

# DEMOCRACY, GOOD GOVERNANCE AND THE RULE OF LAW IN AFRICA: A PRESENTATION

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## INTRODUCTION

The terms “*Democracy*”, “*Good Governance*”, “*the Rule of Law*” are very often used and are understood **in a variety of ways. Thus I intend to start off today** with some useful definitions. I shall then review the integrating concept of “democratic governance”; after which I shall seek to describe, factually, the state of democratic governance in Africa today. In concluding, I shall highlight the challenges ahead and my thoughts as to how they can be met.

## Definitions of Democracy

Democracy is essentially a form of government in which ordinary citizens take part in governing – in contrast to monarchies or dictatorships. The word originates from two Greek words which, when translated literally, mean “rule by the people”.

## Democracy, Good Governance and the Rule of Law in Africa

It should be noted that the purpose of democracy has traditionally been not to assure good government but to prevent tyranny by placing limits on the abuse of power. Over the years, simple definitions of democracy have gone through extensive revisions. The concept of “polyarchy”, now used to describe modern democracies, emphasizes political pluralism and multi-party elections and has become a standard political science definition of democracy. One such version says, “...polyarchy is a political order distinguished by the presence of seven institutions, all of which must exist for a government to be classified as a polyarchy”. These institutions are:

1. Elected officials. Control over government decisions about policy is constitutionally vested in elected officials.



2. Free and fair elections. Elected officials are chosen in frequent and fairly conducted elections in which coercion is comparatively uncommon;
3. Inclusive suffrage. Practically all adults have the right to vote in the election of officials;
4. Right to run for office. Practically all adults have the right to run for elective offices;
5. Freedom of expression. Citizens have a right to express themselves on political matters broadly defined, including criticism of officials, the government, the regime, the socio-economic order, and the prevailing ideology, without the danger of severe punishment.
6. Alternative information. Citizens have a right to seek out alternative sources of information. Moreover, alternative sources of information exist and are protected by laws;
7. Associational autonomy. To achieve their various rights, including those listed above, citizens also have a right to form relatively independent associations or organizations, including independent political parties and interest groups . . . all the institutions of polyarchy are necessary for the highest feasible attainment of the democratic process in the government of a country.”<sup>1</sup>

The inclusion of political and/or civic rights in the definition of democracy is now standard. Indeed, Paul McKeever, Leader of the Freedom Party of Ontario, Canada, goes so far as to define democracy as “a society that recognizes individual rights, “democracy” can mean only: a society in which the government lacks the authority to violate any individual's rights of life, liberty or property, but is charged with the responsibility of protecting those rights for every individual.”

Rights checklists are the emerging standard definition of democracy. Freedom House, the well-known Washington DC-based research organization, published this political rights checklist:

- Is the head of state and/or head of government or other chief authority elected through free and fair elections?
- Are the legislative representatives elected through free and fair elections?



- Are there fair electoral laws, equal campaigning opportunities, fair polling, and honest tabulation of ballots?
- Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system open to the rise and fall of these competing parties or groupings?
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These rights are associated with the alternation of government: they allow one government to be replaced by another. Polyarchy definitions of democracy insist that there must be a possibility to change the government through democratic procedures. Democrats, however, insist that there should be no *other* way to change government.

The Freedom House checklist on civil liberties and the rule of law asks the following questions:

- Are there free and independent media and other forms of cultural expression?
- Are there free religious institutions and is there free private and public religious expression?
- Is there freedom of assembly, demonstration, and open public discussion?
- Is there freedom of political or quasi-political organization (political parties, civic organizations, ad hoc issue groups)?
- Is there an independent judiciary?
- Does the rule of law prevail in civil and criminal matters? Is the population treated equally under the law?
- Is there protection from political terror, unjustified imprisonment, exile, or torture, whether by groups that support or oppose the system?
- Is there open and free private discussion?
- Is there personal autonomy? Does the state control travel, choice of residence, or choice of employment?
- Is there freedom from indoctrination and excessive dependency on the state?

These checklists reflect the current idea of democracy, among theorists and the public in the democratic countries all over the world. Civil rights, political rights and democratic government are all seen as integral components of democracy.



