the appointment of consultants. Actual work unfolds under the direct authority of the formally appointed officials. Most of these official rely on contracted consultants for the drafting of documents related to events or for engagements with partners, amongst others[60]. Contracted consultants are hence reliant on the appointed officials for a contract extension and would generally carry out work as instructed. As activities implementation is determined by budget availability, the level of activity on mandates, outside of what gets planned for the year, in real budget terms, is minimal. Activities that relate to mandates may never unfold if not budgeted for or if no resources are forthcoming. Performance is activity driven and not based on expected outputs or outcomes as it relates to mandates. Activities may well expand based on added funding. Uncertainty around funding and capacity makes long-term planning around mandates difficult for officials.

In the instance of specific Organs, such as the Advisory Board on Corruption, the budgets challenges are relatively complex as often the number of formal meetings held are limited by the budget available. Elected Members often also establish the activities they want to be involved in and over which budget is to be set aside. This reality sometimes serves to create competition between appointed officials and elected individual (AUC, 2018a). In the instance where elected officials are not permanent, their travel and related activities is a significant cost source for institutions and leave very little for other implementation-related activities.

2.5 Conclusion

The Governance intervention trajectory must be understood in the overall context of integration in the continent. The historical overview reveals that the overall integration tension between those who propagate rapid integration, versus those who argue for a more incremental approach shapes what gets done in the overall AU system. While shared values and related governance instruments are predicated on rapid integration, the level of actual implementation movement reflects a more incremental reality and hence a continuing difficulty of finding a balance between sovereignty and the demand for compliance with adopted legal instruments.

The diversity of interventions in the governance space reflects the complexities of how policy

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[60] The reality of the extensive use of consultants and seconded staff is noted in the Audit report of 2017. The reports provide that staffing levels stood at 57 per cent and that extensive use was made of staff on short-term contracts (AUC, 2018f)

and implementation emerge within the AU systems. Even as perspectives on governance have evolved, the microanalysis of what has unfolded reveals that a high level of diversity in what it is perceived to be and what the overall governance agenda is. The diversity of definition has impacted on the contents of the overall agenda and hence the perceived role of the institutions in the attempt to build coherent through the establishment of the AGP. The structural overview provided an outline of how authority unfolds in the overall AU system. It is revealing on the role of different partner communities and hence the extent to which they shape what gets done in the AU system. The processes related to decision-structures have also provided insights on the extent of Member State agency and activism in AU decision processes. While the AU collective generally makes decisions, the level of actual ownership is contingent on the extent to which a Member State engages with the issues and hence the commitment to participate in follow up activities.

The policy and implementation process overview provides a broad characterisation of the AU system. The synopsis further reveals that policymaking and implementation is a complicated exercise and often contingent on the agency exercised by multiple players and individuals. It does, however, adequately reveal the driving orientation of Member States and officials involved in the process. A more substantive understanding is built by engaging in detail within each of the core focus areas. Beyond serving as a backdrop to more detailed analysis, the overall macro overview reveals that the 'black-box' of implementation needs more in-depth analysis in order to understand the efficacy of AU Governance intervention and what would be appropriate for the future.

Explanatory Note: Data, Analysis and Findings

The approach taken for each of the substantive chapters (3,4 and 5) is broadly outlined in the Conceptual Framework for the study (*supra* 1.2.8). It is deemed essential to provide a broad summary of the approach taken in presenting the data, conducting the analysis and in outlining key finding in each of the governance areas to assist engagement with the chapters that follow. As per the articulated framework, a comprehensive analysis of AU multilateral intervention in governance requires a full review of what unfolded under each of the focus areas of accountability, rule of law and state capacity. In line with which, the following broadly explain the data presented, the analysis and the finding articulated.

Data Presentations: Data from collected documents is used to construct a comprehensive historical picture of AU interventions within the governance focus area. Data from the searched documents were also used to construct a comprehensive perspective of the different intervention modalities. The data collected and collated and searched through Atlas Ti is hence spread across Chapters 3, 4 and 5. This approach is necessary as it serves to provide a comprehensive analysis within the framework of the three (3) governance areas.

Data Analysis: As each of the three governance areas often embodies different institutions and intervention, it was essential that the analysis is initially focused within each of the areas. The framework for the analysis, as per the outlined methodology unfolded at both the level of multilateral engagements (power relations and competing norms, and realities within member states) and at the level of multilateral implementation (organisational culture and financing, and human resource and bureaucratic strategies).

Key Finding Extraction: As the data and related analysis are presented within the core governance areas, it is essential that there is an extraction of key conclusion on each of the areas. In line with the overall research purpose and related question, the core findings are expressed as the central efficacy challenges pertaining to AU governance interventions. These findings are extracted across each of the governance areas, with a view that they would be consolidated in Chapter 6.

The explanatory note serves to guide engagement with the study and how the information is presented. This is crucial as the thesis does not have a traditional data chapter or a related chapter for analysis and findings. Data presentation, analysis and findings are all incorporated in Chapter 3,4 and 5.

Chapter 3:   African Union Interventions in Accountability

AU multilateral interventions directed at enhancing accountability in Member States have emerged through a series of policy pronouncements and the active agency of officials and other stakeholders. A historical outline of these, together with a detailed analysis of practices and how these unfold within different modes of intervention serves to expedite the analysis of multilateral engagements and implementation. To pave the way for the overview and detailed characterisation of practices, it is imperative, to begin with, an outline of accountability and what it generally implies for AU Member States. In line with the conceptual framework, the chapter concludes with the core efficacy challenges that emerge from the analysis. The focus is only on a selection of the core efficacy issues germane to accountability related intervention. Many of the identified challenges are relevant in other areas of governance, and hence, the approach taken is to consolidate and cluster the finding from each governance area in the final chapter of this thesis.

3.0 Introduction

Accountability encompasses the idea that those who exercise public power do so based on the will of the people (Fukuyama, 2011; Fukuyama, 2014). While associated with democracy and electoral processes, accountability is deemed to be broader and embodies the notion of substantive deliberative engagements within society on actions within all spheres of mutual coexistence (Warren & Gastil, 2015). Accountability incorporates the idea that decisions on the use of public authority and resources incorporate community perspectives and concerns. It is hence founded on the notion of ongoing engagements and a willingness to listen to all voices, even if these are contrary to dominating perspectives at particular points in time (Enslin & Horsthemke, 2004; Edigheji, 2010).

A broader reading of the construct, suggests that it has evolved to include considerations such as participation, transparency, representation, rights, answerability, voice, access to information and media freedom (Schedler, 1999). Over recent years there has been a growing concern that elections in themselves do not produce accountability within society and hence there is a need to go beyond electoral consideration and systems of representation towards more substantive reflections on the levels of accountability and policy inclusivity that is prevalent in a particular context (Jegede, 2009:424). While liberal perspectives on the need for democratic

elections and political party based contestation is entrenched across the tapestry of African politics, there continue to be a concern that elections in themselves are not yielding substantive accountability in the political, social and economic spaces. The need for a broader perspective on accountability in Africa is articulated consistently by African civil society (Mkandawire, 2007; Jegede, 2009:424).

There is no singular definition of accountability within AU processes or instruments. Perspectives on accountability and what it embodies are rooted in the activities, outputs and work that has unfolded in the overall AU systems. Within the African Charter for Popular Participation in Development and Transformation, adopted in Arusha, Tanzania in 1990, accountability is referenced in the context of the answerability 'of leadership at all levels measured by the use of checks and balances'(AU, 1990:22). In ACDEG, adoption in 2007, accountability, electoral democracy and constitutionalism are linked (AUC, 2015c). In the instance of the APRM, accountability is treated as being synonymous with governance and as an overarching framework for a wider variety of issues. Accountability is defined in the APRM Country Review Questionnaire as 'the ability to determine who in the government is responsible for a decision or action and the ability to ensure that officials in government are answerable for their actions.' The term accountability is used throughout the country review questionnaire of the APRM and directly embedded in the objectives and questions relating to 'democratic political governance', 'economic governance and management' and 'corporate governance'(APRM, 2015).

3.1 Accountability Initiatives within the African Union

It is imperative to engage the core developments across the system, including the issues that arose during the OAU period, in order to understand the full breadth of accountability interventions within AU multilateralism. The historical outline provides a substantive overview of accountability related interventions and hence sketched based on core events or developments within the AU system. Intervention within the accountability space is spread between those embodied within specific Charters and those that arise from the exercise of agency by AU and related partner institutions. Accountability concerns are spread from election observations, to peer review practices, towards those embodied in enhancing youth and women participation within the governance process.

3.1.1 Accountability and the OAU

The OAU emerged in a context where several African geographical spaces remained colonialized and where there was substantive global ideological contestation on appropriate development approaches. Accountability is tied, in the initial period of African wide multilateralism, to the issue of sovereignty and the full liberation of all African territories from the colonialism and neo-colonial influences (Adogamhe, 2008). While the transition from colonial rule to liberation was primarily in the form of multiparty elections, the accountability momentum in many African countries included a propensity towards more direct or alternative forms of representations and accountability that characterised the Soviet Union and other countries under communist or socialist rule. Although independence for many African countries was through liberally inspired multiparty elections, several post-colonial African leaders expressed an affinity towards more socialist or collectivist modes of accountability (Cohen, 2019).

While a few African countries retained some semblance of liberal multiparty democracy in the first two decades after independence, many rapidly shifted towards alternative forms of democratic representation. In some cases, this embodied a shift away from multiparty electoral processes towards other forms of single-party representation. The shift is reflected in various forms of socialist experimentations in, for example, Islamic Socialism in Libya, Ujamaa in Tanzania, Harambee in Kenya, and variations of such approaches in Mali, Senegal, Ghana and Guinea (Young, 2012). The consequence of the democratic experimentation in many African countries and the ongoing cold war was a push against any form of interference with internal accountability realities within OAU Member States. Despite the growth of single-party authoritarian systems and military dictatorships between 1960 and 1980, accountability issues were considered internal to Member States and perceived as being matters related to sovereignty and hence not a subject of any form of interference through African multilateral processes (Kumssa & Jones, 2015).

As with the experimentation with single-party systems, the post-colonial OAU period saw the rise of military governments and related coup d'état. The general rationale for coup d'états was that electoral democracies were prone to misuse and that many elected governments were often corrupt. The overall assumption being that military governments would provide stability and the order required for economic development (Powell, Lasley & Schiel, 2016). One immediate consequence for the OAU was that military rulers removed many Presidents and Prime

Ministers who were part of the initial launch of the OAU. The operational consequence for the OAU was that Heads of State and Government who participated in OAU Summit meetings often found themselves sharing a stage with individuals who removed the person who previously occupied the same space (Powell et al., 2016:490). While a complicated reality for many, the established traditions and rules precluded any forms of engagement on the issue or any form of contestation. The inability of OAU to hold Heads of State accountable served to affirm a perspective that it constitutes a club of dictators who had no interest in substantive accountability to their people or to the wider collective African community (Adejo, 2001).

3.1.2 Civil Society Participation and Structural Adjustments

The rise of single-party rule and military dictatorships in many countries did not come without substantive opposition from civil society and other stakeholders in the continent. In many countries and within OAU processes, civil society representatives consistently raised concerns around the accountability of African leaders (Mkandawire, 2007). By the early 1980s, many concluded that the OAU was a club of authoritarian rulers who were bent on protecting their positions and related privileges (Omorogbe, 2011a). The opposition from civil society to the varied and mostly authoritarian modes of accountability coincided with the rapid growth in imposed structural adjustment from the Bretton Wood Institutions. In many of the Member States, the rise of authoritarian governments and concomitant lack of accountability unfolded together with high levels of foreign borrowing and corruption through state structures and institutions. The WB structural adjustment responses couched as a concern with governance primarily focused on cutting down the size of the state and deepening privatisation as a means of spurring economic growth (Mkandawire & Soludo, 1999). The WB focus on economic growth, outside of social considerations and deepening forms of political participation, inspired many in civil society to voice their concerns on participation and the impact adjustments will have on the people of the continent. This opposition from civil society enthused some Member States to initiate a discourse around new approaches to counter the dominance of the WB and Donor countries on the internal trajectory of many African countries (Bujra, 2004; Adejumobi et al., 2009).

The efforts of civil society and UN agencies culminated in the organisation of an International Conference on Popular Participation in the Recovery and Development Process in Africa in Arusha, the United Republic of Tanzania from 12 to 16 February 1990. The conference was deemed to be a rare collaborative effort between African people's organisations, African

governments, non-governmental organisations and the UN agencies, in the search for a collective understanding of the role of popular participation in the development and transformation of the region (Shaw, 1990). The conference concluded with the adoption of the African Charter for Popular Participation in Development and Transformation. While the Charter did not embody a requirement for legal ratification by individual Member States, it firmly sought to place on the OAU agenda the imperatives of popular participation at the level of Member States and within African multilateral processes. To many, the provisions of the Charter served to inspire the development of ECOSOCC within the AU. Provisions from the Charter for Popular Participation in Development and Transformation also fed into the CSSDCA Solemn Declaration, adopted in 2002. The Solemn Declaration went a step further by making direct reference to democracy, elections and participation of civil society (Adejumobi et al., 2009).

3.1.3 Elections Observation

The practice of observations to determine the credibility of elections unfolded gradually within the OAU and formally only affirmed at the launch of the AU in 2002. The first real instance of observation unfolded at the instruction of the OAU Assembly of Heads of State and Government relates to the elections held under the auspices of the UN during the transition in Namibia (OAU, 1990). The Secretary-General of the OAU led the observation delegation in this instance. The substantive mandate for the observation of all elections in Member States of the AU unfolded through the OAU Declaration on the Principles Governing Democratic Elections in Africa (AU, 2002b). Through the Declaration Heads of State and Government requested the AU 'to be fully engaged in the strengthening of the democratisation process, particularly by observing and monitoring elections in Member States, according to strict guidelines'(Börzel & van Hüllen, 2015:17).

Since the launch of the AU in 2002, the organisation has sent observer missions to over 500 national elections. Practices around the observation of elections have evolved since 2002, and the AUC has developed detailed guidelines on the election observation process. In addition to election observations, the AUC, through the Democracy and Electoral Assistance Unit (DEAU) within the DPA also established a capacity building and technical assistance initiatives for,

amongst others, Electoral Management Bodies (EMBs)[61]. The overall logic was that Member State structures were finding it challenging to manage elections and that the AU should be involved in providing technical assistance, either directly or through information sharing capacity building initiatives (AU, 2015b; Aniekwe et al., 2016). By the end of 2010, the AUC also began to recognise that observer teams are sent from a range of organisations, including PAP and RECs that were part of the building blocks of the AU. A strong push was made towards encouraging greater coordination through information sharing on the ground and the prior preparations for observer missions. After intervention by the PRC, the Executive Council and Assembly of Heads of State and Government, a decision was made that PAP would not send separate observer delegations and that PAP member would feature as members in the team deployed by the Chairperson of the AUC (Aniekwe et al., 2016:38). In addition to coordinated approaches, the DEAU developed a stronger perspective on the need to engage in longer-term electoral observation missions and to engage in pre-electoral preparatory missions to countries (AU, 2015b). With support from TP, the DEAU began, in around 2014, to establish pre-election assessment missions to several countries, with a focus mainly on those within which there have been high levels of political tension.

As part of developing its capacity for preventative diplomacy, the DPA also worked with International IDEA to develop its methodologies around doing substantive pre-electoral analysis to identify situations of difficulty within Member States. Working with IDEA, the DPA contracted some individuals to conduct country missions and produce reports on these countries for further substantive engagement and possible submission to the PSC. The teams conducted pre-election[62], post-election[63] and technical assessment[64] missions. Unlike the PSC driven diplomatic peace and negotiation driven missions, these initiatives were constructed as more technical level missions, rather than as political missions (IDEA, 2017). They, however,

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[61] The establishment of the units is noted as follows in the report of the Chairperson of the Commission to the January 2008 Executive Council: 'The effective establishment early in 2008 of a Democracy and Elections Assistance Unit will also enable the Commission to more effectively coordinate its activities in the domain of elections observation and monitoring in Member States'(AU, 2008f).

[62] Pre-Election Assessment Missions: These missions were directed at assessing contextual issues that may influence the holding of periodic elections in Member States and on recommended further engagements to address challenges. (Democratic Republic of Congo, Gabon, Ghana, Mauritania and Zambia) (IDEA, 2017).

[63] Post–Election Assessment Missions: These were focused on the implementation of past elections observation recommendations and on issues relating to the resolution of electoral disputes and the support provided to Electoral Management Bodies (EMBs). (Kenya, Nigeria and Uganda) (IDEA, 2017).

[64] Technical Assessment Missions: These were primarily directed at assessing issues of compliance with overall AU provisions and instruments on democracy and elections. (Central African Republic and Burkina Faso) (IDEA, 2017).

embody similar processes and often engaged with a variety of local actors on the electoral challenges faced.

3.1.4 Accountability through Diplomacy

Engagements on accountability through direct AU multilateral diplomacy types interventions have unfolded mainly in a situation of national-level internal political crisis. In most instances, actions have generally unfolded based on growing stakeholder contestations as it relates to elections and constitutional changes. The AU has historically dispatched numerous diplomatic missions in situations that are deemed to be bordering on a crisis of where there is a high potential for violence (Wilén & Williams, 2018). Such missions are initiated through the structure of the PSC. It has also become traditional for the Chairperson of the AU Commission to deploy a Special Representative in situations of crisis to negotiate with local parties. Accountability through negotiated diplomatic engagements has mostly been the preserve of the DPS and general exercised through the authority of the PSC (Moolakkattu, 2010). The modalities have varied from the appointment of mediators, such as in the instance of South Sudan, in the form of Thabo Mbeki, the former President of South Africa. In the instance of Kenya, this was in the form of Kofi Anan, the former Secretary-General of the UN. In other instances, it was in the form of a delegation of sitting Presidents, as in the case of Libya and Côte d'Ivoire. The AUC has also, at times, deployed the Chairperson or a Commissioner to negotiate a peaceful transition. The Commissioner for Peace and Security, for example, played a central role in negotiating the transition in Mauritania in 2009 and the Chairperson of the Commission was deployed to Malawi in 2010 (Omorogbe, 2011b; Wilén et al., 2018; Desmidt, 2019).

While most diplomatic missions are of a short-term nature and not established with a steady presence in a country, the more recent approach has been to deploy notable individuals on a more fixed-term basis in a country. The AUC, through the Chairperson, deployed such individuals to countries such as the DRC, Gabon, Somalia, South Sudan and Mali. The overall orientation of such deployment is for the individual to facilitate negotiations that would serve to avoid violence and usher in peaceful and credible elections. The practise appears to be entrenched as part of the overall orientation towards peace and security and is integral to the AU focus on Silencing the Guns by 2020 (Khadiagala, 2015).

3.1.5 The African Charter on Democracy, Elections and Governance

Outside of diplomatic engagements and negotiations as a strategy for securing accountability, the AU has amongst others, adopted the ACDEG in January 2007. The process for the development of the Charter unfolded in 2003 at the Maputo AU Summit and emerged in parallel to the NEPAD governance initiative and the APRM process. At the Maputo Summit, AU Member States were concerned that numerous decisions and resolutions unfolded on issues relating to democracy and governance that were not being implemented and hence expressed a view that these need to be incorporated into a single and definitive Charter on Democracy Elections and Governance (Wiebusch, Aniekwe, Oette & Vandeginste, 2019a). The decision from the Summit is based on the outcomes of a Conference on Elections, Democracy and Governance which took place in Pretoria, South Africa, on 7-10 April 2003. The South African Independent Electoral Commission organised this Conference in partnership with the AUC (Falk & Storksdieck). ACDEG was, in practice, a product of civil society activism that unfolded in the Pretoria Conference.

The details of ACDEG was crafted by experts in the terrain[65] and after a series of conferences, adjustments from Member States and meetings of relevant Organs, was adopted at the Summit in Addis Ababa in January 2007 (Matlosa, 2017). In line with the rule of procedure of Summits, Egypt was the only country to register reservations when the ACDEG was adopted. Details on the nature of the reservation have not been documents in the decisions of the Summit (AU, 2007b). ACDEG is perceived as the central instrument for driving accountability related compliance at the level of Member States. When the Charter process unfolded the overall rationale is that it would serve as the primary vehicle for democracy at the level of Member States. For many Member States, the agreement to initiate the process was done on the basis that the Charter would serve to consolidate past efforts and disjointed initiative that emerged in the governance and democracy terrain (Wiebusch et al., 2019a).

The Charter process unfolded in parallel to the APRM process, with little or no dialogue on the connection between the two. At the Maputo Summit, Heads of State and Government welcomed progress on the APRM and encouraged Member State of the Union to accede to APRM. After a broader campaign to popularise ACDEG by the AUC, PAP and civil society formations, the Charter came into force shortly after the Shared Values Summit in January

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[65] Included amongst the initial experts who drafted the ACDEG is the current Director of the Department of Political Affairs of the AUC, Professor Khabela Matlosa (Matlosa, 2017).

2011(Faten & Apiko, 2017). ACDEG provides that the AUC will evaluate the implementation of the Charter in partnership with other organs, such as the PAP. It further provides that State Parties will report on the implementation of the Charter every two years. The Charter does not specify the modalities for reporting or any substantive process or framework for reporting (AU, 2007a).

Since ratification and the coming into force of the Charter, only one country (Togo) has directly responded to the AUC and provided a report on compliance (AU, 2017b). It took some time for the DPA to produce a guiding framework for countries to report on compliance with the ACDEG. This questionnaire was taken through a consultative process, culminating in its adoption by the Executive Council[66]. Responsibility for engagement with the reports to be produced is somewhat ambiguous, and the questionnaire seems to suggest that the AGP will be responsible, hence, making it very unclear on the reporting process and how reports will be engaged with and the role of civil society in the process. In general, the Charter goes beyond elections and hence addresses other elements of substantive concern in national-level accountability. There are provisions within the Charter on more engaged post-elections participation (AU, 2007a). To encourage more extensive reporting from AU Member States, the DPA has embarked on an initiative directed at enhancing Member State capacity for reporting by facilitating local stakeholder consultations. The first of such initiatives was held in Rwanda in October 2018 (DPA, 2018).

3.1.6 Peer Review Engagement

Peer Review in the accountability terrain has unfolded to be synonymous with the APRM. The process, methodologies and decision processes around the APRM were disconnected initially from the formal structures of the AUC. While there are several decisions at the level of AU Summits[67] directed at encouraging Member States participation in the APRM, the general orientation was that it was a separate, but a linked process, and only directly involved the countries that have volunteered to participate in the review process (Achieng, 2014). In line with its separate status, the APRM Secretariat developed, in consultation with Member States, the overall APRM process to be followed in each country, the review process, the framework

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[66] The Guidelines were adopted by the 28th Ordinary Session of the Executive Council on 28 January, 2016 in Addis Ababa, Ethiopia

[67] See for example the Decision on the African Peer Review Mechanism at the Eleventh Ordinary Session of the Assembly of the African Union, 30 June – 1 July 2008, Sharm El-Sheikh, Egypt (AU, 2008a).

of questions to be used for the review and the methodology for the work of the Panel. Panel Members are elected directly by the Heads of State. During the initial years, the APRM Secretariat functioned outside of the administrative rules and procedures of the AU (Kanbur, 2004; Gruzd, 2014a). While numerous decisions are made on the incorporation of the APRM into the AU, the process has been slow. The November 2018 Summit provided that the APRM is to be incorporated into the overall budget of the AU (AU, 2018b).

The voluntary approach towards APRM served to establish meetings of APRM of Heads of State and Government as separate to AU Summit level engagements. The APRM Forum engagements typically take place before the actual AU Summit of Heads of State and Government. At an operational level, APRM Focal points from participating countries meetings are held. The overall logic of the APRM process is that the reports produced are delivered directly for reflection by Heads of State and would not, in any way, be subject to scrutiny at a lower level. In other words, the APRM Panel would report its finding directly to Heads of State for engagements and consideration (Kanbur, 2004; Gruzd, 2014a).

A significant consequence in the establishment of the APRM was a more substantive focus on more profound forms of accountability. While matters of how elections are organised are incorporated in the review process, the APRM ushered in a more detailed form of deliberation on accountability within broader society by way of focusing attention on all levels of governance. The detailed questionnaire of the APRM raises issues on how accountability is secured in a variety of policy spaces and hence allows for engagement on the extent to which policies generated are based on broader accountability to society. Since establishment, the APRM has completed over twenty country reviews and in some instances, has begun to conduct a second review in countries that have volunteered. Over 37 Member States have now acceded to the APRM (Gruzd et al., 2018).

3.1.7 Coordination and Participation through the AGP

The substantive rationale for the establishment of the AGP as part of the overall AGA was that it would facilitate some level of coordinated synergy within the AU system on governance issues and, by implication, between ACDEG and the APRM process. While establishing a specific cluster on the issues, the essential focus of the DPA has been on arranging an annual Governance Dialogue and more extensive consultative engagements as part of deepening participation of civil society actors in the AU. In 2012, the DPA established what is referred to

as the AGA Secretariat within the Department with direct accountability to the Chairperson of the AGP and the Administrative Head of DPA (Wachira, 2014).

The AGA Secretariat defined as central to its mandate, the responsibility of initiating community engagements and hence arranging a series of regional consultative events on a specific topic of focus (Sanusi, 2017). A firm focus of the consultation has been on incorporating the voices of the youth in the continent and took off in 2017. How these engagements fit into the overall purpose of the AGP has never been fully defined beyond that it serves to facilitate more involvement of African citizens and stakeholders in AGA. During 2017 and 2018 periods, the AGA Secretariat focused attention on arranging a serious of regional 'youth and gender consultations' on the theme of the Summit for the year (Netshivhale, 2018).

By the end of 2017, there was some concern around the role and value of AGP and how it was fulfilling its mandate. Under the Chairpersonship of the APRM, the strategic orientation was that the APRM would take the lead in producing an African Governance Report for presentation to Heads of State and Government as part of the efforts to facilitate more active coordination (ACBF, 2017). By the time of the 2018 Special Summit on AU Reform, there were little indications of a more integrated approach to governance. In general, the 2018 Summit merely reaffirmed the role of APRM and that it would produce an African Governance Report for the Summit of Heads of State and Government in January 2019. The issue not addressed is coordination and greater synergy between APRM and ACDEG. All indications are that they will continue as parallel processes.

3.1.8 Broadening of Accountability Consideration

Beyond the core mandate on the ACDEG and the APRM, the AUC initiated several other interventions that broadly fall within the fold of enhancing accountability within Member States. Of particular significance was the adoption in 2009 of the Africa Mining Vision (AMV) is a policy framework ensure that Africa utilises its mineral resources strategically for broad-based, inclusive development (AU, 2009a). The AMV has attracted substantive attention, and there have been numerous engagements around its implementation as a basis for facilitating higher levels of economic inclusivity (AUC, 2014b; Besada & Martin, 2015:17).

To implement the Vision through more direct supportive efforts, the AUC worked in partnership with the UNECA to establish the African Minerals Development Centre (AMDC).

The Centre primarily serves to provide knowledge products, technical support and capacity building to AU Member States with efforts directed at deriving higher local value from extractive industries. However, eight years after its inception, implementation has been slow, and there is a low level of awareness of the framework among critical stakeholders in the mineral sector (Bello, 2014). In addition to initiatives around Mining, the AU also has direct initiatives to enhance the participation of women and young people in the development and governance processes (Sanusi, 2017). These initiatives are somewhat separate to overall mandated governance interventions but incorporate direct considerations relating to the participation of women and young people in the political process to enhance accountability at the national level. Through the partnership with technical support organisations, the AUC also arranged a series of conferences and workshops across the continent on a variety of accountability related issues[68].

As part of its democracy development efforts, the DPA in 2018 published a document relating to the role of Political Parties and their promotion for democracy purposes. The initiative unfolded in direct partnership with a civil society organisation with an interest in the development of political parties in Africa. A workshop directed at introducing 'the DPA Political Parties Engagement Programme to stakeholders to solicit inputs on the draft guidelines and key focus areas of engagement with political parties in Africa' was held in Ghana on the 14th and 15th June 2018 (AUC, 2018c). The workshop served to affirm a draft programme and range of activities for engaging with political parties in the continent. Participants were drawn from RECs, national and international institutions with experience on political parties' engagement of one form or the other, thinks tanks and the academia (AUC, 2019c). What is absent from the initiative is the precise mandate for the activity and how it strategically locates in the overall intervention work of the AU.

3.2 Accountability Intervention

It is necessary to engage with accountability interventions systematically across the different intervention modalities in order to appreciate and analyse the range of accountability-related activities that have unfolded within the AU. The analysis seeks to build a deeper understanding of the working implementation modalities within the AU, both as it relates to the interactions at the level of multilateral engagements and the level of active implementation. The essence of

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[68] Numerous events arranged by the AG Secretariat are detailed on its dedicated website (http://aga-platform.org/) and on its official twitter account (@AGA_Platform)

the descriptive overview that follows is to provide a more detailed account of how policy and implementation actions unfold in the AU system and hence to bring to the fore some of the contradiction, challenges and nuances embedded in the mandate establishment and implementation nexus. In the terrain of actions, there is substantive overlap between what unfolds in one part of the intervention terrain and other parts. The approach nevertheless is to engage systematically so that there it may facilitate more profound reflections. The underlying purpose of the descriptive analysis that follows is that they provide a basis for a more detailed institutional analysis of multilateral engagements and related implementation in the accountability area.

3.2.1 Compliance and Sanctions

The idea of compliance to shared values, as embodied in legal instruments, is rooted in the perspective of rapid integration through deeper AU multilateralism. It embodies the notion that Member States are legally obligated to adhere to instruments as soon as ratified. In the instance of accountability, this would mean that Member States are legally responsible at relevant national and African courts if they do not adhere to ratified instruments (Elvy, 2012:81). However, ratification obligations are viewed differently, as to some, it indicates a commitment to comply with provisions over time and to others, it implies immediate compliance (Kioko, 2019).

An analysis of the decisions process around the development of ACDEG, its eventual adoption by Member States and subsequent efforts to lobby for ratification, provide no firm evidence of an appreciation of the full legal nature of the instrument. During the period of popularisation through workshops organised by PAP, it has been noted that communication on the instrument was weak and that very often documents and related follow-up from the AUC were lost during interactions within Member States (Kane, 2008; Achieng, 2012). The need for ratification, outside of substantive follow-up from the AUC, appeared not to be a priority for Member States.

No matter the meaning attached to ratification, the basic idea is that AU Member States would have to comply and that non-compliance would lead to some of form of sanction. In the instance of the ACDEG, the presumption is that actions, in the form of sanctions, may be taken by the Executive Council and Assembly based on a recommendation from the AUC (Kioko, 2019). However, within the AU there is no substantive agreement on a sanction regime that is

to be implemented, outside of the formal suspension of membership[69]. Beyond global compliance issues, the further assumption with ACDEG is that action will be taken in situations where a specific clause is not adhered to by a Member State that has ratified (Kioko, 2019). As an illustration, ACDEG contains a clause that precludes individuals who have been involved in military coup d'état from engaging in electoral processes, even if, as a civilian, as has unfolded in Mauritania, Egypt and more recently in Zimbabwe[70]. In the instance of Mauritania, ACDEG was not in force at the time, even though Mauritania was the first country to have fully ratified the instrument. In the instance of Egypt and Zimbabwe, both countries have not ratified the instrument (Wiebusch, Aniekwe, Oette & Vandeginste, 2019b; Wiebusch & Murray, 2019c).

There is a strong push within the AUC that the Charter requires universal ratification for it to be useful as an accountability instrument (Matlosa, 2014). The Charter has often served as a reference point in situations of political conflicts and has featured in dialogue within the PSC[71]. Given the number of countries that faced popular revolutions since 2010, the AUC has struggled with the provisions of the Charter on unconstitutional changes of government, and there has been some dialogue on changing the provisions[72]. There is no evidence that such changes will be made and given the time it takes for ratification; it is highly unlikely that the AUC would engage in such a process. The more considerable challenge with ACDEG is that ***only one*** country has reported based on the guidelines for reporting produced by the DPA (Wiebusch et al., 2019b). Despite the formal request for reports through relevant diplomatic channels, there has been no response from countries that are State Parties to ACDEG[73]. All of the countries that have produced APRM reports and have subjected themselves to the process

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[69] According to paragraph 2 of article 23 of the Constitutive Act of the African Union ' .. any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of transport and communications links with other Member States, and other measures of a political and economic nature to be determined by the Assembly' (AU, 2000).

[70] Article 25 (4) provides that '(t)he perpetrators of unconstitutional change of government shall not be allowed to participate in elections held to restore the democratic order or hold any position of responsibility in political institutions of their State' (AU, 2007a).

[71] See for example Assembly Decision on The Inaugural Report of the Peace and Security Council of the African Union on the Implementation of the African Union Master Roadmap of Practical Steps for Silencing the Guns in Africa by the Year 2020, Twenty- Ninth Ordinary Session Assembly of the Union, 3 - 4 July 2017, Addis Ababa, Ethiopia (AU, 2017b).

[72] This is partially reflected in the contents of the Annual Report of the Chairperson on the Activities of the African Union Commission covering the period January to December 2014, Twenty-Sixth Ordinary Session of the Executive Council, 23 – 27 January 2015, Addis Ababa, Ethiopia (AU, 2014a).

[73] Data collated indicate a few instances where the DPA sent communication to Embassies requesting a response on ACDEG reporting.

have not submitted ACDEG reports[74]. The response of the DPA to this reality has been to engage in a series of workshops with relevant local actors, including civil society, to encourage reporting on ACDEG.

The general framework established by the DPA suggests that the AGP would consider state reports before they 'prepare and submit to the AU Assembly, through the Executive Council, a synthesis report on the implementation of the ACDEG.' (AU, 2007a). The DPA guiding note on ACDEG provides that the Assembly shall take appropriate measures aimed at addressing issues raised in the report as envisaged under Article 49 (4). Article 49 (4) of ACDEG states that the 'Assembly shall take appropriate measures aimed at addressing issues raised in the report'(AU, 2007a). The nature of the measures is not specified and generally assume that these could include some form of sanction for noncompliance. Outside of the general provisions in the guidelines on the reports to be assessed by AGP members, how this is will be done is not specified. Nor has there been engagements on the capacity to evaluate and make recommendations. Outside of transparent evaluations processes, and benchmarks, as per the provision of ACDEG, the modalities for ensuring compliance remain uncertain[75].

The process and standard by which an election is judged are contained in relevant declaration, decisions and ACDEG. The deployment of AU Election Observers, are, at least in theory, meant to ensure that there is compliance with basic standards so that elections are pronounced as free, fair and credible. The general procedure, which has improved over time, is for the DEAU in the AU to compile a proposed list of observers, together with a recommendation on who should lead the team. The general practice is that the team be led by a former President or former Minister from an AU Member State. The Unit has established a database of observers, some who have been trained in the practice of elections observation (Aniekwe et al., 2016). The decision process within DPA and the AUC allows for changes to be made on the proposed election observer list. Changes in the composition of a team are made at each step in the

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[74] To date only Togo has submitted a report in line with the provisions of ACDEG. The Charter provides that Member States will report within two years of the Charter coming into effect. The Charter formally came into effect in March 2011.

[75] During 2012, there is some evidence that the DPA was intending to produce a set of benchmarks for ACDEG and a Terms of Reference for such as study was produced and titled: Develop benchmarks for implementation of Commitment and Principles, and evaluation of Member States' Compliance to the African Charter on Democracy, Elections and Governance. There is no further record on whether this was in fact produced (DPA, 2012a).

approval process, with the final decision residing with the Chairperson of the AUC [76].

There is a substantive discretionary authority on the composition of AU Election Observers, and the team includes Ambassadors from the PRC, Members of PAP, Civil Society individuals and individuals included in the database of the DEAU. During 2011, the DPA decided that officials from the Department should be involved in the observation of elections as part of the process of enhancing their knowledge of elections in the continent[77]. In theory, the observation reports have to be drafted by appointed observers, but in practice, technical writing support is provided either by AU staff from the DEAU or a TP, such as EISA. EISA has worked more substantively and directly in partnership with the AUC since 2010. It has been responsible for providing on the ground technical support for AU elections observation mission (EISA, 2019). The size, time, spread and the number of elections observers deployed varies across countries and often contingent on the availability of funds. Much of the AU, funding for election observation is derived from DP[78].

In 2007 the PAP established its electoral observer missions with financial support from DP and with technical support from EISA. According to EISA, it assisted with the conception and administration of training for elections observation, for the establishment of PAP election observer mission, as well as managing the first ever PAP election observer mission to Kenya. PAP teams were also deployed to observe elections in Angola, Swaziland, Ghana and Zimbabwe in 2008 (EISA, 2019). A key conclusion of the PAP mission in Zimbabwe was that 'the current atmosphere prevailing in the country did not give rise to the conduct of free, fair and credible election'. A separate team of AU election observers deployed by the Chairperson of the AUC provided a more nuanced conclusion which accepted the results, hence contradicting the PAP mission (Kebonang, 2012). The overall consequence of this was that the Assembly of Heads of State and Government effectively putting an end of PAP missions and instructed that the AUC will only deploy missions under the direction of the Chairperson[79]. In addition to AU observation teams, most RECs deploy their teams for the observation of

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[76] The process around the nominations and changes to the list of election observers is reflected in internal memorandum within the DPA on elections observer teams.

[77] Details of this are contained in an internal advisory memorandum from the Head of Democracy, Governance, Elections and Human Rights to the Director and Commissioner of DPA (DPA, 2011m).

[78] This reality of reliance on DP has been noted in the Report of the Commission On Governance in Africa (With Focus on the African Governance Architecture and Elections) (AU, 2015b)

[79] This is reflected in a budget related decision of Assembly that provides that it 'decides to remove the budgetary allocation of election monitoring under the Pan African Parliament and any other Organ, following the decision that the Commission should harmonize the organization of joint election observation missions with other Organs' (AU, 2010a).

elections. While there have been attempts to coordinate initiatives on the ground, all of the teams generally deliver their separate reports (Aniekwe et al., 2016:42).

In the first decade of AU elections observation, the practice has been to issue a short arrival statement and a preliminary observation statement at the end of the elections. The initial statement is typically followed up with a more detailed report that focused on the technical aspects of the elections and communicated directly to the Electoral Management Body in the country (Aniekwe et al., 2016). During the first decade of formal observation (2002-2012), there was confusion around whether the more detailed reports should be made public. The practice changed in 2012 and reports are now published on the AU website[80]. In general, the reports tend to avoid internal politically controversial issues and focus more on the technical aspects of the elections. As a report does not feature on the agenda of any formal organs of the AU, there is no substantive pressure for Member States to implement the recommendations made for future elections. Outside of the overall value that arises from elections observations, there is nothing within AU processes to compel any level of adherence to set standards and principles concerning elections. In response to challenges related to the overall democratic process, the DEAU has motivated for the deployment for longer-term missions. Actual deployment has nevertheless varied and has been a practice contingent on the availability of resources (Aniekwe et al., 2016). The AUC has historically been highly dependent on DP for the required resources for elections observations. Funding is also channelled through the Democracy and Elections Fund. As the fund is separate to the AU budget, the accountability lines to Member States is not as affirmed as in the instance of the regular budget process[81].

3.2.2 Peer Review and Diplomacy

The peer-review process and related engagements on accountability represent the most direct form of multilateral intervention at the level of Member States. Peer Review in governance and hence accountability at the level of the AU has mostly emerged as being synonymous with the APRM and the process established by the Secretariat based in South Africa. The APRM has historically functioned in a very separate manner to the AUC, even though there have been

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[80] The AU website has a full listing of the reports completed by AU Election Observers. These reports are not discussed within Organs and, at most, are included in the narrative report of the Chairperson of the AU Commission to the Executive Council.

[81] The challenges of funding is noted in the Report of the Chairperson to Executive Council in 2008 which provides that ' (t)he Commission's performance in the area of elections monitoring/observation and promotion of democracy has, over the years, been   somehow dampened particularly as a result of the constraints it had to contend with,   mainly in regard to institutional capacity as well as human and financial resources' (AU, 2008f)

several Assembly decisions on its gradual incorporation into the structures of the AU. The process remains voluntary, and the governance structures function at arm's length to the AUC and Organs of the AU (Herbert et al., 2008; Gruzd, 2011; Gruzd, 2014b; Gruzd, 2014a; Makokera & Gruzd, 2014; Gruzd et al., 2018). The Executive Secretary is generally accountable to a Forum of APRM Focal Points from Member Countries. The Forum comprises Ministers or Senior Official from APRM Member Countries. The APRM Panel members are appointed by the APRM Heads of State and Government and hence directly accountable to this Forum (Kanbur, 2004).

The APRM is not a formal legal instrument in the same manner as ACDEG and does not directly articulate legal standards, norms or practices for adherence by Member States. However, specific accountability standard's and norms are in the detailed questionnaire developed for the APRM review process. In summary, the APRM process involves a country self-assessment exercise, a country review mission by Panel Members and appointed experts and the development and presentation of the report for review to APRM Heads of State and Government (Gruzd, 2014a). The APRM Secretariat receives some basic funding form the core budget of the AUC and additional funding from DP. Funding is usually channelled through an APRM Trust Fund established by the UNDP (Kajee, 2003). Member States who accede to the APRM, by way of a formal Memorandum of Understanding (MOU) are also expected to make an annual contribution towards the work of the APRM Secretariat. In general, few of the countries make the direct expected contribution.

