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**« Ce n'est qu'au début du crépuscule que la chouette de Minerve prend son
envol »**

Georg Wilhelm Friedrich HEGEL

“En tant que groupe social, en tant que totalité, les intellectuels doivent à présent passer de la description de ce qui ne marche pas – du pourquoi et du comment cela ne marche pas – à une réflexion sur la “société dans laquelle nous souhaitons vivre” et sur les moyens de la réaliser”.

CHOMSKY Noam, Qui mène le monde ? Québec, Lux Editeur, 2018.

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THE CRIME OF POPULAR UPRISING IN AFRICA

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Abstract : In the past decades, political unrest across various countries within the African continent, fuelled by discontent with authoritarian rule, corruption, and inequality, has often led to unconstitutional changes in government, a crime falling within the jurisdiction of the African Court of Justice and Human rights according to the Malabo protocol adopted in 2014. Therefore, the interplay between unconstitutional changes of government (UCG) and popular uprisings in Africa becomes a daunting challenge to democracy and human rights on the continent. Do popular uprisings fall within the definition of the crime of unconstitutional change of Government as established by the Malabo protocol? Utilizing a doctrinal research methodology and drawing from primary and secondary sources, the research underscores the conflicting perspectives surrounding these issues. While, there is a growing tendency amongst African governments to frame popular uprisings as threats to national security, leading to repressive actions and criminalization, the Malabo protocol upholds the right of all peoples to self-determination by which they freely determine their political status and freely pursue their economic, social and cultural development. The challenges arising from the growing criminalization of popular uprisings necessitate a comprehensive approach for the safeguarding of democracy and human rights within the continent.

Keywords : Unconstitutional Change Government, Popular Uprising, Africa, Criminalise, Fundamental Human Rights.

Resume : Au cours de la dernière décennie, les troubles politiques dans divers pays du continent africain, alimentés par le mécontentement face aux régimes autoritaires, à la corruption et aux inégalités, ont souvent conduit à des changements anticonstitutionnels de gouvernement, un crime relevant de la compétence de la Cour Africaine de Justice et des Droits de l'Homme selon le protocole de Malabo adopté en 2014. Par conséquent, l'interaction entre les changements anticonstitutionnels de gouvernement (UCG) et les soulèvements populaires en Afrique deviennent un défi de taille pour la démocratie et les droits de l'homme sur le continent. Les soulèvements populaires entrent-ils dans la définition du crime de changement anticonstitutionnel de gouvernement telle qu'établie par le Protocole de Malabo? Utilisant une méthodologie de recherche doctrinale et s'appuyant sur des sources primaires et secondaires, la recherche souligne les perspectives contradictoires entourant ces questions. Alors qu'il existe une tendance croissante parmi les gouvernements africains à présenter les soulèvements populaires comme des menaces à la sécurité nationale, conduisant à des actions répressives et à leur criminalisation, le protocole de Malabo défend le droit de tous les peuples à l'autodétermination en vertu duquel ils déterminent librement leur statut politique et poursuivent librement leur développement économique, social et culturel. Les défis découlant de la criminalisation croissante des soulèvements populaires nécessitent une approche globale pour la sauvegarde de la démocratie et des droits de l'homme sur le continent.

Mots clés : Afrique, anticonstitutionnel, changement, criminalization, droits humains fondamentaux, gouvernement, Populaire, soulèvement.

INTRODUCTION

In recent years, numerous African countries have experienced significant political turbulence, driven in part by widespread public discontent with authoritarian regimes, corruption, and socioeconomic inequalities. This unrest as seen in the cases of Egypt (2011), Tunisia (2011), Mali, Sudan, and many others before, has led to unconstitutional changes of government¹ (UCG), with the military seizing power in most cases. But unconstitutional changes of government have been criminalised by the Malabo Protocol adopted in 2014, extending the jurisdiction of the African Court of Justice and Human rights (ACJHR) to try a wide array of international and transnational crimes, including; genocide, crimes against humanity, war crimes, the crime of unconstitutional change of government, piracy, terrorism, mercenaryism, corruption, money laundering, trafficking in persons, trafficking in drugs, trafficking in hazardous wastes, illicit exploitation of natural resources, and the crime of aggression².