## Definition of Good Governance

The authoritative definition of (good) governance comes from the World Bank, which is given credit for originating the concept in the 1990s. According to Daniel Kaufman of the World Bank Institute:

Governance is defined as the exercise of authority through formal and informal traditions and institutions for the common good, thus encompassing: (1) the process of selecting, monitoring, and replacing governments; (2) the capacity to formulate and implement sound policies and deliver public services, and (3) the respect of citizens and the state for the institutions that govern economic and social interactions among them.

To assist with measurement and analysis, these three dimensions of governance can be broken down to two concepts each, for a total of six components: (1) voice and external accountability (i.e., the government's preparedness to be externally accountable through citizen feedback, democratic institutions and a competitive press); (2) political stability and lack of violence, crime, and terrorism; (3) government effectiveness (including quality of policymaking, bureaucracy, and public service delivery); (4) lack of regulatory burden; (5) rule of law (protection of property rights, independence of judiciary, etc.); and (6) control of corruption.

Governance is thus a much broader notion than corruption, the latter being one, albeit very important, component.

## Definition of the Rule of Law

Perhaps the most famous exposition of the concept of rule of law was given by Albert Venn Dicey in his *Law of the Constitution* in the 19th Century:

When we say that the supremacy or the rule of law is a characteristic of the English constitution, we generally include under one expression at least three distinct though kindred conceptions. We mean, in the first place, that no man is punishable or can be made to suffer in body or goods except for a distinct breach of law established in the ordinary legal manner before the ordinary courts of the land....



...every official, from the Prime Minister down to a constable or a collector of taxes, is under the same responsibility for every act done without legal justification as any other citizen. The Reports abound with cases in which officials have been brought before the courts, and made, in their personal capacity, liable to punishment, or to the payment of damages, for acts done in their official character but in excess of their lawful authority. [Appointed government officials and politicians, alike] ... and all subordinates, though carrying out the commands of their official superiors, are as responsible for any act which the law does not authorize as is any private and unofficial person.<sup>2</sup>

It is interesting to observe that in the People's Republic of China, hardly a bastion of democracy, the rule of law has been an important part of political discourse since the 1990s; all state and party organizations are considered subject to China's Constitution. One major difference between Chinese and Western concepts of rule of law is that Western conceptions tend to emphasize the ways in which law limits the powers of the government. In Western thought, by preventing arbitrary action, the law prevents the government from doing things that it may want to do, thereby increasing the individual's autonomy and freedom. By contrast, current Chinese conceptions tend to emphasize the way that law enhances the power of the government. Although the law may prevent the government from taking one particular action or another, it creates an efficient administrative system and decreases fear and resentment of the state, thereby enhancing the power of the state. The Chinese view resonates with that expressed by the revered Tanzanian statesman, Julius Nyerere, in a speech given in 1998:

Government is an instrument of State. Today there is a call, emanating from the North, for the weakening of the State. In my view, Africa should ignore this call. Our States are so weak and anaemic already that it would almost amount to a crime to weaken them further. We have a duty to strengthen the African States in almost every aspect you can think of one of the objectives of improving the governance of our countries is to strengthen the African State and thus enable it to serve the people of Africa better.



... In advocating a strong State, I am not advocating an overburdened State, nor a State with a bloated bureaucracy. To advocate for a strong State is to advocate for a State which, among other things, has power to act on behalf of the people in accordance with their wishes. And in a market economy, with its law of the jungle, we need a State that has the capacity to intervene on behalf of the weak.<sup>3</sup>

### **The Concept of Democratic Governance**

The themes of democracy, good governance and the rule of law all come together in “democratic governance”, a concept championed by the United Nations. It is a mix of components: government, civil society, media, private sector, history and culture.

Democratic governance involves developing democratic institutions and processes that are more responsive to the needs of ordinary citizens, including the poor; promoting greater participation of citizens to build partnerships and improve government's accountability and effectiveness at all levels; strengthening electoral and legislative systems, improving access to justice and public administration, and developing a greater capacity to deliver basic services to those most in need.

### **A Brief History of Governance in Africa**

First, let me confess that when I say Africa, in general, I am referring to just sub-Saharan Africa, in an attempt to make my task slightly more manageable. Today sub-Saharan Africa is the only major zone that has grown poorer in the last 25 years, despite the radical developments in technology and trade which have boosted incomes in all other parts of the world. Half of our 700 million people live on US65 cents a day or less. What went wrong? The short answer, we can now say, is “bad governance”. As argued two decades ago by the renowned historian, Professor J. F. Ade-Ajayi, ordinary Africans who engaged in the struggle for independence wanted to put an end to the arbitrary rule of the white man; improve their material conditions of life; and ensure a bright future for their children.