The APRM exercise is resource-intensive, as it also involves the establishment of an APRM Governing Council within a country undergoing a review. The Council is expected to include stakeholders from civil society. The drafting process often also includes the appointment of in-country experts. Civil society actors at the country level also receive some level of DP funding and technical support for their participation in the APRM process. Until around 2012 support for Civil Society engagements was through a unit within the UNECA. More recently, support has is through the SAIIA. Such support varies across countries and is not consistently provided (Masterson, 2006; Nzewi, 2012).

The APRM Secretariat has over the years established working practices around the process and related activities to produce Country Review Reports. In most instances, the final report is a product of the country self-review, drafting from appointed expert consultants and Members of the Secretariat. While participating Panel Members may or may not engage in the writing

process, they retain final responsibility for the reports drafted. Given the breadth of coverage and the extensive nature of the consultations, the period for report production varies and can extend beyond two years before their presentation at a Forum of Heads of State and Government (Masterson, 2006). In terms of established APRM practices, the final report remains confidential until discussed by Heads of State and Government. The reports are generally very lengthy, and a member of the Panel would present a summary. A response from the Country under review follows from review comments from attending Heads of State. The responses and comments are included in the final published report. The authority to publish and release the reports resides with the reviewed Members State. Since its inception in 2003, the APRM has reviewed about 20 countries. During the period 2013 and 2015, not one country was reviewed (Gruzd et al., 2018:2). After the appointment of Professor Eddy Moloka as Head of the APRM Secretariat in 2015, there was a renewed sense of confidence on increasing the pace of reviews and hence completing more than four in a single year (Gruzd, 2011; Gruzd et al., 2018).

The overall logic of the systems is that change unfolds because of engagements around country practices and the related gaps identified. Over 15 countries have engaged in the process, and a number are in the second stage of review. There are ongoing debates about the value and substance of peer review as a mechanism of change (Landsberg, 2012a; Makokera et al., 2014). While the process is deemed highly participatory at the level of Member States, it is substantively centralised at the continental level, and peer reports are engaged with by Heads of State in a relatively closed meeting. The actual review process is limited to a few individuals, and reports can only be published with the permission of Member States. The APRM process incorporated the development of country-specific Actions Plans and subsequence follows up on the implementation of such plans (Kanbur, 2004). The APRM Secretariat has established a process to ensure follow-up on country Actions Plans through reports presented at the Forum of Focal Points. While DPA and the APRM Secretariat are on the AGP, there is no structured relationship between country review reports submitted to the APRM and the reports submitted for ACDEG or any other governance-related process in the AU (Matlosa, 2014:21).

Diplomatic missions relating to governance issues, especially in conflict situations or where contestations might lead to conflict, is a growing phenomenon within the AU system. The dispatching of envoys or related missions has historically been through a process led mainly by the Department of Peace and Security (DPS) in the AUC. In practice, proposals for a mission or the sending of an envoy to negotiate with local stakeholders to avoid conflict and resolve

governance-related contestations are channelled through the PSC (Moolakkattu, 2010). The practice varies and, in some instances, the appointment of an envoy would come directly from either the authority of the Chairperson of the AUC or the AU. In all instances, officials from the DPS would prepare the groundwork and would provide the necessary substantive and logistical support to the appointed envoy. For longer-term missions, officials will be responsible for opening a local office in the identified country, as has been the case in the instances of Mali, DRC, Kenya and Sudan. Budgets for such initiatives is from the Peace and Security Fund. Short term missions generally function in the same manner and may entail repeated visits to a country. In the instance where there is the deployment of a Head of State or Government, as in Cote d'Ivoire and Libya, Member States would provide the additional support required and would cover the costs of such missions [82].

The general logic attached to a diplomatic mission is the historic negotiation orientation embedded in the DPS. The overall strategy, in line with the Peace and Security Architecture, is to negotiate arrangements between parties to avoid all possibilities of conflict and violence. Within such a framework, the AU has negotiated arrangements in several countries, including Kenya, Sudan, Mali and has attempted to do the same in Cote d'Ivoire, Libya and Gabon. Analysis of these suggests a mixed bag of success and failure (Murithi & Lulie, 2012). Negotiations are generally disconnected from adopted governance compliance instruments. The DPS is more substantively staffed and has taken the lead in situations of governance crisis outside of and separate to the governance work that has unfolded within DPA. DPS has also established some supportive activities as part of the overall APSA and includes an early warning situation room that serves to monitor governance development in Member States. It has also established offices in some of the key RECs in the continent. The realities of overlapping mandate and separation are expressed as a matter of coordinated concern, and many Assembly decisions point to the importance of greater synergy between AGA and APSA (Wachira, 2017). In practice, however, all actions generally arise from the PSC, which is open to both of the Departments and other Organs and institutions involved in governance. Aside from contestation around the turf, there is nothing substantive to prevent deeper forms of synergy between the Departments and hence a better balance between negotiated arrangements

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[82] The range of missions deployed are scattered throughout the period of existence of the PSC and there is no comprehensive available individual report on these within the AU system or within wider literature. A useful summary of some of the missions is contained in an article by Tim Murithi on 'The African Union's evolving role in peace operations: The African Union Mission in Burundi, the African Union Mission in Sudan and the African Union Mission in Somalia' (Murithi, 2008).

within the framework of adopted shared values as embedded in governance instruments [83].

The substantive overlap has prompted the DPA to propagate for the deployment of diplomatic missions for preventative diplomacy. This form of deployment is mainly in instances where there are signs of potential for conflict or constitutional and electoral disputes. A substantive orientation in DPA has been towards the deployment of longer-term election observer missions as part of the initiative to prevent election-related conflicts (Aniekwe et al., 2016). This orientation is also in keeping with the conclusion of the Panel of the Wise, managed by DPS, which argued for longer-term preventative diplomatic missions (Nathan, 2005). In the report of the panel, a strong argument was put forward on the need to utilise panel members for longer-term engagements in Member States experiencing high levels of electoral contestation (Gomes Porto & Ngandu, 2014). As part of the efforts towards broadening the diplomatic approach with more proactive diplomacy, IDEA worked with the AU to pilot the approach by appointing senior consultants to visit a selection of countries and produce reports for possible further diplomatic engagement. Under the overall authority of DEAU, the individuals travelled to a selection of countries, engaged in consultations with available stakeholders and produced reports[84] (IDEA, 2017).

The challenges associated with overlapping mandates between the DPA and DPS prompted several decisions urging for greater synergy and cooperation. The substantive push forward on this unfolding in the Special Summit on AU reforms where a decision was made that the portfolios merge under a single Commissioner for Peace, Security and Political Affairs (AU, 2017c). How this would serve to reshape actual work on deepening accountability are not stated within the reform process.

3.2.3 Information and Knowledge Exchange

AU implementation structures in the accountability space have always perceived their role as

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[83] This was affirmed in the consultations between AGP members and the PRC, within which the 'Members of the PRC called on the Department of Political Affairs and the Peace and Security Department to jointly and regularly brief the PRC on specific steps and initiatives being undertaken to enhance greater synergy between the AGA and APSA' (DPA, 2015).

[84] International IDEA completed 12 separate activities, including several post-election assessment missions in Kenya, Nigeria and Uganda, to discuss recommendations made by AU electoral observation missions and to assess plans for the implementation of the recommendations ahead of the next electoral cycle in each of these countries. Additional technical assessment missions were conducted in Burkina Faso and the Central African Republic.

encompassing a variety of knowledge and information sharing activities[85]. Conferences, workshops, seminars and consultative meetings are either organised directly or with a variety of TP within the governance space[86]. In many instances, TP would directly organise events, with the participation of AU implementation structures. The use of the AU logo would often serve to legitimate events and hence serve to attract relevant role players and DP[87]. The process for developing ACDEG, as is noted, arose from a conference organised by the Independent Electoral Commission (IEC) in South Africa in partnership with the AUC. The events organised hence have a substantive advocacy impact on the development of instruments in the continent. The IEC arranged event points to the importance of knowledge exchange and generation events for the overall development of the AU and for influencing Member State actions.

Within the accountability space and in keeping with the mandate relating to the ACDEG, DPA has since the adoption organised workshops and sub-regional conferences, for the popularisation, ratification of the instrument. The following table provides an overview of the events arranged directly on ACDEG by the DPA since the adoption of the Charter in 2007. The table is not exhaustive as information and records of actions is dispersed and hence challenging to establish a full tabulation of such information and knowledge-oriented events. The substantive purpose of the table is to illustrate the actions that have unfolded within the terrain. While events may be defined as meetings, with specific outcome reports, they generally emerge as conventional conferences or seminars with no further purpose beyond the active engagements that unfold during the actual event. Aside from a follow-up in the development of educational material on the Charter, there is no evidence of any event serving a broader follow-up purpose, beyond the immediate value for those who attended and participated.

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[85] On its website (http://aga-platform.org/index.php/what-we-do), the AGA Secretariat provides 'Through its knowledge management work, AGA has facilitated the Palm Tree Circle Series, the Democratic Governance (DG) Trends Debates and Africa Talks DG Trends in addition to various online foras. The flagship dialogue hosted on an annual basis by AGA is the High Level Dialogue on Democracy, Elections and Governance which is now in its sixth year'.

[86] The events arranged by International IDEA are a classical example of events arranged separately of the AUC, but benefiting from its overall legitimacy. A full listing of these is contained in Table 10.

[87] A classic example of this is reflected in Minutes of a meeting to discuss collaboration between DPA-AUC and CSVR on 30 March 2011 held at AYU International Hotel in Nazareth Ethiopia, which provides that 'that CSVR was ready to support the DPA during the envisaged meeting of AU organs/institutions and RECs for adoption of the Human Rights Strategy by sharing some of the costs of that meeting with a proposed side line joint dialogue on transitional justice in Africa' (DPA, 2011d).

Table 14: Selection of ACDEG Events Arranged by the DPA

Topic	Year	Place
Brainstorming on Charter on Democracy, Elections And Governance.	2007	Mali
Meeting with Experts on the Popularisation and Ratification of the Charter	2007	Namibia
Regional Meeting on the African Charter on Democracy, Elections and Governance (Southern Africa)	2007	Lesotho
Regional Meeting on the African Charter on Democracy, Elections and Governance (West Africa)	2007	Ghana
Regional Meeting on the African Charter on Democracy, Elections and Governance (Central Africa)	2008	Burundi
Regional Meeting on the African Charter on Democracy, Elections and Governance (East Africa)	2008	Rwanda
Workshop with RECs on the Popularisation and Ratification of the Charter	2008	Nigeria
Meeting on the Popularisation and Ratification of the Charter with RECs	2009	Sudan
Technical Meeting with RECs and Stakeholders on the Charter	2010	The Gambia
Consultation on the Charter on Democracy, Elections and Governance	2011	Mauritius
Consultation on the Charter on Democracy, Elections and Governance	2011	Bamako
Workshop on the Strategic Directions of the Charter	2011	Mauritania
Consultation with AU Member States to Facilitate Ratification of the African Charter on Democracy, Elections and Governance	2011	Mali
Consultation on the Establishment of a Framework to Undertake Periodic Review of AU Member States Compliance to Democracy and Governance Instruments	2011	Mali
Expert Consultative with Education Ministers on the inclusion of ACDEG in the School Curricula	2015	Nigeria
National Stakeholders Consultative Workshop on State Parties reports under ACDEG	2018	Rwanda

Source: Data extracted from a range of AU DPA reports, plans and related internal memorandum.

The overall logic of many of the popularisation and consultative initiative is that they would serve to bring to the attention of government, civil society actors and academia the importance of ratification and hence the implementation of ACDEG. Funding for such events is derived from DP and attendees include representatives from Member States, CSOs and a range of experts[88]. In addition to DPA led popularisation initiatives, some other organisations, such as the PAP and CSO's have arranged similar events (Faten et al., 2017). In instances where partner organisations arrange events, DPA officials would be invited to attend and make presentations. Very seldom are such engagements arranged at the headquarters of the Commission in Addis Ababa, Ethiopia[89].

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[88] According to Aggad & Apiko (2017) '…ACDEG, was until 2016 almost fully funded by external donors. Indeed, the bulk of the funding is provided by international partners, with the German Development Cooperation (GiZ) being the largest of the funders, followed by the EC, DIFD and International IDEA'.

[89] Table 8 and 9 are illustrative of the propensity to arrange events away from the AUC Headquarters in Addis Ababa, Ethiopia.

The table is illustrative of the 'information and knowledge 'related events arranged for ACDEG and does not capture the broader range of initiatives that have unfolded in the terrain, including other conferences arranged by civil society organisations separate of AU processes and institutions. In addition to the ACDEG specific events, the AGA Secretariat has been very active in the organisation of an Annual AGA Conference and regional consultative events which centrally focus on ACDEG promotion and broader governance issues. Since 2012, numerous consultative events, including a launch of AGP have also been organised, with funding derived from some DP.

Table 15: African Governance High-Level Dialogue Events

High-Level Dialogue	Topic	Year	Place
7th	Winning the Fight Against Corruption	2018	Botswana
6th	Enhancing Youth Participation and Representation in Governance in Africa	2017	South Africa
5th	Democracy, Human Rights and Governance	2016	Tanzania
4th	Women's Equal Participation and Leadership in Political Parties	2015	Rwanda
3rd	Silencing the Guns: Strengthening Governance to Prevent, Manage and Resolve Conflicts in Africa.	2014	Senegal
2nd	Enhancing Constitutional Order and the rule of law in Africa	2013	Senegal
1st	State of Governance and Democracy in Africa	2012	Senegal

Source: As extracted from the AGA Secretariat website http://aga-platform.org

A dominant DP in this terrain has been GiZ. In addition to funding some direct personnel costs for individuals in the AGA Secretariat and some consulting arrangements for the production of concept papers and related activities, GiZ has been a central donor for several events (Faten et al., 2017). Based on available information, including the funding set aside by GiZ for the AGA programme, that AGA Secretariat has spent an annual average of around USD 1, 200 000,00 since 2012. As budgets are often expanded outside of the formal AUC Budgets and often through direct payments, it is impossible to track the overall spent on 'information and knowledge 'exchange events. It is conservatively estimated, that over USD 20 million was expended on accountability related events since the launch of the AU in 2002.

Considering the number of events arranged by the DPA, the small team often spends a considerable amount of time with approval, logistical and communication issues. An event is typically preceded by the drafting of concept notes, the development of a list of officials and

participants funded and the preparation of all logistics, including the booking of flights and related accommodation arrangements in an AU Member State. Events are often preceded by deployment of an advance team for logistical arrangements, with the participation and involvement of senior officials[90]. While practices have evolved and shaped by budget availability, the AUC team would often include interpreters, translators, secretaries, a document distributor, a protocol officer and a communications officer. Substantive event-related costs relate to flights and stipends for the period of absence from Addis Ababa[91]. The AUC would also typically pay the costs of the venue and related equipment for interpretation and the reproduction of documents. In the instance of events arranged by partners, costs would generally be covered directly, including the attendance of DPA officials[92]. In the case of DPA arranged events, brief narratives are produced for internal submission and eventual inclusion in reports to relevant Organs or DP. While funds utilised is audited, there are no real evaluations of the 'value for money' derived from the events arranged[93].

In 2009, International IDEA signed an MOU with the AUC through DPA. The MOU served as the foundation for a structured working relationship that culminated in the development of a Joint Activity Plan (JAP) which included a substantive range of activities associated with accountability related interventions (Helgesen, 2008). Of particular significance was that IDEA would, in partnership with the DPA, appoint three to four 'experts' to second to DPA for three years[94]. The initiative has since been extended based on funding derived through IDEA, from amongst others, the United Kingdom's (UK) Department for International Development (DFID) and traditional IDEA Donors, such as Norway, Sweden, Denmark, Canada and Australia (IDEA, 2016a). IDEA established an office in Addis Ababa in 2010 by moving its Africa regional office from Pretoria to Addis Ababa in 2013. The number of

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[90] Documents reviewed included numerous examples of internal memorandum for the approval of the Chairperson of the AUC which list the participants for DPA related events and provide details on budgets to be utilised.

[91] Numerous instances of the complexities related to event organisation and delivery are contained in internal memorandum related to approval of budgets, participant list and concept notes.

[92] Documents reviewed include numerous examples of memorandum requesting travel approval for events arranged by Technical Partners (TP).

[93] An example of the propensity towards events for a long duration supported by external funding is contained in a memorandum related to Consultations organised by the DPA on the margins of the 49th Ordinary Session of the ACHPR, 26-30 April 2011 in Banjul, The Gambia. The memorandum provides that the 'following partners will be supporting the consultation through a direct financing arrangement: UNDP through the agreement between the UNDP and AUC on the Implementation of the Project entitled Consolidating Democratic and Participatory Governance in Africa Programme and the Office of the High Commissioner on Human Rights (OHCHR). Open Society Institute East Africa (OSIEA) and the Centre for the Study of Violence and Reconciliation (CSVR) have also offered to contribute towards the organisation of the meetings' (DPA, 2011a).

[94] Details related to this form of support are contained in an end of period 'project review' conducted by DFID in 2013 (DFID, 2013).

'knowledge and information' activities and support to the DPA rapidly expanded since the move.

IDEA functions as a 'knowledge and information' sharing organisation and established as a multilateral democracy promotion organisation with several African Member States, including South Africa, Mauritius, Botswana and Ghana[95]. The partnership between IDEA and DPA is complex but generally predicated on IDEA, adding substantive value to AU initiatives in governance. While indications are that AU provides inputs into all IDEA organised events and there is participation for senior DPA officials, the precise value beyond the general reflection of invited participants, experts and officials from Member States is not evident[96].   Available event concept notes from reports produced emphasise the learning and knowledge exchange value of the events. The following table provides a synopsis of some of the events arranged by IDEA directly since 2012. IDEA officials are typically also invited to events arranged by the DPA and often provide a level of funding to such events, including the various AGA related annual dialogue events.

Table 16: IDEA events organised in partnership with the AU since 2012

Topic	Year	Place
Youth Participation in Political Processes: Second Annual Summer School for Young Leaders from African Political Parties	2018	Rwanda
Financing Of Electoral Processes: An Investment For Inclusive And Sustainable Democracy	2018	Namibia
The New Developmental Approach to Natural Resource Governance: Lessons Learnt, Experience sharing and Emerging Practices for Parliamentarians and Political Party Leaders in African Countries'	2018	South Africa
Scaling Up the Support to Structural Preventive Diplomacy and Political Analysis in the Area of Elections in Africa	2017	South Africa
Three decades of democratic transition in Africa: What are the dividends for citizens?	2017	Benin
Southern Africa Policy Dialogue: Money in Electoral Processes	2016	Namibia
Regional Dialogue on 'Emerging Trends and Challenges of Electoral Democracy in Africa'	2016	Nigeria
Constitution Building and Constitutionalism in Transitional and Post-Conflict Situations	2016	Tunisia
Political Parties and Electoral Processes: Preventing Electoral Violence in Africa	2016	Cape Verde
Challenges to the rule of law in Africa	2015	South Africa
Democracy and Service Delivery	2015	South Africa

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[95] Details on International IDEA and its role, mandate and membership are on its website - www.idea.int.
[96] Reports of the listed IDEA events are on its website and include details around participation. In each event, an input is provided during the opening session by a representative from the DPA. Each of the reports include details on the input from DPA, the programme and concept note for the event.

Source: Extracted from the website of International IDEA https://www.idea.int/.

The AUC has organised a range of conference in elections in partnership with other civil society or multilateral organisations active in the governance space. The DEAU has over the years arranged conferences of exchange and learning with EMBs. In 2018, the unit also took the lead in arranging a Conference on African Political Parties. While the primary preoccupation of DEAU is on the observation of elections, conferences are organised as part of the overall mandate of assistance for the organisation of elections (DPA, 2013).

In the instance of the APRM, the primary orientation over the years has been to arrange events directly related to the mandate. These include technical meetings related to the development of the APRM system and the further development of its methodologies and events related to consultations with members. Based on available information, the number of events is relatively limited and include conferences for the popularisation of the APRM and broader dialogues on the process and its value. Arrangements of events of a more reflective nature are by TP of the APRM Secretariat, such as the South African Institute for International Affairs (SAIIA) [97]. Outside of such events, APRM officials participate in broader AU governance-related events and activities. In 2018, the APRM Executive Secretary served as the Chairperson of the AGP[98].

The AUC has not engaged substantively in producing output documents from its events for broader dissemination of information and knowledge. The produced summary event report is rarely distributed and generally only generated for internal reporting purposes or to inform proposals to be taken to relevant AU Organs. In the instance of IDEA, the orientation is to produce events reports and, where possible, policy briefs for dissemination. Given the complex array of information and knowledge exchange events arranged and products produced within the broader accountability related events and the substantive involvement of a range of TP, it is not feasible to provide a detailed outline of these or have a full financial account of these. The approach in this instance is to provide a broad picture of the number of events organised and hence illustrate the significance accorded to such events by AU multilateral institutions in the accountability space.

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[97] As illustration SAIIA arranged a Brainstorming Workshop for Governance Experts on Operationalising the Extended Mandate of the African Peer Review Mechanism (APRM) (APRM, 2017).

[98] APRM events, as depicted on the organisation's website, primarily focus on those that relate to delivering on their core mandate. Whilst there are broader events and APRM representatives attend many of the DPA events, the orientation is different to the DPA.

3.2.4 Capacity Building and Technical Support

AU institutions involved in accountability related interventions have over the years defined their mandate, through approved work-plans, as including capacity building of Member States and civil society formations. Outside of the work related to elections management support, there is no formal articulation on how capacity building and related technical assistance initiative would unfold, and the precise value add to Member States. At times, workshop and conference type events are defined as capacity building initiatives as they embody imparting information and knowledge. At the level of ACDEG, actual capacity related initiatives have been minimal and often unfold in the forms of knowledge and information related events. The DPA has nevertheless, in partnership with other organisation, produced smaller ACDEG explanatory booklets for distribution[99]. The DPA has also been working on developing material for inclusion in the curriculum of schools on ACDEG[100]. While there are instances where the DPA has defined itself as having a more proactive capacity building mandate, there have been limited interventions in the terrain.

Within the area of accountability related intervention, the DEAU broadly established a mandate to engage with EMBs to enhance their technical and operational capacity for the management of elections. In addition to arranging 'capacity building' related events for EMBs, some attention has been focused on providing technical support to such bodies through the contracting and placement of experts in specific areas of request at EMB's. Funding for such purposes has been channelled through the Democracy and Elections Fund but has always been modest relative to the funding for elections observation. In partnership with IDEA, the DEAU also rolled out the 'Building Resources in Democracy, Governance and Elections (BRIDGE)' training for EMBs. These were generally done on a regional basis and, in some instance, at a national level[101]. BRIDGE is essentially a modular professional development program with a particular focus on electoral processes. In general, the target group for the training has been officials working in EMBs. The channelling of the training through the AUC has been functional for IDEA as it provides direct access to EMBs across the continent.

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[99] This has been detailed in a note from Open Society foundation (Achieng, 2012).

[100] Details of this initiative are contained in a Terms of Reference for the appointment of Consultants for the development of ACDEG material for inclusion in School Curriculums (DPA, 2017a). There is no evidence that this project has been completed or that the relevant material has been produced.

[101] See for example Press Release: African Union BRIDGE Training for Elections Cameroon opens today in Limbe, Republic of Cameroon (AUC, 2016a).

One of the central partners for election-related capacity building has been EISA. Working with the Carter Centre (TCC) and the International Foundation for Electoral Assistance (IFES), EISA developed a database of elections experts and electoral institute in Africa and produced a manual for DEAU staff on the arrangement of election observer missions. It furthermore compiled a handbook for the training of election observers. In addition to providing technical support for most AU observation missions, EISA has been conducting training of elections of AU observers since 2009. Initial training was for PAP observers and subsequently for AU observers. In 2016, EISA co-facilitated a series of workshops for long-term observers with the AU. Much of the funding for such capacity development initiative is channelled through EISA and based on an MOU signed with the AUC initially in 2008 and subsequently renewed in 2014 (EISA, 2019).

A further initiative towards capacity building arising from AUC processes focused on young leaders within African political parties. Two Summer Schools for Young Political Leaders were arranged in Kigali, Rwanda in 2017 and 2018. The initiative funded and organised by IDEA reportedly served to enhance the capacity and confidence of the youth to engage in political processes. The initiatives were broadly perceived to be a part of the outreach activities of AGA Secretariat (IDEA, 2018). Outside of the workshops and conferences defined as capacity building initiatives, there have only been few initiatives directly focused on building state-level capacity for accountability and the implementation of ACDEG. APRM related initiatives, in contrast, have placed substantive attention on enhancing the capacity of civil society to engage in APRM related activities. In the initial few years of APRM, UNECA support for the APRM concentrated on building the capacity of national civil society institutions. The Open Society Initiative (OSI) has been key to such engagements and continue to support activities to engage national-level civil society in the APRM process.

At a more distant level, UNDP and the ACBF have positioned themselves as engaging in capacity building initiatives related to the work of the AUC. In addition to providing direct support to the DPA in governance-related intervention, UNDP, through its Africa regional offices in Addis Ababa engaged in some level of capacity support that unfolded in the form of technical support to the DPA and by way of organising workshops related to AU interventions in governance.

3.3 Institutional Analysis

The overview of intervention in accountability, together with the descriptive analysis of interventions in each of the areas provide a rich account of what has unfolded since the launch of the AU in 2002. It is imperative to analyse the interventions at two levels, as outlined in the 'analysis framework' in order to extract some of the efficacy related challenges as they pertain to accountability challenges. These are at the level of multilateral engagements and, in particular, the role of Member States of the AU, and at the level of multilateral implementation, as signified by actions that unfolded within implementation processes. The focus on both the internal and external, including the social and material dimensions is in line with the analysis framework adopted from Barnette and Finnemore (2004:24)

3.3.1 Multilateral Engagements

At the level of multilateralism engagements, the analysis is embedded in formal decision processes and hence the substantive role of Member States as it impacts on norm establishment and implementation. Of particular importance in this respect, is engaging with the role of Member States in approving and taking forward implementation. It includes understanding the consensus process, the realities of competing norms and practices, and on the ground realities as it relates to Member States. In keeping with the framework and for brevity purposes, the analysis is in two broad areas: 1) Power Relations and Competing Norms, and 2) Realities within Member States.

3.3.1.1 Power Relations and Competing Norms

The process of norm formation and establishment has always been relatively complex, and often resolutions and instruments adopted arise from a combination of initiatives from within and outside of formally established structures. One consequence of the complexity and competition amongst Member States championing different instruments is the reality of normative incoherence and hence a disjointedness in the frameworks established. The reality that typifies part of this complexity is Member States largely approved the APRM at the same time as they approved the process leading to the establishment of ACDEG[102].

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[102] Both the ACDEG process and the APRM were approved at the 2003 Maputo Summit. However, Member States failed to appreciate the overlap, in part as the instruments were championed by different policy communities. The ACDEG process was championed by the IEC in South Africa through the structures of the Commission. Whereas the APRM was championed by the NEPAD Secretariat through Heads of State.

It has to be appreciated that the process by which instruments development unfolds and resolutions drafted within formal spaces of the AU, is often fraught with institutions and countries competing for spaces to affirm agendas that they would be championing. In the absence of countries who are prepared to raise issues on competing instruments and a robust coordinative centre within the AUC, the adoption of contradictory norms or competing instruments in the AU was inevitable[103]. Even when there is awareness of possible challenges in the future, the consensus approach in AU Summits, coupled with the low levels of available technical capacity and the intensive lobbying by Member States championing specific initiatives, such as South Africa, in the instance of the APRM, adoption of decisions, that might not be optimal for the efficacy of the AU, are unavoidable.

While the APRM has been described as a process and not as a set of standards, inherent within its initiative is a set of norms that require Member States adherence. Although there are claims that the standards are the same as in ACDEG, the reality in practice is that the instruments stand separate of each other. A detailed reading of the reporting process around ACDEG, including the proposed structure of the reports, suggest that ACDEG is essentially a peer-driven process. While the ACDEG processes have been described as mandatory and as separate to the voluntary APRM, process (Matlosa, 2014), the reality, in practice, is that all instruments in the AU are substantively voluntary, even when ratified. Despite the legal status of instruments, there is little to compel Member States to adhere or report on the implementation of an instrument[104].

Outside of the participation of PRC Members as election observers, there is little direct involvement of Member States, as a collective, in the observation of elections. Detailed reports are not present to AU Organs unless the country in questions becomes a subject of consideration at the PSC. Direct oversight over electoral observer missions, their organisation, the individuals appointed as observers, is limited and often confined to short briefs in the annual activity reports of the Chairperson of the Commission[105]. While Member States participate in

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[103] Different structures of the AU would make submissions to the Secretary of the Commission for inclusion in the Summit. Seldom are the contradictions or overlaps noted at the centre of the AU institutional system.

[104] While there is often reference to ACDEGs legal status, relative to the APRM, the substantive implied process to review country reports suggest a more peer oriented approach is most likely. However, there has been no movement on ACDEG reporting since it came into force in 2011.

[105] Beyond local national media attention to AU Observer Reports, these are not really discussed at the level of the AU and the practice has largely emerged as routine within the AU system. There is no capacity for detailed follow up on recommendations and no evidence is documented of actions by Member States on reports produced. The substantive value of observations remains at the level of affirming credibility and hence are generally perceived as positive by donors. See for example the DFID review report (DFID, 2013).

various activities of the DPA as it related to accountability intervention-related activities, the level of active accountability related engagements is minimal. PRC members participate in such events but exercise limited active agency over issues discussed and proposals that unfold from such activities.

3.3.1.2 Realities within Member States

The existence of competing norms and instruments and the lack of coordination do not necessarily impact directly on internal state actors within Member States. Ministries, Departments and individuals would participate in separate processes relating to accountability related instruments. Generally, meetings are attended by individuals chosen by Ministries or relevant focal institutions without them necessarily engaging on the coherence or synergy between different instruments[106]. Member States are, as a matter of practice, reliant on communications and Diplomatic Note Verbal's transmitted from their representatives in Addis Ababa. The discretion of directing the communication and invitation for expert participation to relevant line Ministries responsible resides with offices in Addis Ababa or with Ministries of Foreign Affairs. The practice of embassy officials attending all manner of events to represent their countries, especially when the AUC funds this, suggest that many governances related invitations are never really channelled to appropriate departments and officials at the national level[107].

Member States may well exercise substantive sovereignty and autonomy when it comes to interactions with the AU on implementation processes. Member States may choose to ignore implementation imperatives on whatever grounds they choose, without having to articulate these formally. At another level, the lack of response may be because of a lack of internal coherence and communication as it relates to AU instruments[108]. Follow-up communication for DPA and other institutions involved in multilateral governance implementation compliance and action often get lost between different state institutions and Ministries within a particular country. To overcome communication challenges, AU department would sometimes

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[106] AU Departments often engage directly with Ministries or Departments on their particular instruments and often ACDEG Focal points and APRM Focal points are different government departments and individuals.
[107] Attendance list of DPA organised and DP paid for events indicate that many meetings and conferences are attended by officials based at embassies in Addis Ababa.
[108] Using South Africa as an example comments from a Parliamentary Committee Chairperson that the '…Charter had been inexistence since 2007 but was only now submitted to the Committee. The Office of the State Law Adviser had confirmed compliance with domestic legislation. The matter had been raised with the Department on previous occasions' (Parliamentary Monitoring Group, 2010) is telling about local institutional complexities when it comes to ratification of instruments.

communicate directly with specific Ministries or other actors to establish progress on specific instruments and related ratification. The challenge for accountability related intervention is that the responsibility and implied reporting requirements are spread between Ministries, thus rendering it difficult for AU officials to establish solid relationships for active ongoing communication and follow up. In the instance of the APRM, this has been easier as each country is required to designate a focal point and APRM Secretariat does not necessarily channel communication through embassies. The centralised coordinative approach of the APRM through a designated focal point renders communication and ongoing interactions much more accessible.

Outside of Member State commitment to AU multilateralism and the imperatives of integration, the accountability realities within a country and ongoing local priority efforts and concerns, may serve to establish some level of compliance resistance. In part, this relates to internal political realities and the possibility that ratification may prompt civil society and other local actors to use instruments to demand accountability (Kane, 2008). As customarily an instrument is adopted by full consensus, Member States would hardly ever express any formal opposition after adoption. At most, Member States who have not ratified would indicate that they are already compiling and do not need to ratify formally. In the instance of ACDEG, this has been the case with both Tanzania (Daily News, 2017) and Botswana (Saungweme, 2007). Where Member States have been slow to ratify despite continuous follow-up engagements, it may be concluded that there is a lack of commitment, as realist do, but the evidence of expressed State level concern with the content ACDEG does not exist.

A more significant consideration when reflecting on the agency of Member States are the incentives available to participate. Member States may well be considering the substantive value derived from ACDEG or the APRM process. There is no sanction regime in the AU system for non-ratification, aside from the fact that there is a record of non-ratification in reports on the 'status of treaty ratification' produced and published at AU Summits. In some instances, ratification of international instruments may be perceived as a matter of prestige and hence creating political opportunities[109]. The APRM has succeeded in attracting attention, as it often garners the support of DP and because it entails substantive media attention. As the APRM process established internal national structures, the incentives for civil society

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[109] While the AUC regularly produces an update on instruments ratification, Member States hardly ever do appropriate follow up on instruments at the national level. Aside from communications from DPA to Member States through embassies, there is no evidence of detailed follow up.

engagement has been higher, and Member States have generally been more attracted to the process. However, the costs of the process have historically been a matter of concern (Gruzd et al., 2018). Member States are expected to contribute by making an annual contribution to the APRM. Member States are also expected to support the establishment and functioning of local structures for the period of the APRM review process. The direct funding requirement may well create some level of disincentives. However, there is no indication that APRM processes are held up because country fees are not paid (Gruzd, 2014a).

While election observation has been a continual process for some time now, the precise value for Member States has never been fully evident. Observers are either welcomed and interacted with actively by ruling parties or left mainly on their own as part of the overall obligation to accommodate such observer teams. Where ruling parties are subject to substantive concerns around the electoral process, they tend to embrace observer missions substantively and attempt to engage to ensure that the observer teams provide positive conclusions. The shift to a more technical approach has been somewhat valuable to local EMB's as the recommendations from AU observer missions are often used to justify the mobilisation of further resources and to request technical assistance from donors[110]. The reality of observation is that they are a terrain of substantive resource distribution and patronage, and the actual value for AU multilateralism in governance may not be substantively apparent (Diatta & Woldemichael, 2019). The value of observations must be viewed in the context that many countries, especially those struggling with conflict, have been subject to many different observer missions, including from RECs. The value to Member States of having many different missions is not apparent and often comes at high costs to institutions. Donors would often fund mission from separate institutions. At one point in time, DP supported missions from different parts of the AU system. DP supported both PAP and the AUC when it comes to the observation of elections in Zimbabwe in 2008. The value of extended long-term missions on stability is yet to be realised. In practice, longer-term generally implies value for AU officials and those who benefit directly, including consultants.

3.3.2 Multilateral Implementation

At the level of multilateral institutional implementation, the analysis engages with issues related to organisational culture, bureaucratic strategies, financing issues and the related human

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[110] The shift from a more political approach towards a more technical approach to elections is outlined by Aniekwe and Atuobi (2016)

resource limitations. The analysis of implementation engagements is directed at establishing an understanding of the driving culture, incentives and orientations that shape actions amongst officials. Drawing from the overview of accountability interventions and the different interventional modalities, it seeks to engage with the challenges that unfold in the implementation process and the agency exercised by officials. For brevity purpose, the analysis unfolds in two areas: 1) Organisational Culture and Financing, 2) Human Resource and Bureaucratic Strategies.

3.3.2.1 Organisational Culture and Financing

Accountability related intervention are spread between the DPA, the APRM and to a certain extent, the DPS. As with the rest of the AU system, these institutions are reliant on substantive DP funding for activities and personnel to engage in actual implementation initiatives. The overall consequence of this is that it drives forward a level of bureaucratic competitions for scarce resources. The drive to mobilise resources serves to establish a culture where officials push forward the value of their mandate relative to others. The willingness to coordinate and build appropriate synergies is minimal, despite the semblance of cooperative work in the context of the overall AU budget process. Even with direct budget support to the AU, DP's generally establish their areas of priority support. Since the establishment of a budget increase ceiling within the AU system, many DP's also establish alternative channels of support, including through specific funds, such as the Peace and Security Fund, by way of direct expenditure by DP, or through TP working with the AU institutions, such as International IDEA and EISA [111].

The reality for the AU is that it continues to be heavily reliant on DP for the substantive portion of funding for its accountability related work. All work on the ACDEG, the APRM and in the areas of election observation arises from donor funding[112]. While the idea of donor control may be simplistic, the reality is that they do exercise substantive discretion on what is to be funded.

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[111] Since over 80 per cent of the programme budget comes from donors, the substantive and competing approaches of Departments is not a matter that is subject to substantive oversight. Donors also compete to ensure that their funds are spent and would move between Department to facilitate prioritisation and spending of resources.

[112] The reliance in DP funding is aptly captured in the Assembly Report of the Commission on Governance in Africa (With Focus on the African Governance Architecture and Elections) which provides that '(t)here are also limited funds available to the AUC to provide technical assistance to Member States holding elections. The Democracy and Electoral Assistance Fund receives inadequate contributions from Member States making it impossible for the AUC to offer the needed assistance to member states that require it. Currently, there is overdependence by the AUC on partner funding for elections observation and related activities. There is also inadequate human resource capacity for the AUC to provide the needed support to Member States in the area of democracy, elections and governance (AU, 2015b).

For example, GiZ has been a substantive donor for the AGA process and has over the past few years placed substantive attention on funding initiatives relate to the youth. GiZ found a very willing partner from within the youthful leadership of the AGA Secretariat[113]. The overall consequence of this is that the Secretariat shaped a programme towards what it has terms 'community outreach', which included arranging regional consultations with young people on the theme of the AU summit[114]. While such consultations may be of value in themselves, it does raise fundamental questions around the priority value of such engagements to the actual mandate of the AGA Secretariat, specifically as it relates to driving forward a more coordinated approach in governance.

The AU has historically been an event-driven organisation. Work unfolds through the organisation of meetings, workshops, seminars, consultations and conferences. Even outside of broader considerations on how particular objectives, such as full ACDEG ratification is achievable, the planning culture is on the arrangement of events. While there was an attempt by the first AUC Chairperson to push for the organisation of events in Addis Ababa, to limit costs, AU officials and relatively autonomous Commissioners justify events outside of Addis because it establishes greater visibility in Member States [115]. The personal value to individual officials within the AU system arising from travel has always been substantive. Outside of the costs associated with accommodation and local expenses, officials often derive substantive personal savings from events attended outside of Ethiopia. There is hence an influential culture and tradition of maximising the number of events for the year, including the number of days outside of Ethiopia. The primary purpose of the event and any introspection on measurable achievement becomes a secondary issue [116].

The terrain of 'election observation' has been an area of lucrativeness for officials and often for those appointed as observers. The longer the period, the more there are direct financial benefits for observers and officials. In the face of this momentum, the propensity towards

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[113] This influence of GiZ is somewhat captured by Aggad & Apiko (2017). The influence of GiZ is further reflected in numerous meetings held with the DPA on AGA and related support issues. Included amongst these are agreed minutes of joint meeting held (DPA, 2010).

[114] This is captured on the AGA website as follows; 'AGA has developed an elaborate youth engagement strategy, dubbed AGA-YES to ensure the deliberate and meaningful engagement of over 60 per cent of this continents human resources. It is also working on a women's engagement strategy' http://aga-platform.org/index.php/what-we-do.

[115] The listing of DPA and TP events related to governance reflects this propensity to arrange such events outside of Addis Ababa.

[116] Details around travel as an incentive are contained in numerous reports on corruption and gender discrimination within the AUC.

establishing longer-term missions does raise questions around the substantive rationale, relative to the real purpose served to officials and observers. The conclusion is not meant to suggest that all observers are complacent in a patronage system, but to raise the issue of the organisational culture that is prevalent in the system and how this often serves to drive initiatives including the observation of elections. In 2012, after the appointment of a new Commission of Political Affairs, senior officials in the Department motivated for their inclusion, together with the Commissioner in election observer missions[117]. The rationale is that they would benefit from learning for broader governance and accountability work. The inclusion of members of the PRC and PAP members as observers often renders accountability arrangements murky. The approval pathway of DEAU list submissions also contributes to a situation where senior individuals would nominate observers, thus rendering it difficult to engage on substantive questions around the value derived from observation and other events for accountability related interventions. Events facilitate expenditure performance per formal AU rules and hence may not necessarily encourage deeper accountability and value for money concerns from DP. The culture of travel and related reciprocity across the system creates a circle of affection and hence, reciprocity in event attendance. The overall culture embodies low levels of substantive outcomes related to answerability on the use of resources[118].

The willingness to centre work at the headquarters of AU institutions remains limited, as self-interest drives bureaucratic behaviour. This self-interest also serves to define relationships with outside parties seeking to influence the AU or use the link with the AU to mobilise resources. Senior officials are invited, with their costs being covered. No matter the orientation of TP, they often have to acts in a way that affirms senior AU official in the system as their continual resource mobilisation is dependent on such arrangements. TP often pay a very high cost associated with the AU official powers to convene[119].

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[117] A classic example of this is reflected in an internal memorandum relating to the elections in Senegal in 2012. The memorandum provides that the 'AU should consider sending a pre-elections assessment team to Senegal to evaluate the political situation with a view of helping the diverse political actors to resolve their differences ahead of the elections' (DPA, 2012d).

[118] Details documents reveal that TP and AUC DPA officials would often invite each other to events with costs covered. One consequence is that events are attended repeatedly by the same group of individuals.