However, a fundamental interrogation persists which is that of determining if popular uprisings fall within the definition of the crime of unconstitutional change of Government as established by the Malabo protocol. Utilizing a doctrinal research methodology and drawing from primary and secondary sources, the research underscores the conflicting perspectives surrounding these issues. While, there is a growing tendency amongst African governments to frame popular uprisings as threats to national security, leading to repressive actions and criminalization, the Malabo protocol upholds the right of all peoples to self-determination by virtue of which they freely determine their political status and freely pursue their economic, social and cultural development.

Popular uprisings, often characterised by mass protests and civil disobedience, have increasingly been framed within the context of human rights, particularly the right to free expression and assembly³. The Malabo protocol like many other international and regional instruments before it explicitly guarantees these rights, and their invocation in popular uprisings underscores the legitimacy of citizen-led demands for political change. Yet, increasingly many African governments have often been quick to label popular uprisings as threats to national security or stability, thereby justifying repressive measures⁴ and the growing trend the criminalization of this right. This work aims to examine these conflicting perspectives, analysing how the interplay between UCG and popular uprisings

¹ NJOMANE Masilakhe, *Popular Uprisings Leading to Change of Government: A Comparative Analysis of the African Union's Response Post- Arab Spring*, master's thesis in international relations, Submitted to the International Relations Department, University of Witwatersrand, Johannesburg in partial fulfilment of the requirements for the degree, 30/04/2024, p. 47.

² Amnesty International report, *Malabo protocol: legal and institutional implications of the merged and expanded African court*, 2016, 5.

³ See CHADWICK Andrew, "human rights and Civil Resistance: The Role of Popular Uprisings in Africa", *Human Rights Review*, 2019.

⁴ ADEBAYO Adebayo and MAKINWA Abiola, *Governance and Human Rights in Africa: The Challenges of Repression*, African Journal of Political Science, 2021.

affects not only governance but also the fundamental human rights within the African continent.

I- THE CONSECRATION OF POPULAR UPRISING AS FUNDAMENTAL HUMAN RIGHTS

In today's governance framework, the recognition of fundamental human rights is crucial for protecting citizens against unconstitutionally governing regimes. This section examines the significant role of international human rights laws in affirming and securing the rights necessary for popular uprisings. These legal frameworks empower individuals to challenge oppressive systems and establish a democratic society where dissent is acknowledged and safeguarded.

Central to this discussion are several foundational documents that outline the rights essential for effective civic engagement. The International Covenant on Civil and Political Rights (ICCPR)⁵, the African Charter on Human and Peoples' Rights (ACHPR)⁶, and the Universal Declaration of Human Rights (UDHR)⁷ collectively emphasise the rights to free expression, peaceful assembly, and participation in governance. Together, these instruments affirm that citizens inherently possess the right to mobilise and voice dissent against government actions that infringe upon their rights.

Moreover, this section discusses the manifestation of these rights through various case studies and judicial interpretations, particularly within the African context. The Arab Spring serves as a potent example of how disenfranchised citizens mobilized to demand change, driven by their legal entitlements⁸. Additionally, countries like South Africa demonstrate how constitutional frameworks have incorporated these international standards, reflecting a commitment to uphold citizens' rights against oppressive governance⁹. This foundational understanding paves the way for a deeper exploration of the intricate relationship between human rights and popular uprisings in the pursuit of justice and accountability.

A- The Legal instruments Guaranteeing popular uprisings as fundamental human rights of citizens.

Popular uprisings are essential expressions of citizen dissent against governmental policies deemed unconstitutional, unsatisfactory or oppressive. The

⁵ International Covenant on Civil and Political Rights, Adopted by the United Nations General Assembly on December 16, 1966.

⁶ African Charter on Human and Peoples' Rights Adopted by the Organization of African Unity on June 27, 1981.

⁷ Universal Declaration of Human Rights Adopted by the United Nations General Assembly on December 10, 1948.

⁸ JAMAL Abdul, "The Arab Spring: A Conflict of Rights", *Middle Eastern Studies*, 51(6), 883-900, 2015.

⁹ See 1996 Constitution of the Republic of South Africa.

legal framework established by various human rights instruments plays a crucial role in safeguarding these rights, ensuring that individuals have the protections necessary to engage in dissent and peaceful assembly.