It is correct to say that those independence struggles represented national movements for democracy, inasmuch as democracy has to do with struggle against tyranny. The desire for a political community in which rules and regulations were fair, widely understood and applicable to all in an equal manner was one of the major demands of those national independence movements. In some countries, this meant the restitution to indigenous peoples of the land that the colonial state and/or settlers confiscated from them. The recovery of such entitlement, for example, in countries such as Zimbabwe, is therefore best seen as a democratic right, and one that would promote another democratic right, namely that of human security, both present and future.

Post-independence democracy, however, did not last. Elected governments turned authoritarian or were swept aside by the military. Of course, the new regimes were unstable and incompetent. For two decades, between 1960 and 1979, fifty nine African rulers were either toppled or assassinated; only three retired peacefully and none was voted out of office. Most of the African leaders concentrated power in the Presidency and “*privatized the state,*” transforming it into the personal property of the ruler and his lackeys.

The tide, however, apparently began to turn in the mid-1980s. One reason adduced is that the number of urban Africans, who on the whole were better informed and harder to intimidate, have been rising, from 23 per cent of sub-Saharan Africa's population in 1980 to 35 per cent in 2001. Since the mid-1980s, every African country except for the DRC has held elections, of one sort or the other; the first incumbent African leader to lose an election did so in 1982, followed in the 1990s by 12 more, and then by another six leaders through 2003.

#### AFROBAROMETER: THE STATE OF DEMOCRATIC GOVERNANCE IN AFRICA TODAY

Afrobarometer is an independent, non-partisan research project that, over the last five years, has measured the social, political and economic atmosphere in more than a dozen countries of sub-Saharan Africa, using methodology that allows for comparisons across country and also over time periods. One of Afrobarometer's key objectives is to produce scientifically reliable data on public opinion in *Africa*, indeed a very rare commodity. Its surveys are based on face-



to-face interviews in local languages with a randomly selected representative sample of national populations.

To date, Afrobarometer has completed two rounds; Round 1 was completed in September 2001 and covered 12 countries. Round 2 was completed in November 2003 and covers 15 countries, including 11 of the initial 12 countries. Preliminary analysis of Round 2 and comparisons with Round 1 were released in early April 2004. Those results provide an in-depth glimpse into the state of governance in Africa today. I review the analysis almost verbatim in the following sections.

### **Support for Democracy**

The surveys show that Africans clearly prefer democracy to other forms of government; this level of preference has not changed significantly over the last four years. However, popular support for democracy appears to be moving in multiple directions, depending on which country one examines. In three countries (Ghana, Mali and Lesotho), support is increasing – by over 10 per cent in two of these. In eight countries, support appears to be declining (by 10 points or more in three cases: Tanzania, Nigeria and Botswana).

By large majorities people reject authoritarian rule. Africans have grown weary of military rule and presidential dictatorship; indeed more people reject autocracies than support democracy. There has however been an important decline in what can be called “demand for democracy”. This concept taps the depth of popular democratic commitment by testing whether individuals who say they support democracy also simultaneously reject all three forms of authoritarian rule (military, presidential, one-party). Between the Round 1 and Round 2 surveys, the proportion that “demand democracy” has dropped by over 10 points from 48 per cent to 37 per cent, barely over a third of all respondents.

### **Satisfaction with Democracy**

Turning from the “demand” side of public opinion to the “supply” side, Afrobarometer asks



whether people think that democracy is being delivered. The results indicate that there is average satisfaction with the way democracy works across all surveyed countries. Ghana and Nigeria represent the two extremes. Between 1999 and 2002 satisfaction with democracy rose 18 points in Ghana. This can be understood in view of the fact that there was a peaceful alternation of ruling parties in December 2000 in elections that Ghanaians widely regarded as free and fair. They have since given the new government high and rising marks for economic management and reconfirmed their patience with its economic reform programme.

Nigeria's results, on the other hand, are even more remarkable. Satisfaction with democracy plummeted from 84 per cent in January 2000, soon after the restoration of civil rule, to 35 per cent in October 2003 (in the wake of President Obasanjo's controversial re-election), a near 50-point collapse.