[119] The drive towards arranging events is reflected in available information on the work of the DPA. Whilst there might well be a range of motivations for the organisation of such events, the fact that they attract more attention than work related to mandate implementation does indicate the incentives at work in the system. This however does not imply that all the individual are corrupt or driven solely by financial incentives. The system has to be appreciated in context.

3.3.2.2 Human Resource and Bureaucratic Strategies.

In term of the approved organisational structure of the DPA, which carries responsibility for ACDEG and elections, amongst other areas in governance, the department has six formally established professional posts and around four administrative related posts[120]. Outside of any consideration of performance, the numbers do not accord in any way to the vast terrains of responsibility entrusted to the Department. The issue of capacity has historically featured in many decisions of the AU, but the realities of budget contribution from Member States, which generally covers all permanently appointed officials, has been a limiting factor for sustainable growth[121]. The consequence of this is a high level of dependence on contracted consultants appointed through DP funds, individual appointed on contract and seconded to the organisation by TP and funded interns from Universities[122].

AU staff selection processes are often complex and do not necessarily facilitate the appointment of the best and brightest to drive forward the African agenda and to exercise a level of active agency in the interactions with Member States. Appointments to formal positions can take over a year to complete and often to more extended periods. Those appointed to formal positions, while subject to an interview process, are often in posts as a result of active lobbying from Member States. There has been a long history in the AU of appointing individuals from within the African diplomatic community in Addis Ababa based on an established quota system[123]. Many officials also enter the institutional system after completing short consulting assignments at the AU. Renewal of contracts is often contingent on the decisions of senior officials in fixed establishment posts[124]. Consultants would not engage substantively or raise accountability concerns because of the fear of contracts not being renewed.

AU multilateral implementation institutions in governance are dependent on staff contracted through TP, such as IDEA. Since 2012, IDEA has contracted four consultants for secondments to the DPA based on choices made by the Department itself. Consultants are also often

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[120] This limited structure is reflected in the DPA draft Strategic Plan for the 2009-2012 period (DPA, 2009a).

[121] The retention of the Maputo structure and gradual changes are reflected in the numerous meetings of the PRC Sub Committee dealing with structures. The PRC has historically been conservative in approving an increase in post that have a recurrent cost.

[122] A range of internal documents reviewed indicate that these were drafted by consultants, junior officials and interns within AU governance intervention institutions. This includes memorandum, speeches, planning documents and reports.

[123] A review of this has been provided in numerous reports and contained more recently in the work unfolding around AU reforms.

[124] See the report on gender discrimination within the AU as confirmation of this (AUC, 2018e).

appointed with resources derived from DP, such as the EC and GiZ, amongst others. Within the DEAU, IFIS has over the years seconded individuals to work with the team. Since 2006, the number of seconded staff has increased from two (2) to approximately fifteen (15). A similar reality exists within the APRM, as only a few officials are permanently appointed. Individuals appointed as consultants generally operate as regular staff in the system and carry day-to-day work responsibilities. In practice, they complete all of the tasks required for events and any other work allocated to them by permanent officials. The short, mostly annual, consulting contract periods, creates a high level of uncertainty and job security [125]. One consequence of this is that the contracts tend to attract younger and inexperienced graduates[126]. These consultants are the producers of work within the organisation and generally compliant to demands of more permeant seniors, given uncertainties around contract renewal. Strategically, the orientation of seniors is to utilise consultants for all forms of detailed work[127].

The levels of uncertainty in staffing and the complicated accountability relationship between officials and their Member States create high levels of competition for resourcing opportunities and hence, internal institutional conflict. The APRM experiences such conflict in 2010, resulting in the departure of its senior officials. The openly articulated conflict includes accusations of corruption and miss-management levelled against different individuals[128]. While there is a view that the system has not stabilised under the new Head, the structural condition for conflictual relationships continue, as many officials remain reliant on the goodwill of their seniors for contract renewal and hence would not engage in substantive reporting when experiencing problems. Such relationships also create immense complexity at the AU and official often struggle to secure reappointment on contracts. Many often continue in the system between contract renewal initiatives[129]. AU implementation institutions have generally struggled to establish performance systems, given funding uncertainties and the complicated accountability relationship of consultants. Day-to-day demands drive

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[125] An example of this challenge is reflected in an internal memorandum related to the reappointment of consultants for a further period. Data files contain numerous further examples of the struggles that consultants face within DPA on their appointments. This challenge has also been highlighted in the report on gender discrimination in the AUC (AUC, 2018e).

[126] As illustration, a meeting report between IDEA and the DPA provides that' IDEA committed to replace vacant positions and to recruit 1 or 2 junior staffs to support the DPA' (DPA, 2011j).

[127] All IDEA and GiZ appointments to the DPA are very young individuals. This has been noted in numerous ways in online communication by DPA officials.

[128] Details on the human resource challenges are contain in a report drafted by Akere Muna, the Former Chairperson of the APRM Panel, titled 'Reflections On the APRM and the Management of Transition' (Muna, 2018).

[129] Documents reviewed contain numerous memoranda requesting contract renewal by consultants appointed either through IDEA or GiZ.

performance, and hence activity focused, rather than a focus on outputs or outcomes.

The flow of DP resources and the related realities of internally focused accountability arrangements create a high level of active agency amongst officials and consultants in the system. Much of the detailed work that unfolds is often not reflected in the overall institutional budget and hence not subject to detailed interrogation by Member States.[130] The PRC also has limited active capability to engage in sector-specific plans and related activities. This reality sometimes serves to create a disjuncture between activities and core mandates. While all manner of accountability engagement, especially events, may broadly be justifiable, many are generally only negotiated with partners and driven by officials following their perspective on what is done. The approach is evident in the AGP process and hence in the work of AGA Secretariat. The Secretariat has over the years focused primary attention on arranging consultative forums and the organisation of an Annual Dialogue event, as critical strategic activities. Within the activities, who is invited and the nature of the content to be engaged is determined by AGA Secretariat officials. Outside of producing event report and outcome statements, the precise value to the core mandate of coordination and synergy, are not fully articulated. The agency of officials extends substantively as they often share platforms with political representatives[131] and express perspectives on deepening accountability that often fall outside of the articulations expected of professionals who have to implement AU mandates neutrally and impersonally.

3.4 Efficacy of Accountability Interventions

In order to provide a substantive overview of the efficacy challenges that face to AU in accountability interventions, a core set of themes is extracted from the institutional analysis. In line with the articulated conceptual framework, the themes capture the challenge that faces the AU both in term of the normative frameworks and instruments established, and in respect to the modalities of implementation that have unfolded. The approach is to focus only on the core issues that relate to accountability in order to avoid duplication. Nonetheless, it is anticipated that the challenges apply to other areas, such as the rule of law and state capacity. The articulated challenges are brought together in the final chapter to ensure a consolidated

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[130] As over 80 per cent of budgets are derived from donors, officials spend more time on such relationships than on building the core elements derived from formal mandates. The internal documents reviewed indicate substantive time is being devoted to drafting reports to DP and responding to TP.

[131] This exercise of agency beyond mandate is reflected in the numerous tweets from AGA Secretariat Members on the official twitter account @AGA_Platform

perspective on the efficacy of AU multilateral intervention in governance.

3.4.1 Norm and Instruments Contradictions

The experience of the AU thus far reflects that it is challenging to get Member States to adhere to agreed norms. Even as ACDEG is a legal instrument, with specific provisions around accountability processes within Member States. The process of ensuring adherence would, however, be enormously challenging outside of peer review type engagements. Continuing the path of having the ACDEG as a separate process to the APRM does not make substantive sense. At the same time as recognising that full ACDEG implementation is highly unlikely, even with the approach of engaging Member States directly, the APRM process cannot continue to unfold outside of some recognition of African established standards as contained in ACDEG. At present, APRM engagements are predicated on establishing compliance with all international instruments and not based on specific AU normative frameworks. The APRM panel also has the overarching responsibility for making judgements based on their analysis and engagement with role players at the level of Member States. The disjuncture between the two does not bode well for the continent, and it is unstainable to continue the path of treating these as separate processes. The substantive danger is that further instruments may be introduced that require separate institutional processes, such as what has unfolded in the areas of mining, political parties, gender and youth participation. The AU system is overwhelmed and cannot afford to engage on multiple instruments that embody the overall objective of enhancing accountability at the level of Member States.

3.4.2 Limited Value Engagements

The observation of elections has historically been a critical accountability strategy of the AU. There has also been a substantive shift towards introducing longer-term elections-related missions. There is a push towards looking at broad accountability issues in a country and hence recognition that elections are not viewed as separate to broader accountability challenges. While the demand for observation missions is likely to remain and often vital for establishing local confidence, the current path is not sustainable. Outside of the escalating costs of election observer missions, including longer-term missions, the duplication of mission within the AU itself[132] and between the AU and RECs that have been characterised as the building blocks of

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[132] This duplication is evident by the fact that both the DPS and DPA would deploy teams to countries facing particular governance crisis and challenges for research and related diplomatic engagements.

the AU, is inefficient, even if there is an argument for much more observations as a basis of enhancing electoral credibility. The combination of diplomatic missions, pre and post-election technical teams, and elections observations, coupled with APRM related reviews and ACDEG compliance initiatives does suggest low levels of operational efficiency in the system. Substance reflection on how these processes might be better linked, including rationalisation, may pave the way for more effective accountability engagements. Current and historical discourse suggests a need for more profound forms of engagements that facilitate context-specific approaches to accountability and inclusivity may be more appropriate. The efficacy challenge would be on linking a peer review orientation with standards and related modalities of election-related observations.

3.4.3 Skewed Agency of Officials

AUC officials often extend their work initiatives towards including direct engagements with stakeholders within Member States. While the practice may imply open interactions with civil society, such initiative tends to compete with formal AU established process for civil society engagements in the form of ECOSOCC and Member State prerogatives when it comes to local level engagements. Part of the challenge arises because there are limited perspectives on the value–add of the AU institutions relative to Member States, the appropriate channels for engagement and the level of agency and professionalism that needs to be exercised by officials. The need for proper role definition of officials is part of the AU reform process, but what this means in all areas of engagements have not been specified. One consequence of having inexperienced officials is a lack of understanding of the limits of individual agency as a public official. This sense of agency is also partly driven by the pressure arising from technical and civil society based partners. Civil society partners often have a much higher level of agency and often push AU officials to express views that go beyond their formal mandates within AU affirmed processes. At a structural level, the agency of officials is contingent on the accountability systems and hence mandates. Establishing modalities of accountability in multilateral institutions can be a complicated task. However, without firmer accountability arrangements, enhancing the efficacy of AU intervention in accountability is hard to imagine. In the EC, accountability is exercised both through a professional system and by way of the European Parliament and related engagements from civil society. African regionally oriented civil society are hardly autonomous as they often depend on positive relationships with AU institutions for DP funding.

3.4.4 Revenue Benefiting Performance

The ability to supplement salaries through lucrative travel and related events tend to drive the performance incentives within AU multilateral institutions. Officials are often driven to plan initiatives around events and initiatives that facilitate travel and hence accumulation through stipends[133]. The event-driven approach is an established tradition, even if formal economic incentives to not drive officials. Some attempt has been made to limit this by reducing the stipend earning during the time of the Chairpersonship of Nkosazana Zuma[134]. Earlier attempts were also made to limit travel by arranging more meetings in Addis Ababa. There has been substantive resistance to such move from within AU officials and from within the PRC itself as many its members attend numerous meetings as representative of their states. Allowing the system to continue in the current trajectory will not facilitate change and substantive and focused mandated content work. There is very little evidence to suggest that accountability related events have substantively contributed to the implementation of mandates[135]. A simple efficacy test on whether objectives are achievable in different ways may well drive an alternative culture of using technology and other modes of communication for engagements.

3.4.5 Over Influence of Technical Partners

TP and DP exercise substantive direct and indirect influence over AU implementation institutions. DP engage in negotiations around implementation plans and are often instrumental around the choices made. While there is no substantive evidence that DP determine the agenda or exercise undue control, the reality is that they often release resources for activities that seem appropriate for expenditure purposes, but that is often not optimal for building the overall efficacy of the AU systems of accountability related interventions. TP often have a different mandate and historical orientation to the core multilateral mandate of AU institutions. Research and knowledge-driven organisations can actively engage in reflective processes around accountability development in the continent and can produce knowledge outputs and future thinking. The participation of AU implementation officials in such events and activities may

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[133] This challenge is for example, captured in a forensic review of travel and subsistence claims expenditure incurred by the APRM conducted by Deloitte in 2012. The report generally indicates substantive accountability and governance challenges with respect to the use of resources made available to the APRM in the preceding period (Deloitte, 2012).

[134] It is reported that the Chairperson 'sought to make the AU travel policy more cost-effective, cutting down on some business class travel and reducing the costs of per diems for external consultants' (Adekeye, 2017).

[135] A key illustration of this is the numerous events arranged around ACDEG. Whilst substantive resources have been expanded in arranging the events, only one country (Togo) has submitted a country report in accordance to the provisions of ACDEG.

well be useful for learning and sharing of ideas, however over reflection from AU officials detracts them from core implementation mandate. Very often, TP would push for the attendance of AU officials at their events to affirm their value-adding role to DP, but at the expense of having such officials focus on their core mandate at their institutions[136]. Deeper linkages in core mandate areas, beyond events, may assist in building the efficacy of AU interventions. Current arrangements tend to result in AU institutions mirroring practices in relatively autonomous technical agencies that have different mandates and accountability arrangements.   AU officials are public servants who have to abide by the principles of neutrality, impartiality and professionalism in a manner that demonstrates commitment and responsiveness to the people of the continent through their representatives.

3.5 Conclusion

The AU is relatively unique in the multilateral efforts directed at enhancing accountability at the level of its Member States. None of the other regional multilateral institutions have established similar strategies and modalities, standards and instruments for compliance purposes. In the instance of the EU, the standards are established, but were a product of sustained integration over a long period and mainly emerged from accountability practices that already exist in Member States (Mattli, 1999). The tension between compliance standards, as would be necessary from a more rapid integration approach, stand in stark contrast to the realities of what is feasible within Member States from a more gradualist perspective. The tension finds its way into institutional practices and implementation approaches within AU implementation institutions.   The efficacy analysis points to the importance of finding a balance between compliance and an appreciative of an accountability progression approach implied by peer review practices. The challenge cannot be fully resolved by Member States intervention, outside of recognising the high levels of agency exercised by implementation institutions and officials. Intervention within the accountability space cannot also be detangled from broader governance intervention, as reflected in the two other areas to be explored in the chapters that follow. A collective analysis will serve to consolidate the overall perceptive on efficacy in AU multilateralism in governance and hence serve to establish critical pathways into the future and an approach for enhancing the overall efficacy of the system.

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[136] An example of this is an Open Society Invitation to a DPA official for a Regional Meeting on the Intersection of Human Rights and Corruption – Abuja, Nigeria 18-19 June 2009, which provides that cost will be covered, including accommodation will be provided at the Nicon Luxury Hotel.

Chapter 4:   African Union Interventions in the Rule of Law

AU multilateral intervention in the rule of law has unfolded in a more complex and dissimilar manner to those in the area of accountability. The focus has historically been on establishing Africa wide rule of law instruments and institutions at the level of the AU, on the basis that these would serve to enhance the rule of law within Member States. A central AU preoccupation has been with matters of legality, subsidiarity and complementarity within the global judicial system. Aside from the adoption of basic human rights instruments, several specific interventions relating to constitutionalism, transitional justice and international law have emerged since the launch of the AU. A historical outline of these precedes a breakdown of practices in the different intervention areas. While attempting to cast the history and practices into a coherent framework, there is no overall articulated AU strategy on intervention in the rule of law as a basis for deepening integration. The rule of law intervention tapestry generally reflects a complex combination of instruments and a flurry of activities. The institutional analysis that flows from the outline of interventions suggests a continuing struggle between sovereignty and intervention, and the ongoing difficulties of balancing actions with available resources.

4.0 Introduction

The rule of law establishing the principle that all persons and actions are subject to the law (Fukuyama, 2011; Fukuyama, 2014). It further embodies rights and responsibilities, and the modalities for mutual coexistence and public engagement. The rule of law predicates itself on the existence of a constitution that sets out rights and obligation, including the framework within which this is to be exercised and affirmed (Shivute, 2009). It provides for the equality of all people and the right of access to courts to secure justice. It rests on the foundation that there is acceptance of the rules within society, which includes respect for the courts of law and the judiciary in general (Kibet & Fombad, 2017). A vital element of the system is appreciation within society that fundamental human rights are respected at all levels and hence not just a matter for the courts, but a matter that defines how people and institutions interact with each other at multiple levels (Fombad, 2011).

Fundamental to the rule of law is the existence of a human rights regime in all countries and a judicial sector that is capable of securing rights and responsibilities. While closely intertwined with accountability and state capacity, the rule of law institutions and system stand as separate

and fundamental for mutual coexistence and integration. The rule of law interventions at a national level, typically embody efforts directed at enhancing the capacity and independence of judicial institutions. The rule of law is also dependent on the existence of a legal community, lawyer's associations, a policing and prosecutorial system and an effective penal system (Shivute, 2009). Furthermore, the rule of law is founded on the separation of powers, a system for the review of the constitutionality of laws and the control over amendments to a constitution. To many, the rule of law is sustainable when there is a culture of rights and when there are sustained efforts at building awareness of rights (Daniels & Trebilcock, 2004).

The rule of law links with issues of constitutionalism and human rights at the level of the AU. Aside from references to the separation of powers, the respect of rights, the existence of judicial institution and constitutions, there is no specific definition of the rule of law and related indicators in any of the AU Charters or Conventions. Within the APRM Questionnaire, there are provisions relating to constitutionalism and the rule of law, including the levels of internal practice around these (Chikwanha, 2007). Aside from linkages established with a democratic system, there is no direct definition of what aspects the establishment of the rule of law would incorporate. The absence of any firm definition of the rule of law or related discourse on the strategy for building the rule of law at the level of Member States, partly reflects that the rule of law area has not really benefited from focused engagements, separate from specific aspects, such as human rights or from broader deliberations on governance and democracy.

A combination of a multiplicity of actions and activities in segmented areas, such as transitional justice, constitutionalism, international law and in a range of human rights-related engagement, render it difficult to paint a fully coherent outline of the rule of law developments in the AU system. Nonetheless, establishing a broader and more encompassing picture of the rule of law interventions is vital for an overall analysis of the efficacy of AU multilateral intervention in governance. In painting such a picture, it emerged as imperative within the research process that there is a careful balance, between having a broad picture of what has unfolded for analysis and the detailed work that has unfolded in specific sectorial terrains of engagement.

4.1 The Rule of Law Initiatives within the African Union

The rule of law interventions includes those embodied within instruments and those that arise from the exercise of agency by AU and related partner institutions. The rule of law interventions has primarily been at the level of building AU Organs, such as the Banjul Commission, the African Court and the International Law Commission. There is also specific

rule of law developments that have unfolded and reflected in, amongst others, deliberations on constitutionalism, on the development of an African Human Rights Strategy and related actions directed at introducing a framework for transitional justice. It is vital to begin by engaging with development, as they arose from within the OAU, to appreciate the overall evolution of the rule of law interventions. The approach serves to build a comprehensive global perspective on core intervention initiatives on the back of specific activities, rather than as a means of ensuring that every minor development within the AU system is in the analysis.

4.1.1 The Rule of Law and the OAU

In the OAU, matters relating to the rule of law were by and large considered to be internal affairs beyond the scope of multilateral engagements and interventions. The non-interventionist posture, coupled with the focus on hastening decolonisation, served to focus emphasis on the sovereignty of states over the individual rights of citizens. Member States of the OAU nonetheless engaged on the development of the global human rights instruments and hence remained seized with the matters. Much of the evidence suggests that African States were central in championing the establishment of the Universal Declaration of Human Rights (UDHR). The UN General Assembly proclaimed the Declaration in Paris on the 10th December 1948 (General Assembly Resolution 217 A). On its own, the OAU itself was particularly active on matters relating to the full liberation of the continent, and there were several resolutions related to the right of self-determination (Murray, 2004:15). They shift towards a more substantive human rights focus within the OAU itself was slow. Initial considerations were generally diffused and arose in areas, such as workers' rights, the rights of refugees and the rights of women and children (Murray, 2004:21).

Within the overall framework of international law, the first OAU Ordinary Session of the Assembly of Heads of State and Government held in Cairo, Egypt from 17th to 21st July 1964 decided, among others, to establish a Commission of Jurists as a Specialized Commission of the OAU (OAU, 1964). There is no detailed elaboration of what the Commission of Jurists would do. The general orientation at the time was that the structure would focus on issues related to international law and African engagements thereon. The only substantive work that unfolded as a result of this initiative was an advisory note produced on the proceedings of the Lockerbie case. The initiative nevertheless served as the early momentum towards a priority concern of the AU on the jurisdiction of international law and related issues of legal subsidiarity of African institutions.

The overall African governance shift experienced in the 1970s, as a result of external and internal pressures from civil society, encouraged the OAU to begin work on a human rights instrument that would be relevant for African countries. To this end, the ACHPR was adopted in 1981. The momentum towards the drafting of the ACHPR unfolded, in some way from the 1969 Convention on the Status of Refugees and the African Cultural Charter adopted in 1976 (Murray, 2004).

4.1.2 Human and Peoples Rights

Two core documents, the Grand Bay Declaration and Plan of Action (1999) and the Kigali Declaration on Human Rights in Africa (2003), are essential to the AU human rights agenda. The Grand Bay Declaration, adopted in Mauritius, placed particular attention on the adopted ACHPR and called for the removal of all obstacles for the work of the Banjul Commission and the urgent need to provide it with adequate human, material and financial resources (Akokpari & Zimbler, 2008b). Within the Kigali Declaration, the assembled Ministers of Human Rights further affirmed the Grand Bay Declaration and called on 'AU Policy Organs to review the operation and composition of the African Commission on Peoples' Rights with a view to strengthening its independence and operational integrity and ensuring appropriate gender representativity and to report on the progress made to the appropriate AU Organs as soon as possible' (AU, 2003c).

The ACHPR is different from global human rights instruments in that it makes no distinction between civil and political rights and economic, social and cultural rights. It also introduces the concept of people's duties and responsibilities. The ACHPR came into force in 1996, after receiving the minimum number of State ratifications required for it to enter into force. The Banjul Commission, with a small Secretariat, has been established in 1997, with its headquarters in The Gambia. The mandate of the Commission encompassed a promotional role, the protection of rights in terms of the Charter, as well as any other task given by the AU Assembly (Ibrahim, 2012). The ACHPR requires Member States to submit two types of report: initial report and periodic report. State Parties initial reports are to be submitted two years after ratification or accession to the Charter. Periodic reports are submitted every two years after the initial report (AU, 1981). Since establishment, only 11 Member States have submitted all of the required reports and six have not provided any report at all. The Banjul Commission received over 200 communication related to human rights infringements from individuals and organisations. Ninety-seven of these were decided on merit, and others rejected for a variety

of reason, including withdrawal and inadmissibility in the instance of over 100 such submissions. Several Special Rapporteurs and Working Groups are established to report on different aspects of human rights. As a general practice, the Banjul Commission makes resolutions on these reports and a variety of other human rights-related issues during the session of the Banjul Commission. Since establishment, the Banjul Commission has had over 63 Ordinary Session and 25 Extraordinary Session. While most sessions are in Banjul, sessions have taken place in, amongst others, Ethiopia, Angola, Senegal, Mauritania, Niger, Kenya, Rwanda, Cote d'Ivoire, Algeria and Benin (Murray, 2004).

By the time of the 63rd Ordinary Session, held in The Gambia in 2018, 518 regional and national Non-Governmental Organisations (NGOs) were granted observer status, with the ability to make statements during the open session of the Banjul Commission. Twenty-nine National Human Rights Institutions (NHRI's) have an affiliate status. The session of the Banjul Commission is relatively complex and incorporate some element of conference-type reflections through various panel presentation on all subjects of interest, reports from special rapporteurs and working groups, mission reports, various internal organisation reports, communications and periodic reports from Member States. The sessions are usually held over 10 to 15-day period on average. Over 600 delegates, including State Party representatives from 27 countries, AU institutions, NGOs and media and over 94 members of the Secretariat, attended the 63rd Session in 2018 (Banjul Commission, 2018c).

The number of meetings and scale of work reflected in the session reports suggest broader coverage and engagements. There is criticism of the Banjul Commission, and many have questioned its power as Member States ignores recommendations, communications, and conclusions. While the Commission accounts to the Assembly as part of its activity reports, they hardly ever illicit detailed discussions and follow up actions (Mugwanya, 1999). In response to the criticism, the Banjul Commission has appointed consultants in 2018 to do a detailed study on its impact since establishment (Banjul Commission, 2018b). While such an impact study may be useful for assessing the efficacy of the Banjul Commission in itself, it would not add substantive value to a broader reflection on the overall efficacy of AU actions in the rule of law and hence the overall governance intervention system[137]. The isolation of specific intervention outside of the overall governance intervention system and its value for integration and governance in Member States may only serve to deepen the fragmentation and

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[137] At the time of writing, the consultant's report was not yet publically available for study.

incoherence that AGA and the AU reform process is attempting to address.

4.1.3 Sector Specific Human Rights Instruments

Aside from the ACHPR, several additional sector-specific human rights instruments and protocols have emerged in the AU system. Of particular significance is the adoption of the African Charter on the Rights and Welfare of the Child (ACRWC). This Charter mirrors the ACHPR in many respects and includes the establishment of the African Committee of Experts on the Rights and Welfare of the Child (ACERWC). The Committee was established in 2002 (Lloyd, 2002). In operational terms, the Department of Social Affairs at the AUC serves as the Secretariat to the ACERWC. The ACERWC has held numerous meeting since its establishment, which incorporates the consideration of individual country reports and individual communications. It largely mirrors the work unfolding within the Banjul Commission in its specific terrain of focus (Filali, 2013). Despite the significant role accorded to the ACERWC, there is a perspective that it has not been able to function effectively because of a lack of resources and adequate human resource capacity (Lloyd, 2002).

African women rights organisations expressed concern that the ACHPR did not adequately address the issue of women rights and after intensive lobbying, the AU Assembly adopted a Protocol on the Rights of Women in Africa. The Protocol on the Rights of Women in Africa entered into force in November 2005, after being ratified by 15 African governments. In accordance, with the provision of the protocol, compliance with and implementation of the protocol will be supervised by the Banjul Commission (Adams & Kang, 2007). As part of the overall momentum of expanding considerations, primarily driven by the high levels of civil society activism, the AU adopted in 2017 an added protocol to the ACHPR on the Rights of Older Persons in Africa. A further draft protocol on the Rights of Persons with Disabilities in Africa has been formulated for submission to the Assembly. Several guidelines and documents have also been developed and include areas such as access to information on elections, the right to water, mining and the environment, xenophobia and racism[138]. Access by civil society to the Banjul Commission has generally paved the way for submissions and work from a range of organisation seeking to influence the policy environment and actions at the level of Member States. Many of the documents drafted are the products of active advocacy actions from CSOs and other regional organisations. A general review of all the Communiqué of the Sessions of

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[138] Information extracted from the website of the Banjul Commission - www.achpr.org/

the Banjul Commissions reflects a long history of the broadening of focus and considerations that feature in deliberations.

4.1.4 Constitutionalism

In addition to the shift towards the incorporation of rights within the overall governance architecture of the AU, there was a growing concern within the AU on matters relating to constitutionalism and the transfer of political power across African countries. The concern is reflected in the 1999 Algiers Declaration on Unconstitutional Changes of Government and the 2000 Lomé Declaration for an OAU Response to Unconstitutional Changes of Government (Vandeginste, 2013:2). These concerns were eventually addressed directly through specific provision on constitutionalism in ACDEG. ACDEG details actions against States in the instance of unconstitutional changes of government. To many ACDEG serves as the primary reference point on issues relating to the transfer of power and the principle of constitutionalism at the level of Member States. There have been numerous instances where AU and ACDEG served as reference points for internal actors when states amend constitutions for extending the terms limits of Presidents or in instances where power transfer is outside of a constitutional process (Matlosa, 2008; Matlosa, 2014).

Since formation, the AU has engaged in a range of diplomatic engagements on the transfer of power, especially as they relate to constitutional changes, including, in many instances, the extension of term limits of Heads of State and Government. The PSC has since formation engaged in deliberation and decisions to secure the constitutional transfer of power (Cilliers et al., 2004; Williams, 2014; Wachira, 2017). By February 2009, the Assembly reaffirmed a concern with unconstitutional transfer of power and its support for the efforts of the PSC. It furthermore called on Member States to ratify ACDEG and called on the Chairperson of the Commission 'to submit concrete recommendations relating to the implementation of appropriate preventive measures against unconstitutional changes of government, as well as to the enhancement of efficiency and capacity building in early warning, good offices and mediation, including the Panel of the Wise'(AU, 2009b).

Despite various efforts to affirm the AU concern with constitutionalism, and in particular the appropriate transfer of power, changes in Egypt in 2014 and Zimbabwe in 2017, raised concerns around the broader principle of constitutional changes and the realities that unfold in each situation. The concern has encouraged further efforts on the more detailed development of guidelines related to the provision of ACDEG. To this end, the PSC mandated DPA to

develop guidelines to ensure AU Member States only amend their constitutions in compliance to Article 10 of ACDEG to avoid the possibility of breaching Article 23 of Charter on the constitutional transfer of power (AU, 2018d). By 2018, the matter remains on the agenda of the AUC and indication are that further work is unfolding on the development of approaches to affirm constitutionality and the appropriate transfer of power[139] (AU, 2014a; Wiebusch, 2016).

Of some significance to the constitutional momentum within the AU was a decision to create an 'African Constitutional Justice space' at the initiative of Algeria, during the fifteenth session of the Conference of Heads of State and Government held from 25 to 27 July 2010 in Kampala, Uganda. The initiative, now known as the Conference of Constitutional Jurisdictions in Africa (CCJA), with a headquarters in Algeria, is ostensibly established to 'federate our energies and strengthen the commitment of our continent to universal values and principles of the rule of law, of democracy and human rights, clearly expressed in the Constituent Act of the AU and reasserted in the ACDEG' (AUC, 2010). While established by a decision of the AU Assembly, the organisation functions autonomously from the AU with direct funding from Judiciaries from 34 Member States and with an arm's length relationship with other AU institutions. In general, the conference creates a space for the exchange of information and knowledge and some level of solidarity amongst judicial institutions from Member States[140].

4.1.5 African Human Rights Strategy

To enhance coordination, the DPA, working with the UN, initiated a process of developing a common and overarching African human rights strategy in 2009. The genesis of the idea of having an overarching African human rights strategy unfolded within a UN-driven '10 Year Capacity Building Programme for AU'. The initial rationale for the development of the strategy was the UN concern with the existence of overlapping global and continental instruments and, in particular, the periodic reporting requirements associated with the global UN human rights instruments, relative to the ACHPR process (UNECA, 2014). The AU Human Rights Strategy

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[139] Within the Annual Report of the Chairperson on the Activities of the African Union Commission, presented to the Executive Council Twenty-Sixth Ordinary Session 23 – 27 January 2015, Addis Ababa, Ethiopia, it is noted that '...a workshop took place in Pretoria, South Africa in July 2014. The workshop assessed the state of constitutionalism and the rule of law in Africa and highlighted the challenges of entrenching constitutionalism and respect for the rule of law, with a particular focus on unconstitutional changes of government. It also contributed to the development of a comprehensive definition of unconstitutional changes of government that will lead to a common understanding of the phenomenon' (AU, 2014a)

[140] Details of the role and functioning of the Conference of Constitutional Jurisdictions in Africa are contained on its website http://www.cjca-conf.org/.

finalised in 2011 unfolded based on a more detailed 'mapping study' of human rights interventions across the continent and, in particular, the efforts unfolding within RECs. The final and more operational strategy document produced by DPA sets as an objective the enhanced coordination and coherence among AU organs, RECs and Member States on human rights. The strategy focused on issues of capacity building for human rights, including the promotion of human rights instruments (AUC, 2012). At the level of active coordination, it primarily suggests that further actions will unfold within the context of AGP cluster on Human Rights. One of the significant expressed concerns in the strategy was that there are overlapping instruments and institutions amongst RECs. These included the SADC Protocol of 1992 which committed its members to human rights and included the establishments of the, now defunct, SADC Tribunal. Also, the East African Community established the East Africa Court, which included jurisdiction over human rights. In June 2007, the Summit of Heads of State and Government of the EAC adopted a decision to establish a Regional Bill of Rights. ECOWAS has also established a Court of Justice (AUC, 2012)

The human rights strategy initiative preceded the establishment of AGA and directed at building a more coordinated approach to human rights across the continent. It culminated in the adoption of a working plan on human rights that involved civil society actors. The overall orientation was to establish an overarching framework for the coordination of a range of activities to be undertaken by continental and regional civil society formation. By March 2017 the initiative was incorporated into the work of the Human Rights and Transitional Justice Cluster of AGA. While the discourse on the plan was that it would guide collective action on integration into the future, the momentum was overtaken by the AU declaring 2017 to 2027 the Decade of Human Rights. By March 2017, the clusters focus shifted towards the development of an Action Plan on implementing the Human and Peoples Rights decade in Africa, as adopted by the Summit in early 2017. The draft plans mostly focused on the possibility of establishing initiatives in the following areas: a) Inculcate a culture of human rights awareness, b) enhancement of States commitment to the existing human rights obligations, c) human rights institutional strengthening, d) development and African integration, and e) transformative human rights leadership (DPA, 2017c). The precise value of the collective engagements and strategy and how funded would flow for these are not fully engaged upon by the AGP Cluster or by individual members.

4.1.6 Transitional Justice

Embedded in peace, security and mediation approaches in the AU are debates around transitional justice. The idea of having a formalised framework for transitional justice has been introduced through the activism and advocacy of the Centre for the Study of Violence and Reconciliation (CSVR). The organisation actively pushed the DPA to incorporate a transitional justice policy framework. Since 2011, numerous meetings, consultative, conferences and engagements too place around a draft African Transitional Justice Policy Framework (ATJPF) crafted by officials of CSVR. The documents unfolded through numerous interactions and were subject to a variety of engagements with Member States, AU institutions, and groupings of experts. There were also engagements directed at ensuring that the framework incorporates gender and youth-related perspectives (CSVR, 2013).

The development of the ATJPF was on the basis that it would serve to consolidate principles of transitional justice embedded in other AU instruments and frameworks. The draft document submitted for review by the STC on Justice and Legal Affairs for finalisation. The AU Assembly formally adopted the document in 2019 (CSVR, 2019). DPA and CSVR continue to arrange conferences and related learning engagements on the implementation of the framework. While the ATJPF does not feature as a core priority of the AU, the range of activities that have unfolded on the policy framework since 2011 has necessitated substantive effort on the part of the DPA. The resources for actual activities flowed from a variety of donors and mainly through the efforts of CSVR and most often directly through the financial systems of the organisations. While the DPA was a key partner within the process through an agreed MOU with CSVR, accountability for resources utilised was with CSVR (CSVR, 2013).

4.1.7 The African Court

The protocol establishing the African Court for Human and Peoples Rights (the African Court) was adopted on the 10th June 1998 in Ouagadougou, Burkina Faso and entered into force on the 1st January 2004. The court's jurisdiction extends to all cases and disputes submitted to it concerning the interpretation and application of the African Charter, the protocol and any other relevant human rights instruments ratified by Member States. The court has the power to issue advisory opinions on issues relevant to the ACHPR. Such an opinion can be requested by Member States, AU Organs and any other African organisation recognised by the AU (Udombana, 2000a). The protocol on the Court provides that state parties undertake to comply with judgements and provides that it notifies the Executive Council, which also monitors

execution on the part of the Assembly of Heads of State and Government. Individuals and non-governmental organisation can submit cases directly only if their State Parties have made a separate declaration that allows the court to hear such cases (Udombana, 2000a). While a separate protocol establishes the Court, the AU Constitutive Act provides for the establishment of the African Court of Justice. Although the African Court of Justice is meant to be separate to the African Court for Human and Peoples Rights, the AU decided during July 2004 to merge the African Court with the African Court of Justice. The administration of the protocols would be through relevant chambers of the new Court. The protocol for the merged Court has yet to be ratified by the required number for its to be in force and hence, the African Court continues to function under the initial protocol establishing it (Murungu, 2011).

The operationalisation of the Court with headquarter is in Arusha, Tanzania has taken some time. Access to the Court is limited. States parties, the Banjul Commission, and African intergovernmental organisations have standing in contentious cases. Individuals and NGOs may petition the Court directly solely where a State has made the optional declaration recognising such petitions, under Article 34(6) of the founding Protocol (Jones, 2017). In terms of its jurisprudence, the Court issued its first interim judgment in 2009 but did not issue a full merits judgment until 2013. To date, the Court has handed down around 50 merits judgments. Many of the Court's judgments have struck at highly sensitive areas of public policy, including the constitutional order and the use of state power. Enforcement of court rulings are far from guaranteed, and no dedicated body was established to monitor enforcement of the Court's judgments. The Court is required to submit to the Assembly of Heads and Government a report on its work in which it 'shall specify, in particular, the cases in which a State has not complied with the Court's judgment.' The Executive Council will assist the Assembly by monitoring the execution of the Court's judgments on its behalf (Ibrahim, 2012).

4.1.8 The Commission on International Law and Sector STC.

The provisions of Article 5(2) of the Constitutive Act of the AU serves to establish the African Union Commission on International Law (AUCIL) as an advisory organ of the Union (Kilangi, 2013). The operational decision to establish the Commission arose from a meeting of experts held to review of OAU/AU Treaties. The actual impetus for the AUCIL was the adoption of the African Union Non-Aggression and Common Defence Pact, wherein the Member States undertook the task to establish the AUCIL under Article 14 of the Pact. The AUCIL primarily focuses on developing common approaches to international legal development, as well as to

continue to work towards maintaining standards in critical areas of international law (AU, 2015a). However, it has also affirmed as an objective action directed at assisting in the revision of existing AU legal treaties, advise in the identification of areas in which new treaties are required and prepare drafts thereof and to conduct studies on legal matters that are of interest to Member States (Kilangi, 2013). The Legal Counsel of the AU serves as the Secretariat of the AUCIL. Of particular significance to the work of the AUCIL and broader issues relating to legality within the AU system, was the launching in 2014 of the STC on Justice and Legal Affairs. The STC was historically arranged as meetings of African Ministers of Justice. Since the establishment of this STC, the primary focus has been on it serving as a conduit for all AU legal instruments and hence not necessarily as a terrain within which there is consideration of the rule of law developments within Member States. This orientation also generally ties in with the AU preoccupation with issues of subsidiarity, in light of the contestations on matters relating to the work of the International Criminal Court (ICC) (AU, 2011b).

The participation of AU Member States in the ICC and hence the implication for actions in instances where the ICC issued a warrant of arrest for sitting Presidents have forced some dialogue on the role of African institutions, such as the African Court. While African countries were initially supportive of the ICC, the relationship degenerated in 2008 when the Court indicted President Omar Al Bashir of Sudan[141]. Following this move, the AU adopted a hostile posture towards the ICC (AU 2011a). The AU called for its member states to implement a policy of non-cooperation with the ICC at the same time as asserting that the African Court should implement the anti-impunity norm. While an AU summit voted to expand the jurisdiction of the African Court in 2014 to include international crimes, such as genocide and crimes against humanity, it also voted to exclude sitting Heads of State and Government from the new court's jurisdiction. At the same time as asserting the principle of subsidiarity, the Assembly essentially reaffirmed a practice of protecting Heads of State and Government that was prevalent in the OAU. Legality, subsidiarity and the ability of citizens to escalate cases at the continental and global to seek justice remains a matter of continuing difficulty (Van der Wilt, 2017).

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[141] See for example the Assembly Decision on the Abuse of the Principle of Universal Jurisdiction adopted at the Assembly of the Union Sixteenth Ordinary Session, 30 - 31 January 2011, Addis Ababa, Ethiopia (AU, 2011b).

4.1.9 Broader Rule of Law Engagements

While it is possible to speak of an African Multilateral Human Rights systems and relevant strategies, even though somewhat disjointed and scattered between protocols and institutions, it is difficult to establish and articulate the broad parameters of a system that is directed at enhancing the rule of law amongst Member States. Outside of the established protocols relating to human rights issues, the more considerable concern with the rule of law, in general, are embedded in the APRM process. The first objective of the APRM Questionnaire focuses on entrenching constitutionalism and the rule of law (APRM, 2015). The implications of this are that the rule of law practices that are established in Members State would be engaged upon by the APRM Panel.

At the level of the DPA, there has been a range of activities directed at enhancing a more collective approach to human rights beyond the capacity oriented strategy adopted at an operational level. Actions include the promotion of various celebratory or commemoration activities at the level of the AU, including African Human Rights Day[142] (AUC, 2018b) and the Rwanda Genocide (AUC, 2019b). The DPA generally takes the lead on issuing statements on African Human Rights Day on the 21st October of each year. The DPA has also continuously engaged in research partnerships around the African human rights systems and takes a leadership role in the efforts of the human rights cluster in the AGP. In response to concern around human rights violations in specific countries, where the AU has a role in brokering peace, such as in the instance of Mali and Burundi, the DPA also facilitated the deployment of human rights monitoring experts (AUC, 2017b).