1- International Legal Framework

The International Covenant on Civil and Political Rights (ICCPR) stands as a foundational international treaty that enshrines the rights to free speech, assembly, and expression. Article 19 protects the right to freedom of expression, which is vital for facilitating dissent and protests against governments that fail to uphold democratic principles. Furthermore, Article 21 guarantees the right to peaceful assembly, while Article 22 ensures freedom of association, collectively obligating state parties to respect these rights within their jurisdictions¹⁰. This framework not only acknowledges individual rights but also provides mechanisms for individuals to challenge governmental overreach.

Further reinforcing these rights is the Universal Declaration of Human Rights (UDHR). Article 20 explicitly affirms the right to peaceful assembly, emphasizing that citizens should be free to demonstrate their concerns and aspirations without fear of repression. Also, Article 19 protects the right to freedom of opinion and expression, articulating a global standard for human rights and the rights of individuals to challenge government actions perceived as unjust or unconstitutional¹¹. This declaration serves as a cornerstone for defending civil liberties worldwide.

2- Regional Commitments

The support for popular uprisings is further bolstered by significant regional instruments. The Lomé Declaration (2000) explicitly rejects unconstitutional changes of government, advocating for democratic governance across Africa. This Declaration, adopted by the Organization of African Unity (OAU) in 2000, was an early attempt by African states to collectively condemn and respond to UCGs¹². The declaration defined UCG as including "military coup d'état against a democratically elected government, intervention by mercenaries to replace a democratically elected government, and replacement of democratically elected governments by armed dissident groups and rebel movements"¹³. It called for the suspension of the membership of any state that undergoes a UCG, as well as the imposition of targeted sanctions against the perpetrators. It calls upon member states to respect the rule of law and encourages the establishment of systems that prevent and respond effectively

¹⁰ See International Covenant on Civil and Political Rights, Adopted by the United Nations General Assembly on December 16, 1966.

¹¹ United Nations General Assembly. (1948). Universal Declaration of Human Rights. Retrieved from <https://www.un.org/en/universal-declaration-human-rights/> on the 19th of August, 2024, at 10:33 PM.

¹² MAKINDA, Stephen M and OKUMU Francis W, *The African Union: Challenges of globalization, security, and governance*. Routledge, 2008.

¹³ Organization of African Unity, (2000), *The Lomé Declaration*.

to UCG threats. This commitment underscores the importance of civic engagement in promoting accountability and democratic norms in African states.

The African Charter on Human and Peoples' Rights (ACHPR) emphasises the rights of individuals to express their opinions and to assemble peacefully. Article 9 affirms the right to freedom of expression, essential for a functioning democracy, while Article 11 provides for the right to assembly. Additionally, Article 2 ensures that these rights are enjoyed without discrimination, reinforcing the notion that citizen participation is fundamental to good governance and democratic processes¹⁴. The ACHPR thus establishes a regional commitment to uphold the civic rights essential for effective popular uprisings.

In addition, the African Charter on Democracy, Elections, and Governance (ACDEG), adopted in 2007, promotes principles of transparency, accountability, and civil participation in governance. Article 2 details the promotion of democratic governance, while Article 3 recognises civil and political rights, affirming citizens' rights to participate in public affairs, including peaceful protests, thereby legitimizing popular uprisings as essential to democracy. This charter serves as a crucial instrument for advocating democratic values and protecting the voices of citizens against repressive regimes¹⁵.

Moreover, the Malabo Protocol (2014) extends these principles by establishing the jurisdiction of the African Court on Human and Peoples' Rights over cases involving unconstitutional changes of government. Importantly, the Protocol implicitly acknowledges a peaceful right to resistance against undemocratic governments, defining one of the acts constituting 'unconstitutional change of government' as "a putsch or coup d'état against a democratically elected government"¹⁶. Although it does not clearly define a 'democratically elected government' in the African context, it lays down principles that such a government should strive to achieve, including effective public administration and respect for the rule of law.

During the drafting of the Malabo Protocol, there was consideration for including popular uprisings within the definition of unconstitutional changes of government. However, this was ultimately rejected¹⁷. International law protects the right of 'all peoples' to self-determination, allowing them to freely determine their political status and pursue their development, reflecting a genuine expression of their will. Genuine periodic elections are vital for an effective political democracy, where

¹⁴ See African Charter on Human and Peoples' Rights, *op. cit.*

¹⁵ African Charter on Democracy, Elections, and Governance, of January 30, 2007.

¹⁶ African Union. (2014). Protocol on Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights.

¹⁷ MANISULI Solomon, 'The Crime of Unconstitutional Change of Government and Popular Uprising in Africa: Issues and Challenges', *African Journal of International and Comparative Law*, 2020, pp. 432-465. See also, Report of the Workshop on the Definition of Crimes of Unconstitutional Change of Government and Financial and Structural Implications, AfCHPR/LEGAL/Doc.3. para. 12.

popular sentiments can be expressed through peaceful demonstrations as a last resort against tyranny and oppression.

Article 20(2) of the ACHPR explicitly protects the right of ‘colonised or oppressed peoples’ to liberate themselves from domination by any means recognised by the international community, including the peaceful demonstration against oppression¹⁸. This indicates that struggles waged according to international law for liberation from colonialism or undemocratic regimes should be excused from criminal liability for unconstitutional changes of government.

These international and regional legal frameworks collectively affirm the inherent rights of citizens to engage in popular uprisings. They form a comprehensive support system that upholds the principles of free expression, peaceful assembly, and democratic governance. By providing these protections, the instruments facilitate a conducive environment for dissent, essential for nurturing democratic ideals and ensuring government accountability in the face of unconstitutional actions.

B. Manifestation and Enforcement of These Rights

The quest for human rights in Africa has seen a dynamic interplay of struggle, resilience, and transformation. Across the continent, populations have mobilized against oppressive governance, reflecting a heightened awareness of their fundamental rights. Recent uprisings in countries like Mali, Togo, and Sudan exemplify this widespread desire for accountability and democratic governance. These movements not only underscore the commitment of citizens to advocate for their rights but also challenge the existing political landscapes.

In parallel, many African nations are evolving their legal frameworks to incorporate international human rights standards, thus strengthening the protection of civil liberties. Judicial systems in several countries have begun interpreting constitutional provisions in ways that affirm the right to peaceful assembly and protest. This multidimensional approach to human rights in Africa highlights both the challenges faced by activists and the progress being made in securing individual freedoms.

1- The non-sanctioning of Popular Uprisings leading to UCG by the AU

In recognition of the fundamental right to peaceful manifestation of citizens against authoritarian or undemocratic regimes, it has become the consistent practice of the AU to avoid sanctioning government resulting from UCG instigated by popular uprisings. In other words, any struggle waged by peoples according to the principles of international law, for their liberation or self-determination from colonialism, alien subjugation, domination and exploitation in all its forms and manifestations or from undemocratic governments against domestic oppression that results in a change of government is in practice excused from criminal liability for unconstitutional change of government under the Malabo protocol.

¹⁸ MANISULI (S), *op. cit.*, p. 444.

The AU did not suspend Tunisia, Egypt and Libya during the Arab Spring, and more recently (April 2019) the AU did not immediately suspend Sudan after the military takeover of power on 11 April 2019 following popular protests leading to the suspension of the Constitution, the dissolution of the National Assembly, the formation of a military-led transitional government and the arrest of President Omar Al Bashir¹⁹. In Mali, similar unrest was seen in 2020 when citizens took to the streets demanding the resignation of President Ibrahim Boubacar Keïta. The protests, rooted in grievances over corruption and insecurity, led to a military coup in August 2020. This upheaval highlighted the public's assertiveness in seeking their rights, though it raised concerns about the future of democratic governance in the country²⁰. Similarly, the AU did not suspend Zimbabwe after military intervention and the confinement of President Robert Mugabe, which paved the way for Mugabe's resignation in November 2017 after 37 years in power²¹.

At most, the AU strongly condemns and rejects the seizure of power by the militaries, while recommending a quick return to civilian rule.

2. Judicial enforcement.

Judicial enforcement in various African countries has increasingly recognised the right to peaceful protest. Courts in nations such as Kenya and Zimbabwe have upheld individual rights by striking down laws that unduly restrict freedoms of assembly and expression²². This judicial activism demonstrates a growing recognition of civil liberties, although challenges remain in enforcing these rights effectively.