Since 2015 the DPA has arranged several consultative events related to the rule of law, under the overall theme of 'engaging traditional and informal structures and members of the judiciary to promote the rule of law'. Amongst the articulated objectives for the events was the sharing of experiences and strengthening of national-level justice structures (AUC, 2017c). The precise value of the events and the reason they are consultative is not clear. The DPA also worked with IDEA, amongst others on an initiative to develop a database of African Constitutions and on the development of a substantive perspective on Constitutionalism in Africa (DPA, 2019). The value to the AU mandate of the initiatives, including the DPA

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[142] During its fifth (5th) Ordinary Session held in Benghazi, Libya in 1989, the ACHPR adopted Resolution ACHPR/Res.1(V)89 on the celebration of an African Day of Human and Peoples' Rights. It is for this reason that Member States of the African Union commemorate 21 October of each year as the African Human Rights Day (AUC, 2018b).

arranged events are not articulated fully in the available documentation and hence generally stands as information and knowledge activities. At the level of the AUC, and in particular the DPA, the general orientation suggests a movement from event to an event outside of any coherence on strategy or mandate. More recently, the DPA has engaged with the Private Sector on Human Rights and arranged a series of other forums with partners, such as the UN[143]. In general, there has been a flurry of activities related to all aspects of human rights over the last decade, including, amongst others, the linkages with development, health and corruption.

4.2 Rule of Law Interventions

It is essential to engage with the rule of law interventions systematically across the different intervention modalities to appreciate the development of the AU institutional system and related actions that have unfolded. The interventional analysis serves to build a deeper understanding of the working implementation modalities, both as it relates to the interactions at the level of multilateral engagements and the level of active implementation. The essence of the descriptive overview that follows is to provide a more detailed account of how implementation actions unfold in the AU system and hence to bring to the fore some of the contradiction, challenges and nuances embedded in the mandate establishment and implementation nexus. In the terrain of actions, there is substantive overlap between what unfolds in one part of the intervention terrain and other parts. The approach nevertheless is to engage methodically to facilitate reflections on the efficacy of the system.

4.2.1 Compliance and Sanctions

The compliance value and orientation of ACDEG are engaged upon in the terrain of accountability interventions. While ACDEG is now in force for the Member States that have ratified, the reality is that reporting on compliance has been slow. ACDEG remains imperative for the AU as it an instrument directed at securing the rule of law compliance as it has substantive provisions relating to constitutionalism, the separation of powers and on human rights. Outside of the formal baseline and periodic reporting process, ACDEG has served to inform compliance-related engagements from PSC. The PSC has adopted several ACDEG related decisions in situations where changes in government were deemed to be unconstitutional. However, aside from the suspension of membership of a country experiences

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[143] These are listed on the website of the DPA through media releases - https://au.int/en/directorates/democracy-governance-human-rights-and-elections-dghre.

crisis, further and more direct forms of sanction have proven to be challenging for the AU (Wiebusch, 2016). Beyond the deployment of diplomats and technical teams to engage in local negotiations to overcome a constitutional crisis, compliance to instances of ACDEG contravention has proven difficult for the AU. The general process in situations of crisis, is for the Peace and Security Department (PSD) of the AUC, working on its own or with DPA and other institutions, to brief the PSC and produce a substantive resolution or decisions on the challenges confronted and the actions to be taken (Wachira, 2017). Even though ACDEG, from a State Party reporting perspective, is not implemented, it has, together with preceding AU decisions on constitutionalism, been a central point of reference for compliance-related engagements. Detailed studies, however, demonstrate that the approach of the PSC has never really been consistent with the provisions of ACDEG and generally the approach has been towards open mediation to resolve crises in order to avoid conflict, rather than as a strategy to ensure compliance (Dersso, 2019). The following table reflects a selection of compliance-oriented sanctions taken by the AU since establishment in 2002.

Table 17: Sanction Imposed by the AU

Country	Year	Country	Year
Central African Republic	2003	Mali	2012
Togo	2005	Guinee Bissau	2012
Guinea	2008	Central African Republic	2013
Madagascar	2009	Egypt	2011
Mauritania	2008	Libya	2011
Niger	2010	Burkina Faso	2014
		Burundi	2015

Source: As extracted from the data collated from the AU.

The sanction approach of the AU has historically unfolded in the form of the suspension of membership. Reinstatement of Membership is within a few months after compliance in the forms of election or some indication of the reestablishment of constitutional order, including appropriate transitional or unity arrangements. This mode of sanction has been considered weak and without any substantive compliance effect (Bedzigui, 2018; Sithole, 2018). However, the formal announcement of sanctions through membership suspension and continuing focus with the matter by the PSC often served to embolden local level pressures for change and concomitantly a transition to constitutional order. The sanction is typically accompanied by more direct diplomatic mediation efforts led by the PSC (Bedzigui, 2018).

The rule of law compliance is driven partially through the structure of Banjul Commission and

the African Court. The Commission serves as a channel for State Parties reporting on compliance with the ACHPR. The Banjul Commission may also hear individual instances of human right violation and can engage in studies in specific areas of concern through the establishment of Special Rapporteurs and Working Groups. Reports of the Commission are made public and can hence serve to drive forward compliance. The report of the Banjul Commission is presented in a consolidated summary form to the Executive Council and Assembly (Banjul Commission, 2018a). A decision on the Banjul Commissions report serves as an added channel for securing compliance. The general presumption is that decisions would drive related compliance changes at the level of State Parties and thereby improve respect for human rights across Member States. While there remains substantive optimism on the part of civil society with the work of the Banjul Commission, the reality is that it does not have any substantive power or ability to effect compliance (Wachira & Ayinla, 2006). There are numerous instances where recommendations are ignored without any substantive reason. The logic of continuing on the part of securing compliance remains an aspirational hope on the part of civil society[144]. While the session of the Banjul Commission has become a source of excitement for African civil society and many meetings are held before and in parallel to the session, the substantive value and impact of the sessions and related work lack any real evidence (Ndulo, 2008; Dinokopila, 2013).

To many, the establishment of the African Court served to create a much stronger possibility of securing respect for justice and human rights in Member States. In instances where individuals and organisation are unable to secure rights at a national level, they may, subject to whether a State Party has approved such a channel, take the case to the African Court. By the time of the Year on Human Rights (2016), the Court reviewed over 54 cases, with a substantive number being from the host country, Tanzania[145]. While the court has made numerous judgements, the level of compliance to these has been low, and some states have reported that they are unable to implement the Courts orders[146] (AU, 2019a). Even though ratification implies that there will be compliance with Courts orders, in practice, this is not happening

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[144] A detailed reading of the activity reports of the Banjul Commission and related sessions held, suggest that there is generally substantive interest from wider civil society and much excitement with the sessions and the pronouncements that arise from these, but there is little documented evidence on the impact of the Banjul Commission and the substantive real governance value that arises from its activities and reports.

[145] In judgements delivered by the Court in 2018, eleven (11) of eighteen (18), were cases from Tanzania (AU, 2019a).

[146] Evidence of the low levels of compliance is evident in the Activity Report of the African Court On Human and Peoples' Rights to the Thirty-Fourth Ordinary Session of Executive Council 07 - 08 February 2019, Addis Ababa, Ethiopia (AU, 2019a).

([Ndulo, 2008](#)). In theory, non-compliance could facilitate further actions on the part of the Assembly of Heads of State and Government, but this has not happened in any of the cases. There is much to suggest some level of active resistance and reversals in human rights compliance and agency on the part of Member States because of the Banjul Commission and the African Court. Compliance on matters of the rule of law, including constitutionalism and human rights has generally been difficult to effect within the AU system. While there is a no-tolerance approach on matters relating to the constitutional transfer of power, the AU system has struggled to engage the matter considering the numerous popular uprising that emerged in North Africa and more recently in Southern Africa. Popular uprisings have prompted some additional reflection within the AU on building a better definition of what constitutes unconstitutional changes of government.

4.2.2 Peer Review and Diplomacy

Diplomatic engagements on the rule of law issues have unfolded since the formation of the AU. Within the framework of APSA, the AU has deployed numerous diplomatic mission and delegations to deal with constitutional and human rights related challenges that emerge within Member States. Resolutions presented to the PSC by the DPS serve to affirm the diplomatic approach to rule of law challenges. The sending of diplomatic peace missions is a standing operating approach in situations of crisis for the DPS[147]. The rationale for such an orientation emerged as one of the outcomes of the report of the Panel of the Wise on Conflict and Election in Africa, within which the panel recommended that its members serve to assist with peacebuilding through longer-term diplomatic engagements ([Gerenge, 2015](#)).

The momentum towards peace negotiations and long sustained diplomatic engagements arose since the birth of the AU and related peace-building efforts in the instance of Burundi, the DRC, Somalia, Sudan, Kenya, CAR and more recently in Libya, Mali, Cote d'Ivoire, amongst others. Outside of AU peace operations in Darfur and Somalia, diplomatic mission-driven approaches fully characterise the work of DPS and unfold somewhat separately to the governance work associated with the DPA and other AU institutions that are a party to the AGP. Funding for diplomatic engagements to secure peace is through the Peace Fund established and managed by PSD. Typically, PSD would deploy technical individuals in

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[147] This approach to resolving situations of crisis has been documented by numerous authors ([Cilliers et al., 2004](#); [Engel et al., 2009](#); [Williams, 2014](#)) and is reflected in the numerous decisions of the PSC available on the website of the Institute for Security Studies (ISS) https://issafrica.org/pscreport .

countries to support senior diplomats, which in many instances are either former Presidents or other notable individuals, such as Kofi Anan in the case of Kenya. Of significant importance to the diplomatic initiatives of the AU is the established Panel of the Wise. Since its inception, the Panel engaged with the tense electoral and political processes in Guinea (2010); Egypt and Tunisia in the wake of the Arab Spring; the Democratic Republic of the Congo (DRC) (2011); Senegal (2012); Sierra Leone and Ghana (2012); and Kenya (2013) (Van Wyk, 2016).

While some diplomatic missions may be of a short-term nature or entail a series of structured engagements over months, others are of a longer-term nature and entail establishing local offices in a country. Local offices have been established in Sudan, Burundi, the DRC and Mali, among others. Very often the AU would be one amongst many other actors engaged in local negotiations and interactions. The individual leading would also present reports to the PSC, especially when these unfold at the level of the Summit. Diplomatic engagements typically also unfold in close consultation with REC and the PSD has since around 2011 appointed senior officials and placed them at various RECs. As the driving orientation of the diplomatic engagements is on securing peace and 'silencing the guns' the precise value for securing the rule of law requires in-depth reflection. The substantive issue here is to highlight that the approach has somewhat emerged as a central operational practice for the AU system and probably stands as the most expenditure intensive terrain of all AU related interventions (Wachira, 2017).

 DP and TP, such as the African Centre for the Constructive Resolution of Disputes (ACCORD), provide direct support for the mediation approach embodied in APSA. Diplomatic engagements range from short-run interactions to long-run intervention with the establishment of mission offices in specific countries. In several instances, the PSC would establish a high-level panel for interactions. Diplomatic and mediation efforts are through APSA, which includes a variety of related military structures, early warning approaches and the Panel of the Wise (Murithi, 2008). While APSA functions somewhat separately to AGA related compliance instrument and the APRM, there has historically been a strong motivation for more profound synergy, given the imperative of securing governance compliance within mediation process (Wachira, 2017). The decision of the November 2018 Extraordinary Summit on Reforms to merge DPS and DPA, in part, reflects the commitment of Member States towards more functional linkages between mediation and governance compliance.

At the level of peer review, the focus on the rule of law is an integral part of the APRM process

as embodied in the APRM Questionnaire. Questions on the rule of law are dispersed across several objective areas (APRM, 2015). The overall peer-review process is captured in the accountability chapter. The importance practice-related issue to outline here is that the rule of law does not constitute a separate and substantive terrain of focus outside of the areas germane to the APRM. Some elements of peer engagement on human rights issues, however, have emerged in the context of knowledge and information exchange initiatives that arise from conferences and events arranged by the DPA and other AU institutions involved in human rights. These will be considered in the sections that follow. As a matter of practice and given the substantive overlap between the ACHPR and the APRM Questionnaire, the APRM Panel has more recently been presenting its reports for reflection at the Banjul Commission (Banjul Commission, 2019).

4.2.3 Information and Knowledge Exchange

Since the first African Conference on the rule of law in 1961, which served as an impetus, for the Banjul Commission and the African Court, numerous conference, workshops and events have been arranged by AU institutions within the broader the rule of law terrain[148]. Of particular significance for the DPA has been Conferences arranged through its partnership with technical institutions, such as IDEA. At the level of Constitutionalism, IDEA arranged a Conference in 2009 and included the development of a substantive paper on the state of Constitutionalism in Africa. The driving perspective from the Conference was that the terrain requires much more engagement with Member States of the AU so that the ideas of constitutionalism in all countries would take root (Gutto, 2011).

While the AU continues to engage with the challenge of unconstitutional changes of government and how it should respond, in view of numerous instances of popular and widespread protest driven changes, as in the instance of Egypt, Tunisia and Libya, further activities related to Constitutionalism have been arranged by IDEA within the framework of its partnership with DPA. A substantive workshop on the challenges to the rule of law has been arranged in partnership with the AUC in 2016. The workshop incorporated the production of a substantive paper on the issues, as generated by senior consultants on behalf of IDEA. The overall logic of the workshop is that it would generate perspectives to assist the AUC and the

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[148] A general review of available data from the DPA indicates that numerous meetings, workshops and conferences have been arranged since 2016 on the issue of Constitutionalism and the rule of law. The outcomes from these events and their specific policy and implementation purpose is less clear as, at most, they feature as activities in the reports of the Chairperson of the Commission to the AU Assembly.

AU with the implementation of initiatives associated with the affirmation of the rule of law and constitutionalism in the continent[149]. While affirmed as an event unfolding in partnership with the AUC and benefiting from the participation of relevant DPA officials, the deliberations unfolded outside of any direct linkages with AU decision structures or outside of any direct impact on what unfolds amongst AU institutions.

As with the area of accountability, the general approach to work within the DPA is event-driven and includes various meetings, workshops, consultation and conferences. The event-driven approach has mainly been in the case of Human Rights. Officials in DPA have arranged numerous events since the formation of the AU on Human Rights issues. Information and knowledge related events include specific engagements with the NHRIN driven by the DPA. The area of 'transitional justice' reflects the propensity of arranging a range of consultative and reflective conferences and workshops within the overall AU system. Very often, the events would be directly arranged by a partner institution with funding from DP. In the instance of 'transitional justice,' numerous events were arranged by CSVR directly or in partnership with the DPA. The following table provides a summary of some of the events arranged since the initiation of the ATJPF process in 2011.

Table 18: Events Related to Transitional Justice

Nature of Event	Place	Year
Continental Forum on Transitional Justice in Africa	South Africa	2017
Workshop for the Human Rights Institutions and the Transitional Justice Mechanisms in Darfur on 18-19 July 2016	Ethiopia	2017
Two-day validation workshop on the draft African Union Transitional Justice Policy	Zambia	2017
Dialogue on a Cooperative Framework on Human Rights and Transitional Justice Mechanisms in Darfur	Uganda	2016
Continental Youth Consultation on the AU Transitional Justice Policy (AUTJP)	Kenya	2016
Continental Experts Consultative Dialogue: Applying a Gender Lens to the Draft African Union Transitional Justice Policy (AUTJP).	Uganda	2016
Consultative Meeting on the Implementation of the AU Transitional Justice Policy Framework	South Africa	2015
Ensuring A Holistic Gender Approach to The African Transitional Justice Policy Framework Expert Consultation.	Togo	2012
Expert's Review of African Transitional Justice Framework	Togo	2012
African Union Commission Consultation with African Union Member States on Transitional Justice	Ethiopia	2011

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[149] Details of this are contained in the Challenges to the rule of law in Africa Workshop report 12–13 April 2016 Pretoria, South Africa (IDEA, 2016b)

Expert Consultation with Policy Makers of the relevant AU Organs on Transitional Justice	South Africa	2011
Consultations on Transitional Justice	The Gambia	2011

Source: Systematically extracted from the AU website

Within the DPA, substantive attention is focused on arranging and participating in events. On an annual basis, the DPA would arrange events with National Human Rights Institutions and with a range of other partners in the terrain, including UN agencies. Within the broader fold of the AU–EU partnership, a consultative forum was established on Human Rights, and engagements are organised annually for interactions. The event is formally defined as having a learning and sharing of experiences purpose, the precise value for the AU and building the rule of law, including human rights, at the level of Member States is not clear. Such events are also arranged between the AU and UN agencies in the terrain of human rights[150].

While the DPA, the Banjul Commission and the African Court arrange numerous events within their terrain of focus, they have been slow in generating knowledge product from these initiatives. In general terms, brief reports will be produced for accountability to DP and internal submission, but with little follow-up actions. In the main, many of the events arranged would be funded directly by DP and often through the active efforts of TP.[151] Outside of these AU institutions, the Commission of International Law has defined itself as having a more proactive knowledge and information role. To this end, the Commission sees itself as 'conducting studies on legal matters of interest to the Union and its Member States; and as having a role to encourage the teaching, study, publication and dissemination of literature on international law, in particular, the laws of the Union with a view to promoting acceptance of and respect for the principles of international law, the peaceful resolution of conflicts, respect for the Union and recourse to its Organs, when necessary'(Kilangi, 2013). In a short space of time, the Commission has established a Journal of the Commission on International Law. A few issues have been published and generally serve to broaden perspectives on the challenges that confront the continent in the terrain of international law.

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[150] Numerous internal documents from the DPA reflect the range of events arranged since the establishment of the AU. Events with the NHRIN are generally arranged an annual basis. But these are contingent on the availability of DP resources

[151] An example of this is a workshop held on the 27th September on Strengthening Human Rights Based Approach to Development in Africa: the nexus between strong human rights institutions and development (AUC, 2017a)

4.2.4 Capacity Building and Technical Support

As a delivery partner of the AU, IDEA has worked on several initiatives that focus on capacity building for Constitutionalism in Africa. The general orientation is to organise workshop-type events for country representatives. The substantive value of these for Member States is not a subject of engagement. The DPA initiatives with the National Human Rights Institutes Network (NHRIN) has historically unfolded as direct capacity development initiatives. However, the events generally unfold as broad conference-type engagements with a focus on sharing information on AU initiatives and practice sharing amongst human rights institutions (AUC, 2017a). There is no evidence of AU implementation institutions direct efforts to build capacity at the level of individual Member States. The general orientation is to arrange continental or regional events for knowledge exchange purposes.

As part of its overall efforts to enhance knowledge and capacity for regional and global law engagements, the Commission of International Law is actively promoting the idea of building broader capacity in the area and developing curriculum as it relates to International Law. Processes around this have been slow, and there have not been any substantive actions in this direction. Within the framework of the African Human Rights Strategy, there are provisions relating to capacity development of the AU institutions and Member States in human rights. However, there is little evidence of implementation, beyond workshops and conferences directed at the sharing of information. Within the broader the rule of law space, it is difficult to establish if any initiatives directly focus on Member States. While capacity building is an expressed objective, there is little available human resources to engage this directly, beyond the regional engagements and sharing of information on what is unfolding in the continent on human rights.

4.3 Institutional Analysis

The analytical overview of the rule of law interventions that have unfolded and the related implementation practices point to the reality that much of the AU preoccupation has been in the specific terrain of human rights and the functioning of related institutions. There has also been a range of interventions directed at broadening the scope of human rights and including more extensive areas of concern in the continent, relating to, amongst others, particular sectorial communities, such as children, women, the disabled, the aged and the role of the business sector. There is furthermore a proliferation of engagements, coordination meetings and conferences within the human rights terrain. While an AGA the rule of law cluster exists,

the terrain is generally marked by the absence of any real coherence or focused strategic orientation. Although there have been numerous Human Rights Strategy Meetings and related Action Planning Sessions on the decade of Human Rights, the terrain remains very scattered and generally reflects a shifting between events without any substantive real strategic orientation or coordination. It is imperative to analyse the interventions at the level of multilateral engagements and, in particular, the role of Member States of the AU, and at the level of multilateral implementation, as signified by actions that unfolded within implementation processes, in order to establish the core efficacy related challenges in the area.

4.3.1 Multilateral Engagements

At the level of multilateralism engagements, the rule of law terrain is somewhat different to unfolds in the accountability space, as engagements of Member States are primarily within the framework of the Banjul Commission and the African Court. Contestations are less about competing norms, but more about the issue of sovereignty and subsidiarity of legality within the African and international legal system. Before engaging with the rule of law interactions as they relate to internal realities in member States, the analysis begins with the matter of power and sovereignty as it relates to the rule of law. Since reporting is often secondary to compliance in the rule of law space, the second area of analysis fundamentally reflects on the difficulty associated with implementation compliance and hence the disjuncture between national levels processes and the presumptions associated with having regional and continental mechanisms for legal appeal by individuals and organisations. The approach taken remains consistent with the overall conceptual and analytical framework of the research.

4.3.1.1 Power and Sovereignty

The substantive challenge within the rule of law space related to the power and authority exercised by Member States in their interactions with AU established institutions, such as the Banjul Commission and the African Court. In the instance of the Banjul Commission, the ratification of the ACHPR implies that the Member State will abide by the reporting requirements and will implement decisions and recommendations. All evidence points to the reality that Member States have mostly failed to submit reports within the required time frames. There is, in practice, a much higher propensity to report, per the periodic reporting requirements

of the UN instrument, than there is concerning the ACHPR[152].

With variations, Member States have also often ignored the recommendations and decisions of the Banjul Commission. There has been a tendency not to report on the implementation of decisions or even to respond to situations where there is a violation of individual rights [153]. There is nothing substantively in the system that forces Member States to respond to decisions of the Banjul Commission or act on recommendations. The substance view is that this will change with the introduction of the African Court as presumably the decisions of the Court would have a binding effect on Member States (Banjul Commission, 2018a). The challenge, even before consideration of decisions, is that very few Member States have allowed their citizens or local organisations to bring cases to the Court. In each instance, State Parties to the African Court have to issue a declaration allowing for direct appeal to the Court by citizens and organisations. Only a few countries have done this. Data related to the implementation of Court decisions show that many countries indicate that they are unable to implement the decisions of the Court[154]. The failure to implement court decisions creates substantive difficulties for the legitimacy of the Court as countries exercise a level of power and sovereignty, despite having affirmed the authority of the Court through ratification[155].

Beyond the formal legal process, Member State participation in broader Human Rights activities of the AU varies. While the AUC organisers a range of events to facilitate active consultations on the Human Rights Strategy, Member States representatives have been absent from such engagements, and generally the process has been dominated by a selection of national human rights institutions and non-governmental organisations[156]. The substantive

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[152] Details of reporting by Member States and related difficulties are generally contained in the activity reports of the Banjul Commission. As illustration, the 44th Activity Report of 2018 provides that '(o)nly ten (10) countries are up to date with their reporting obligations in terms of Article 26 of the Maputo Protocol, namely: Burkina Faso, DRC, Malawi, Mauritania, Namibia, Nigeria, Rwanda, Senegal, South Africa and Togo. This means that thirty-one (31) State Parties to the Maputo Protocol have not submitted reports under the Maputo Protocol ' (Banjul Commission, 2018a)

[153] This reality has been noted in the numerous activity reports of the Banjul Commission presented to the Assembly of the AU. The 42nd Activity Report provides that '(t)he Commission noted that State compliance with its Decisions, Requests for Provisional Measures and Letters of Urgent Appeal is relatively low, as reflected by the information reaching the Commission.' (Banjul Commission, 2018a)

[154] This is affirmed in an Internal Audit report that provides that '(i)t was observed that some provisional measures and judgements of the Court were not implemented by the Member States contrary to Article 30 of the Protocol. This situation has the risk of undermining the public's confidence in the Court and consequently the effectiveness of the Court' (AUC, 2018a)

[155] This reality was also reflected on in the Report of the Regional Seminar on the Implementation of Decisions of the African Commission on Human and Peoples' Rights 12 - 15 August 2017, Dakar, Senegal (Banjul Commission, 2017) .

[156] This is based on a detailed analysis of participants lists for numerous events arranged by the DPA on human rights issues.

challenge here is that Member States do not exercise oversight and authority over issues that unfold within the AUC. In the instance of the African Court, only 8 of the 30 countries have agreed for direct access by citizens. Rwanda recently withdrew its willingness to allow civil society to report (Kwibuka, 2013). The commitment to implement Court decisions varies and, in the main, reflect that the Court or the AU has limited ability to ensure State Parties implement its decisions.

 The exercise of sovereignty also comes into play on issues relating to constitutionalism and issues of legal jurisdiction. The issue of power and sovereignty that featured during the period of the OAU remains as strong within AU processes. Member States resist attempts to engage directly on matters relating to their constitutions and the transfer of power, Despite the non-tolerance of unconstitutional change of government, the AU through the PSC has been overly cautious and has struggled to engage the matters more directly. Several countries have made changes to their constitutions on the term limits of Presidents[157]. While the AU attempted to engage on these issues, the general orientation is that the changes made were in accordance to the ACDEG and national laws and hence there was no basis for AU intervention or any form of negative resolution. The reality within the rule of law terrain is that despite the best intentions associated with the introduction of instruments and the establishment of related institutions, issues of sovereignty and related willingness to implement define what unfolds in practice[158].

4.3.1.2 Member State Realities

Outside of consultative and reflective engagements on constitutionalism, transitional justice and human rights related engagements, there has been no history of systematic engagement with Member States on the rule of law issues. While there is some evidence of change, within the context of the Commission on International Law and the elevated role of Ministers of

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[157] Rwanda was amongst a few other countries that changed their Constitutions to allow for continuity. A similar process unfolded in Algeria but met with substantive opposition.

[158] The challenge is somewhat captured in the Report pf the AUC Chairperson to the Assembly which provides that a 'brainstorming workshop on Expanding the AU Doctrine on Unconstitutional Changes of Government and to engage stakeholders in promoting and implementing the African Charter on Democracy, Elections and Governance took place in Pretoria, South Africa in July 2014. The workshop assessed the state of constitutionalism and the rule of law in Africa and highlighted the challenges of entrenching constitutionalism and respect for the rule of law, with a focus on unconstitutional changes of government. It also contributed to the development of a comprehensive definition of unconstitutional changes of government that will lead to a common understanding of the phenomenon. This was pursuant to the implementation of the AU Assembly Decision, which required the Commission to submit concrete recommendations on the appropriate measures to prevent unconstitutional changes of government, to develop capacity for the AU early warning mechanism, good offices and mediation' (AU, 2014a)

Justice as it relates to AU instruments, the engagements with Member States have thus far been confined to interaction with the Banjul Commission and the African Court. However, even at this level, the interactions tend to be with specific government institutions, such as Human Rights Commissions and not directly with Ministries of Justice.

The connection with legal communities at the national level has been slow, despite the existence of African legal associations, such as the Pan-African Lawyers Union (PALU) and the African Network of Constitutional Lawyers (ANCL). There have been no real engagements beyond broader conferences on issues of constitutionalism and the rule of law historically. The general trend has been to focus on issues as it relates to external engagement and more particularly as it relates to the ICC. However, the meeting of Minister of Justice has promoted some move towards establishing internal consistency in instruments. As a new policy, all AU legal instrument or proposed amendment has to be considered by Ministers of Justice through the relevant STC before progressing for a decision to relevant AU Organs.

In the terrain of human rights, real engagements are confined to interactions during the formal hearing at the Banjul Commission. To overcome some of the challenges associated with interactions with Member States, both the Banjul Commission and the African Court have arranged meetings and planning sessions with the PRC and with Member State representatives. In general terms, the focus of the interactions with the PRC has been on the provision of added resources[159] and more substantive relationships between AU institutions, rather than on Member State issues. In the case of the African Court, countries have avoided accepting the provisions that allow their citizens from taking cases directly to the Court. The general driving assumption behind the existence of the Commission and the Court is that conclusions and ruling would serve to shape human rights practices at the state level. While there is respect for the principle of subsidiarity to State level institutions, the existence of both African multilateral institutions is predicated on providing an added layer of check and balances and hence would result in State Parties implementing what arises from both institutions. The realities of practice, however, point to a disjuncture between rulings and actions. In the instance of the Banjul Commission, the findings hardly ever feature in state-level interactions, and generally, outcomes are treated as recommendations that a State party is not obliged to implement.

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[159] After the PRC and Banjul Commission in Maseru Lesotho, the budget of the Commission substantively increased. The use of retreats with the PRC to actively engage on budget issues has since emerged as a practice in the AU system and may be construed as perverting the system in favour of those who are able to afford such retreats. In all such instances, the costs of PRC members (Ambassadors) would be covered by the AU, largely through DP funding.

Numerous commentators have historically engaged with the issue of the impact of the Commission and more recently on the Court (Akokpari et al., 2008b). While some argue that the impact will be over some time (Murray, 2004), the simple reality is that the communication, recommendation and decisions are often ignored and very seldom do they feature in engagements at the national level. Even in countries where there is a sophisticated and highly established legal system, the idea that matters can be referred to a higher court do not feature in any substantive discourse. While the Court is structured as a higher-level institution after cases are exhausted at the national level, in practice, this is not the case, and very often reference is made to the African Court because of the absence of an appropriate response at the national level[160]. The African Court represents an alternative channel, rather than a higher channel for African citizens and organisations.

At the level of the APRM, Member States are required to produce Actions Plans for the implementation of the outcomes of the review exercise. The overall consequence of this approach is that Member States are engaged with through follow up processes on implementation. However, the reality for APRM is that it has limited capacity to focus on both the review process and the process of active implementation. The level of response to implementation reporting has varied and remains inconsistent (Jaoko, 2016). The challenge is that the APRM process is often seen to be separate and disconnected to national development plans and related actions [161]. Officials are often so engaged with actions at the state level that they have little time to prepare separate reports for APRM implementation. Even when these are prepared, the level of follow up engagement are low, and hence, State parties do not experience substantive pressures towards implementation (Kanbur, 2004; Gruzd, 2014a).

4.3.2 Multilateral Implementation

At the level of multilateral institutional implementation, the analysis engages with issues related to organisational culture, bureaucratic strategies, financing issues and the related human resource limitations. Analysis of the rule of law implementation realities is rendered complex as it involves not only the AUC but also two autonomous organs in the human rights arena. While there has been some analysis on the operational level function, there is little analysis of AUC process and the overall human rights institutional architecture. The analysis seeks to do

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[160] The high number of cases coming from Tanzania, where the African Court is located, is testimony to this orientation.
[161] One commentator provides that '(t)he National Plan of Actions produced by the countries have often been little more than policy documents whose recommendations remain on paper' (Jaoko, 2016:20).

both to develop an understanding of the core efficacy challenges as they relate to multilateral implementation in the rule of law space. As with the approach in the previous chapter, the analysis unfolds in two areas: 1) Organisational Culture and Financing, 2) Human Resource and Bureaucratic Strategies.

4.3.2.1 Organisational Culture and Financing

At the level of the DPA, there is an unarticulated perspective that it would provide overall leadership over the AU human rights architecture, including the development of new policy areas, such as 'transitional justice'. This role has historically emerged as an outcome of practices, rather than as a deliberate effort on the part of the AUC. Of significance is that the DPA took the lead on the development of an African Human Rights Strategy and the AGA Secretariat is operationally responsible for the Human Rights Cluster within the AGP.

At the level of the DPA, engagements around human rights and the rule of law interactions unfold outside of any articulated guiding strategic approach and seem to be driven mainly by resource availability and responsiveness to engagements that unfold from DP and TP. On matters related to constitutionalism, especially the challenges associated with the unconstitutional transfer of power, proactive responses generally arise from the DPS as it has the capacity and engaged in monitoring at the level of Member States facing internal political crisis through its early warning system[162]. The scale of events that unfold within the broader human rights space, relative to actual outputs, indicate a firm event-driven organisational culture, outside of the issue of substantive outputs as it relates to core mandates. Budgets are allocated for events and related activities and not for substantive, engaged work on multilateralism in the rule of law or the more focused area of human rights[163]. In addition to events arranged by partners, the DPA also takes the lead in external engagements around human rights, mainly centred on the joint dialogue forum with the EU in the human rights terrain. The forum has been in existence within the framework of the overall Joint Africa Europe Strategy (JAES) and substantively involves civil society actors. However, the value of such engagements are not apparent and generally perceived as collective engagements on human rights issues in both Africa and Europe. The number of active conferences, workshops

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[162] This disjuncture is well documented by Wachira ' (2017) in the paper on 'Strengthening the Peace and Governance Nexus within the African Union. Enhancing synergy between the African Governance Architecture (AGA) and the African Peace and Security Architecture (APSA)

[163] A key indicator of the propensity towards arranging events is that annual planning, including linkages to budgets unfold on the basis of a drafted 'calendar of meetings' to be attended for the coming year. One example is contained in the plans drafted for 2009 (DPA, 2009b).

and meeting related engagements with existing capacity in DPA suggests a substantive focus on attending events outside of any time available to engage in substantive work – beyond the crafting of concept notes and the management of event logistics[164]. There has also been a history of officials attending the open session of the Banjul Commission and hence spending a considerable amount of time in The Gambia outside of any direct formal responsibility[165].

The Commission on International Law is a new formation within AU multilateralism around the rule of law. While the mandate is oriented substantively towards issues of international law, especially on matters of subsidiarity and on looking at AU instruments, the broader engagements suggest a focus on the rule of law in wider terms and hence the potential for more profound impact on the multilateral space. The Office of the Legal Counsel manages the initiative and reporting is to the Chairperson of the Commission and may well hence have broader legitimacy. While coordination with DPA is expected to unfold within the Human Rights Cluster of AGA, there appears to be little synergy. Details on the resources available for the Commission on International Law remains somewhat sketchy, but indications are that it has resources for the meeting it establishes and for its overall mandate. However, its orientation is less operationally intensive in comparison to the Banjul Commission and the African Court.

The organisational culture and resourcing elements of the Banjul Commission and the Court is more complicated. While it took some time for the establishment of the Banjul Commission, direct resources from the AU substantively only increased after interactions between the Commission and the PRC. In addition to budget increases arising from the active lobbying of the PRC, both the Banjul Commission and the African Court have attracted substantive DP resources. As these structures exist as separate AU Organs, DP can fund them directly and hence channel of-budget funding for programmatic initiatives. One consequence of this is a limited level of direct oversight over DP funded programmes from AU Member States. In the instance of the Banjul Commission, the EC has channelled direct funding as part of its strategic orientation on building African initiatives that facilitate regional integration and that address

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[164] There are numerous briefing memorandum and notes on work allocation and activities of the DPA. These notes indicate that the work is centred around the arrangements of events, including the drafting of speeches for seniors, the arrangements of logistics, including venue, concepts notes and related issues. One example is a briefing note to the Commission in 2011 titled: Update Briefing on Activities and Meetings of the DPA, 16-21 March 2011 (DPA, 2011n)

[165] A common practice in the DPA would be to arrange meetings prior to the sessions of the Banjul Commission. Often this would entail officials staying in Banjul for an extended period, which includes attending and observing the sessions of the Banjul Commission. This approach is reflected in an internal memorandum justifying a further meeting in Banjul (DPA, 2012f).

human rights issues that the EU would not want to engage directly with AU Member States (Miyandazi, Apiko, Abderrahim & Aggad-Clerx, 2018). While there is no direct evidence that DPs control the agenda and decision of institutions, it is crucial not to underestimate the impact on the choices made within institutions from the flow of resources[166].

There have been substantive challenges concerning the operations of the Banjul Commission since its inception. In addition to issues around the number of officials appointed on a full-time basis for the Commission, there has been contestation around the exercise of administrative leadership[167]. The struggle between the Board and the officials has been a matter of constant engagement. The AUC primarily appoints senior officials, and this arrangement has proven difficult for the Board. The structural arrangements and period of appointment of Board members have often rendered it impossible to engage in performance issues sustainably. The accountability arrangements have had the impact of rendering it challenging to secure answerability over operations. The Secretariat only engages the full Board directly when the Commission is in session. Between sessions, the Secretariat has high levels of autonomy. Court operations are relatively new, but there have also been concerns on the resources available and hence ability to arrange further sessions for additional hearings. The constraint of resources has meant that the Court is only able to hear a few cases. The implementation organisation of the Court has faced similar performance realities to the Banjul Commission. The challenges facing the APRM and the instability that unfolded have been engaged within the Chapter on accountability and hence not repeated here.

4.3.2.2 Human Resource and Bureaucratic Strategies.

The reality for the Banjul Commission and other structures is that sustainable core operational approved budgetary resources are limited, and hence capacity remains acutely constrained[168]. AU institutions cannot appoint full-time long-term officials if these are not approved and

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[166] Mindzie (2008:222) reports that 'a number of state members have, paradoxically, denounced the fact that the commission relies accessibly on donor funds, which it claimed, is affecting its independence and credibility'.

[167] Matters of performance are not fully captured in public reports. However, the Activity Report of 2012 indicates that the Chairperson of the Banjul Commission had meetings on the issues with other Organs of the AU. The report provided that the meeting were to discuss ' …appropriate ways and means of giving effect to the decisions of the Heads of State and Government regarding the treatment of the members of the African Commission and the need to build the human and intellectual capacities of its Secretariat' (Banjul Commission, 2012).

[168] The 30th Activity Report of 2012 was scathing on this issue and provided that '….the staffing situation has reached such critical levels that it is no longer physically possible for the Secretariat to provide the Commission with the support which it needs to function effectively and deliver on the mandate entrusted to it' (Banjul Commission, 2012).

included in the ongoing operational budget[169]. The general approach of officials to engagements and substantive work is not vastly different from the broader AU system. Core bureaucrats are incentivised towards event-related activities outside of their home stations. A reality that is much more evident for officials at the level of the DPA than there are for officials in the Court and Commission. The Administrative Heads of these institutions are nevertheless able to engage broader and often part of the Summits of the AU and tend to remain at the Summit for the full duration.

For substantive analytical and implementation work, reliance by all of the AU implementation institution is on consultants, interns and other individual seconded to the institutions on consulting type contracts (Mindzie, 2008). The Banjul Commission Secretariat, the African Court Registries Offices and other structures are often so overwhelmed with work related to elected political structures that they tend to function as event managers and not as substantive senior actors involved in shaping the strategic direction and active delivery on mandates. There is limited time for substantive work, and, at most, the focus of the administrative structures would be on the production of the annual report to Summit and on issuing general statements after country hearing reports. APRM approaches are also ad-hoc because of the lack of substantive capacity for more detailed engagements. There is little substantive work beyond the administration required for the peer-review process. Appointed officials are often caught up in logistics around events and hence most often rely on consultants for substantive contents work[170]. An overall consequence of the system is the appointment of individuals who do not have the substantive content capacity and who can survive in the system so long as they have logistical value. Representation work is allocated to such individual when APRM participates in meetings and conference, but they are often unable to engage substantively on issues. The range of events arranged by all AU implementation institutions suggests that officials are generally preoccupied with logistical issues and hence have no substantive value for the content work that they are employed to do. Senior officials are very often preoccupied with event-

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[169] The situation in the Banjul Commission only marginally improved and the 2019 report provides that '(t)The long-term solution proposed to address delays in recruitment processes would be to grant the Commission's request for autonomy with regard to recruitment' (Banjul Commission, 2019)

[170] Detailed information also points to use of consultants for internal management work related to delivering on events. Consultants are most often managed for day-to-day tasks. This approach is reflected in a Terms of Reference for a GiZ appointed consultants that provides that 't)he consultant will be under the direct supervision and control of the Director of the DPA and will on a daily basis work with the Head of Democracy, Governance, Human Rights and Elections Division. Though, he is not an employee of the African Union Commission, he must abide to the authority and directive of the DPA' (DPA, 2011e).

related functions which shifts their accountability from outcomes towards procedural compliance with finance and logistical type arrangements.

4.4 Efficacy of the Rule of Law Interventions

In order to provide a substantive overview of the efficacy challenges that face to AU in the rule of law interventions, a core set of themes are extracted from the preceding overview, detailed area outline and analysis. The themes capture the substantive challenges faced within the AU multilateral institutional process. The approach here is to analytically extract the core themes that are specifically germane to the rule of law area without having to repeat those contained in the accountability analysis or those that unfold in the area of state capacity. The identified challenges are by no means all of the implementation issues that confront the AU in the rule of law terrain. They do however stand out as the core considerations that should feature in reflections on the overall efficacy of the AU governance intervention system and hence the consideration that should ideally feature when reflecting on the future of the AU as it relates to governance intervention and integration.

4.4.1 Premature Separation of Roles

The structural approach of the AU as it related to the broader rule of law and human rights terrain is somewhat similar to what unfolded in the EU. However, in the instance of the EU, the comparable Commission on Human Rights became obsolete with the restructuring of the European Court in 1998 (Emmert & Carney, 2016:1056). While the approach of creating independent structures such as the Banjul Commission and the African Court may well fit with the substantive approach to integration, the reality of practice suggests that such separation of authority is premature. Especially in a context where there is limited convergence towards common standards and norms and where State Parties have not fully affirmed that elements of sovereignty reside with a higher-level Court. The difficulties associated with sovereignty and continuing power of Member States is also reflected by the closure of the SADC Tribunal (Nathan, 2013). The African reality is that legal differing to higher courts can only be useful in a situation where courts at the national level are functional, and when local justice remedies work reasonably well. In terms of existing instruments, higher-level considerations are only expected to unfold after local remedies are exhausted or where local recourse is proving impossible. While high-level courts can serve to establish pressure for local judicial improvement, the reality for many Member States is that change takes time and often impacted

upon by the availability of resources and complex local political realities.

The African Court and the Banjul Commission do not function as separate entities in the AU system. Despite shifts in the direction of securing more independence and separation, it will take a long time for the system to function as expected. Even if the process to secure compliance is rushed for deeper integration, AU institutions will only function effectively if local democracy and substantive the rule of law exist at the level of Member States. The need to build the rule of law in Member States through separate institutions at the level of AU multilateralism has somewhat shifted focus away from the need to build these on the back of proper rule of law at the national level through other modes of intervention. The AU has not established substantive the rule of law standards outside of the ACDEG and continuing engagements around constitutionalism. This issue of the rule of law has however been a matter for AU level deliberations on a crisis and has often resulted in questions being raised around the independence of Member States legal systems when a court makes a pronouncement that seems to favour ruling parties.