The application of human rights in Mali, Togo, and Sudan reflects both the aspirations of citizens and the complexities of governance in the region. While popular uprisings showcase the demand for accountability and reform, the evolution of legal frameworks and judicial interpretations is critical for ensuring the protection of these rights in the long term. Continued advocacy and international support will be essential in advancing these efforts across the continent.

I- CRIMINAZATION OF POPULAR UPRISINGS BY STATES

The phenomenon of criminalizing popular uprisings has become increasingly prevalent in various African nations. This trend poses significant challenges to democracy and human rights, as state actions often justify the suppression of dissent under the pretext of maintaining national security or public order. Scholars argue that

¹⁹ AU Peace and Security Council, Communiqué, PSC/PR/COMM.(DCCCXL), Adopted by the Peace and Security Council at its 840th meeting held on 15 April 2019 on the situation in Sudan. <http://www.peaceau.org/uploads/840-psc-communique-sudan.eng.pdf> > (accessed 23/08/2024).

²⁰ DIAKITÉ Moussa, "The Uprising in Mali: Context and Consequences", *Journal of African Politics*, 12(3), 2020, pp.45-62.

²¹ See Statement by the Chairperson of the African Union Commission on the situation in Zimbabwe <http://www.peaceau.org/uploads/statement-by-the-chairperson-of-auc-onzimbabwe-ff.pdf>. (accessed 23/08/2024).

²² MOKOTELI Thabo, "Judicial Activism and Human Rights in Africa", *African Journal of Law*, 14(4), 2020, pp.78-95.

the legal framework intended to protect civic freedoms is frequently manipulated to stifle opposition and dissenting voices²³. The ramifications of this criminalization are profound, as they not only hinder citizens' rights but also undermine efforts at democratic governance²⁴. Below, we examine the various dimensions of this trend, including legislative acts and state responses, as well as the lack of international accountability for such practices.

A. The Criminalization Trend

Despite the legal protections, many African states have attempted to criminalize popular uprisings. This trend is often justified under the guise of maintaining national security or public order:

1- Legislative Acts

In many African countries, governments have enacted laws that severely restrict freedoms associated with public dissent. These legislative measures often focus on criminalizing "unauthorized protests," which effectively undermine citizens' rights to assemble and speak out against government actions. Following the United Nations recommendation that states must "take all necessary measures to protect the fundamental rights of their populations against terrorist acts," most African states facing or exposed to the terrorist threat have adopted exceptional legislation under the name of "anti-terrorist laws"²⁵. However, this inflation of anti-terrorism laws raises fears of a threat to public freedoms in some countries where leaders seem to have found a subtle way of putting certain public freedoms on hold in the name of state security²⁶.

For instance, in Uganda, the Public Order Management Act of 2013 requires organizers of public gatherings to notify police in advance. Failure to comply can lead to arrests and heavy penalties, thus discouraging citizens from protesting, even against government policies.²⁷ Similarly, in Zimbabwe, the Maintenance of Peace and Order Act imposes stringent restrictions on gatherings, allowing the police to deny authorization for protests on vague grounds, which has been used to silence opposition voices²⁸. In Tanzania, laws passed in recent years, such as the Cybercrimes Act and the new Media Services Act, have been used to target dissent,

²³ CHEESEMAN Nic, et Al, "How African Governments Use the Law to Crush Dissent," *Journal of Democracy*, vol. 30, no. 3.2019.

²⁴ RUTAIBWA Olivia, "The Pitfalls of Criminalizing Protest in Africa," *African Affairs*, vol. 118, no. 472, 2019.

²⁵ TAMEYONG Steve, "Anti-Terrorism Laws as a Threat to Civil Liberties In Africa," December 1, 2021, <https://onpolicy.org/anti-terrorism-laws-as-a-threat-to-civil-liberties-in-africa/>.

²⁶ International federation for human rights, *Counter-Terrorism Measures and Human Rights: Keys for Compatibility Human rights Violations in Sub-Saharan African Countries in the Name of Counter-Terrorism : A High Risks Situation*, November, N°483/2, 2007, p.10.

²⁷ TRIPP AILI Mari, *Women and Power in post-conflict Africa*, Cambridge University Press, 2015.

²⁸ BENYERA Elvis, "Regime resilience in Zimbabwe: A decade of continuity amidst change", *African Affairs*, 119(475), 282-305. 2020.

with provisions that restrict online expression and impose stringent conditions on media coverage of protests²⁹.

Concerning anti-terrorism laws, Steve TAMETONG³⁰ claims that *“While it is unquestionably necessary for the name of preserving the security of the state and its populations, the inflation of anti-terrorism laws is not without consequences for the development of public freedoms...In Cameroon, as in most states, the adoption of these laws has always been viewed with suspicion by human rights defenders who see them as a leaden blanket against public freedoms in violation of UN Security Council Resolution 2178, which emphasizes in its preamble that “States must ensure that any measures are taken to combat terrorism comply with all their obligations under international law in particular, international human rights law(...)The mistrust of these laws is essentially due to two fundamental elements: the catch-all definition of the concept of “terrorist acts,” which is subject to multiple interpretations, and the severity of the penalties (death penalty). This is undoubtedly why aware of the shortcomings of the anti-terrorism law in Kenya, the High Court did not hesitate to order the suspension in 2015 of eight main sections of this law “because of the risks to human rights” that are presented (...) But beyond that, it is the risk of political instrumentalization of these laws that remains feared. In Cameroon, since the adoption of the anti-terrorism law, some of the abuses observed suggest that, in its application, this law is not far from being used as a weapon of repression against opponents and journalists and as an instrument to bring society into line. In Ethiopia, the adoption of a new anti-terrorism law on 2 January 2020 follows accusations that the government has “used and abused the anti-terrorism law to stifle dissent and increase repression against members of legal opposition parties, human rights activists, journalists, bloggers, and civil society that criticize the ruling party and its policies.” It appears that beyond the fight against terrorism, anti-terrorism laws can be used with the aim of neutralizing the expression of public freedoms.”*

These examples illustrate a broader trend across the continent, where laws meant to maintain order are frequently weaponised against political dissent, stifling freedom of expression and assembly.

2- The repression of popular uprising.

In cases like Sudan, the government has deployed security forces to suppress demonstrations, often leading to violence and human rights abuses³¹. The state's reliance on coercive measures reflects a broader pattern observed in various nations grappling with political instability across Africa. Governments often prioritize maintaining power over protecting civil liberties, resulting in widespread violations of human rights during efforts to suppress dissent. This dynamic not only undermines

²⁹ SCORER James, “Media regulation, protest, and the politics of visibility in Tanzania”, *Anthropological Quarterly*, 92(10), 2019, pp.121-152.

³⁰ TAMETONG (S), op, cit.

³¹ Human Rights Watch, 2019 Sudan: Events.

democratic principles but also exacerbates public discontent, potentially leading to further unrest and instability.

The situation in Sudan serves as a critical case study in understanding how state responses to challenges against authority can perpetuate cycles of violence and hinder the establishment of stable governance³². Such scenarios illustrate the profound implications of state actions in the context of unconstitutional changes, revealing the precarious balance between governance and the safeguarding of citizens' rights.

B. Lack of Sanctions or Accountability

The inadequacy of sanctions and accountability in the international response to state repression of popular uprisings represents a significant issue in global governance. Despite the existence of frameworks designed to address unlawful government conduct, such as those established by the African Union, the implementation of these mechanisms has been hindered by inconsistent enforcement and geopolitical considerations³³. This has allowed authoritarian leaders to act with impunity, which not only undermines the legitimacy of these institutions but also stifles dissent and erodes democratic aspirations in affected regions³⁴. Thus, the lack of effective accountability measures not only persists as a challenge but also deepens the cycle of oppression and resistance.

1. Weak Enforcement Mechanisms

Weak enforcement mechanisms in international bodies, particularly the AU, highlight significant challenges in addressing unlawful government conduct. The AU has established various frameworks aimed at promoting good governance and human rights among its member states. However, the enforcement of these mechanisms is often inconsistent. A key issue is that sanctions and interventions frequently depend on the geopolitical interests of influential member states, rather than being applied uniformly across the board.

Geopolitical dynamics among member states play a crucial role in shaping the effectiveness of these enforcement mechanisms. Major regional powers may receive leniency despite serious violations, leading to a perception of selective enforcement. This undermines the AU's credibility and its ability to act decisively in the face of abuses³⁵. Such inconsistencies can severely hinder the organization's capacity to address issues of governance and accountability effectively.