4.4.2 Subsidiarity Confusion

Legal subsidiarity and jurisdiction on at a regional and global level are engaged upon by the AU. There has been sensitivity on these issues within the AU, and many Member States have emphasised the need for regional courts to engage with matters of difficulty in the African context. The first substantive effort on this relates to the Hissen Habré[171] case and his trial by a special court established in Senegal. In this instance, the AU insisted on the establishment of a Special Regional Court to prosecute the former leader of Chad, rather than refer him to the ICC (Keppler, 2012). The AU and Member States have also been extremely critical with the ICC and particular, in particular, emphasised the notion of double standards when it comes to African leaders. Central to some of the contestation is the idea of African resolving their problems and the need to utilise African courts to hold leaders accountable (Keppler, 2012). There has however been no substantive debate about subsidiary within Africa itself and the role of regional legal institutions within RECs. However, even in such instances, Member States tend not to take such Court seriously. In the instance of SADC, the established Tribunal faced a substantive backlash from Member States when cases have been brought to the court.

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[171] Hissène Habré is a former Chadian Head of State who was convicted of crimes against humanity, war crimes, and torture, including sexual violence and rape, by the Extraordinary African Chambers in the Senegalese court system and sentenced to life in prison.

SADC Member States retracted their support and decided to close the Tribunal (Nathan, 2013). In general, the reaction reflected that Member States are not yet prepared to engage issues of sovereignty when it comes to legality and the possibility of being judged based on shared standards. Such standards and the need for the rule of law in countries has not permeated the systems.

Thinking about subsidiarity issues and higher courts often unfold outside of a recognition that there is a substantive lack of capacity at the level of Member States. Higher Courts must listen to cases of appeal that unfold from courts at the lower level or matters that deal directly with issues of legal contestation between states. At present, regional courts and related structured do not make sense outside of a primary focus on building the rule of law and legal capacity at the level of states. It is simply untenable to have a separation of power and subsidiarity approach to the rule of law at the region and continent level without higher levels of legal convergence and firm AU the rule of law standards (Abebe, 2016). Even if these are conceived as unfolding in parallel, the reality is that choices are needed as capacity is limited. Ideally, the bias could be on building the rule of law institutions at the national level and ensuring legal and regulatory convergence through more active knowledge exchange and through more grounded approaches to establishing common standards and norms.

4.4.3 Norm Proliferation and Diplomatic Incapacity

Outside of the human rights instruments and provisions related to constitutionalism, there are no substantive efforts on the rule of law as an element of collective intervention in AU. While human rights and other instruments provide some level of certainty around norms for regional adherence and by implication norms for the national level, the general peacebuilding logic tends towards avoided legal norm upholding, especially when peace has to be negotiated outside of preconditions or without the threat of legal actions followed by potential punitive actions. Even as there might be a desire to impose specific normative approaches and ensure legality prevails, including in the transfer of power, African contextual realities make it extremely difficult to engage in actions that do not inherently embody finding some balance between adopted norms and what is best in context[172] (Habib, 2009). Norm confusion or the failure to articulate common values, often render diplomatic engagements very difficult. AU

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[172] Habib (2009) engages with this issue in the context of peace negotiations in Sudan, in which he argues that the human rights community needs to balance its perspective on the need to uphold values in face of complex local realities that require careful negotiations.

diplomatic efforts repeatedly unfold outside of precondition or separate of some sense of shared values that should drive negotiated arrangements. This reality often serves to make diplomatic efforts meaningless to many as they often look towards higher institutions to protect the right of the weak and vulnerable. Negotiating outside of shared value and adopted standards tend to render efforts meaningless and sometimes bring into question the credibility of negotiators deployed in AU multilateral diplomatic missions. A classic example of this is the engagements in Libya, among others. The introduction of the AU framework on Transitional Justice serves to deepen norm confusion, rather than as a means for creating certainty as it related to justice and hence the optimal functioning of the rule of law.

Contrary to some perception on the closeness of the AU system, the proliferation of initiatives around Africa wide norms, suggests a higher level of openness. Activists and civil society organisations can successfully lobby and advocate for particular policy instruments, resolutions and decisions. The terrain is attractive to many NGOs as they can reach all African countries through AU channels. AU officials are also attracted to such initiatives as they are engaged with directly and invited to a whole range of meetings and events that unfold off-budget in the AU system. A classic case of active lobbying and advocacy, coupled with cooperation incentives through off-plan meetings is in the area of 'transitional justice' initiated by CSVR. However, similar orientations unfold in several areas, and the AU remains attractive as a channel for influence for many organisations, including UN agencies. Many civil society organisations would even mobilise funding based on access and influence over the AU. However, an incentive-driven openness amongst officials often does not necessarily suggest a complete openness of Member States. Even when documents are adopted and resolutions made based on norms entrepreneurship from civil society advocacy, there is little to suggest that these would be internalised substantively by Member States (Habib, Padayachee & Muchie). Such norms entrepreneurship also serves to overwhelm an institution still struggling with even the most essential elements of the mandate.

4.4.4 The rule of law neglect

In contrast to other areas of engagements, such as accountability, the rule of law convergence and hence intervention have not been a subject of focused engagement within AU institutions. While there is a range of accountability and state-building instruments in the AU, the rule of law shift has been slow and mainly centred around human rights. The rule of law regime is much broader and encompasses matters relating to the independence of courts, building legal

institutions across society, including the policing and penal systems. At most, the Human Rights cluster of AGA has engaged on a Human Rights Capacity Strategy that focused on regional institutions but with little attention and actions as it relates to building national institutions, outside of general interactions with human rights institutions. The introduction of annual meetings of Ministers of Justice under the administrate authority of the AU Legal Counsel suggests that a shift in focus might well be possible. However, the mandate of the Legal Counsel is substantively focused on legality at the continental and global level, with no real mandate to engage local state level. Conflating such responsibilities within the Commission may make it impossible of the Legal Counsel to serve in its counselling role and its broad responsibility for legality at the level of the AU, rather than legality and hence the rule of law at the level of Member States.

Within the APRM process, the rule of law issues tends to be lost in broader governance areas and not often focused on substantively. Without dedicated attention, it is unlikely that Member States would have the type of institutions that would render more regional and continental judicial appeal systems relevant, as in the instance of the European Court. It is presumed that the proper functioning of the African Court would inherently serve to establish pressures for local courts to function in a better manner and hence not be embarrassed by high-level court rulings. The reality within Member States is however complex, and such a top-down approach may not work at all. Compliance and standards application approaches in governance have not worked in the human rights terrain, despite the excitement associated with the numerous events of the Banjul Commission and the extensive participation of civil society organisations in and during its sessions.

4.5 Conclusion

Within the rule of law space, the AU direct interventions have unfolded less in the form of standards and much more in the forms of creating higher-level accountability structures, such as the Banjul Commission and the African Court. The consequence of the replication of the EU integration and structural model is that it has shifted attention away from enhancing the rule of law through a balanced approach that included empowering Member States through peer engagement and learning as a step towards common standards on the rule of law. The substantive tension that unfolds between compliance and sovereignty represents, in many ways, the tension between gradualist models and more decisive integration through common standards model. Finding a way forward in the context of established institutional modalities

would be a fundamental challenge for the future. The Banjul Commission and the African Court cannot be abandoned in the face of delivery, and implementation realities as these have emerged out of a process of active engagement and with the support of civil society. However, sustaining these in the present form without consideration of their efficacy for governance is not feasible and will not facilitate governance progress in the continent. Isolating the institutions and the rule of law from other governance intervention areas would render an overall analysis of efficacy difficult and hence make it impossible to articulate a system that facilitates a higher level of impact in AU multilateralism in governance.

Chapter 5: African Union Interventions in State Capacity

State capacity has historically been central to global multilateral and bilateral governance interventions in Africa. AU multilateral normative frameworks and interventions in the area emerged gradually and primarily through the direct agency and leadership of concerned and interested Member States. A diverse set of instruments and a range of interventions both within and outside of the AU Organs and institutions characterise the state capacity terrain. The history of initiatives that have emerged reflects a diversity of concern, ranging from the role and performance of the public sector, corruption, local governance and decentralisation. All the actions that have unfolded echo a shared disquiet with African state capacity and hence, interventions that would facilitate the establishment of the overall capability for state-led development at a national level. All sectoral initiatives within the AU system generally have elements relating to state capacity for implementation. However, the more significant macro initiatives reflect concerted efforts in more encompassing terrains such as public administration and local government. A historical overview of interventions reflects a diversity of actions and a move towards consolidation at the level of the AU through the establishment of an STC in Public Service, Local Government, Urban Development and Decentralisation. The analysis of intervention and related multilateral institutional processes exhibit a struggle for relevance and value add in a terrain of immense Member State diversity. The Chapter concludes with an overview of the core challenges that are germane to this specific intervention terrain.

5.0 Introduction

At the most basic level, state capacity is predicated on the idea of state sovereignty and the capacity of state institutions to assert jurisdictional authority and implement in accordance to politically derived mandates within a specific geographical space (Young, 2012). Sovereignty and capacity embody the idea that established public institutions have the power to act according to the collective will derived from the political process. No competing administrative authority can contest or usurp the sovereign status of the state (Fukuyama, 2014). Such capacity is deemed to be contingent both on the ability to deliver services innovatively and to exercise a level of discretionary judgment in the delivery process (Fukuyama, 2013). Success is on the extent to which delivery reflects what is in the public interest, as derived through accountability arrangements, and the capacity to demand compliance and the respect of rights, through a functional legal system. State capacity is hence closely linked to accountability and the rule of law (Fukuyama, 2014).

Perspectives on state capacity have varied with time and often predicated on expectations on the role that the state should play in collective coexistence and development. Some conception of the state is about minimising its role mainly to the rule of law and security-related imperatives. More nuanced notions emphasise the social role of the state and, in particular, the provision of community services that the market cannot provide (Fritz & Menocal, 2007). Interventionist perspectives assert that the state has a fundamental role in shaping economic development. The actual and expected role of the state has evolved with time and often rooted in ideological conceptions. In the African discourse space, a substantive orientation has been to argue for a stronger role for the state in economic development (UNECA, 2011). In part, the orientation stems from a concern with the consequences of structural adjustment on state capability and, in particular, the African states ability to shape the development trajectory (Meyns & Musamba, 2010).

Within the state capacity terrain, AU intervention orientations have evolved from the need for comprehensive public sector reform initiatives, towards more localised and sector-specific strategic interventions. Interactions on state change initiatives range from knowledge exchange on elements of structural reforms, as it relates to human resources and financial systems, towards those that focus on direct forms of capacity building in the forms of education and training initiatives. The substantive logic of all initiatives is that they would collectively serve to build state capacity for more substantive development interventions. While state capacity features in a range of documents in the AU system, it is often not subject to specific definition beyond the general articulated concern that it is essential and 'that targeted capacity building should be given a high priority'(AU, 2011a). Aside from the African Charter on the Values and Principles of Public Service and Administration, the APRM Questionnaire Objective Five focuses on 'Ensuring Accountable, Efficient and Effective Public Service Delivery at the National and Decentralized levels'. It encompasses questions on the efficiency of the public service, the levels of decentralisation and anti-corruption measures (APRM, 2015).

5.1 State Development Initiatives within the African Union

It is imperative to provide both a historical and substantive account of core initiatives that have unfolded to understand and appreciate state capacity focused initiatives that have unfolded within AU multilateralism. Core state capacity instruments, such as the African Charter on the Values and Principles of Public Service and Administration, the AUCPCC and the African Charter on Local Governance and Decentralisation, have emerged through separate processes.

These instruments have nonetheless intersected within the overall AU system and hence essential to be considered as a collective and within the framework of state capacity. Though the instruments, as with others in the governance space, have a larger and broader intent, their primary orientation relates directly to state capacity development. In addition to the instruments, several added intervention activities have emerged from the collective efforts of Member States and AU implementation institutions. In the instance of both public administration and local government, it is vital to appreciate that the actions unfolded outside of the AU institutional system. This reality has and continues to impact on implementation processes as it relates to AU institutions.

5.1.1 State Capacity in the OAU

The concern with the state in Africa and related capacity for implementation, arose, in part, as a reaction to WB structural adjustment initiatives across the continent in the 1980s. By the time of the Abuja Treaty and Lagos Plan of Action, OAU Member States and Civil Society expressed a deep concern that the African state institutions were eroded because of neo-liberal inspired adjustment and that state rebuilding is an essential effort in building African ownership for development (Akokpari, 2004; Mkandawire, 2007; Olukoshi, 2010). The NEPAD base document was amongst others, the first AU related document, to make direct reference to state capacity and the need to focus substantive attention on building such capability for the future[173]. To some, the NEPAD focus on state capacity was an extension of the WB orientation, as embodied in structural adjustments, with a particular focus on cutting down on the size of the state system (Bond, 2009).

The most substantive and focused multilateral engagement on state capacity within Africa emanated from the efforts of African Ministers of Public or Civil Service from across the continent. These Ministers convened, as a collective in Morocco, a non-OAU Member, in 1994. As far back as 1964, Morocco drove forward the establishment of the African Training and Research Centre in Administration for Development (CAFRAD) as an African multilateral institution focused on state capacity development (Michael, 2005). The introduction of the Ministerial Conference was part of the efforts to reaffirm the role of CAFRAD as an organisation leading on issues related to state capacity. Morocco convened the first two

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[173] The NEPAD Strategic Framework documents provides that 'the weak state remains a major constraint to sustainable development in a number of countries. Indeed, one of Africa's major challenges is to strengthen the capacity to govern and to develop long-term policies' (NEPAD, 2001)

conferences, and Namibia convened the third conference (Armstrong, 2005). By the time of the 4th conference, there was a substantive push from the Ministers that the initiative is integrated into the structures of the AU. By the third Ministerial Conference, an African Charter on the Public Service[174] was adopted by attending Ministers (Balogun, 2003).

Separate to the initiative of the Ministers of Public Service, African Ministers of Finance, together with a range of DP, took the lead in establishing, in 1991, the ACBF outside of the structure of the OAU, with its headquarters in Harare, Zimbabwe. Since its establishment, the organisation coordinated capacity development programs worth over 700 million US dollars across 48 countries and 8 RECs. More recently, the ACBF is recognised as the AU Specialized Agency for Capacity Development. In addition to being a channel for the funding of direct educational and capacity initiatives in Member States, the ACBF has a substantive focus on information sharing and the production of knowledge outputs as it related to capacity building. While having a broader sectoral reach, the primary focus of the ACBF has been on state capacity building (Olowu & Sako, 2002; Sako, 2006).

5.1.2 Ministerial Conferences and the African Charter

The first African Conference of Ministers of Public or Civil Service took place in Tangiers, Morocco, on the 20th and 21st June 1994. The second was held in Rabat, Morocco, from the 13th to the 15th December 1998, with the support of the United Nations Department of Economic and Social Affairs (UNDESA). This conference is considered as a landmark as it served to create the foundational elements for the Charter for the Public Service in Africa. The draft Charter developed with the technical support of UNDESA and discussed at the 2nd Conference was eventually presented and adopted with amendments at the 3rd Conference of Ministers, held in Namibia on the 5th and 6th February 2001. In form and content, this Charter was not perceived as a legal instrument and hence mostly accepted as an aspirational document (Balogun, 2003).

Since initiation by Morocco, the Conference of African Ministers of Public Service primarily unfolded outside of OAU, as Morocco was not a member. By the 3rd Conference, attending African Ministers began expressing a view on the importance of linking their efforts with continental processes, including NEPAD and the imminent launch of the AU in Durban South Africa. These matter of linkage with the AU was not directly engaged on at the 3rd Conference,

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[174] African Charter on the Public Service was the precursor to the AU adopted African Charter on the Values and Principles of Public Service and Administration.

and CAFRAD continued to serve as the Secretariat of the Ministerial Conference. With funding from DP, UNDESA also continued to provide financial support for follow up initiatives. During the 3rd Conference, South Africa agreed to host the 4th Conference and engage in a substantive preparatory process leading to the event (AUC, 2008).

5.1.3 AU and The Ministers Conference

The 4th conference of Ministers of Public Service took place on the 6th and 7th May 2003 in Stellenbosch South Africa. In preparation for the Conference, South Africa mobilised funding from the World Bank Institute (WBI) to engage in research activities that would help to shape the substantive content of the conference. In addition to attempts at generating some comparative knowledge on public service systems across the continent, several draft papers were produced as part of the efforts to ensure quality content engagements as they relate to the conference (Armstrong, 2005). The move to engage in research and prepare papers arose from a concern that past Ministerial Conferences were shaped through external engagements and not from substantive internally African driven initiatives. In addition to the papers, South Africa drove forward a process on developing a continental collective capacity development programme for approval at the Conference (Armstrong, 2005).

During the 4th Conference, a decision was taken that the Ministers Conference, together with the adopted programme, be incorporated as an initiative of the AU. Substantive initial support for the Conference arose from the NEPAD Secretariat. The decisions to incorporate the Conference as an AU initiative resulted in the withdrawal of Morocco and hence of CAFRAD. Since the 4th Conference, all subsequent conferences are under the overall banner of the AU (AUC, 2008). However, given the limited capacity at the level of the DPA, work on the Ministerial conference, including its various initiatives unfolded through the direct efforts of the sitting conference Chairpersons and their respective Ministry Offices[175]. During the 4th and 5th Conference, this unfolded under the overall leadership of South Africa and the 6th and 7th under the overall leadership of Kenya. During this period, the popular designation used for the conference was the Conference of African Ministers of Public Service (CAMPS)[176]. Substantive support for the activities undertaken was either from the country itself or from

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[175] Details of the approach are contained in an Internal Memorandum to the Director of Political Affairs: Mission Report: Fourth Ministerial Bureau Meeting of the Fifth Pan African Conference of Ministers for Public and Civil Service, Windhoek Namibia, 24 to 25 October 2007 (DPA, 2007b).
[176] The designation CAMPS Secretariat was used in many documents. Some of which were drafted by such Secretariats within Member States using the AUC letter head. Numerous examples of such documents were engaged with in the research process.

indirect funding made available by GiZ and the UNDP through its Global Governance initiatives (DPA, 2008c). Substantive additional technical and funding support flowed when the former Minister Geraldine Fraser-Moleketi of South Africa and Chairperson of the 4th and 5th Conference took up a position as Head of Governance at the UNDP [177].

During the period of the 5th Conference of African Ministers of Public Service, under the leadership of South Africa, a Ministerial Bureau was elected to support the Chairperson of the 5th Conference. As part of the follow-up to the 5th Conference, a long-term programme proposal had been submitted to the EC for funding. The proposal submitted through NEPAD structures was accepted for funding support by the EC. However, the funding never materialised as the EC was concerned about the precise legal status of NEPAD and by the time of resolving the legal issue, the funding period lapsed, and the EC expressed regret[178]. As part of the overall Ministerial process and the absence of substantive capacity at the level of DPA for the initiative, a decision had been made that different countries would champion various programmatic activities of the Ministerial Conference. The perimeters of what this meant in practice, relative to the role of the DPA of the AUC and a Secretariat within the Office of the Chairperson was never fully spelt out. Nigeria would champion anti-corruption, Algeria the African Public Service Charter, Mauritius, the African Public Sector Innovation Awards, and Burundi would champion issues related to post-conflict reconstruction. Some effort was focused on clarifying roles and responsibilities at the 1st and 2nd Bureau meetings held in Nigeria in April 2006 and Addis Ababa in December 2006 (DPA, 2006). The general assumption was that active initiatives would receive DP support, such as the UNDP (DPA, 2008a).

The 6th Conference of African Ministers of Public Service took place during July 2008 in South Africa and the Chairpersonship was handed over to Kenya. In keeping with the orientation established by South Africa, Kenya established a Secretariat in the Office of the Minister of Public Service to take forward leadership over the initiative. While there have been energetic engagements from the Ministerial Office, substantive work within the broad purview of the Ministerial effort only arose because of funding made available by UNDP under its Global Governance Programme[179]. While there was some level of engagement with the Ministerial

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[177] Details of the work are scattered in a variety of AUC documents and meeting minutes. Substantive details of the initiative and UNDP support are contained in the Consultative Meeting Between AUC/CAMPS and UNDP Held at North Coast Beach Hotel, Mombasa Kenya On 26th September, 2011 (DPA, 2011f).

[178] Details of this are contained in the Minutes of The 4th Ministerial Bureau Meeting of the 5th Pan-African Conference of Ministers of Public/Civil Service, held in Namibia, 24th and 25th October 2007 (DPA, 2007a)

[179] The UNDP received substantive funding from the Spanish Government for its initiative and much of this was spent directly by UNDP.

process, the work unfolded through contracts issued by UNDP (DPA, 2008d). Of particular significance was UNDP funding allocated for the development of another 'long-term strategy document' for the Ministerial Conference and a set of management guidelines in particular areas of shared public service concern (DPA, 2011k). The 7th Conference took place in Nairobi, Kenya. As a direct outcome of the Ministerial engagement was the establishment of AMDIN, comprising State established public sector-focused capacity-building institution[180]. The network primarily focuses on establishing joint training programmes and on sharing information, knowledge and expertise on state capacity development initiatives [181]. While engaging with the AU, the initiative has mostly unfolded outside of the AU system.

By the time of the 8th Conference of Ministers of Public Service, the UNDP initiative had all but dissolved. The 8th Conference did not benefit from much funding from DP and took place in Brazzaville Congo. At this stage, the African Charter on the Values and Principles of Public Service and Administration received the approval of the AU Assembly and hence became the primary focus of the Ministerial Conference and the DPA. At the level of the AU, efforts were on establishing the STC and hence providing a way of better managing Ministerial Conferences. To this end, the STC in Public Service, Local Government, Urban Development and Decentralisation was established formally. The launch of the STC coincided with the development of a Charter on the Values and Principles of Decentralisation, Local Governance and Local Development (DPA, 2017b; AU, 2019b).

5.1.4 Anti-Corruption in the AU

The African process on Anti-corruption emerged as a parallel process to the UN Convention Against Corruption adopted in 2005. The general perspective was that the AU process is different and focused substantive attention on the corruptor as well as the corruptee (Olaniyan, 2004). The African perspective at the time was that the overemphasis on the recipients of bribes shifts attention away from northern multinationals that engage in such activities. The convention was formally adopted in 2007 and achieved the required ratification to enter into force in 2010. At this stage, and under the guidance of the AU Legal Counsel, the AU assembly elected the ten Member of the African Union Advisory Board on Corruption (AUABC) established in terms of the Convention (Ikubaje, 2010). During the launch of the Advisory

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[180] See Closing Remarks by Mrs. Julia Dolly Joiner, Commissioner for Political Affairs African Union at The 7th Conference of African Ministers of Public Service, Nairobi, Kenya – 14 May 2011 (AUC, 2011).
[181] Details outlined on the website of AMDIN https://amdin.africa/about/

Board on Corruption, the AU had not set aside substantive resources for the functioning of the Board, and it took some time for the establishment of a Secretariat[182].

During the period leading up to the ratification of the Convention by a minimum number, the DPA initiated several conferences with National Anti-Corruptions Bodies. The basic idea behind these was that the bodies would be central to promoting the Convention and hence become central to the ratification by Member States. Leadership over the conference eventually merged with the work of the African Ministers of Public Service who defined corruption as central to the work related to State Capacity. As part of the longer-term strategy, the Ministers identified corruption and information sharing within the terrain as being of particular significance (DPA, 2011f). Just as the second AUABC was in the process of establishment, the 4th Joint African Union Commission/United Nations Economic Commission for Africa (AUC/UNECA) Conference of African Ministers of Finance, Planning and Economic Development in 2011 resolved to establish the High-Level Panel on Illicit Financial Flows (UNECA, 2015). A focus on illicit flows was also deemed to the central mandate of the AUABC and embodied in the Convention. However, the UN process unfolded separately and outside of any direct AUABC involvement. The enthusiasm around illicit financial flows has grown, and indications are that the recommendations are to be implemented through an independent unit within the Office of the Chairperson of the AUC (AU, 2018a).

In parallel and a somewhat complementary manner, anti-corruption features as an active and overarching element of review from within the work of the APRM. Not only are corruption considerations dispersed across the APRM Questionnaire, it strongly features in Objective 5 (2) the Questionnaire and embedded in many of the completed APRM Country Reports. Member States who are part of APRM are hence reporting on corruption issues as part of their country self-assessment process. APRM has also established modalities for civil society participation within the process (Kututwa, 2005)[183]. Some other AU instruments and related processes also embody provisions related to corruption. In particular, the African Charter on the Values and Principles of Public Administration has provisions relating to Codes of Conduct for Public Officials. There are also some independent state-related initiatives, such as the

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[182] The reality of not budgeting for the establishment of the Board is reflected in an internal memorandum which provides for the movement of DP funding for such purposes. The memorandum states the fund for the …. 'setting up of Governance Monitoring Centre on the Anti-Corruption Activities and Meeting of National Anti-Corruption Bodies to be reallocated for the Meeting of the Advisory Board on Corruption (DPA, 2009c).

[183] Kututwa (2005) provides a detailed account of the anti-corruption review elements across eight countries that have completed the review process.

Association of Anti-Corruption Agencies and the African Ombudspersons and Mediators Associations (AOMA). Outside of these, State Parties often engage with survey related anti-corruption instruments from, amongst others, Transparency International, the Mo Ibrahim Foundation and the Global Integrity Initiative.

Beyond the formalised state-driven or state engaged initiatives, there is some civil society initiatives and media-driven activities on corruption in Africa. Some of these initiatives engage directly with issues relating to the illicit flow of resources, exposing corruption and on the protection of whistle-blowers. To some extent, these initiatives mirror elements of the stated functions of the AUABC, including analysing the conduct of multinationals and advising governments on how to deal with corruption. RECs, such as ECOWAS, EAC and SADC have also developed instruments relating to corruption. All of these are different stages of implementation and embody the establishment of specific oversight processes and reporting obligations (UNCEA, 2011). RECs, it is assumed, will coordinate their efforts with the AU through established structures, including the AGP.

Since the coming into force of the Convention and the establishment of the AUABC, Agenda 2063 has emerged as a framework for planning within the overall AU system. While corruption is referenced across the framework and, in particular, in relationship to the financing of the AU and building capable states, is not necessarily defined as a core area of programmatic focus (AUC, 2015b). Agenda 2063 was introduced as a basis for driving internal institutional change and as a framework for shifting resources towards priority programmes. The Secretariat of the Advisory Board on Corruption relocated to Arusha from Addis Ababa in 2012, with limited human resource capacity. By the time of the second Board, actions were taken to outline an operational questionnaire on compliance with the Convention for response by Member States. This process unfolded in parallel to the establishment of the Mbeki Panel on Illicit Financial Flows with support from the UNECA. The UNECA mobilised funding for the development of a regional programme on Anti-Corruption in consultation and partnership with the AUABC (UNCEA, 2011). The initiative included a substantive emphasis on generating knowledge products and initiating learning opportunities for Member States. Limited attention was focused on the Convention and its implementation at the level of Member States. The Board adopted the questionnaire to guide Member State reporting on the Convention in 2011. The questionnaire was distributed to Member States, and 13 State Parties responded (MSWG, 2018). By the time the AUABC Secretariat received responses, the Board had changed and turbulence at the secretariat resulted in no real engagements on the AUABC mandate. The

Board then requested a civil society group known as the Multi Sectorial Working Group (MSWG), to look at the reports and provide feedback. The general conclusion from civil society actors was that the reports based on the initially designed questionnaire lacked substance and were hence not valuable for assessing Member State compliance (MSWG, 2018). By the time the AU designated 2018 as the Year of Anti-Corruption, the AUABC had worked with Civil Society on the development of a more detailed questionnaire to guide Member States. The initiative unfolded in parallel to the reform initiatives and some uncertainty on the future direction of governance initiatives in the continent (MSWG, 2018).

5.1.5 Local Governance and Decentralisation

Under the leadership of Cameroon, an All Africa Ministerial Conference on Decentralisation and Local Development (AMCOD) convened in May 2000 in Yaoundé, Cameroon. AMCOD established a Secretariat of the Conference, which served to arrange further Conferences over subsequent years (Aschmann, 2011). By the time of the AU Shared Values Summit in 2011, AMCOD began engaging with the AU on the integration of its efforts into the AU system. A series of technical meetings culminated in an agreement to Draft an African Charter on the Values and Principles, of Decentralisation, Local Governance and Development. Core to the shift towards the AU was a recognition that AMCOD could not function effectively outside of the AU system and some integration was necessary. This Ministerial level initiative unfolded in parallel to the establishment of the United Cities and Local Government (UCLGA) of Africa, as an umbrella organisation directed at the united voice and representative of local governments in Africa. UCLGA was formally founded in 2005 in the City of Tshwane, South Africa as a result of the unification of three continental groups of local governments, namely the African Union of Local Authorities; the Union des Villes Africaines; and the Africa Chapter of the Unao dos Ciudades y Capitaes Lusofono Africana (AU, 2005). UCLGA initially emerged as a split organisation with two secretariats, one in South Africa and one in Morocco. The struggle focused on the fact that Morocco was not part of the AU and hence could not serve as the host for an AU affirmed organisation. After a series of negotiations, the organisation is now headquartered in the City of Rabat, in Morocco, where it enjoys diplomatic status as a Pan-African International Organization.

After concerted effort from within AMCOD and UCLGA, the Charter on the Values and Principles of Local Government and Development was adopted by African Ministers of Local Government and presented through AU processes for full adoption. The Assembly adopted this

Charter in 2013 ([Chigwata & Ziswa, 2018](#)). The adoption of the Charter coincided with efforts in the AU to establish the STC in Public Service, Local Government, Urban Development and Decentralisation. In this respect, a decision was made to incorporate the work of the Ministers of Public Service with the work of Ministers of Local Government under the overall umbrella of a single STC, The Committee has met twice and generally functions in the same manner as a Ministerial Conference.

5.2 State Capacity Interventions

The spread of initiatives within the state capacity terrain and the widely differing levels of implementation and related activities renders a descriptive analysis of the interventions a difficult exercise. The approach taken is to engage with the intervention activities in a manner that builds an understanding of the modalities of engagement with Member States and related expectation as it related to state capacity and hence, substantive integration. Rather than capture all elements of details, the approach is to engage the substantive orientation and related activities in each of the intervention areas. It is expected that a brief review of these would enhance understandings on AU multilateral implementation on state capacity and hence serve to bring to the fore some of the contradiction, challenges and nuances embedded in the mandate establishment and implementation nexus. In the terrain of actions, there is substantive overlap between what unfolds in one part of the intervention terrain and other parts. The approach is to engage systematically to facilitate reflections on the AU institutional implementation challenges.

5.2.1 Compliance and Sanctions

Within the area of state capacity, there are three specific compliance-related instruments, which incorporate some elements of sanction for noncompliance. While the African Union Convention on Combating and Prevention Corruption is considered a broader instrument impacting on wider sectors, the content is substantively focused on the state and hence ending the scourge of corruption within public institutions. Article 22 (7) of the Convention specifies the reporting obligation of State Parties and provides that they shall communicate to the AUABC within a year after coming into force of the instrument, on the progress made in implementing of this convention ([AU, 2003a](#)). Each State Party would also ensure that the national anti-corruption authorities or agencies report to the Board at least once a year before the ordinary session of the policy organs of the AU. To give effect to state reporting on

compliance, the AUABC developed a questionnaire for such purposes, and this was communicated to State Parties through relevant Embassies in Addis Ababa during 2013. In line with the initial questionnaire, only 13 of the 40 State Parties who ratified have provided reports. The reports are generally considered weak but remain under review by the AUABC through a gradual process of scheduling one or two for its regular sessions. The AUABC Secretariats capacity is also limited, and the term of Board members makes it difficult for them to generate any substantive conclusions on each of the reports. The instrument compels the AUABC to deliver a report to the Executive Councils on each state parties' submission[184]. The AUABC, it is presumed, would be able to make a recommendation on the fight against corruption. The approval of such recommendation may well have some persuasive force over actions at the level of Member States. By the time of the 2018 AU Year on Anti-Corruption, the AUABC had not submitted any inputs on State Party submissions to the Executive Council and was generally struggling to fulfil this mandate (MSWG, 2018). In compliance terms, the general assumption was that the AUABC would be able to outline some of the gaps within a Member States so that these can be raised directly for compliance by the Executive Council. In theory, the Executive Council can impose some sanction for non-compliance. Given the legal form of the instrument, it may well also be possible for organisation and individuals to take their States to Court for non-compliance with a ratified instrument (Ikubaje, 2010).

Both the African Charter on the Values and Principles of Public Administration and the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development. have not yet been ratified by the minimum number of State Parties to enter into force. Article 24 of the African Charter on the Values and Principles of Public Administration provides that State Parties will report on implementation every two years. It further provides that the AUC will provide support for implementation and that consolidated report will be submitted to the Assembly through the Executive Council (AU, 2011a; AU, 2014b). The African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development replicates the support and reporting requirement. However, in this instance, reports have to be provided every three years (AU, 2014b). In line with standard practices in the AU system, in both instances, the AUC would have to develop guidelines for reporting by

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[184] The internal audit report of the AUC provides that '(t)he audit review indicated that AUABC did not achieve most of the functions spelled out on its Convention; The activity report for year ended December 2015 submitted to the Executive Council indicated that only 1per cent of its strategic plan (i.e., 2011 to 2015) objectives were achieved' (AUC, 2018a).

Member States. In essence, this would mean replicating the actions that have unfolded in other instruments. Both instruments also make reference to the establishment of appropriate Secretariats for implementation, capacity building and knowledge exchange (AU, 2011a; AU, 2014b).

As the Public Service and Local Government instruments have not yet entered into force, there is little to suggest further actions on the part of the DPA as the current custodian of the established STC that covers these specific instruments. During 2014 there was some attempt on the part of AMDIN to develop a framework for implementation of the Public Service Charter (AMDIN, 2018). The AMDIN initiative, however, unfolds outside of AU processes and remain to be incorporated as a formal step in the direction of securing compliance with the instrument. The extent to which both instruments will facilitate positive actions on the part of State Parties is yet to be tested. Of concern is the capacity to implement these instruments together with all other instruments in the governance space. While conditionality to secure policy compliance have been a crucial part of WB engagements on African States, the AU instruments, in substance and form, are more oriented towards peer engagement than towards substantive compliance-related actions[185]. While the instruments have legal standing, it is difficult to anticipate how the AU would be able to ensure adherence and act in instances where State Parties are not compliant. The rationale for having such legal instruments is the perspective that such documents would serve to ensure that the issues of Public Service and Local Governance would be on the radar of AU multilateralism. However, there has been little further actions and reflection on the substantive implications of engaging with multiple reports and on ensuring compliance with instruments. Outside of the arrangements of event-driven interactions, there is a lack of real engagements on the capacity and implementation implications of what has formally unfolded in the state capacity space.

5.2.2 Peer Review and Diplomacy

The APRM process has historically included a focus on state capability and hence, the overall macro–structuring of state systems. All concluded Peer Reports make some reference to the public administration systems at the level of individual states. As an illustration, in the instance

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[185] As illustration, Article 19 and 20 of the African Charter on the Values and Principles of Decentralisation focuses centrally on establishing a system for recognising good performance and for the exchange of experiences and less on the imperatives of compliance (AU, 2014b). Article 25 of the African Charter on the Values and Principles of Public Administration does the same and generally focuses on knowledge exchange as a vehicle for change (AU, 2011a).

of the first Ghana Peer Review report, substantive recommendations were made on reducing the size of the Public Service. Such conclusions filtered into the Action Plan of Ghana and resulted in the reduction in the number of actual Ministries (Grimm et al., 2009). There is also evidence of a focus on the state in all other Peer Reports. However, the peer process has limited involvement of Ministers of Public Service and hence perhaps not as impactful as is intended by the APRM process. There several objectives and indicators within the APRM questionnaire that deal with state capacity. These are nevertheless dispersed across various sections and often not subject to detailed peer-level engagements. Nevertheless, and judging based on conclusions related to state capacity in some completed reviews, such as Ghana, there has been much more substantive interactions on state capacity efforts within Member States in the APRM, than there has been through the other established instruments and initiatives. However, given the more political emphasis of the APRM Questionnaire, there is minimal inclusion of matters relating to local governance and decentralisation, as incorporated in the relevant AU instrument.

Since the 5th Conference of Ministers of Public Service, there has been anticipation that diplomatic support type engagement on state-building would feature in interactions on post-conflict reconstruction. There is, however, limited evidence that this has unfolded systematically from within the DPS. During the period of the 6th Conference of African Ministers, the DPA arranged an event in Burundi related to the post-conflict reconstruction of the state (Department of Public Service and Administration, 2008). Outside of exchanges during the event and some perspectives on future actions, there were no further substantive efforts from the DPA or broader AU institutions. The more considerable identified challenge at the time was that any actions have to unfold within the framework of the established post-conflict reconstruction programme established by PSD. The general and more substantive concern of PSD has always been on peace and security and hence engaging in negotiated interaction to prevent violence. DPA at one stage engaged in a mission to the Central African Republic to advise on matters relating to state-building the mission concluded with several recommendations. However, the capacity of the AU to provide active and substantive support for reconstruction and state-building is limited and very unclear. South Africa historically engaged in state capacity building in the DRC and Kenya engaged in direct forms of support for Public Administration in South Sudan (National School of Government, 2013). These relationships were, however of a bilateral nature and not a part of AU multilateral initiatives within the state capacity terrain.

As part of efforts within the broader fold of AMDIN, South Africa mobilised support from CIDA for a capacity-building initiative involving Burundi, Rwanda, South Sudan. The logic of this initiative was that each country would develop a programme for capacity building and would benefit from south-south cooperation (National School of Government, 2013). The precise value of the initiative is unclear, and it does not stand within the multilateral initiative of the AU. In the main, the available evidence suggests that the more substantive peer review interaction on state capacity are from within the APRM process (Chikwanha, 2007). While the existing instruments point towards peer-level engagements, the general orientation is that they are legal instruments and the implementation approach would be to assess the level of active compliance. In order to encourage actions on the implementation of the Anti-Corruption Convention, the AUABC has introduced a practice of sending popularisation and implementation follow up missions to various countries (AU, 2013). In practice, these function as diplomatic type missions directed at facilitating state compliance. Reports from such mission are incorporated as part of the annual activity reports of the AUABC and hence perceive to be an added channel for encouraging State Party ratification and compliance with the instrument.

5.2.3 Information and Knowledge Exchange

Information sharing and knowledge exchange have always been central to the effort of the Ministers of Public Service. Outside of the adoption of Charters, Ministerial Conferences were considered terrains for information and knowledge exchange. How this unfolded across conferences varied and often entailed the presentation of papers by experts in sessions, coupled with presentations by individuals from Member States. There is little evidence to suggest substantive research, aside from initial activities that preceded the 4th Conference of Ministers of Public Services[186]. Embedded in the work of the Ministerial Conference is the idea of active information and knowledge exchange amongst Member States. The knowledge exchange rationale was, the driving logic for the establishment of CAFRAD by Morocco. Even outside of AU processes, CAFRAD continues to function and has over the years arranged numerous conferences and workshops in the terrain of public administration. It has also continued to arrange separate Ministerial level events outside of AU process. The future of the initiative, in light of the re-entry of Morocco, is likely to be a matter for future discourse as CAFRAD is somewhat dependent on financial contributions from African States. Morocco has nevertheless

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[186] As illustration, during the 4th Conference of Ministers of Public Service a set of Case Studies (Collection of African Experiences in Public Sector Reform Initiatives) was produced for wider distribution (NEPAD, 2003)

been the central funder of CAFRADs initiatives. The following table provides a broad illustration selection of 'information and knowledge' related events arranged by CAFRAD over the last few years.

Table 19: CAFRAD Information and Knowledge Exchange Events

Event	Year	Country
Cultural Dimension of Administrative Reform in Africa	2016	Morocco
Prevention of Public Wealth Violations: New Challenge of Public Finance Supreme Audit Institutions in Africa	2016	Cameroon
Conference of Diplomatic Career Training Schools and Institutes	2017	Cameroon
Pan-African Conference of Permanent Secretaries and Directors of Human Resources of State Institutions	2014	Morocco
Seminar on Sharing Success Stories and Challenges in e-Governance/e-Administration	2014	Morocco
Creating Conditions for Open, Inclusive, Transparent, Accountable and Performance-Oriented Governance and Public Administration in African countries	2013	Morocco
Enhancing synergies between Policy Makers and Technocrats in Implementing Results-Based Management in the Public Service	2013	Morocco
Evaluation of programs and projects on the innovation of public service and governance through performance and results-based management (RBM)	2011	Morocco
New Approaches of Reform, Innovation and Modernization of Public Service and State Institutions	2010	Morocco
Reform of Public Finance and Budget Management through the Implementation of Performance and Results-Based Management, Auditing, Inspection and Control	2009	Morocco

Source: Systematically extracted from the website of CAFRAD - www.cafrad.int/en/

Before the 4th Conference of Ministers of Public Service, the WBI provided support to South Africa to research Public Services across Africa. The general orientation was to build a database of information on different systems to facilitate more significant cross-country learning (Armstrong, 2005). The initiative was managed outside of the AU systems and hence did not facilitate a situation that allowed for continuity. Several further knowledge initiatives emerged as the responsibility for the Ministerial Conference moved between countries. Documents and engagements unfolded as arranged by Member States under the umbrella of the AU, but with limited ownership by the DPA. Under the leadership of Kenya and with the support of the UNDP, the Ministerial Conference engaged in a process to produce substantive knowledge guiding documents on three areas of ongoing concern [187]. The driving logic behind

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[187] Three consultants were appointed to draft guides for the public service. The expressed logic was that these would serve as best practices for implementation at the national level. The guides where the Leadership and Management Development Guide, Human Resource Planning and Policy Architecture in Public Service Guide and Performance Management and Measurement including Monitoring and Evaluation Guide. There is no

these was that they would serve to guide states on appropriate practices at the national level. The documents, while produced have been lost to the broader AU engagements as they only served as products of UNDP reporting and as examples of the work that unfolded during the Chairpersonship of the 7th and 8th Conference of Ministers of Public service.