Structural limitations further exacerbate these challenges. The AU often relies on member states for resources and political will, which can weaken its enforcement

³² See, International Crisis Group. (2020). Sudan's Transition: A Test for the International Community.

³³ African Union, 2021 Annual Report on Peace and Security.

³⁴ ADEBAYO Femi, *Voices of Resistance: Popular Movements in the Age of Repression*. Johannesburg: African Studies Press, 2022.

³⁵ CHADWICK Adrew, "Geopolitical Interests and African Governance." *Journal of African Studies*, 2022.

capacity. This dependency results in delayed or insufficient responses to governmental abuses, as the organization struggles to maintain a unified front³⁶. For example, its responses to conflicts in Sudan or Zimbabwe illustrate how external political pressures can dominate the decision-making process, leading to inadequate action in the face of clearly defined violations³⁷.

The AU decided to suspend Sudan's participation in all AU activities until the effective establishment of a civilian-led Transitional Authority. This proactive measure reflects the AU's commitment to restoring constitutional order amid political upheaval. Conversely, the AU did not suspend Zimbabwe after military intervention and the confinement of President Robert Mugabe, which led to Mugabe's resignation in November 2017. The AU Commission chairperson did not consider these events a military coup and instead recognized the military as a stakeholder, urging dialogue to address the situation constitutionally. This stance highlights the AU's complex position in navigating legitimacy and political transitions.

2. Impunity

Impunity is a critical issue in many political contexts, referring to the absence of accountability for leaders who suppress dissent and violate human rights. When such actions go unpunished, it not only normalizes the behavior of these leaders but also perpetuates a culture where violations against citizens become commonplace. This absence of repercussions fosters an environment where citizens feel powerless and disillusioned, leading to a cycle of repression and unrest³⁸.

The impact of this culture of impunity is particularly pronounced in civil society. Organizations advocating for human rights often face increased threats and violence as oppressive regimes clamp down on dissent. Activists are routinely silenced, which undermines democratic processes and erodes trust in governance. Reports indicate a pattern where civil engagement diminishes as fear takes hold, limiting the potential for collective action against injustice³⁹.

Case studies further illustrate the global dimensions of this issue. In the Middle East and North Africa, for example, leaders who violently suppressed uprisings during the Arab Spring have largely faced minimal consequences, which have bred widespread disillusionment among the populace⁴⁰. Additionally, the psychological effects of living under a regime characterized by impunity are profound. Citizens often feel a deep sense of hopelessness and disengagement from civic responsibilities, as consistent violations of rights make meaningful participation

³⁶ NKIWANE Fr "Limitations of AU Mechanisms for Governance." *African Political Review*, 2022.

³⁷ MOYO Sam and SEFARA Palesa, *Case Studies in AU Enforcement*, *African Security Review*, 2021.

³⁸ SMITH John, *Impunity and Human Rights Violations: A Global Perspective*. New York: Human Rights Watch, 2021.

³⁹ JOHNSON Laura and LEE Michael, "Stifled Voices: The Role of Civil Society in Authoritarian Regimes", *London Political Science Review*, 2023.

⁴⁰ EL-AZHARI Mohammed, *After the Arab Spring: A Decade of Repression*. Cairo: Middle East Institute, 2020.

in democratic processes seem futile⁴¹. This psychological toll not only affects individuals but can also destabilize communities and weaken social cohesion.

Despite the presence of international legal frameworks aimed at addressing such violations, enforcement often remains weak. The inconsistency of global responses to oppressive regimes highlights the challenges in tackling impunity effectively⁴². For meaningful change to occur, there needs to be a concerted effort from the international community to hold leaders accountable, alongside robust support for civil society movements resisting oppression.

CONCLUSION

The challenges posed by unconstitutional changes of government and the subsequent criminalization of popular uprisings in Africa present a significant obstacle to democratic governance and human rights. Despite a robust legal framework that recognizes the fundamental rights of citizens to dissent and protest, many states continue to suppress these movements under the pretext of maintaining national security. This conflict exposes the need for a more resilient approach to protect citizen rights and foster genuine democratic engagement across the continent.

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⁴¹ ANDERSON Po, *The Psychological Impact of Political Violence on Societies*, Chicago: University of Chicago Press, 2019.

⁴² Thompson Robert, "Global Governance and Impunity: The Role of International Law", *Washington, D.C.: International Relations Journal*, 2021.

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