Core to knowledge and information exchange was the ACBF. It has over the years produced several publications on state capacity building and has engaged in specific sectoral areas for detailed reflection (Olowu et al., 2002; Sako, 2006). NEPAD also championed an initiative that focused on capacity building of regional institutions. The initiative primarily unfolded outside of the formal structures of the AU and did not serve in any substantive way as a strategy into the future. While the range of Ministerial Conferences, including within the space of local governance, reflects a commitment to knowledge exchange, these generally unfolded on an event by event basis, with no real institutional continuity for the recurrent sharing of the information and papers produced. One consequence of the decentralised championing of initiatives was the absence of a central repository for information within the AU system. A useful illustration of the learning and knowledge orientation of the Ministerial Conference was the establishment of the All Africa Public Service Innovation Awards (AUC, 2018d). While considered a central initiative of the Ministerial Conference, the process has over the years been managed by the Centre for Public Service Innovation (CPSI) in South Africa. The only records of innovations recognised and documented are with CPSI and hence not incorporated into the formal institutional system of the AU[188].

The reality of knowledge and information generation related to AU work unfolding outside of AU implementation institutions has been prevalent in the terrain of local government, among others. Conferences and event held, while serving as a means for exchange, are not fully documented or captured for the future and very often historical data and exchanges are lost or confined to those who have attended specific events. In the terrain of anti-corruption, several events have also been arranged by the AUABC, among others[189]. While many of the AU

evidence that these documents have been used in anyway and there is no publicly available evidence of these as an online resource. According to available data, the consultants were paid USD 15 000,00 each for the products. This excludes their direct costs of travel in the continent for research and for presentation of the documents. The documents were, as an example, presented at a meeting on the Public Service Charter in Burundi in May 2012 (DPA, 2012e).

[188] A detailed search reveals that the only documentation available on the All Africa Innovation Awards are on the website of the CPSI. Details on the innovation are not included on the AU website or any internal repository.

[189] As illustration, the AUABC arranged an Annual African Anti-Corruption Dialogue on Corruption Measurement from 2 to 4 October 2018 in Arusha, Tanzania. The initiative was supported by DP, but there is no substantive indicator of the output derived from such an initiative for mandate implementation (AUABC, 2018).

implementation institutional events are included in 'activity reports' of specific structures, their future value gets lost because of institutional incoherence. These events are generally financially supported by DP and other TP of AU institutions.

5.2.4 Capacity Building and Technical Support

Direct capacity building and technical support initiatives on state-building have historically been the preserve of traditional donors or Member States themselves. However, the establishment of AMDIN was meant to facilitate more significant interchange and more regionalised capacity initiatives. The most prominent African institution active in the state capacity building space is the ACBF. While established outside of AU processes, it is more recently defined as an AU technical institution responsible for capacity building. ACBF has historically been a conduit for DP funding for capacity building and has focused on providing funding for national-level initiatives to enhance the capacity of the state. It has also over the years supported more regional initiatives, including in the terrain of building the capacity of AU institutions and RECs (Olowu et al., 2002). More recently, the ACBF provided substantive financial support to the AUC for capacity building initiatives. In this respect, the AUC established AU Leadership Academy (AULA) in 2014. While the substantive focus of the AULA is on building capacity of AU institutions and officials, it has also developed initiatives for the training of officials within Member States[190]. AULA has developed many short-term training initiatives and produced a range of publications related to capacity building within the overall AU system and broader[191]. The following table provides a listing of some of the initiatives introduced since establishment. In addition to the selection of capacity building initiatives in the table, AULA arranges sensitisation workshops for Members of the PRC and other related seminars for AU officials and Member State representatives.

Table 20: Selection of AULA Capacity Building Programmes

Nature of Capacity Initiative	Target Group as defined by the AULA	Duration
Public Policy Analysis, Formulation and Implementation	Selected public sector employees	Three days
Combating Corruption in Public Financial Management	AUC staff, Government officials; finance and trade officials, staff of financial regulatory and trade bodies;	Five days

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[190] Information extracted from the website of the African Union Leadership Academy - https://www.auleadershipacademy.com/.
[191] While the emphasis of the AULA is on the training of staff within the AU system, it has incorporated as an objective and focus 'to develop learning content and delivery modes for capacity building solutions in Africa's public sector'.

	academics, legal professionals from the public sector civil society representatives	
Innovation in Public Service Sector management	Senior civil servants, Project Managers, officers and Operations Managers, academics and Policy Advisors, National Programme and Project staff	Three days
Leadership for Africa's Transformation programs	Selected public sector employees from public sectors	Three days
Enhancing women's leadership in Africa's public sector transformation Target audience:	Women and men from AUC, Women leaders from Africa public sector, Women leaders from civil society organisations	Twenty days
Emerging Young African Leaders for Public Sector Transformation	Young Africans from, public sector and who are at the beginning stages of their careers, and young leaders from NGOs and private sector	Three days
Policy Programme Dialogue PPDs	Diverse stakeholders from senior levels of African governments, political parties, civil society organisations, academia, think tanks, the private sector, youth and the media from around the continent.	Three days
Transformation of National Judiciary Systems Through Information Technology	Selected group of Judges, Legal Practitioners, Social Innovators	Four days
Youth and entrepreneurship: what role for government policy	Selected groups of youth from various networks, and the private sector	Three days
The role of Public-Private Partnerships. Credibility and institutional mechanisms.	AUC senior managers, public professional's sector planners and public procurement specialists, private sector professionals and developers currently working or considering public, private partnerships	Four days

Source: Data extracted from the AU website, and AULA reports.

Outside of the formal structures of the AU and its implementation institutions, several African regional institutions have emerged in the broader capacity building terrain. The following table provides a listing of some of the more prominent formations that have emerged with a specific capacity-building orientation within the African context. Many of these emerge from interactions amongst AU Member States, and a few have structured relationships with the AUC.

Table 21: African Initiatives that focus on State Capacity.

Nature of Organisation	Capacity Building Role
The African Training and Research Centre in Administration for Development (CAFRAD) is a Pan African intergovernmental organisation. Established 1964.	CAFRAD work areas generally cover the full terrain of work defined in the long-term strategy of the Ministerial Conference. Its activities include publications, workshops, seminars and the organisation of training.
The African Association for Public Administration and Management (AAPAM) is a continental professional organisation for high-level public sector administrators and managers in Africa.	AAPAM primary value –add is its annual conference. It also, with limited funding, organises workshops and seminar and produces a *Journal in Public Administration*.

The Collaborative Africa Budget Reform Initiative (CABRI) is a professional network of senior budget officials in African Ministries of Finance and Planning. CABRI was launched on 14 May 2008.	CABRI seeks to support senior budget officials by building capacity and promoting training and research in the field of public finance management. It conducts research, produces guiding manuals and arranges workshops and meetings for budget Officials.
The Africa Human Resource Managers' Network (APS-HRMnet) had been launched during the capacity building workshop of UNDESA in Arusha, Tanzania on 27 February 2009. The main objective of APS-HRMnet is to enhance the capacity of human resource managers in the public service in Africa.	APS-HRMnet organises workshops and produces publications relevant to Public Sector Human Resource Managers. It is expected that it would conduct research and facilitate the establishment of further learning communities within its core focus area.
The African Evaluation Association (*AfrEA)* was founded in 1999. It is an umbrella organisation for more than 20 national Monitoring and Evaluation (M&E) associations and networks in Africa.	AfrEA is primarily focused on developing standards for Monitoring and Evaluation and facilitating learning amongst African Member States. It has a long history and conducts research, organises learning engagements and Conferences.
An Association of African Public Services Commissions (AAPSCom) was established on 9 April 2008 through a Memorandum of Understanding between twenty (20) African Public Services Commissions representing fifteen (15) countries in Africa.	As with other similar networks, the association has been established to facilitate learning and sharing of information on monitoring and oversight over Public Service issues. It is mainly focused on the arrangement of annual meetings of its members.
The Centre for Specialization in Public Administration and Management (CESPAM) located at the University of Botswana was established in June 2000 as the SADC Centre of learning.	While established through SADC, CESPAM is relatively autonomous and does not report directly to SADC. In addition to providing training on a regional basis, CESPAM also provides consulting and research services.
L'Observatoire des Fonctions Publiques Africaines (OFPA) is a Benin based French-speaking organisation established to focus on learning and exchange in Public Administration. It was established in 1991.	OFPA is primarily focused on research and exchange in Public Administration for French-speaking African countries. It does conduct some research and has in the past also arranged training initiatives

Source: Extracted from websites of the various institutions and AUC DPA documents.

The terrain of state capacity building reflects a proliferation of African 'multilateral type' initiatives. In many instances, direct linkages are established with AU institutions to facilitate a level of legitimacy and reach. The UNDP support long-term strategy for the African Ministerial Conference articulates various possibilities for enhancing state capacity (DPA, 2011k). While the strategy was crafted with the possibility of mobilising substantive resources, it has been shelved after the establishment of the STC in Public Service, Local Government, Urban Development and Decentralisation. Within the anti-corruption terrain, the AUABC has broadly engaged the capacity building terrain and initiated some related activities. As with many other AU governance intervention terrain, it has worked with UNECA to develop a model law on anti-corruption. The general logic of the model law is that it serves as a template for AU Member States in the process of implementing the Convention (UNCEA, 2011).

5.3 Institutional Analysis

The terrain of state capacity is characterised by wide-ranging initiatives that have unfolded directly from Member State and outside of the formal AU system. The history of initiatives reflects a strong push amongst Member State Ministers and officials for the inclusion of state capacity initiatives, especially as they relate to Public Administration and Local Governance. One consequence of the process is that many initiatives unfolded outside of direct and active agency of AU implementation institutions and officials. While fragmentation and a multiplicity of separate initiatives are a reality and inevitable product of differential actions from a range of 'practice communities' in the state capacity terrain, the structuring of relationship and the introduction of new legal instruments has had consequences for both state-level institutional engagement and for implementation by AU established institutions. The analysis that follows engages with the state capacity intervention logic and related interventions as they have unfolded in order to establish the core efficacy challenges within this terrain of focus. The analytical emphasis is on both the internal and external institutional factors, including the social and material dimensions outlined in the analysis framework.

5.3.1 Multilateral Engagements

Initiatives relating to public administration and local governance within the terrain of state capacity larger unfolded by way of the direct agency of AU Member States through the Conferences of relevant African Ministers[192]. Member States themselves drove forward the development of both charters and related actions [193]. Sovereignty and power in terms of shaping the norms and related instruments, thus unfolded differently to those that emerged in the areas of accountability and the rule of law. The involved Member State officials were primarily responsible for the drafting of the relevant charters and were significant, with their Ministers, in ensuring that the charter was approved through relevant AU Organs. In both the public administration and local governance terrain, the approach in introducing the Charters was that they would provide the most direct avenue for ensuring that the issues of concern are implanted firmly on the overall AU integration agenda. The agency of Member States in the process,

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[192] The Ministers of Public Service and of Local Government were initially convened outside of AU processes. In the instance of Ministers of Public Service, this was largely the case until the 6th Conference. However, even the 7th and 8th Conferences were largely led by the hosting Member State. Ministers of Local Government continue to engage outside of the formal AU system. It was anticipated that the STC would take the place of the Ministerial Conferences, but this has not really happened.

[193] In both Charter instances, the core writing work was done by officials from Member States. In the Case of the Public Service, officials from Algeria took the lead in drafting together with officials from South Africa. AUC officials played a minimal role. In the case of local government, writing was largely from officials in UCLGA.

however, stands in contrast to the realities of what is possible at the state level when it comes to implementation. It is necessary to engage both with power and sovereignty as exercised by Member States and with internal implementation realities and related disjuncture with what has unfolded within this area of AU multilateralism in governance to appreciate the challenges in the state capacity areas.

5.3.1.1 Power and Sovereignty

The AU Convention on anti-Corruption has its roots in the CSSDCA process that unfolded in Nigeria, where the specific emphasis was on fighting corruption. However, the more substantive push arose as African Member States interacted within the framework of the UN driven process which culminated in the adoption of the UN Convention. Within this process, African Member States were particularly concerned that the UN process, with strong support from countries in the north, did not adequately engage the issue of cross-border corruption and hence the focus on the corruptee (Ikubaje, 2010). For many African countries, the corruptors were from multinationals from the northern hemisphere. The driving motivation for the Convention was hence less about corruption in Member States and more about corruption perpetrated by northern multinational and the proposition that the proceeds of corruption are hidden in developed countries.

Outside of the expressed motivation for the African Convention, Member States continued to participate in both the UN and AU processes. In practice, the UN process has historically been much better resourced and has hence benefited from higher levels of active agency from African countries. Most of African State Parties have submitted review reports within the UN process and many have received DP support for their efforts directly or through the relevant UN agency. The UN process is extensive and includes a range of capacity building and related support initiatives. Numerous guides on the UN Convention are available, and civil society groupings have launched the United Nations Convention Against Corruption (UNCAC) Coalition for ongoing engagements. This process stands in sharp contrast to AU processes. While the AU process unfolded with some level of political determination from Member States, these were somewhat lost in the implementation phase, in part because of the slow pace by which the AUABC Secretariat[194] was established and related actions to follow up with Member

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[194] The financial challenges related to the Board are aptly captured in the minutes of the 7th Board Meeting (March 2011) which provides that 'that AU is undergoing financial challenges in terms of its budget given the crisis that is happening in the North Africa and Egypt and Libya are the biggest funders of the AU budget and hence the need for austerity measures the AU administration is undertaking which are directly affecting the Board functions.

States ([MSWG, 2018](#)).

At the level of Member States, the period of a lapse between adoption and ratification often meant that new people occupied institutions that were part of initial processes. One consequence of implementation slowness at the level of the AUABC was the establishment of the Mbeki Panel to address issues of illicit financial flow, which in theory was a core function of the AUABC. Unlike the AUABC, the Mbeki Panel benefited from direct and capable support from the UNECA ([UNECA, 2015](#)). Even as the UNECA developed a joint programme with the AUABC ([UNCEA, 2011](#)), the focus of the initiative was substantively on completing the work of the Mbeki Panel. One consequence of the separation between the AUABC and the Mbeki Panel was that the AU itself has two competing institutional processes. The Mbeki panel has since graduated to be a unit within the Office of the Chairperson reporting directly to President Obasanjo and the wider panel. While there was engagement with Member States, how the initiatives unfolded remains somewhat outside of their oversight. The AUABC, on the other hand, continues to struggle with its efforts, both at the level of resource mobilisation and at the level of encouraging higher levels of Member State engagement [195]. Outside of the initially submitted reports, there is little evidence of active Member State interest with the AU Convention[196]. However, given that the AUABC has generally struggled to establish the required Secretariat capacity for effective follow-up[197], the lack of active Member State engagements cannot be attributed to the absence of commitment to reporting and the fight against corruption. On the contrary, Member States themselves had approved 2018 as the Year of Anti-Corruption ([AU, 2018c](#)).

In the space of local governance and public administration, the benefits of direct Member State agency are visible by the fact that countries were directly involved in champions the adoption

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It was resolved that there is a need to strengthen the coordination and working relationship between the Board and other Departments of the AU' ([AUABC, 2011](#)).

[195] This challenge is somewhat embodied in the decision of the Executive Council of the AU on the Fourth Report of the African Union Advisory Board on Corruption, which 'Commends States Parties that have submitted their reports to the AUABC and Urges those that have not yet done so to comply with the obligations set out in Articles 20 of the African Union Convention on Preventing and Combating Corruption' ([AU, 2013](#)).

[196] The AUC Internal Audit Report provides that '(f)or the period from January 2016 to August 2018, AU ABAC conducted only one sensitization mission (in 2016, in Mauritius) and only one evaluation mission (in 2017, in Uganda) despite that this is one of their key functions as per the convention' ([AUC, 2018a](#)).

[197] This struggle is somewhat also reflected in the decision of the Executive Council which 'Requests the AUABC to submit financial and administrative issues to the PRC, through its Sub-Committee on Structures and the Sub-Committee on Administrative, Financial and Budgetary Matters in order to enable the AU Policy Organs to allocate adequate human, material and financial resources to the AUABC to enable the Board to fulfil its mandate in an efficient manner' ([AU, 2013](#)).

of a particular instrument. Nonetheless, it is essential to recognise that Member States sometimes support and drive forward an initiative as part of a broader diplomatic posture and not as a substantive matter[198]. Member States are often motivated to take forward specific instruments as a matter of prestige. While the AUC provided the platform for hosting relevant meeting leading to the production of both instruments, individual Member States were directly involved in the process and served to champion the instruments through the relevant AU structures. In the instance of the African Charter on the Principles and Values of Public Service and Administration, the Minister of Public Service of Kenya attended the meetings of the PRC and Executive Council to present the Charter and encourage its adoption. At the level of the PRC and Executive Council, there was minimum real engagement on the substantive content of the documents, as was generally presumed to have benefited from the inputs of Member States. The lack of engagements perhaps reflecting that Member States did not perceive these instruments as controversial or as requiring substantive inputs.

While Member State activism is sustained through Ministerial collegiality in the period from the 4th to the 8th Conference of Ministers of Public Service[199], it has not been sustained for ratification purposes, in the period after. Since the 9th Conference and the establishment of the STC, reliance for driving the process forward shifted to the DPA with its minimal capacity for promotion and mobilisation of States[200]. The more substantive challenge facing the AU system in state capacity is the extent Member States will be willing to comply with the provisions of both Charters. While the contents of the Charters are general, they do create some level of obligation and hence a shifting of some level of sovereignty over state capacity for development to the AU. As with many other instruments in governance, a more in-depth reading of the contents of the legal instruments and the anticipated process, suggest compliance

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[198] In a briefing a briefing to National Council of Provinces (NCOP) Committee on Cooperative Governance & Traditional Affairs, Water and Sanitation and Human Settlements, the responsible official went as far as to indicate that the "…charter is and will remain a living testimony to South Africa's prolific role in shaping the edifice of this enduring Ministerial platform from a mere information and experience exchange construct to a programmatically focused implementation outfit'(DPSA) .

[199] The activism of the Ministers was noted in the 2010 Report of the AUC Chairperson to the Executive Council as follows: The Chairperson of the 6th Conference of African Ministers of Public Service (Kenya) continues to take a lead in driving forward the implementation of the Public Service Programme and the decisions of the 6th Conference of Ministers. The Chairperson has held meetings with Ministers of Public Service within ECOWAS to facilitate wider participation. The Minister has also engaged with other regions to ensure that there is active support and participation in the activities directed at enhancing state capability for development' (AU, 2010b).

[200] The DPA produced a plan titled: Priorities for The Next Two-Year Work-Plan of The AU-STC 8 Sub-Committee On Public Service and Administration (PSA) (2017 - 2018), but with no visible indication of how this would be funded and delivered upon (DPA, 2017b).

through peer engagements, rather than formal criteria driven compliance actions[201]. While the state capacity terrain demonstrates the benefits of Member State agency in driving forward norm establishment and related initiatives, it also brings to the fore the challenges of sustaining such agency for follow up and implementation.

Across all state capacity instruments, there is little evidence to affirm the lack of commitment on the part of Member States. While higher-level conferences attract the attention of Ministers, detailed level of engagements on compliance and related reporting would be the preserve of AUC officials. The initial commitment to specific instruments is difficult to sustain beyond political processes that involve Ministers. One reality of the overall policy drive within the state capacity fold has been the lack of driving agency from officials who would be directly involved in the implementation of instruments[202]. The initial energy towards instruments has dissipated as a result of low capacity and agency within AU implementation institutions and related capacity continuity challenges at the level of Member States. The DPA has not established substantive capacity for the follow up on the adopted charters. The AUC generally devoted little attention on ensuring active follow up with relevant Ministries and Departments within Member States. As with other governance-related instruments, communications often get lost between embassies in Addis Ababa, Ministries of Foreign Affairs and relevant departments and institutions at the national level. The realities of multilateral institutional processes and capacity should not be underestimated, even while appreciating the influence of sovereignty and power over ratification and implementation commitment.

5.3.1.2 Member State Realties

One of the challenges for AU instruments, including the outcomes of APRM Review exercises, is the substantive value that ratification or implementation of recommendations brings to Member States. At one level, Member States sometimes express the prestige of adhering to particular African standards, such as those embodied in the instruments, but at another level, ratification creates a reporting burden with minimal direct value to either the state or the officials involved. In the instance of anti-corruption, the UN process has attracted much more attention from African countries than the AU process. Part of this is explainable by the fact that the UN process attracted more DP resources and is also attractive to officials as engages them

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[201] Article 23 (2) I J provides that the AUC should '(u)ndertake periodic review of the Charter and make recommendations to the Policy Organs of the African Union (AU, 2011a).
[202] Minutes and reports of meetings in the terrain of Public Service reflects that most of these were attended by Ministers and not officials with the technical capacity.

directly within the reporting and review process[203]. The AU process tends to emphasise political representation more than the UN process and thereby rendering it less attractive for engagement and compliance push from officials who have to do the real work. The UN process is better resourced, and hence State Party officials benefit directly from a wide range of initiatives. Follow up implementation actions also attract support from UN agency and hence from DP funding.

While there has been substantive Member States championing of the Local Government and Public Service Charter, this has not translated into substantive actions at the level of Member States. While States remain active in some activities associated with the Ministerial Conference, including Africa Public Service Day and the All Africa Public Service Innovation Awards, the Charters do not necessarily resonate with efforts at a local level and do not appear to inspire actions towards compliance with agreed norms and standards. Part of the challenge at the level of State implementation is that local state realities are diverse and that a push towards compliance or fitting in with particulate templates may not always be suitable for local contexts[204]. The range of Ministerial Conferences and the numerous exchange events that have unfolded in the broader terrain of state capacity in Africa reflects a substantive desire for information sharing and knowledge exchange. Outside of the systematic work that has unfolded in CABRI, which largely duplicates the peer methodologies and research approaches of the OECD, many of the other initiatives lack any sense of continuity and quality knowledge content[205]. Many also unfold as discrete events or training engagements only relevant for the official who happens to be responsible for attending. As most of these events unfold from DP resources, their efficacy for state capacity at the level of Member States calls for deeper forms of evaluative assessment. The general overall conclusion over the past decade is that the history of state capacity building initiatives in Africa has substantively failed to effect positive and lasting changes (Levy, 2014).

The need for ratification based on common standards for state capacity was conceptualised and unfolded in an intellectual environment where the notion of 'one size fits all' state capacity approach is rejected. The overall orientation is that all national and local realities are very

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[203] This matter has been noted by civil society actors in the anti-corruption space. Many of who also participate in the UN anti-corruption process (MSWG, 2018)

[204] As illustration, Ethiopia responded to a follow on the Charter indicating that it has problems with specific aspects of the Charter relating to the definition of what constitutes the Civil Service and hence would only be able to ratify if these were resolved to accommodate local realities (DPA, 2011l).

[205] The approach of CABRI is documented on its website https://www.cabri-sbo.org/.

different and hence need to be engaged with as such ([Andrews, 2010](); [Andrews, 2013](); [Andrews et al., 2013]()). Standards in the state capacity related instruments are often based on a specific conception of optimality and may well resonate for the longer term but seemingly struggle to get the current attention of senior officials. At most, compliance and related engagements activities are reduced as elements to be engaged with by junior officials. While officials in Member States often refer to African instruments as part of their internal efforts, actual willingness to commit to instruments by way of ratification, systematic implementation and reporting remain low[206]. The diversity of institutions, available capacity and related challenges, suggest that Member States are much more inclined towards peer-level learning engagement than they are towards compliance with instruments, with the added burden of reporting. At the same time, there must be a recognition that when officials lead processes, and these are coupled with substantive research, as in the case of CABRI, they are more likely to influence change and be beneficial to state-level capacity initiatives.

5.3.2 Multilateral Implementation

At the level of multilateral institutional implementation, the analysis engages with issues related to organisational culture, bureaucratic strategies, financing issues and the related human resource realities. In addition to drawing on the historical analysis and related intervention in state capacity, reliance is on reports related to the functioning of AU multilateral implementation institutions. This terrain is rendered a little more complicated, as initiatives often unfolded from outside the immediate agency of AU institutions and often entailed a higher level of active agency on the part of Member States. The external push was particularly evident in the terrain of Public Administration, were over a sustained period, leading Member State Ministers established specific offices for championing initiatives, with some perspective on the incorporated of responsible Member States officials into AU implementation institutions. In line with the conceptual framework, the analysis unfolds in two areas: 1) Organisational Culture and Financing, 2) Human Resource and Bureaucratic Strategies.

5.3.2.1 Organisational Culture and Financing

While there has been a growth in the number of state building related instruments, there is little

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[206] While the Ministerial Conferences have attracted high levels of participation from Member States, very few have responded to numerous calls that the instrument be ratified. The call for ratification is reflected in numerous Assembly decisions. This is most recently reflected in the Assembly Decision on the AU Specialized Technical, Committee on Public Service, Local Government, Urban Development and Decentralization ([AU, 2019b]()).

regards for the capacity to implement as the process unfolded. Both the Public Administration and Local Governance instruments make a vague reference to the establishment of Secretariats for implementation[207]. The policy and implementation nexus in the AU system is characterised by a culture within which there is little reflection on the organisation and financial implications of initiatives. The consequence of the policy-implementation gap is that budget consideration, and related active lobbying only unfold after the full establishment of legal commitment. This failure to plan was particularly evident in the instance of the AUABC. After its initial launch, it became evident that the AU system had not anticipated the costs of setting up a separate Secretariat[208]. Funding for the initial AUABC was only from DP resources. While the operational budget is incorporated into the overall AU budget, actual resources were deemed very limited for the adopted mandate [209].

Coupled with low resources, the AUABC Secretariat emerged as an outgrowth from the rest of the AUC institutional system and culture. The implication of this is that the small Secretariat primarily focused on arranging AUABC meetings and other events. Including attending the many events arranged in the wider AU system. To augment its capacity, the Secretariat was initially able to recruit additional to fixed establishment officials on the basis on annual contracts through DP funding (UNCEA, 2011). This strategy untraveled in 2015, after reports of the mismanagement of resources in the Secretariat and the subsequent suspension of its first Executive Secretary [210]. Similar reports emerged in 2018, after the resignation of a Board member, who alleged corruption on the part of the Secretariat and the wider AUC[211]. While effort has unfolded to counter the corruption accusations and to launch an investigation, the

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[207] A report of a meeting between the DPA and Ministerial Office responsible for the Conference of Ministers of Public Service (CAMPS) provides that '(t)here was a general consensus that the interim Secretariat should be main-streamed into the structure and processes of the AUC and should be situated within the Division of Democracy, Governance, Human Rights and Elections, Department of Political Affairs' (DPA, 2011b).

[208] In a report of the AUC Chairperson of the Commission to Assembly it is noted that '(w)hen a budget is made available for the Advisory Board on Corruption, it is expected that the momentum for their work will increase and they will be in a position to Report to the Executive Council, as per their mandate' (AU, 2009d)

[209] The matter of capacity and resources also featured in a decision of the Executive Council of the AU in 2015, which 'called upon the Commission to provide to the Advisory Board the requisite human and financial resources within the allocated budgetary provisions to enable it fulfils its mandate. In this regard, the AUC should be urged to fill the position of Executive Secretary in an expedient manner' (AU, 2013).

[210] This was noted in the decision of the AU Executive Council in which it Expressed 'its grave concern on the alleged Misappropriation of Resources Allocated to The Board and requests the AUC and its Audit Services Directorate to submit, as soon as possible, a comprehensive report on the investigation being undertaken and measures to be put in place to redress this situation, at the January 2015 Summit' (AU, 2013).

[211] In his letter of resignation, Daniel Batidam, who served as chair of the board in 2017, provided that '(a)fter witnessing several instances and degrees of bad governance, including the abuse of entrusted power (or corruption), lack of probity, accountability, transparency and integrity at the Secretariat of the AUABC and some Departments of the AU Commission itself for over a period of three years now, while all efforts at seeking redress have yielded no result, I have decided on grounds of principle that enough is enough' (Allison, 2018a).

reality for the AUABC is that DP would be hesitant to support the work further and hence reliance has to be placed on the available Member State budget. While the budget provided has grown since the establishment of the Secretariat, the reality in practice is that it is minimal and covers very few events and engagements from AUABC. The direct costs for AUABC session are very high and include costs of flights, accommodation and related stipends for the full duration of events. More recently, there has also been dialogue within the AUABC on members receiving an honorarium for their time. Such payments are an issue for all such structures in the AU and a matter that is subject to an ongoing dialogue[212]. Of importance to note in this respect, is that in the governance terrain the AU has established several such elected bodies. While some of the individuals are provided with some compensation for time, the broadening of this may be well beyond the capacity of an institution struggling to secure resources.

Given the limited resources for the Secretariat of the AUABC, reliance is on DP who are increasingly wary of providing such support. Some support has come from GiZ and other partners. These DP nevertheless exercise direct oversight over which activities they would support. Given the limited available resources and the processes relating to the appointment of officials, the Secretariat, as with other implementation institutions, has struggled to attract individuals with the required capacity to engage with implementation work beyond the organisation and attendance of events[213]. General reliance is on consultants and other partners for work that should otherwise be led by the Secretariat. As an illustration, the AUABC has requested a civil society formation, referred to as the Multi-Sectorial Working Group (MSWG) (MSWG, 2018)) on Corruption, to assist with, among others, the redrafting of the baseline questionnaire. Outside of arranging for the translation of documents, the Secretariat has not played any role in the process. Officials from the Secretariat would nevertheless busy themselves by attending external events relevant to their mandate, but not core to the expected implementation work.

The realities of limited financial resources and related event-driven organisational culture within the AU system are increasingly also apparent in the terrain of Public Administration and Local Government. When Member States actively drove the initiatives, there was some level of momentum around a range of activities, including, amongst others, the All Africa Public

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[212] This challenge is reflected on in a Decision relating to the Banjul Commission which provided that the 'ACHPR to prepare proposals on the honorarium, per diem and other allowances to be paid to the Members of ACHPR, for consideration by   the AU Policy Organs' (AU, 2008c). There is no evidence of this matter ever being solved.
[213] The internal AUC reports highlights this by indicating that there is a '(l)ack of clear roles for participants and the Secretariat employees attending meetings' (AUC, 2018a).

Service Innovation Awards and Africa Public Service Day[214]. In part, also because these initiatives attracted UNDP mobilised resources. Before incorporation into the AU, AMCOD also attracted resources from GiZ. In both instances, there was a recognition that the initiatives were not sustainable outside of the AU and hence the momentum towards full incorporation, in part, through the establishment and adoption of related Charters. In both instances, there were strong arguments around the incorporation of AMCOD officials and officials in the Office of the Chairperson of the 6th and 7th Conference of Ministers of Public Service [215]. While the DPA has expanded its structures to appoint an official responsible for the STC, resources for implementation at the anticipated scale are not available[216]. The substantive disjuncture between resources and the entrenched institutional event-driven culture is likely only to come to the fore when the instruments are ratified by the required number to enter into force and when (and if) Member States and civil society organisations place pressure for active implementation.

5.3.2.2 Human Resource and Bureaucratic Strategies

In the terrain of anti-corruption, the realities of human resources constraints to support the AUABC are in the preceding analysis. One consequence of weak institutional capacity for implementation is that the burden of work would either shift to consultants employed on short term contracts or to an elected individual who are mainly in place to exercise oversight and provide conceptual leadership. A combination of enthusiasm on the part of elected AUABC members and weak institutional capacity has placed a substantive work-related burden on Board members[217]. A similar reality may well confront other governance institutions and often part of the reasons why such elected members are increasingly demanding some form of

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[214] The realities of Member State role and UNDP support for the Public Administration initiative are aptly captured in a statement from Permanent Secretary, Ministry of State for Public Service, Kenya in which '… he lauded UNDP for the support accorded to CAMPS and informed the meeting that the Ministers Programme was largely financed by UNDP, Government of Kenya and the Republic of South Africa' (DPA, 2011f)

[215] An internal report on the DPAs achievements provides that One of these is the '(f)inalization of the transformation of AMCOD and CAMPS into African structures through the establishment of appropriate Specialized Technical Committees (DPA, 2012b). During this period, CAMPS officials from Member States went as far as to produce an AUC funding proposal on creating an interim structure outside of the formal AU system (DPA, 2011h).

[216] This challenges is somewhat captured in an Executive Council decision on the STC, which urges the 'DPA/AUC to, in view of the reforms in the African Union, propose an appropriate structure of the Secretariat of the STC 8 (taking into account the specificities of each of the Sub-Committees) to the AU Reform Team for consideration and incorporation in the proposal for the overall structure of AUC that will be tabled for approval by the policy organs in June 2019'(AU, 2019b).

[217] This reality is somewhat contained in the decision of the Executive Council which 'call(ed) on all stakeholders, including Member States, the Commission and other relevant AU policy organs to strengthen the financial and human resources of the Secretariat to enable the Board to fulfil its mandate in an efficient manner' (AU, 2011c).

payment or honorarium for their efforts[218].

In the instance of public administration and local government, many of the historical efforts, including Ministerial related conferences, were mainly arranged by officials from Member States. DPA officials would participate in such events across the continent, with minimal work effort on their part. Given the personal benefits derived from attending events outside of any reflection on their value-add to AU multilateral process, officials would welcome such Member State-driven initiatives without providing any advice on how these are to be sustained for the future. Benefits from arranged events are fulfilled without there being a consideration of the long-term implications of what has unfolded. In the instance of Public Service, Member State officials have driven many initiatives on the assumption that these would be valuable at a multilateral level and that these will be incorporated eventually into the AUC[219]. The momentum to expand DP resources and complete various event-related activities, such as the Management Manuals and the Long-Term Strategy, outside of future considerations were very germane to the Public Administration initiative[220]. DPA officials who were, presumably, more knowledgeable of multilateral practices, were not incentivised to limit the activities or advise on alternative value addition intervention modalities. Advise to championing Member States is often confined to processes relating to the adoption of the instruments developed substantively by Member States.

The multilateral bureaucratic event-driven incentive approach of AU officials also serves to encourage the momentum established through the agency of Member States. There was simply no reason for DPA officials to advise on the considerations that should feature as the range of instruments are expanded and hence the realities of multilateral capacity limitations. Even if there was pressure from Member States to shape the agenda of the AU in areas of state capacity concern, there was little to encourage a more sustainable approach, either by way of limiting the number of instruments or by encouraging the incorporation of concerns into the APRM process[221]. Current human resource capacity realities in the DPA suggest that it would not be

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[218] The matter of payments to elected part-time Commissioners does not appear to have been resolved. This matter was embodied in a decision of the Assembly as far back as 2008. In the decision, it was provided that the Commission must 'prepare proposals on the honorarium, per diem and   other allowances to be paid to the Members …for consideration by the AU Policy Organs' (AU, 2008b).

[219] The idea of incorporating the offices into the AUC are contained in an internal report on the issue of establishing such a Secretariat (DPA, 2011g).

[220] The data contains numerous records of meetings and workshop being funded by DP, including UNDP and GiZ.

[221] While DPA officials attended numerous meetings with AMCOD and CAMPS officials, there is no record of them raising concerns around these issues. Where matters of incorporation arose, the DPA individuals would broadly indicate that this is not provided for in structures or that they would consult further.

possible to engage in follow up activities on both the Public Service and Local Government Charters outside of substantive rapid increase in the number of officials. This terrain has also not necessarily attracted DP resources at scale, relative to accountability and the rule of law interventions.

It is recalled that, in the instance of Public Service related initiatives, much of the initial work that unfolded was primarily through offices located in the Minister that served as the Chairperson of the Conference. Officials in these instances were able to draw on both their budgets and resources made available by DP through, amongst others, the UNDP (DPA, 2011f). While there was some attempt to encourage other Member States to engage similarly, by appointing champions, this approach never really took hold as Member States were differently resourced and often those in poorer championing countries were unable to take forward initiatives. In the instance of the Charter, Algeria played a stronger role and arranged some of the initial technical meetings. UNDP, however, funded participants and resource person for the process. One consequence of the initial low participation of AU officials was that the draft Charter did not entirely fit the overall language of the AU and it took some time and more direct involvement of AU officials to finalise the draft[222]. The final draft also benefited from inputs from the AU Legal Counsel, amongst others. However, given limitations within the AU implementation system itself, there are no substantive engagements on the logic and real value of having a legal instrument for state capacity development. An added consequence of weak capacity within DPA for the Public Service initiative was the failure to ensure continuity from the flurry of efforts that emerged at the level of Member States. UNDP support did not also contribute towards ensuring that the capacity is established in the AU for the terrain of work. In the main, UNDP directed some resources for the attendance of meeting and events arranged by itself with the Offices of Ministers responsible. The work-flow culture was chaotic with no strategic thought on future capabilities for implementation, and there were no collective considerations of the implications of initiatives that unfolded from within the Conference of Ministers[223]. Outside of the All Africa Public Service awards managed by CPSI,

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[222] This is reflected in numerous meeting reports. In the instance of the Public Service Charter, the propensity was to use the weakness of a document to arrange further technical meetings. One such meeting was an Experts Meeting on the Draft Charter on the Principles and Values of Public Service, from 6th to 8th September 2010, in Maputo, Mozambique, funded by UNDP. There is no substantive rational for having such a meeting away from the AUC in Addis Ababa other than the idea of AU visibility in Member States.

[223] The chaotic manner in which the initiatives unfolded is somewhat reflected in the Minutes of the AUC-CAMPS Technical Retreat, 18th – 20th August 2011, Nazareth, Ethiopia which included discussions around the movement of officials from Member States to the AUC and the establishment of an Open Source Centre in one of the Member states (DPA, 2011c).

the work that unfolded dissipated by the time of the 9th Conference of Ministers and the establishment of the STC.

A critical reflection of the failure to consider the capacity implications of adopted instruments is aptly reflected in the anti-corruption terrain. By the time of the election of the AUABC, the AUC had not set aside a budget for the institutionalisation of the structure or its work. A few months after the election of the AUABC, it was recognised that no budget was set aside for the work of the Board. The first meeting was arranged ten months after the election of Board Members and only after some rechannelling of donor resources for the initiative. It also took some time before a full budget was set aside for the work of the AUABC. The first person to take the lead in serving as the Secretariat for the work of the Board was an official appointed by International IDEA and seconded for democracy-related work to the AU. Institutional shifts and allocation unfold on an ad-hoc basis with no substantive resources earmarked during the initial period. In the instance of local government, the process was focused on by another seconded IDEA official, but the substantive energy for detailed work was from the championing Member States and organisations, such as AMCOD and UCLGA[224].

The bureaucratic approach to the growth in instruments was generally ad-hoc without much reflection on the substantive implications of taking on further instruments within the AU system. There is no evidence of interactions on the institutional implications of the adopted instruments and hence the ability of the AUC to engage on details within both programmatic areas. By and large, the limited capacity is primarily focused on arranging the meetings of the STC in Public Service, Local Government, Urban Development and Decentralisation. Despite the existence of the AGP by 2012, there was no substantive reflective work on how the instruments and related programmatic work would unfold at the level of the AU or within RECs The areas of Public Service and Local Government do not feature in direct ways in RECs. However, as outlined, many RECs have instruments relating to Anti-Corruption. There have historically been very limited substantive engagements on overlapping instruments between the AU and RECs and how these impact on Member States. The history of instrument establishment, adoption and ratification, suggest that the process will be slow and that even after the instrument enters into force, there is likely to be slow movement from within the AU system on implementation.

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[224] Details are contained in an internal Summary Report of Meeting between DPA and International IDEA (DPA, 2011i).

5.4 Efficacy of State Building Interventions

The efficacy challenges in state capacity that emerge from the analysis substantively mirror many of those that emerge in the accountability and the rule of law terrain. It includes issues relating to the skewed agency of officials, the personal revenue benefiting performance culture and the realities of norm proliferation. However, for focused analysis and with a view that the identified challenges in each area will collectively contribute to a more global analysis, the approach here is to extract from the analysis those challenges that are strongly germane to the area of state capacity as it has evolved in the AU system. The overall issue of norm proliferation has been engaged upon in the rule of law terrain analysis. In the instance of the state capacity areas, the reality norm proliferation emerged in a very different manner and mainly from the direct agency of Member States. It is hence worth engaging with this challenge further as it has emerged in the state capacity terrain.

5.4.1 Norm and Standard Proliferation

One of the consequences of Member State agency and passion for particular areas of engagement is the reality of norm and instrument proliferation. Ministers in particular terrains of engagements, such as Public Administration and Local Governance often develop a passion for their areas and seek to champion these as part of AU processes. Some of this enthusiasm is driven by the desire to contribute to changing African realities outside of expressed consideration of the overall AU capability realities which are engaged with by members of the PRC and Executive Council. Norm entrepreneurship by Member States in the instance of state capacity has resulted in a substantive increase in the number of instruments that have to be implemented by the AU. While AU officials may well have no substantive authority to resist Member State agency and related actions through AU multilateral processes, the incorporation of an ever-expanding range of instruments is not strategically engaged with from the perspective of effective coordination and AU implementation capability realities as they are and will unfold in the short, medium and long-term. Even outside of budget considerations, any rapid institutional growth is likely to be a challenge for any organisation.

There are too many instruments and low levels of real capacity for implementation. Instruments are adopted without substantive consideration on implementation, and the type of capacity that is needed for substantive follow up. The general presumption is that actions will unfold at a later stage. When instruments are developed within specific interest communities, very little attention is on the fact that there are other related instruments and how such new instruments

may deepen existing implementation difficulties. In both the instance of Public Administration and Local Governance, there have been active engagements outside of the formal structure of the AU before the introduction of the instruments. Some of these were purely predicated on ongoing experience exchange and could have been sustained differently. There is a range of multilateral technical engagements in the terrain of Public Administration, and many of these provide substantive and adequate platforms for knowledge exchange in specific state capacity terrain. One element of drive in both the Public Administration and Local Governance areas is the expressed desire for the incorporated of the secretariats of AMCOD and the Conference of African Ministers of Public Service into the structures of the AUC. The incorporation was not feasible and would substantively compromise the appointment rules of the AUC and the quota system established for such appointment.

5.4.2 The politicisation of Technical Capacity

An immense reality in AU multilateral initiative is the that political levels engagements at the level of Ministers tend to overwhelm the system. To overcome the proliferation of Ministerial Conference and meetings, the initial architects of the AU sought to cluster these within specific STC's. The realities of the overemphasise and proliferation on political level engagements were particularly evident in the instance of the work of the Ministers of Public Service that emerged between the 4th and 8th Conferences. Numerous Ministerial level engagements are introduced, with little or no substantive prior technical levels engagements. The consequence of this is that no real work takes place at the level of senior officials, and very often they merely served as event managers for ministerial-level engagements. Documents tend to repeat issues previously engaged upon, and there has been a tendency to seek approval of Ministers for operational types documents.

The area of state capacity is substantively technical in so much as it impacts on the work of public servants and how they drive the overall development of state systems. While state reform at the level of Member State requires political commitment and buy-in, the substantive real work and knowledge interactions fall into the domain of what is generally driven by senior officials in Departments of Public Service and Local Government. An over preponderance of Ministerial engagements has had the overall effect of diluting the substantive contents of the work that has unfolded. Success is in institutions that maintain a workable space between technical level interactions and political oversight. CABRI functions under the oversight of Ministers of Finance of Member Countries. Much of its work, however, unfolds through

meetings of budget officials and hence it has been able to produce substantive research content to assist and drive change at the level of Member States. CABRI operates outside of the formal AU implementation system.

5.4.3 One Size Fits all Orientation

As with other areas of governance, the idea of introducing norms and standards through instruments is that these would drive change and secure more appropriate state capacity for the future. However, in the design of such instruments, there is limited reflection on the change process and the substantive value-add that these would bring to Member State own initiatives and diverse local realities. Beyond the broad assumptions of information sharing as a change strategy, there is an inadequate reflection on how such common standards may be used to engage Member States and ensure that they have capable institutions. While the idea behind the instruments is that they provide for minimum standards, the legalistic orientation establishes that they require a level of compliance by Member States that have ratified.

The 'one size fits all' orientation embedded in the instruments runs counter to growing international trend that recognises that local realities are often complex and the application of specific templates, such as those embodied in Charters, would not work and is counterproductive for local reform initiatives. State development is a long-term process and often predicated on several local contingencies. While Charters may be relevant for aspirational purposes, their substantive value for change is often limited and hence a legalistic orientation to the application may well create some disincentives for engagement on the part of Member States that would otherwise benefit from peer-level engagements.

There is little evidence to suggest that Member States actual value the existence of state capacity related instruments. At most, Member States would make pronouncements on the instrument and broadly indicate that they are informed by it for political and prestige reasons, but in practice states often do not see any real substantive value of using the instruments to establish standards or as a guide for driving their state capacity efforts. Each state system is so complex that it is difficult to perceive of an instrument being valuable as a guide for practice. The idea of sharing best practice is also contradictory to the overall African orientation on the failure of the WB model and hence the general failure to drive change based on perceived best practices.

5.4.4 Lack of Peer Engagement Diffusion

The core of instruments in the state-building terrain is focused on deeper forms of peer engagement. Although instruments have been introduced to creates legal obligation after ratification, the general orientation is peer to peer engagements between Ministers and between officials. The substantive challenge, as with other governance instruments, is that peer review custodianship is centralised within the APRM, to the extent that there is a presumption that there are no other relevant peer-related engagements within specific sectors or at a lower leadership level. The APRM peer model is primarily confined to interactions between Heads of State and Government as a matter of structure and practice. While APRM Country Reports contains information on local governance and public service delivery, there is no real attempt to get Ministers in the terrain to engage in peer discussions as part of the process. This centralised approach to peer engagement contradicts the reality that many instruments incorporate peer-related approaches. Even if there is a perception that instruments require legal compliance, the reality is it would take a long time before common standards unfold in the same manner as the EU. Progression to common standards is only likely to develop on the basis of peer influence and change over a more extended period.

Unlike the APRM, the peer review approach is diffused in the OECD and a practice that has permeated all areas of work in the organisation (Pagani, 2002). The centralised custodianship of the APRM process has resulted in a lack of appreciation that peer review practices are ingrained in many of the Charters in governance and specifically within the instruments related to state capacity. Substantive historical interactions suggest that Ministers and officials want to engage and learn from each other in the continent and are less inclined towards instruments predicated on ensuring compliance through a one size fits all orientation. While such interactions may well unfold through conference and other events, there has been a historical push for higher levels of substance and more comparative research. In many respect, there is a strong push towards evidence-based engagements that are substantive and that facilitate more detailed engagements between state officials that goes beyond the academic exchanges that characterise many of the Public Administration and Local Governance conferences across the world. More detailed research-driven peer engagements methodologies generally characterise the work of the OECD and has been a practice that has worked in, for example, organisations such as CABRI (CABRI, 2008).

5.5 Conclusion

At one level, the evolution of state capacity instruments and initiatives from outside of AU implementation institutions reflects the energy and commitment of AU Member States towards multilateralism. At another level, this reality of implementation reflects that those within AU multilateral organisations have historically not considered the terrain of engagement a priority. The overall consequence of the aspiration-capacity gap is that initiatives that have unfolded have not received the required AU implementation energy, and there has been minimal continuity in the effort. Outside of the Anti-Corruption initiative, many of the other state capacity efforts reflect a determination to engage in cross-country interactions and substantive learning engagements. The introduction of the instruments may well have not been directed to secure compliance or impose singular approaches to multifaceted institutional development approaches across Member States. Without a deeper appreciation of intent and related action, it is possible to lose sight of what is probable for the future. State capacity is impacted on by the rule of law systems and accountability modalities, hence cannot be valued separately to the overall AGA and what is possible for the future. Much of what has unfolded and continuing actions reflect a hold onto the form of what has emerged and not the substance of what was intended. Bureaucracies are conservative by nature, and the propensity would be to continue on the paths established in the hope that resources will eventually flow on a much larger scale and institutional practices would be replicated across all governance areas. Even if resources do flow, the failures and challenges in AU multilateral engagements and implementation came at a price for broader society and traditional approaches cannot be unrelenting purely because the system can afford a low level of efficacy on the back of DP finances.

Explanatory Note: Macro Analysis, Core Finding and Future Recommendations

The overall purpose of the research was to provide analytical guidance on optimising AU multilateral practices to inform intervention decisions and for the appropriate utilisation of resources for the implementation of governance frameworks and instruments for continental integration and development. In line with this overall purpose, it is imperative to provide a consolidated macro perspective on the efficacy of AU governance interventions. It is anticipated that the analysis would lend towards establishing an appropriate framework for the future and articulating a set of clear perspectives on the future. The way this unfolds in the following two Chapters is broadly explained below.

Macro Analysis: Although the more detailed analysis may be useful for actors within each of the governance areas, they do not provide a consolidated perspective for the overall AU governance implementation system. In practice, there is both the reality of overlaps between the different areas and a related need for more effective coordination as a basis for enhanced efficacy. Chapter 6 hence provide a consolidated analysis of the core issues as they emerge from each of the substantive chapters.

Core Findings: Even though there are variations in the conclusions that emanate from the detailed analysis over the three core governance areas, it is possible to establish a set of core conclusions that cut across each of the areas. This is vital, as the study seeks to provide an overall analysis of the efficacy of intervention across each of the intervention modalities. Drawing on the initial analysis, Chapter 6.2 serves to provide a more consolidated perspective. Some repetition has been necessary to provide a globalised perspective.

Future Recommendations: A perspective on the future and a more appropriate approach in light of the efficacy of current interventions was expressed as an underlying purpose for the study. Chapter 7 serves to articulate an overall framework for AU governance intervention in lieu of existing efficacy challenges. The framework for the future emerges from a core set of future-oriented conclusions that are derived from the analysis.

The explanatory note serves to guide engagement with the study and how the information is presented. This is crucial as the thesis does not have a traditional data chapter or a related chapter for analysis and findings. Data presentation, analysis and findings are all incorporated in Chapter 3,4 and 5 of this thesis.

Chapter 6:   Efficacy of Multilateralism in Governance

Building a macro analytical perspective on AU interventions from deeper micro-level analytical engagements in each of the three governance areas is a crucial concluding step in re-joining the analysis to the articulated research problem, purpose, and questions. As a prelude to the concluding exploration, it is vital to provide an integrated summary of the core challenges that emerged in the terrains of AU multilateral governance engagements and implementation. This synopsis, together with a summative efficacy overview of each mode of intervention serves to provide a consolidated perspective on AU multilateralism in governance. The macro analysis is vital as it serves to provide a consolidate perspective on governance intervention and the challenges that are evident at the level of multilateral engagements and at the level of multilateral implementation. The analysis further serves to go beyond the propensity to view interventions in isolation from each other. Efficacy challenges are often more pronounced when viewing the AU system as a whole and avoiding the propensity to address difficulties and opportunities in isolation from wider interdependence and the optimal use of resources.

6.0 Introduction

The research focused on building an understanding of AU multilateral intervention in governance across three defined focus areas and four intervention modalities (*supra* Table 4). The history of interventions is outlined within each of the areas, together with the modalities of implementation. A detailed analysis is provided in each area across the two levels of institutional concern: multilateral engagement and implementation. In each focus terrain, the core efficacy challenges that emerged were extracted from the analysis. Fundamental to the data collated and related analysis is providing a lens into the institutional 'black box' of AU multilateralism in governance (*supra* 1.4.4).

The information presented in the three substantive chapters (three, four and five) demonstrates that the AU governance intervention system is complex, with deep variation across the focus areas and with substantive overlaps between different modes of implementation engagement (*supra* 3.1.4.1 and 5.1). While the detailed historical outline provides a picture of what has unfolded, it is evident that the full scale of intervention, especially as it relates to the many individual activities can never be fully captured in the space of a single research initiative. An overall global picture of AU governance intervention is nonetheless the essential thrust of the research and core to the reform-related efficacy challenges facing AU multilateralism in

governance. The global perspective across all the governance areas and modes of intervention is crucial for future academic reflection and practice related intervention within the broader space of AU multilateralism.

6.1 Consolidated Macro Analysis

The analysis on accountability, the rule of law and state capacity unfolded at two levels. At the level of multilateral engagements, the exploration was focused on the overall decision process on norm establishment and incorporated a focus on the challenges arising from competing norms, power relations and realities at the state level as it pertains to engagements with AU multilateralism in governance. In the instance of multilateral implementation, the inquiry focused on institutional modalities and incorporated a focus on organisational culture and finance, and human resources and bureaucratic strategies *(supra* Table 3). Collectively these provided a basis for establishing the efficacy of different areas of engagement. Building on the details that emerged in each governance area, this section provides a consolidated macro-perspective on the challenges within multilateral engagements and implementation. As a prelude to an overarching perspective, the following table provides a summary of the challenges arising from more detailed engagements in the core governance areas. Each challenge is in the analysis area in which it mostly resides in order to facilitate an integrated analytical approach. The summary serves as a reminder of the core challenges that were extracted in each of the areas of focus (accountability, rule of law and state capacity). These are further categorised in accordance with their relevance at the level of multilateral engagements or at the level of multilateral implementation. The approach is consistent with the overall methodological orientation articulated (*supra* 1.2) and the broader framework for analysis captured in Figure 2 and Table 3. A more detailed consolidation of the core challenges follows on from the summary table. Rather than repeat the details contained in the analysis that unfolded in the core chapters (3,4 and 5) the approach has been towards providing a structures summation. Where necessary for clarity, the evidence is restated, referenced to appropriate sections or elaborated upon in supportive footnotes.

Table 22: Summary of Core Efficacy Challenges

Areas of Focus	Core Efficacy Challenges	
	Multilateral Engagements	**Multilateral Implementation**
Accountability	• Norm and Instrument Contradictions • Limited Value Engagements • Over-influence of technical partners	• Skewed Agency of Officials • Revenue Benefiting Performance
The rule of law	• Premature Separation of Roles • Subsidiarity Confusion	• Norm Confusion and Diplomatic Incapacity • The rule of law Neglect
State Capacity	• Norm and Standards Proliferation • Lack of Peer Engagement Diffusion	• The politicisation of Technical Capacity • One Size fits all Orientation

Source: Extracted from the analysis in Chapters Three, Four and Five.

It is imperative to appreciate that in multilateral practice, there is a close connection between engagements and institutional implementation (Barnett et al., 1999). While International Relations realists (Matlosa, 2008; Khadiagala et al., 2016; Lopes, 2016) may well emphasise power and sovereignty exercised by Member States on the overall efficacy of the AU system, the analysis in each area demonstrated that the manner in which this unfolds is contingent on institutional processes and practices. In the same vein, more idealistic perspectives (Murithi, 2017) emphasise the agency associated with normative instruments, while the analysis demonstrates that what emerges and is acted upon is contingent on institutional processes as it relates to implementation (*supra* 3.3,4.3 and 5.3). In summary, the history of what has unfolded, and related institutional processes and practices matter and are central to understanding the efficacy of AU interventions in governance.

6.1.1 Multilateral Engagements

The approach towards multilateral engagements has been to focus attention on the exercise of agency within AU institutional processes both at the level of norm formation and at the level of engagements, as they relate to implementation interactions with Member States. It is crucial to recollect that the research approach has been to analyse through an institutional lens (*supra* 1.2.2) rather than from a traditional realist or idealistic perspective on the exercise of power, sovereignty and agency. As an institutional analysis embodies some elements of realism and idealism, the general orientation is at the level of institutional engagements rather than at the level of power and sovereignty outside of such interactions (*supra* 1.1.4). The element of

challenge outline below represents a summation of the core overarching multilateral engagement challenges that face the AU system in governance.

6.1.1.1 Competing Normative Framework

Norms, standard, values and related instruments in governance have unfolded incoherently and outside of any structured or coordinating AU framework (*supra* 2.1.4). Many instruments are championed within specific communities and through some level of norm entrepreneurship. One example of this is the introduction of the Transitional Justice instrument by a civil society organisation (*supra* 4.1.6). The instrument development terrain reflects, in part, a level of competitiveness between different policy communities. Stakeholders assert their normative perspectives on the agenda of the AU for a variety of reasons, including the possibility that such inclusion would create the foundations for resource mobilisation[225]. The substantive challenge with the different frameworks is that there are limited considerations of the capacity of AU multilateral institutions to engage in follow up activities and the reality of limited implementation resources.

In addition to norm proliferation at the level of the AU, several RECs have also initiated processes that include the development of instruments in a variety of governance areas. A range of normative instruments have been established in, for example, anti-corruption, elections and human rights (*supra* 2.3.1). The implication is that Member States must ensure compliance with something contradictory and overlapping instruments. Part of the overall norm proliferation challenge resides in the fact that there has never been substantive policy and implementation adjustment-oriented dialogue on a more coordinative approach with RECs as it relates to specific instruments[226]. Neither AU institutions, nor RECs have engaged in a detailed manner on the overlaps and harmonisation for substantive governance impact. The lack of harmonisation continues even though all of the institutions have an implied commitment to ensure more significant coordinative approaches to standards and norms, and their substantive implementations as part of the AGP (Wachira, 2014).

In addition to overlapping normative frameworks in governance between the AU and RECs,

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[225] This has been demonstrated in the instance of the Public Service and Local Governance. Without the activism of CSVR, it is also highly unlikely that the AU would have adopted the Transitional Justice Framework. As explained (*supra 4.1.6)*, ACDEG also arises from civil society activism beginning at the IEC conference and culminating in the entry into force of the instrument in 2011 (*supra* 3.1.5).

[226] There is no substantive evidence that the AGP or its clusters have engaged in any detail on overlapping instruments and the imperatives of a more coordinated approach with RECs.

there are substantive overlaps with UN-related frameworks. Overlaps are particularly evident in the area of human rights (*supra* 4.1.5) and anti-corruption (*supra* 5.1.4). UN processes benefit from substantive global support from more developed countries and able to command more direct forms of state-level involvement. Member States officials are often inclined to respond to UN processes much more readily than to comparable African processes[227]. The incentive structured for UN participation tends to be higher. Within the human rights and anti-corruption space, participation in UN initiatives also comes with direct financial aid. Norm competition does nothing more than pervert incentives for actual compliance-related participation amongst a range of African and global actors. While norm overlap and competition will continue to remain a reality for some time, there remains a fundamental need for some level of active engagement with how these limit progress in the governance fold across Africa.

6.1.1.2 Power and Sovereignty

Member States exercise some level of autonomy and sovereignty when it comes to the adoption, ratification and implementation of instruments (Lopes, 2016). How states exercise, sovereignty is often much more complicated than realist suggest. Member States do not express or demonstrate direct opposition to the adoption, ratification and implementation of instruments. While non-ratification implies a lack of commitment, the reality is that Member States and responsible officials may not always see the benefits that come with the ratification of instruments and sometimes are too busy doing their work to bother with processes as they relate to the AU (*supra* 3.3.1.2, 4.3.1.2 and 5.3.1.2).

There is a tendency of treating Member States as singular entities within which power is consolidated or exercised in a formalised and centralised manner. State systems are complex with power diffused in different parts of the systems, and individuals exercise authority in varied ways in organisations (Burchill et al., 2013:46). International Relations realist often do not engage authority diffusion at the level of a state and hence fail to appreciate that power exercise unfolds in a multifaceted manner. The failure to act is sometimes purely a matter of incompetence at the level of a Member State Department or Ministry. The need for active

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[227] There is more active participation of African countries on the UN Convention on Corruption than there is in the instance of the African Convention. Based on a detailed comparative analysis, one commentator goes as far as to suggest that 'State Parties to the AU Corruption Convention and all other nations who wish to fight corruption through international law must accede to the UNCAC. That is the best way of addressing issues involved in the cross continent corruption that is seriously affecting Africa's development today' (Snider & Kidane, 2007).

compliance and for ensuring appropriate follow up often gets lost between Ministries, different offices and individuals, and not because of the absence of substantive commitment. While there may well be arguments for political commitment to ensure follow up, the reality is that instruments often have a life beyond the period of office of individual Ministers. There hence needs to be some appreciation of the agency of officials as it impacts on implementation.

Recognition of power diffusion should, however, not detract from the fact that sometimes Member States would not ratify because they do not want to adhere to particular standards. Proving the lack of commitment is a little more complicated, and causality cannot just be presumed purely based on domestic political interests. Member States hardly ever articulated opposition to standards or instruments. The only substantive case in point is the SADC tribunal and its closure by Member States (Nathan, 2013). However, even in this instance, the approach may be a little more complicated and cannot merely be a blanket conclusion on all countries in the SADC region. A much more in-depth understanding of the exercise of power and authority within states can facilitate substantive implementation follow up from within the AU multilateral institutional systems. Very often 'state power and sovereignty' is used as an excuse for the lack of implementation[228]. The exercise of sovereignty may well not be the case, and most often, there is a lack of substantive follow up from within the AU system itself. Officials often do not engage Member State representatives as they should and sometimes there is over-reliance on formalised diplomatic channels, even when other channels for engagement exist.

Compliance reporting requires resources and time of officials. Assigning responsibility for different aspects of ratification and implementation at the level of states is often a multifaceted exercise (Kane, 2008). Governance instruments reporting requires cooperation across Department and Ministries. Documents get lost within a country, and ratification and implementation is not always a priority. Seldom is a budget set aside for such processes. In the instance of the APRM, countries often do not set aside the required budget for initiating the process. APRM is somewhat reliant on the country contribution for its follow-up work. It is often assumed that the country that is a subject of review would set aside a budget to establish the overall national coordinating structures (Gruzd, 2014a). A similar failure to budget also confronts countries as it relates to other governance instruments. One overarching reason for this is because officials at a multilateral level do not substantively consider the reporting burden

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[228] In articles published by an AUC official constant reference is made to the commitment of Member States. Matlosa (2014) comments that the fact 'that not all of the 54 AU member states have acceded to the APRM may be a demonstration of low commitment to democratic governance in Africa'.

that faces countries and the internalisation of instruments. The shift towards providing resources, such as model laws, do not assist the process in developmental ways, as these tend to add a further work burden to what has already unfolded.

6.1.1.3 Commitment to Implementation

The general commitment to governance compliance has arisen due to multiple factors in the global environment and because of internal pressures and realities (Adejumobi et al., 2009). The lack of direct actions on specific instruments or related willingness to report and engage with AU processes cannot inherently be presumed to be because of a lack of commitment to governance. There is nothing in the evidence to suggest that Member States are engaged with, coherently. There are also no substantive implications for not reporting or engaging in detailed implementation processes. Officials may well participate in meetings called by AU institutions on specific instruments, but officials attending would be those who are available and not necessarily those who carry implementation or follow up responsibility. This reality raises fundamental challenges around AU protocols for communication and the reality that meetings are often attended by officials from the Ministries responsible for foreign engagements and not necessarily those from line Departments that are responsible for implementation[229].

Multiple processes and different instruments often render it difficult for implementation and compliance follow up to take place. Even in situations where states ratify instruments and indicate their focal contact points, changes at the state level make it very difficult to establish appropriate and substantive follow up engagements (Kane, 2008). Direct forms of implementation are difficult, especially when states actors face multiple instruments and standards[230]. Capacity variations and resource availability amongst Member State render it hard to devote attention to responding to multilateral information request or for the generation of specific reports on multilateral instruments. Sometimes Member States would respond based on local pressures for reporting and hence broader accountability. Where there is a robust local community on a particular instrument, this serves to create a momentum around the instruments and hence pushes state actors to respond (Ekhator, 2015). However, states often lapse into ignoring obligations where there is no substantive follow up on issues.

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[229] This is reflected in numerous attendance lists of meetings arranged by AU governance implementation institutions. In numerous cases, expert meetings on topics would be attended by officials based at embassies even though funding would have allowed for travel by experts located within a Member State.

[230] Member States have, for example, largely ignored the requests for reports to be provided on the implementation of ACDEG (*supra* 3.1.5 and 3.2.1)

6.1.1.4 Implementation Realities within Member States

The most substantive issue for African governance norms and standards is both their importance for integration and the value they bring to Member States. The significance for regional integration is rooted in the idea of commonality and hence shared values. The realities at a more grounded state level are that governments often have to contend with varied local contexts as they relate to accountability, the rule of law and state-building, in a way that is accommodative of local political, social and economic challenges (Levy, 2014). Compliance with regional, continental and global standards may well provide a vehicle for effecting change. However, such norm and standard relating templates may well not accord to problem-driven approaches to challenges faced at a national level (Andrews, 2010).

While countries might commit to instruments, integrating such commitment into existing modalities might not always be easy. There has been a global shift away from a standard approach towards one of engaging in practices that are good enough under given circumstances (Andrews, 2013). While idealised frameworks serve as points of aspiration, these may not be feasible in particular contexts. As an illustration, while all states may well want to promote the establishment of local municipalities, the historical realities and resourcing requirements may not render such actions possible at a point in time (Grindle, 2004). In the instance of public service, states may well want to establish specific modalities for appointment and procurement, but grounded realities suggest that under existing conditions, compliance with particulate standards might not be possible. A more peer engaged approach would encourage appreciative discussions around what is possible and feasible (Achieng, 2014). Naturally, such engagements should unfold on the basis of approved standards as benchmarks for Member States, but not as a compliance framework, as is assumed within existing legal instruments. Realities in Member States serve to push away from a top-down model on governance standards, towards a more bottom-up approach to integration and value establishment (Grindle, 2007). Finding an appropriate balance is crucial for the future and hence, forces reflection on a different approach to governance within the regional integration imperatives.

6.1.2 Multilateral Implementation

The approach towards multilateral implementation has been to focus attention on how officials and other stakeholders within AU institutional implementation processes exercise agency. The analysis in each governance areas has been to engage in detail on how implementation work unfolds in order to appreciate the choices made on what gets done. The approach seeks to build

a deeper understanding of the driving organisational culture, financial approaches, human resource, capacity realities and related bureaucratic strategies from an open, engaged perspective. Drawing on what has unfolded, the following core implementations challenges are identifiable.

6.1.2.1 Leadership Complexities

The oversight and administrative leadership exercised within the African multilateral institutional governance space is a complicated matter with a variety of challenges. At the apex, the spread of AU governance instruments has resulted in the establishment of a variety of structures that require the election of individuals to occupy senior-level oversight roles (*supra* Table 9). As AU Heads of State and Government elect the personalities into such positions, these individuals tend to view themselves as having higher levels of authority and status in the manner of their treated and how their time is valued (AUC, 2018a). There have been ongoing engagements within the AU on the compensation of elected officials and the authority exercised. The remuneration of these persons is expensive and a challenging process. The levels of remuneration for time varies across institutions. Generally, the time of these individuals is treated as a matter of voluntary contribution, while all expenses are covered.

The relationship between elected individuals and appointed officials at the apex of the institution often embodies high levels of operational tensions. Open conflict has arisen in several institutions, and there have been various cases where elected officials have resigned or complained about the power and managerial ethics of appointed officials. Conflictual relationships have been evident in the APRM, the Banjul Commission and the AUABC. Having two levels of political control over institutions and having to balance these with lines of administrative accountability have created challenges. Officials who face pressures to act in a particular way by elected officials would use alternative administrative accountability channels to protect themselves. There is evidence of this in the case of the AUABC and the Banjul Commission. Officials at the level of the APRM have also attempted to use such channels to protect themselves in the face of the authority or demands from elected individuals[231].

At the level of administrative leadership, the appointment process in the AU often creates a

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[231] Details on some of this is contained in the Internal Audit Reports On Performance Audit and Recruitment Audit of AU Organs (ACHPR, AU Court, AU ABAC and NPCA) (AUC, 2018a).

level of added complexity[232]. Appointments take a long time and subject to substantively active lobbying by Member States. While advertising of personnel positions is open and transparent, actual appointments can be complicated and often involves direct lobbying by Member States, with the added complexities of quota-based appointments and the current push for gender representation. Officials are often able to play the system and seek protection from their own and the other Member States when faced with performance concerns. AU bureaucrats have a strong incentive to actively lobby their Member States to protect their preferences within implementation structures (*supra* 3.4.3. and 5.4.2). Ambassadors at the level of AU would engage in direct communication with senior elected individuals and others to secure the position of officials from their countries and put pressure on the system as it relates to the accountability of individuals. There has also been a growing tendency to accord specific designations to appointed officials within AU structures to facilitate a higher level of authority[233]. Some officials who are accorded a status of Ambassador by their own countries would function as thou they occupy a higher status than being ordinary accountable functionaries within a multilateral institution.

6.1.2.2 Bureaucratic Dysfunctions

The bureaucratic system of the AU is dysfunctional for a variety of reasons. At the centre of which is that the modalities of accountability for performance are weak and driven much more by activities and not by outputs or outcomes as they relate to the core mandate of the institution. Planning is activity driven and mainly on the back of resources provided by DP (*supra* 2.3.3.2 and 3.4.5). Substantive work is performed by consultants or seconded officials and not really by those who occupy the formal positions as per the approved structures of the organisation.

Performance accountability is generally predicated on the organisation of events and related participation and not through active value-adding engagement on substantive issues. In the instance of the many governance events arranged, AU bureaucrats spend much of their time on logistical arrangement and communication with invitees (*supra* 3.4.4). At most, they might

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[232] This was also highlighted in the Internal Audit report, which in the instance of one of the structures provided that '(t)he Governance of the recruitment process was weakened in that the body setting the recruitment policy (oversight role) was actually also executing the policy (management role). Hence the checks and balances were compromised' (AUC, 2018) .

[233] Some junior officials would be given recognition as Ambassadors in their own country and carry this within the AU institutional system although such designation has no formal meaning to their positions as AU officers. See for example the designation of the Senior Human Rights Expert within the DPA as publicized on the AU website (AUC, 2015d).

produce concept notes and programme and draft internal reports on events. In general, there is competition amongst officials on the attendance of events and not on substantive issues relating to the delivery of mandates[234]. The recruitment process of the AU does not facilitate the appointment of the best and brightest. Consultants are unable to challenge the system for fear of contracts non-renewal. Contract renewal of seconded officials is dependent on permanent officials who must make such request. The system breeds relationships of reciprocity and hence discourages performance that challenges existing dysfunctionality[235].

The consequence of internal patronage modalities and the link with external parties such as the Ambassadors in the PRC tends to drive the overall orientation. Ambassadors and officials in embassies have a direct interest in internal modalities and the events that are organised by AU bureaucrats in the governance space. Events provide them with the opportunities for travel and often used to supplement the salaries embassy officials receive. The system is dysfunctional with perverted incentives for what gets done and who participate within processes. Officials build relationships with external parties to enhance their perspectives internally and hence to shape and influence decision processes (*supra* 3.4.3) They would go as far as to lobby partners and others to shape choices around internal operational decisions. Partners would also seek to affirm relationships and access by promoting the perspectives of their internal contacts. Coupled with this, AU institutions must contend with language and cultural differences among employees and patronage-based engagements from individual coming from endemically corrupt countries. Several authors have highlighted how official can pursue self-interest in multilateral institutions. As Lindoso and Nina (2016:12) note that 'rather than designing the most appropriate and efficient rules and procedures to accomplish their missions, bureaucracies often tailor their missions to fit the existing, well-known and comfortable rulebook.'

6.1.2.3 Performance Culture

The performance culture of AU implementation institutions is difficult to describe outside of the reality the outputs and focus of officials. Actual delivery suggests a propensity to focus on those elements within which official derive additional substantive revenue (*supra* 3.4.4). The focus hence tends to be on the arrangement of events, which embody little substance work and within which content may be contracted out by way of inputs into the conference process.

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[234] This reality is evident in the numerous events arranged, the list of attendees and the work that unfolds on such events. The issue has been highlighter across the analysis in all three areas of governance intervention.

[235] These matters have also been highlighted in the outcome of the investigation of allegations of harassment against women and other institutional malpractices in the African Union Commission (AUC, 2018e).

Rather than focus directly on the Member State relevant work as it relates to established instruments, AU bureaucrats would concentrate on arranging topical events which seem relevant for their mandate[236]. There is, however, little to suggest that these add substantive value to outputs relevant to the implementation dimension of the established mandates.

The performance approach may well not just be driven by immediate incentives, but also by the history of what gets done and the culture of institutions. Official embrace traditional modalities to justify specific performance orientations. They would justify having specific events a part of the tradition of actively building a people-driven AU and thereby implying that the events organised are part of an overall institutional process and hence justifiable. Included are the arrangement of many pre-summit events, ostensibly to facilitate the active participation of different groups, such as women and the youth. There is no real reflection on the value of the events for the implementation of core mandated outside of general arguments on the importance of specific constituencies. Numerous events are organised and supported by partners with little or no engagement with how these directly contribute to core mandate implementation (*supra* 3.1.7).

During many of these governance-related events, AU officials will take on an agency that goes beyond their role as public servants. They would often share the stage with political leaders at the local level as part of affirming their standing and without regards to the fact that they are, in all respects, public servants with the mandate to implement and not with the mandate to engage in broader political level articulation. Even while the dividing line is small in multilateral engagements, how officials exercise agency suggest that they sometimes take on a higher than expected political profile and somewhat celebrated for their leadership, beyond an appreciation that their role is to implement mandates and not to engage in contestation around what generally unfolds in the governance space. Officials are public servants and not political representatives. Even where they carry the title of Ambassador, as confirmed by their Member States, their agency and hence culture would be tied to implementation in accordance to their appointment and according to the rules of conduct that govern their work as public servants,

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[236] A good example of this is the Youth Engagement Strategy (YES) established by the AGA Secretariat in DPA, which, whilst justified in documents as part of AU outreach tends to shift away from the core mandate of AGA to coordinate governance interventions and secure substantive impact.

rather than as political representatives [237].

Real work in the systems is often pushed down to consultants or outwards to partner institutions. The general practice for partner-related events is for such collaborators to produce what the event requires with little direct inputs on the programme and substantive content by AU bureaucrats. The benefits to AU officials is that they get to attend an event, usually away from Addis Ababa or other headquartered locations, with no direct costs or effort on their part or the part of AU institutions. The systems seem to function to the benefit of AU officials as they do not have to account outside of affirming that the partners are working with them and hence facilitating the release of resources from DP (*supra* 4.2.3).

Partner interactions generally serve to reinforce activity focused performance culture of AU implementation institutions. Very often TPs are reliant on relationships with AU officials to sustain their funding sources. By the mere fact that they need AUC sign-off on further resource mobilisation, they tend to agree with what is required by the AU bureaucrats, which may include shaping their work by the personal needs of officials. TP would hardly ever pose a challenge and generally would often have a different agenda to that of the AU institutions. Partners would push their agenda and engage in a way that promotes their outputs, often despite the core mandate implementation elements that should be the focus of AU governance implementation institutions. Competitions among TP would often overwhelm the system[238]. They compete to secure the attention of AU bureaucrats for their event, which may include using the AU logo to promote and legitimate their event[239]. AU implementation bureaucrats would sometimes also use the opportunities within the system to promote the interest of their own countries. An event may be organised with AU resources to promote local politicians or to affirm their standing within local political spaces. Events can and are arranged for political affirmation reasons in places that would otherwise not be suitable.

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[237] In face of numerous ethical challenges as it relates to the performance of officials, the AUC has gone as far as to establish an Ethic Office with the goal of cultivating ' an enduring respect for and adherence to ethical principles and standards derived from the African Union values in order to enhance the protection of staff and the integrity of the Union as well as promote good governance. To ensure the efficiency and effectiveness of the organization in the delivery of its mandate through awareness, understanding and compliance with the African Union ethical values and principles; regulations, rules and procedures' (AUC, 2019a).

[238] See for example, the workshop related to the implementation of ACDEG held in Kigali , Rwanda in October 2018 (DPA, 2018). The workshop was largely arranged and funded by Oxfam Ghana from resources mobilised from DP.

[239] The list of events arranged by IDEA (Table 16) provides an illustration of this reality. Resources are mobilised on the bases of AU legitimacy and possible impact, with minimal direct formal agency by the DPA or any other entity within formal AU implementation.

6.1.2.4 Staffing and Capacity

A substantive reality for the overall AU system is that the lack of personnel needed for implementation of mandates is acute. Institutions do not have the required number of people to implement what is required (as example *supra* 3.2.2.2). A situation that is driven to ever more desperate levels by the fact that those who are in position are often not the best and brightest and do not have to perform in substantive ways to demonstrate delivery. Actual personnel numbers and performance do not match the reality of mandates, and plans overstretch what is possible with available resources[240].

As part of the contracting out of real work and internal institutional modalities, substantive work is often contracted out or pushed down to young and energetic, but inexperienced, interns and consultants appointed through donor funds and related secondment arrangements. The use of interns and consultants is a reality across all areas of intervention and all AU governance intervention institutions. The real work of drafting reports and substantive work is often contracted out to consultants or to an individual who is seconded to institutions and hence who have no options but produce what is required. Young, energetic consultants are driven to be compliant with requirements, as often the position they occupy represents their first formal employment opportunity and hence would work actively towards pleasing their supervisors to ensure contracts renewal. They do not challenge work modalities and the reality of how things function out of fear of job or contract loss. There are hence no real internal engagements on choices made and how work gets done. The most capable of individuals often leave in frustration and by recognising that AU mediocracy might not be suitable for their overall development. The consequence of the culture and related turnover is that the AU continues to attract the wrong people, thereby deepening a culture of non-performance and hence, weaknesses in the institutions[241].

There is no firmly articulated approach to institution development in the AU and the balances

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[240] There are numerous instances of Assembly decisions on enhancing capacity in institutions which are not implemented because of a lack of resources.

[241] This was highlighted in the outcome of the Investigation of allegations of harassment against women and other institutional malpractices in the African Union Commission, which provides that 'human resources malpractices and irregularities, including backlog in staff recruitment, seconded staff disadvantaged, management of youth volunteers and interns, lack of consistency in the implementation of rules relating to acting appointments, continued extension of contracts of retirees whereas this should be done in a limited way, challenges in the shortlisting processes, instances of gender discrimination in recruitment, challenges in career development, promotion, transfers and field deployment' (AUC, 2018e)

needed to ensure that pronouncements around future possibilities are based on an anticipation of the implication and detailed resource planning. Decisions are made on improving funding and staffing levels but are never fully implemented as they unfold outside of the consideration of actual budget availability. The AU Assembly would sometimes decide on improving capacity and budgets as per recommendations, with officials fully aware that such decisions are not implementable as real resources are constrained. Over the analysis period, the AU has been substantively reliant on DP resources for programmatic activities (Engel, 2015). While there is not much to suggest that the donors control the substantive mandate, the reality of practice indicates that they tend to exercise control over which activities are funded and which are not.

The detailed leverage exercised by DP officials often serves to create perverse performance incentives. Even where resources are earmarked for real substantive follow up work on core mandates, unless linked to resources associated with events, these are not actively pursued. The primary incentives are for work related to events and not on the production of substantive reports or related engagements that would facilitate implementation. Consultants are used for closing operational gaps, rather than to engage in substantive work. Many of the individuals would be driven to focus on events outside of substantive engagement on work (*supra* 3.3.2.2, 4.3.2.2 and 5.3.2.2).

6.2 Efficacy of Interventions

As illustrated in the overall analysis of multilateral engagements and implementation, AU governance interventions are shaped by a combination of norm proliferation, budget and human resource availability, bureaucratic preference and the efforts of external partners. The mode of engagement is often not articulated systematically, as has been outlined in this research. Nonetheless, the framework used to outline the different interventions facilitated more profound reflections on practices and how these unfold within the AU system. The analysis provided a basis for engaging with the efficacy of interventions within the different areas of engagement. Drawing on the detailed that unfolded over each of the focus areas, the following provides a consolidated perspective of the efficacy of each mode of engagement.

6.2.1 Compliance and Sanctions

The reality within the AU systems is that the current integration trajectory, as embodied in the idea of Member State compliance to shared norms within instruments seems to be a very

unlikely aspiration. Country-level diversity makes it difficult even to generate and submit the most basic of reports on the level of compliance with specific instruments[242]. While the AU has been able to extract some level of governance compliance, this has mostly been in the overall area of constitutional changes in government (Moolakkattu, 2010; Williams, 2014; Sithole, 2018). At a more detailed level of governance instruments, this has become impossible. Member States cannot ensure systematic compliance, nor can they respond to the reporting requirements of instruments, as has been established.

Although the adoption of normative governance frameworks is celebrated, the substantive value for countries struggling with governance issue is not apparent. While civil society formations may well want to use the frameworks to drive governance change and hold Member States accountable, the overall system does not make it possible (Masterson, 2006; WITS School of Governance, 2017; MSWG, 2018). Even where there is a lack of compliance, the AU is not able to fully implement any form of direct sanction, outside of suspending membership for a brief period (Cilliers & Sturman, 2002b). Sanctions generally only unfold in case of unconstitutional government changes, and even here, the issue has proven to be complicated. Many Member States already face sanctions because of delays in paying their subscriptions. The AU has had a flexible approach in this respects, and members often continue to participate despite having not paid their dues (Magliveras, 2011).

In the space where compliance forcing and sanctions have little effect, it does not make much sense to pursue the implementation of related instruments. The type of capacity required to do a detailed analysis of reports does not exist, even if done within the established AGP structure. Analysis of reports to assess levels of compliance embodies substantive analytical and research work on the part of officials. The organisation does not have analysts and is unlikely to have the required resources to do additional substantive work in the short and medium-term. The terrain that appears to work in a better way and is reasonably resources is the APRM (Grimm et al., 2009).

While the AU sanctions model seems to be inspired by the frameworks established within the EU, African, on the ground realities, preclude the possibility of having the ability to do the same and engage in the required detailed work that is undertaken by EC officials. It will take the AU long to develop the capacity needed for doing on the ground type analysis that EU

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[242] See as examples to low levels of reporting on ACDEG (*supra* 3.1.5), the African Charter (*supra* 4.1.2) and the Anti-Corruption Convention (**supra** 5.1.4).

officials do when it comes to ensuring compliance with EU standards for integration and harmonisation purposes. Even the EC, with its long history and capacity, appears to struggle with the issue of compliance within the governance space (Börzel & Risse, 2009; Emmert et al., 2016). The movement to compliance is possible, but will take time and may require a graduation model for member states that arises from peer engagements, rather than from formal compliance-oriented instruments. For such to be possible, the standards and norms are needed, but should not be perceived in instrumental terms and hence outside of peer support and capacity orientation towards graduations. It is well possible for countries to graduate from one level of compliance towards another.

A stronger PAP and Court may serve to achieve compliance over the longer term. However, for these to become meaningful for the African integration process, it will take a longer time of maturation. PAP and the Courts may well want to begin focusing their attention on the harmonisation of legislation within the AU system, hence creating the foundations that they would be the ultimate custodians of laws and legality. A process that would place them in a position to repeal all current instruments and gradually establish new instruments as compliance to standard's unfold on an area by areas basis. The current separation of power reality in the overall AU system does not exist, and hence, PAP does not function as a traditional parliament within Member States. Nor does the African Court function as the channel of last resort for Africans. Pretending that these have authority as part of future aspiration (see *supra* 4.4.1) does not bode well for existing practices.

6.2.2 Peer Review and Diplomacy

The APRM stands as an anomaly to the overall AU architecture of norms and standards, as it is not predicated on securing formal legal compliance of Member States as is the case with all other governance instruments. However, the self-review APRM Questionnaire, does, in many respects, embody norms and standards. Countries reviewed are also required to report on the levels of compliance with African and global instruments (Grimm et al., 2009). Outside of the APRM process, many of the existing AU governance instruments, suggest that the reporting modalities are orientated towards peer engagements within the 'interest' community of the specific instruments. In other words, there is an expectation that reports submitted by Member States will be engaged upon by state actors within the space, be it in local government, anti-corruption, human rights, democracy or public administration. Having these unfold outside of an overall peer-review process does not make substantive institutional logic beyond the fact

that APRM is a very centralised process by design as it only involves Heads of State and Government as peers.

A diffused orientation towards peer engagement would make more substantive sense. However, the peer review process, as established by the APRM, is exclusionary and does not lead to fundamental and more in-depth forms of peer engagement across and within Member States. While the involvement of Heads of State and Government in discussions on the peer reports is praiseworthy, most analysis of the actual event, reveals that the level of discourse tends to be low and generally Heads of State tend to complement each other despite the findings of the APRM Panel. A more diffused orientation, such as in the OECD (Pagani, 2002), with broader cross-country peer engagements within specific communities, is likely to be more appropriate. The current APRM Questionnaire framework does not facilitate such dialogue, and generally, APRM Secretariat officials seem to want to sustain a system that is exclusionary and puts them in a commanding position when it comes to the content of the reports and engagements thereon.

It is rather difficult to engage the substantive value of diplomatic country-level engagements by special envoys and representative of the AU. While registering some governance successes and conflict avoidance from well supported high-level engagements, the overall picture of direct engagements, especially in the forms of diplomats stationed in a country, suggests that positive movement is not achieved, as finding appropriate governance solutions within complex political negotiations is difficult (*supra* 3.2.2). It is mostly where there are concentrated negotiations, driven by a mediation approach of the DPS, that success is registered. It is expensive for the AU to be stationed in a country or to send fact-finding teams who generate reports that do not add substantive value to what is possible. An example of a valueless process is the pre-election missions sent to countries (*supra* 3.1.3). These missions generally derive information that is freely available on the media. The challenge is having the ability to mediate and propose strategies out of crises. Success in this instance has generally been from shorter engagements from either senior elected official from within the systems or high level diplomatic in the forms of former Heads of State or other notables, as in the case of Kenya, by Kofi Annan. With higher flows of information across the globe, it is rather hard to appreciate the need for longer-term missions in countries, as is the case for election observation initiatives. The terrain of negotiations and peacebuilding is nevertheless complex and subject to wide-ranging perspectives on AU successes and failures (Williams, 2014; Khadiagala, 2015; Van Wyk, 2016; Murithi, 2017). From the perspective of this overall assessment of efficacy,

shorter and well supported diplomatic engagements make much more sense for a poorly resourced institutional system.

6.2.3 Information and Knowledge Exchange

While numerous publications are produced that carry the AU logo in the governance space, the value of these for substantive Member States engagements and governance improvements is not apparent or a given. While all forms of knowledge production may be deemed valuable in themselves, the substantive danger for the AU system is that knowledge products that carry the AU logo, unless expressly stated, give the impression of being official AU policy. The propensity in the AU systems seems to be one where TP and others within a policy community would use the AU logo to establish greater legitimacy for their outputs. Many of the documents produced do not often reflect real AU positions and sometimes contradict formal policy orientations of the organisation (*supra* 3.2.3, 4.2.3 and 5.2.3). Publications unfold outside of formal approval processes within the AU but carry the AU logo and seemingly embody some affirmation of the content. In general, publications produced embody generic discourse and portray the AU as a thinking institution, akin to a research organisation, rather than as a substantive mandate driven organisation.

For AUC to produce publications of a reflective nature may not be unusual relative to other multilateral bodies, such the UN, however, the substantive issue has to be on whether the publications are of benefit to Member States and whether they are a product of Member States interactions. To appreciate value–drive knowledge exchange initiatives and outputs, AU implementation institution in governance should look at the example of the OECD or to technically focused multilateral initiatives such as CABRI which produces sound comparative studies with the active participation of officials. Such publications serve as peer review documents and often arise from a long process of research with officials at the national level and therefore able to secure higher levels of local ownership for the produced outputs (Porter et al., 2007; CABRI, 2008).

Knowledge products are often not seen as a progressive information exchange strategy, but much more as an event output strategy. Part of the challenge within the overall systems is the failure to think through the different modalities of intervention and how these might be used to influence actions within Member States. The knowledge production ability of the AU institutions has generally been weak as they cannot produce outputs linked to their core mandate. Knowledge products may be very valuable within the AU system, but there is no real

reflection. Partners generate knowledge products for very different purposes. This approach is especially so in the case of IDEA, where knowledge products and exchange events have always been central to the organisation's strategic orientation. A key challenge for knowledge products generated by partners is that they do not link adequately to policy processes. AU diplomats are not well placed to engage with governance knowledge products, and those within Member States remain far removed from the products unless they actively search for these when engaging in policy processes. While inviting some expert officials to information events, the connection is generally more informal and does not build obligations into the future as it relates to the knowledge products produced. Although knowledge sharing and diffusion is complex, the example for the OECD point to a direction on how these should be thought of into the future (Porter et al., 2007). In current form, the governance knowledge products produced are substantively irrelevant to implementation and only of benefits to a few actors who engage in the space either as consultants or as researchers and academics.

6.2.4 Capacity Building and Technical Support

The need for capacity building for the implementation of common standards and norms in Member States may well exist to support officials in countries who are not familiar with the instruments and actions that would be needed. However, core AU governance implementation institutions are not geared for such initiatives. Even when these unfold through partnership arrangements, they represent a substantive distracting from core mandates. At most, the AU can engage in training to capacity building for its officials[243] or that which involves individually directly involved in implementing its mandate, as in the case of those engaged in elections observation or those involved in peer engagement exercises.

For the AU to train people in Member States and to engage in technical support, when it is struggling with fundamental implementation issues does not seem to make much sense. Even when AU institutions position themselves as channels for technical support, the initiative makes little sense as the AU is not well-positioned to decide on the capacity needed and placement in a Member State. Neither does it have the capacity to supervise such an exercise[244]. While such approaches may well be relevant in the long–run when necessary capacity exists

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[243] The AU has established its own Training Institute for such purposes. While the institution does some training of Member State officials, its primary mandate and focus is on AU officials (*supra* 5.2.4).

[244] This has been the case in support to Electoral Management Bodies and generally has been an area of difficulty for the DPA to deliver on. This was affirmed in the Report of the Commission On Governance in Africa (With Focus on the African Governance Architecture and Elections) (AU, 2015b)

and where there has been an upward shift in standard compliance, there is little to suggest that the AU is capable of adding any value in the terrain in the current and foreseeable future. Capacity initiatives are best left to ACBF, amongst others, to perform with little or no direct involvement from AU officials. Where AU bureaucrats are involved, the chances are that officials would shape interventions is in a way that facilitates added travel opportunities, rather than as substantive value-adding activity. To assist the process, the AU could well make available peer reports and governance standards to help ACBF and others ensure that capacity building initiative links to regional integration imperatives. Civil society formation and TP are much better positioned, at this stage, to engage in capacity initiatives at the level of Member States. The imperative of not engaging the AU in such capacity building activities needs to be appreciated by DP as pushing the organisation in this direction serves to shift focus away from core mandates. Capacity-building should be articulated as a local imperative, while knowledge exchange is a more regional and continental imperative.

In general, capacity development initiatives have emerged on an ad-hoc basis and mostly because DP funding was available. Even in the instance of the AULA, the courses offered to Member States, beyond those that relate to direct multilateralism, stand as anomalies in the overall capacity building terrain. Aside from other regional capacity-building organisations, such as the ACBF, AMDIN and CAFRAD, most Member States have their internal processes and institutions for capacity building (*supra* 5.2.4). At most, AU institution can work with these to broadening their offering to include AU priority implementation issues. Attempting to replicate and compete with existing formations because of DP funding flows, is a distraction and does not accord to the expressed desire to enhance the efficacy of AU multilateralism in governance.

6.3 Conclusion

The governance trajectory at the level of the AU multilateralism remains somewhat uncertain. The system may well continue to function in the current manner, with deep confusion around the substantive value and a continuous movement on activities outside of substantive impact. Alternatively, the AU reform process may well give rise to decisive actions on the part of AU decision structures and may force a movement outside of current incapacity. Even if there is a shift at the policy level, the chances are that the move will be slow and that there would be substantive resistance to full and more effective coordinated approaches. Part of what may well drive the AU system to retain current modes would be the availability of resources. If

substantive resources begin to flow from the new AU financing modalities, the incentives to change may be limited as the AU would then be able to afford its deficiencies and hence continue to churn on in all fronts despite efficacy considerations.

Part of the challenge for the future is also how partners engage the terrain. The desire to spend and mobilise money in the name of the AU may well continue to drive forward norm proliferations and hence different institutional modalities for delivery. Partners tend to benefit in situations where they can pursue goals with competing AU implementation institutions. In such a context, they will work with the amenable and ignore the ones who are asserting their agenda. The approach has been the case in election observations in the past, as illustrated by different observation groups from within the AU and may well continue to be the case in the future. One of the fundamental reasons for a 'more of the same approach' in the AU is the absence of a consolidated framework that serves to provide a base for shaping a more realistic future. The detailed and macro analysis of AU governance intervention is driven by a realisation that this study would be incomplete without a normative articulation of what the research means for the future. This is a matter that is engaged directly in the final chapter of this thesis.

Chapter 7:   The Future of AU Multilateralism in Governance

Drawing from the analysis and the overall theoretical pronouncements on governance intervention, a set of crucial future-orientated conclusions for AU multilateralism in governance are derived. In line with the stated research purpose of providing a theory-based framework for shaping choices on multilateral governance interventions (*supra* 1.0.3.2), a normative governance graduating framework for AU multilateralism, together with a conceptual model to assess the value-add of different modes of intervention, within a more realistic integration staging approach, is put forward. The research journey and analysis have the inevitable consequence of exposing knowledge gaps for future exploration. This Chapter hence concludes with some perspective on new and deeper terrains of research engagement in AU multilateralism.

7.0 Introduction

The discussion on the macro challenges with AU multilateral intervention on governance served to provide a broad summary of institutional and implementation difficulty. Together with the substantive and detailed analysis in the three core governance areas, it provided a basis for a complete and in-depth analysis of what unfolds within AU institutions tasked with implementation responsibilities. The evidence-driven research analysis served to uncover the 'institutional;' process that unfolds within a specific terrain of engagement. The analysis further served to confirm the overall research problem articulated, that AU multilateral institutional efforts in governance have floundered at the level of implementation and their substantive intervention worth do not accord with the integration and development aspirations embodied in adopted normative frameworks and instruments (*supra* 10.3.1).

The macro analysis also served to confirm the working hypotheses that there is some degree of causality or correlation between choices made around institutional implementation modalities, practices and approaches and multilateral governance intervention success or failure. The working hypothesis was established for the purpose of exploration. It further served as a basis to generate a working framework on the efficacy of different AU multilateral intervention in governance (*supra* 10.3.1). A core objective of the research is that it will also seek to provide a theory-based framework for shaping choices on multilateral governance interventions (*supra* 10.3.2). Central to the articulated research purpose was 'to provide analytical guidance on optimising AU multilateral practices to inform intervention decisions and for the appropriate

utilisation of resources for the implementation of governance frameworks and instruments for continental integration and development' (***supra*** 10.3.2) The framework, as put forward and as it emerges from the analysis serves to engage directly with the overall research question: What are the optimal AU multilateral governance interventions from an institutional perspective? (***supra*** 10.3.3). In keeping with the articulated purpose of the research, the section that follows is primarily directed at articulating the core future-oriented propositions that emerge from the research. This is followed by articulating the overall efficacy framework for the future.

7.1 Building the Efficacy of AU Interventions in Governance

Analysis often embodies an orientation towards substantive criticality and hence a level of pessimism in what has transpired in the AU governance intervention space. The reality is that many initiatives have unfolded and there is a shared values foundation for the future. However, as has been expressed by President Paul Kagame, the AU cannot continue as it has in the past, without adding substantive visible value for Member States (Kagame, 2017). Shifting towards high-value intervention requires that the reform process be based on systematic research, rather than on general anecdotes on what does not work. Based on the overall analysis, the following are specific propositions for enhanced efficacy in the governance terrain.

7.1.1 Intervention Realism

The growth in the number of instruments and the range of norms and standards, often in contradiction with each other, suggest a need for higher levels of implementation realism within the overall AU system. Norm coordination is precisely the reason AGA was affirmed and why Member States agreed to create the AGP (Wachira, 2014). Member States face a range of instruments that leaves many perplexed on how to respond. It also that it takes a very long time for instruments to be adopted, for ratification to unfold and for actual monitoring to be in place (AUC, 2009a). The current trajectory does not bode well for governance success as it would be difficult for the AU to have the required capacity to monitor compliance in the manner presumed within the instruments. A gradualist approach with a higher level of realism should push the institution away from the current trajectory of continuing down the path of impossibility.

Attempting to do everything and increase the range of instruments and interactions, gives rise to a situation where the AU system does a lot, is visible through conference and related events,

but does not achieve much and is not taken seriously by Member States and global partners. While specific stakeholders may well benefit from attending AU events and thereby appreciate some of the AU governance instruments, the actual local level impact of these initiatives is minimal. Even as civil society, stakeholders can influence resolutions; these are often meaningless to Member States and very often only serve to affirm external organisations agenda and funding strategies. While AGA and the AU reforms suggest a particulate trajectory towards consolidation and impact, the commitment to comply on the part of officials is minimal. There is no incentive for working towards a more consolidated governance approach. A more value-driven outcomes performance approach might well push all stakeholders in this direction, but AU bureaucrats are likely to hide behind the content of existing instruments and are unlikely to go back to decision structures to advise that the mandate does not make any sense and a strategically different orientation is required. Such a reform move requires substantive cooperation amongst the Administrative Heads of AGP institutions and a willingness to generate the required technical document that would facilitate decision on the part of Member States. Aside from individual lobbying by institutions, there is little to suggest that Member States would resist a more consolidated approach towards governance that falls within a peer-based graduating model for governance. Such a graduating model will serve to ensure that peer processes unfold based on a set of standards and hence would push Member States to a higher level of governance practice. To shift towards a more realistic model, require that there be substantive engagement with the burden that existing instruments and approaches place on Member States. In current forms, Member States are required to send delegations to numerous governance-related engagements and tend to have to push officials between different compliance requirements terrains.

7.1.2 Moving beyond Norm Proliferation

Norms diffusions arise because of the range of different interest that permeate the AU system. While the AUC and DPA may be well placed to ensure some level of coordination for the future, numerous instruments were adopted under its watch with little coordinative reflection on the institutional implications of such instruments and the varied interventions they embody. Existing normative frameworks were shaped and pushed by different policy communities, including different Ministers, with little or no attention to their implications for the AU system or any sense of coordination with RECs. Since a policy and expectation momentum in each of the policy communities exists, decisive administrative engagement and political level dialogue

would be needed to affirm an alternative and more consolidated approach. In the attempt to affirm a higher level of coordination and actions as it related to norms and instruments, the AU has affirmed the apex role of Ministers of Justice through the relevant STC. While this is positive as it facilitates a higher level of harmonisation and coordination, the AU Ministers of Justice may not have a grasp of institutional implementation realities and broader development and constraints within normative areas, such as in governance. Aside from looking at the consistency of the instrument provided, the Ministers of Justice have no basis to engage issue on the larger value-add and the substantive contradiction and challenges embedded in the different intervention terrains. While the process may assist with improving the quality of legal documents, there is little to suggest that it would serve to engage historical challenges and sector-specific concerns when engaging in developed and submitted instruments. Building efficacy requires engaging with the substantive reality within the terrain of focus and having a clear sense of value add in such a terrain.

7.1.3 Institutional Pragmatism

The diffusion of governance capacity over a range of AU institutional structures is not an efficient use of resources for a system that struggles to mobilise the required funding and within which there is general performance criticism. A much more pragmatic institutional approach, where people can move between different AU implementation institutions will be needed. The AU would need to act with speed and determination, or it would be impossible to move towards a more efficient framework. For example, the AUABC is promised new building in Arusha by Tanzania. While the government for Tanzania is acting within the framework of its commitment, having a new office, without having the required financial resources and human capacity, will not bode well for the future.

At present, the AU has governance-related structures across four countries (Tanzania, Ethiopia, Gambia and South Africa)[245] When considering the added governance interventions structures created by RECs and capacity within these institutions, the spread is not manageable and does not bode well for performance coherence. If some logic prevails and there is added reflection on impact, it may well be possible to find a way to consolidate all within the AU governance fold to create a new and higher-performing institution. Such a move would require substantive drive and efforts on the part of institutional leaders and a willingness to move beyond existing

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[245] Details on this reality are reflected in Table 9 and 10 which outlines the overall governance structures, the related secretariat and their physical location.

perverse incentives that drive separation and hence a non-willingness to sacrifice instruments that do not accord to the reality of what is possible. Limiting the instrument, however, should not mean sacrificing the norms and values that many struggled to establish. Actors involved in shaping specific instruments are often passionate about achievements and their buy-in into a new model should be fundamental for the way forward.

Building a capable high performing institution takes time and can be done on the back of efforts towards consolidating existing capacities. Currently (2019), all AU institutions are overwhelmed by the reality of what needs to be done and hence have little energy to reflect on alternative organisational modalities. It is highly unlikely that officials will engage in sensible discussions on moving beyond current incapacity, outside of a strong push at a political level. The AU reform process provides some hope for the future, but would still require a substantive authoritative push from a more technocratic centre that is prepared to mobilise officials towards substantive reflections on how a more integrated approach is to be fostered on the back of current diffusion, bureaucratic dysfunctionality and general fragmentation. Most will resist if they perceive consolidation creates the possibility of a cutting down of numbers of people. It is nonetheless highly unlikely that the number of bureaucrats needed will reduce. A consolidated governance mandate may well entail appointing more people, but in a manner that facilitates cost-effective approaches and that enhances overall impact at the level of the AU and hence within Member States. A pragmatic approach would also require much deeper engagements with RECs on role separations and terrains of possible overlap. It is not optimal for AU efficacy for RECs to have their governance instruments, such as Governance Charters or Anti-Corruption Conventions, or to duplicate what exists at the level of the AU. RECs might also be better placed to do elections observation and hence allow the AU to focus on other governance imperatives. This separation of roles is also often implied in existing instruments.

7.1.4 Diffusion of Peer Review Practices

Core to a different approach towards the future is the diffusion of peer review practices so that it cuts across all areas of governance and benefits from the participation of a broader range of peer policy and implementation communities. Peer approaches are generally built into existing governance instruments and hence not a substantive departure from what is already agreed. However, it does mean engaging with the current APRM Secretariats monopoly approach to peer review in governance across the continent. The APRM has affirmed itself as the sole custodian of peer review within the AU system. To facilitate a new, more consolidated

approach to governance, the APRM would need to move beyond its current centralised model and the implied definition of governance that shapes its work. A diffused approach should not be complicated if the APRM works with government representatives from Member States and not just with a small community of focal point members who are not aware of the larger imperative.

No matter the limitations of peer review in a context where compliance to standards are deemed essential, the approach and associated practices are fundamental for governance improvements predicated on an appreciation of local realities and constraints (Landsberg, 2012a). How the peer review process has emerged within the APRM do not stand outside of the articulation of norms and standards. While the peer practice is associated with appreciative engagements on the different realities of Member States, the designed APRM Questionnaire and the perspectives of APRM Panel member's points to the reality of normative assertions on governance within Member States. The challenge for a more diffused approach to peer engagements is to find a balance between normative perspectives on governance and the realities that each Member State faces. Such appreciative engagement is the essence of peer review and hence needs to be reaffirmed for the future.

7.1.5 Knowledge Products

There is a space for substantive knowledge products within the AU systems, and these can be valuable for driving change within Member States. Such knowledge products are, however, best established as part of a collective process. The AU is not a university or research institution and has a multilateral mandate. While research has a place within multilateralism, the reality is that it must be looked within multilateral engagement process and need to focus on shaping policies and practices at the local level. The OECD has established a variety of practices as it comes to generating its knowledge products, however, unlike the AU it does not have an intervention related mandate and hence can produce products that go beyond direct Member State interactions. OECD knowledge products, especially those generated as part of peer engagement exercises, have proven to be valuable for driving change at the local level (Pagani, 2002; Porter et al., 2007) and hence very possible for the AU to emulate the methodology and overall orientation to knowledge.

Rather than seek to churn out multiple documents that stakeholders do not engage with, AU multilateral institutional formations would be better of generating well-crafted documents that arise from peer-review engagements with the active participation of Member State

representatives. Such knowledge products are oriented towards comparative peer-analysis based on agreed standards or perspectives. These products serve to facilitate peer-level debates between Member States and drives forward a culture of improvement based on aspirations in the forms of standards and best practices. Comparative studies in focused areas that cut across all governance areas will serve to enhance actions at the level of Member States. Such studies are often based on data collected and collated by Member States themselves and with officials taking the lead in ensuring that these are crafted adequately and in accordance to the frameworks established by content experts within multilateral institutions. The experiences shared also serve to create an aspirational culture among official from different states. A movement towards more substantive documents and greater regulation around the use of AU logos on research documents would pave the way for more significant impact and more sound appreciation of the value of the AU as a multilateral organisation and not a research organisation. Although research may well be an element of what it does, such research is of an applied nature and meant to drive change rather than only contribute to academic discourse.

7.1.6 Accountability and Agency

A central strategic orientation for better governance impact and more appropriate actions amongst multilateral officials is creating a professional environment in which bureaucrats appreciate and understand the extent and limits of their agency. Officials who have little Member States experiences in line department, often do not appreciate that their agency is partial and that their voices are secondary to the overall authority exercised through established political processes (Moore, 2013). The analysis reveals that AU bureaucrats in the governance space often make pronouncements that go well beyond their mandate and often position themselves as political actors involved in the mobilisation of the youth and other actors to shape the AU agendas. The practice of exercising political agency suggests a level of naivety and lack of appreciation of multilateral democratic processes, no matter their limitations.

To be effective, AU bureaucrats need to have a much deeper appreciation of the separation of roles and that they are appointed to implement mandate and not to determine mandate, outside of Member State decision processes. While they might have some role in shaping policy and often do draft documents for decisions, such actions must unfold with deep circumspect and not in the manner that they stand as separate actors relative to representatives from Member States. This form of professionalism also implies that the officials need to stand separate to the policy process and hence avoid momentums, which creates a broader and more substantive

identity for themselves. Identity assertion includes the naïve practice of using titles and designations that go beyond their instrumental role within the AU system or making inputs that detract from core mandates. While AU official may be invited to conferences to express their views or may participate in general reflection, the area of representation must be such that officials do not develop an agency or identity beyond that of a professional public servant. AU officials are not politicians and hence need to avoid situations where it is perceived that they have such agency.

The propensity to engage in debates and express views on Member States commitments or governance issues is very problematic and often surprising that AU officials ignore their professional codes of conduct. Such codes are necessary and reinforced through training. However, the review suggests that that much more need to be done to attract the best and the brightest who have experience in Member States and not just officials who have limited experience within a democratic system or who are yet to appreciate the limits of their agency within multilateral institutions. The agency exercised must be in the context of mandates. When faced with such realities, weak officials would often defer responsibility to Member States and claim a lack of commitment. This study shows that this is substantively untrue and that failures to implement and make a difference often arises because of internal bureaucratic dysfunctional and poor leadership. While finances are a challenge, the overwhelming reality is that available resources are poorly utilised and often used to affirm bureaucratic position and to supplement salaries.

7.2 Efficacy Analysis Framework for the Future

The evidence collated on governance interventions points to the importance of having a framework to guide actions within the multilateral governance space. Such a framework would need to combine some reflection on consolidating standard's and norms within the governance space and hence on having some level of clustered coherence on focus areas. It would also need to be predicated on a system to guide choices around intervention that would be most reasonable, given the availability of resources and what would make the most significant difference. Naturally, the AU multilateral system is evolving, and the framework put forward, as derived from the conclusions of the study, needs to be appreciated in such a context.

7.2.1 Normative Governance Framework

The current proliferation of norms and standards in governance, coupled with those embedded

in the questions from the APRM process, makes it very difficult for Member States to engage openly on challenges faced. Member States of the AU are at various stages of governance development and confront different challenges as they attempt to establish systems and practices that accord with pressures towards compliance. Compliance with established governance instruments can be complicated and should not unfold in a manner that pushes countries on a trajectory of actions and practices over which they lack capacity, and which might not be relevant in context. A graduating framework that is rooted in the logic of peer engagements, as most instruments imply, would be more feasible in the current context. Such a framework would accommodate widely differencing realities of what is possible in a given context and will be in line with notions of good enough governance (Grindle, 2004) or working with the grain (Levy, 2014).

A graduating normative or shared values framework would not mean abandoning existing instruments but would imply less of a focus on compliance and much more on the practice of peer engagements. Civil society actors, amongst others, would actively resist the dilution of existing instruments, and many would argue that these gains must be sustained. Many would further argue that the instruments contain minimum standards and need to be applied consistently across countries (Masterson, 2006; Dinokopila, 2013; WITS School of Governance, 2017). The idea of a more graduating framework in governance is not a strategy to abandon the substantive normative standards but to affirm the process to achieve these across Member States. Such an approach hence requires recognising the imperatives of supporting Member States through active peer-related dialogue, rather than through a compliance shaming exercise. The reality of practice demonstrated that a compliance approach has limitation's, and, at best, existing instruments serve as aspirational frameworks for the future. In practice, this means moving beyond the pretence that reporting on an existing instrument would unfold as envisage in the short run and focusing on the peer review approach that has registered some level of success. However, even in the instance of the peer review process, as it exists within the APRM, the orientation would ideally be that Member States are engaged with openly as part of a strategy of building compliance to higher-level norms and standards over a period time. Such an approach requires appreciating the different stages of a country's development. In line with this orientation, the following table outlines a framework for thinking through norms, standards and hence, indicators that would be relevant at three levels: basic, mid- and high.

Table 23: Shared Values Graduation Framework

Area	Governance Norms and Standards		
	Basic	**Mid-Level**	**High Level**
Accountability	***Political Accountability***: Basic systems of multiparty elections are in place and elections unfold regularly.	***Social Accountability:*** Political institutions able to accommodate deeper forms of participation and ongoing inclusion of civil society.	***Economic Accountability:*** Deeper forms of accountability and inclusivity in wider economic space is achieved.
The rule of law	***Operational Security System:*** Independent security system in place and able to assert its authority within a specific geographical region.	***Functional Legal System***: There is a functional legal system and people able to access courts and there is adjudication over disputes.	***Substantive rule of law:*** There is substantive separation and system of rights respected with independent, impartial and capable legal system.
The State	***Basic State:*** Government institutions exist and able to function and deliver basic services to citizens.	***Functional State:*** Institutions of government are broadly functional, reports produced, and meetings held.	***Capable State***: Institutions of government able to deliver according to mandate with high levels of innovation.

The existing AU normative instruments in governance generally embody basic and higher-level standards that require Member State compliance. They exist as templates to be applied, despite local contexts and vastly different realities between Member States. Some Member States, such as Somalia are struggling with the essential elements of governance, whiles others such as Cape Verde can push the boundary and engage and act on higher-level governance issues. The current, either or, approach to instrument compliance does not accommodate the realities of diversity and graduation. The compliance orientation leads to substantive debates around countries being judged unfairly, given resource availability and the realities of what has unfolded in the past. A more graduating and appreciative approach, as outlined in the table, would assist in shifting countries away from hiding behind the issue of sovereignty. A less compliance-driven approach would facilitate more open engagements and hence, more peer supporting interactions. Rather than focusing on compliance with standards at a higher level, the approach would allow for a deeper appreciation of existing realities. Such an approach would, however, not mean that the AU should abandon the instruments established. It would nevertheless imply that peer review becomes the dominant form of practice across all terrains of governance intervention. The table represents initial perspectives on what is possible at three different levels (basic, mid and high) in the three governance areas. In each, there is an articulation of implied overall aspirational standard. Peer engagements in each area would

facilitate reflections that serve to push Member States to a higher compliance level, at the same time as appreciating existing realities and what is possible in each context.

7.2.2 Value Add of Multilateral Interventions

AU multilateral governance interventions are wedged between gradualism and deepening integration through shared values, norms and standards. At one level, the normative frameworks may well serve to drive forward legal harmonisation and hence a movement forward to a common future. However, at another level, they are established outside of the realities within Member States and do not often accord to what is possible within circumstance and the certainty of what intervention modalities would be most valuable to Member States. A more phased approach would facilitate in-depth reflection on how interventions should be shaped given Member State contexts. They would hence also than be based on what is possible in the current conjuncture and as AU institutions of multilateralism evolve towards a better future.

In line with the analysis and what has emerged, a careful reconsideration of interventions is needed, together with some guiding principles on what would be appropriate, given resource limitations and realities of what is achievable within the short, medium and long run. In order to move beyond the current fragmented approach and hence low levels of active implementation, it is necessary to consider the possibility of limiting the type of interventions that can be done at this stage of growth and gradually shifting to higher levels as the AU institutional system matures. While it is inevitable that there might well be a propensity to engage in higher-level intervention at this stage, this would not be prudent as it would detract from engaging in core activities as they relate to established mandates. A specific danger in the process is the propensity for TP and DP to push for higher-order interventions.

Core to the approach is engaging in some level of institutional consolidation within the governance space as part of the overall strategy of gradually building the AU multilateral system. This issue of driving the reforms process will be addressed in the next section as one engages the issue of legality in the AU and the exercise of power. The substantive issue here is shaping interventions in line with existing capacity and Member States realities. The table below broadly captures the relevant intervention approaches and is in keeping with the analysis of the efficacy of existing AU multilateral interventions in governance.

Table 24: Future Intervention Modalities in Governance

Intervention Modality	Short Term	Medium Term	Long Term
Compliance and Sanctions	Limit formal compliance to elections and constitutional transfer of power. Elections observation and any form of sanction in full partnership with RECs.	To facilitate a move towards higher levels of compliance, conduct basic comparative studies on compliance levels across all governance areas.	Building on studies, establish compliance plans of actions for all Member States and actively monitor implementation.
Peer Review and Diplomacy	Re-establish peer review by ensuring the diffusion of the practice across all AU governance interventions in a coordinated manner. Limit Diplomatic Missions to only those sanctioned by the PSC.	Peer Review fully established across all governance areas and related Country Review Reports and Implementation Actions Plans informs all multilateral supportive interventions in Governance.	Shift from Peer Review to Compliance Review based on adopted and ratified instruments across all Governance areas.
Information and Knowledge Exchange	All governance-related information and knowledge exchange confined to Member States interactions. Only internally sanctioned knowledge products.	Gradually broadening of engagements beyond Member States and produce research-driven knowledge products with partners.	Affirm the knowledge and future thinking role of AU implementation institutions through deeper engagements across the system and by way of producing knowledge products to improve practices.
Capacity Building and Technical Support	Capacity building initiatives confined to building basic multilateral performance systems/ethos and attracting the best technocrats who are knowledge of Member State realities and practices.	Gradually shift towards building the capacity of state institutions and individuals for engagements with multilateral governance intervention processes.	Deepening capacity building and technical support at the level of states based on an established coordinated system for such initiatives.

Establishing a time frame for what constitutes the short-term, relative to the medium and long terms is difficult as much of what is possible is contingent on capacity, including financial and human resource capacities. Based on the analysis, it would probably be prudent that the short term is perceived as at least the next ten years and the longer-term to be in accordance to the aspirations articulated in AU Agenda 2063. The short-term period would be the time needed to consolidate existing modalities and ensure that peer review processes are diffused and, at the same time, be engaged upon in a consolidated and coherent manner. Such a reform process requires some engagement with the legal shifts needed and hence the exercise of authority by Member States. The current proliferation of activities within all areas of intervention is not sustainable and often driven by the needs and orientation of DP and TP. The AU system and institutions must make choices on what would be most feasible and effective in context.

Building AU efficacy in governance is a process and institutions must have a basis for making choices on what is possible, feasible and most valuable for Member States.

7.2.3 Driving the Reform Efforts

While implementing institutions may well hide behind the legality of instruments as they engage with the reforms process, the reality is that such legalistic orientation in the AU system is often of secondary consideration by Member States. Many do not comply fully with instruments and only a few systematically fulfil the legal reporting requirements established within specific instruments. What is more fundamental to integration and governance improvement would be the exercise of authority when it comes to reforming the system and pushing forward an agenda for actions. The substantive challenge here is that AU implementation institutions and individual actors may well mobilise Member States to secure their position for the future and hence resist substantive reforms efforts that would change existing institutional configurations. The reform process may well entail a reduction in the number of elected structures related to governance interventions if taken to its logical conclusion,

The reform process requires a substantive push from a grouping of Member States who recognise that the current system does not work and is not functioning adequately. How this plays out within a consensus-driven organisation may prove difficult. The power plays and demand for consultations have proven to be challenging for the AU reform process. As the process unfolded and challenges became apparent, Member States demanded broader consultations and hence expanding the number of Heads of State and Government directly involved in the process. Beyond the internal legal games played by officials, it is well possible for the AU to be decisive in the face of the challenge and drive forward some immediate steps to ensure that there is movement forward. Consolidating the work of disparate institutional entities, such as the DPA, DPS, APRM, and the AUABC would require an executive decision at the highest level. The reform process that culminated in the November 2018 Special Summit did not go far enough in the governance terrain and mainly focused on the incorporation of the APRM into the AU budget system and the integration of DPS and DPA into a single AUC Department (AU, 2017c). The integration and the affirmation that the APRM would deliver a consolidated report on' Governance in Africa' at future AU Summits (AU, 2019c) opens the possibility that there would be further consolidation towards building the overall efficacy of AU multilateral intervention in governance.

7.3 Building Deeper Knowledge

Outside of substantive resource or related crisis, shifting modalities of what gets done, how it gets done and who does what takes a long time. There is a dearth of multilateral institutional analysis and in-depth studies that provide a rich exploration of performance and related challenges. AU multilateral institutions are complex and peering inside of them is very difficult. However, as the study shows, more profound forms of analysis provide insights into choices people make and how an institution can continue with specific pathways despite the lack of substantive progress and impact.

This study has been broad in focus, as it sought to engage the overall tapestry of AU multilateral intervention in governance. Within the research process, it was apparent that more detailed analysis in specific task areas, such as in election observation, amongst others, could add substantive value towards an understanding of the efficacy of such interventions. More knowledge of what unfolds within such processes is needed. Such knowledge should include how observation unfolds, the movement of people, the nature of actual observations and what drives forward the reports generated, and the perspectives articulated. Similarly, detailed studies may be conducted in a range of areas from an institutional perspective. Institutional studies of national state systems have matured substantively, and they provide analytical tools for a more detailed understanding of multilateral institutions. There is little analysis of all multilateral institutions in Africa, including the numerous RECs established. International Relations scholars could do well by cooperating with those institutional scholars coming from a Public Administration background to peer deeper into the functioning of multilateral institutions. Such a move requires a shift away from dominating realist or idealistic perspectives. Outside of criticism of an institutional approach, it does serve to provide much more details on the implementation process, than does the more realist or idealistic perspectives.

We do not know enough about the connection between multilateralism and state-level engagements. The connection and the modalities of communication have not been engaged with substantively. We also do not know enough about the tactics of linking multilateral institutions to citizens in countries. The current consultative approaches are limited, and at times, seems to bypass the agency of Member States at the national level. How multilateralism can be linked more effectively with the functioning of national state systems in Africa requires more research, theorisation and policy reflection. We have historically approached multilateral

from the point of norms setting and compliance and not as a product arising from localised integration shifts that involve the flow of people and ideas. Much more engaged studies are on local level norm formation and diffusion across borders. Such diffusion and commonality of norms serve to establish shared values. Equally, we do not know enough around why countries and people hold on to different values despite high levels of interaction amongst people. For example, some people still hold on to traditional systems, even though they are surrounded by countries that have long moved beyond such modalities and norms. Outside of norms diffusion through standard's established at regional, continental and global level, there is a need for more in-depth analysis on localised norm diffusion efforts and what would work better as we seek to enhance the state of governance in the continent.

Norm diffusion has been more rapid in other parts of the world. Comparative studies between the EU and Africa, for example, would add to our understanding of what is possible and how best norm diffusion might unfold in Africa. Current comparative studies tend to be very general and do not engage in detail as it relates to people and improvements in governance systems. We also know too little of the models used to graduate countries before they become full EU members and how compliance is established in this process. The experience of new EU countries and how official worked towards compliance may well be instructive for developing the AU compliance system, and the kind of technical support Member States need. Managing technical assistance for graduation is an area of substantive success in the instance of the EU, and knowledge of this may well assist the AU shapes its intervention modalities.

7.4 Conclusion

Key to a better future is building a robust African governance community that can balance vision with realism. The balance is somewhat challenging as the African movement has been dominant by idealists with a firm orientation towards demanding immediate compliance with instruments. The demand for compliance exists, even though such modalities have only worked on paper and not in practice. Moving the discourse within such communities is fundamental for the future and could pave the way for strategies that are accommodative of current realities and aspirations. The approach would require appreciating the norms graduating models presented and the intervention framework proposed for the future. Value-driven approaches do not unfold on their own. It must be driven by a combination of visionary ownership and diffused efforts from multiple different actors. While diversity and experimentation are necessary, this should not come at the expense of tearing apart a system and rendering it

dysfunctional. A better and more effective, efficient, and responsive AU multilateralism is possible and can be built on more in-depth forms of research and an appreciation that *'institutions matter'*.

Annexure One: Data Management

Data Sources:

1. AU Assembly, Executive Council, PSC and PRC Documents (All available from AU website and AU Archives website). These were systematically downloaded and filed for search accordingly.
2. OAU Assembly Documents since 1964 (These have been obtained from the Department of Political Affairs of the AUC)
3. Implementation Documents from AU Governance implementation institutions (including reports, memorandum planning documents and meeting minutes). Some documents were available from the website of structures and others obtained from the Department of Political Affairs of the AUC.
4. Partner Documents (many of these are available online through systematic search and includes reports, evaluations and plans).

The database produced included over 5500 documents. All efforts were made to remove duplicates, but this was not always possible, given the scale and number of documents. Documents were collected and filed since 2000. Permission for using internal documents (non-public documents) was secured from the Department of Political Affairs of the AUC.

Data Organisation:

The data was arranged in the following folders to facilitate appropriate search and analysis.

1. OAU Documents
2. AU Official Formal and Public Documents
3. AU Implementation Institution Documents
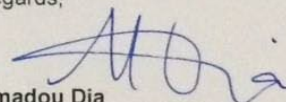4. Governance Partner Documents

The organisation of the documents in folders was both for practical database functionality reasons and to allow for more focused searches and analysis during periods and across levels of formality.

Data Search and Coding:

The following general search codes were utilised to develop a comprehensive perspective of AU governance interventions. However, were appropriate for deeper levels analysis, additional codes were used to extract relevant evidence.

1. Governance
2. The rule of law
3. Accountability
4. Human Rights Strategy
5. State Capacity
6. Constitutionalism
7. Human Rights
8. Public Service
9. Local Government
10. Anti- Corruption
11. Urban Development
12. Capacity Building
13. Democracy
14. Elections
15. Participation
16. Constitutionalism
17. Elections Observation
18. Corruption
19. Public Administration
20. Justice
21. Legality
22. ACDEG
23. Shared values
24. Charter
25. Human Resources
26. Donors
27. Elections Fund
28. Mediation
29. Diplomacy
30. Peer Review
31. Funding
32. Transitional Justice
33. Partnerships
34. Negotiations
35. Mediation
36. Reforms
37. Structures
38. Implementation

Annexure Two: Ethical Clearance

AFRICAN UNION
الاتحاد الأفريقي

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Date: 16/09/2015

TO WHOM IT MAY CONCERN

Subject: PERMISSION TO USE DATA (DOCUMENTS) FOR
RESEARCH PURPOSES

I confirms herewith that I have provided Mr. Salim Latib with soft copies of archived documents on African Union Commission (AUC) 'democracy, governance, elections and human rights' issues as they relate to the work of the AUC and, in particular, the Department of Political Affairs. The documents include internal memorandum, letters, work-plans and related correspondence on the work of the Department.

Mr. Latib has permission to use the documents for his research and I am aware that he intends to complete a Ph.D. level research output on the Governance work of the AU. Mr. Latib also has permission to use documents collected and collated while he served as a consultant to the AU and when he was seconded to the AU between 2009 and 2011.

All of the documents provided are a matter of public record and includes documents available on the website of the AU and in the files of the Department of Political Affairs. Mr. Latib has also assured me that he will utilize the documents in a manner that conforms to the highest standards of ethical research and that he will keep a full record of all document used.

Kind Regards,

Dr. Mamadou Dia

Head of Division: Democracy, Governance and
Human Rights
Department of Political Affairs

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