### **Extent of Democracy**

How much democracy do Africans think they are getting? In both Rounds 1 and 2 about 50 per cent rated their country as a viable democracy (either “full” or “with minor problems”). At the country level, however, there are stark contrasts. In five of 11 countries, people perceive democracy growing over time; in six other countries people see emerging deficits in democratic delivery. There is greater volatility in this attitude than any other, with changes over time exceeding 10 percentage points in 10 of the 11 countries.

On the upside, for example, in Mali the proportion seeing an almost or completely full democracy increased by 18 points; possibly the result of a successful electoral alternation in May 2002. Analysis of the results of Rounds 1 and 2 compels one to acknowledge that a competitive multiparty election, especially one that leads to alternation (a turnover of ruling parties) has highly beneficial effects on democratic attitudes. More than any other electoral event a peaceful transfer of power appears to symbolize “rule by the people”; in the public's imagination, electoral alternation helps to broadly legitimize democracy.



## Trust in Political Institutions

Generally speaking, Africans place more trust in the executive branch of government than in the institutions of political representation (such as the National Assembly here in Nigeria). It should however be noted here, in passing, that the US Congress shares the same fate and generally scores at the bottom of most surveys in America. For example, the presidency is the most trusted institution (56 per cent across Africa). There is significant variation across countries; the numbers range from the high 70s in Tanzania, Mozambique and Namibia to a low of just 18 per cent in Nigeria. The army also enjoys a trustworthy reputation; people show greatest confidence in the army in places like Malawi and Mali where the soldiers helped remove the “*ancien regime*” and usher in a democratic transition. Strikingly, the least trusted institutions are the opposition political parties.

## The Governance of the State

A truly democratic state is a responsive state. Ideally, when popular demands are met, citizens come to see the state as their own. There was great variation in perceived responsiveness of the state. At one extreme, certain universal services such as voter registration are relatively accessible; over 80 per cent find it relatively easy to obtain a voter's card, especially in Uganda, Tanzania and Kenya. Only in Nigeria do a majority of adults (53 per cent) report difficulty in fulfilling this basic right of citizenship. Nor do the people find the police responsive in providing desired levels of law and order; 23 per cent have given up trying (as high as 42 per cent in Ghana and 51 percent in Mali). Overall, fully three quarters acknowledge that the agents of the state are unresponsive to popular needs. So, while the regime may have democratized, the state has yet to do so.

## Corruption

The general public perceives widespread corruption among state officials. In general West Africans are least charitable about the honesty of their leaders. For example, Nigerians consistently observe the highest levels of corruption: more than half charge corruption amongst most or all of the officials in the presidency, parliament and civil service.



However, when it comes to judges, magistrates and border guards, Malians are even more cynical than Nigerians. Well over half of Malian respondents associate most or all of these officials with corrupt practices.

But there are exceptions to the rule. As of 2002, Ghanaians thought the Presidency of John Kufour was abiding by high ethical standards, and citizens of Southern Africa tend to see low levels of corruption in their countries.

### **The Rule of Law**

Contrary to public opinion, ordinary people seem to think that the African state operates according to the rule of law. Most Africans consider the state to be legitimately constituted: fully 60 per cent agree that “our constitution expresses the hopes and values of the people”. Generally speaking, in Africa's leading reformist regimes, people also accept that the legal rulings of the state are binding on their behaviour. Public opinion is uncertain however about whether the political elite respect the law. A slim majority thinks “the president ... rarely or never ... ignores the constitution”. Rightly or wrongly, President Nujoma in Namibia is held to be especially law-abiding (77 per cent) but President Obasanjo is seen to be deficient in his respect for the provisions of the federal constitution of Nigeria (34 per cent).

### **Performance of Political Regimes**

Comparing the new democratic regime with the previous authoritarian one, are political conditions better or worse now than they used to be? Africans consistently report that they are better off politically since their country made a transition to a competitive electoral regime. Full three quarters feel that conditions have improved with respect to a range of basic civil liberties and political rights. In sum the political climate has brightened considerably.

However, at least two areas of institutional development require attention. First, people have less praise to give when it comes to “the ability of ordinary people to influence what their government does”; only 55 per cent think things have recently improved. Nigerians, resentful of the high-handedness of the Obasanjo administration and its reported unwillingness to take sound advice, hold the government suspect on this score (41 per cent).



Second, even fewer Africans think that, since the wave of democratization swept through Africa in the 1990s, gains have occurred in “equal and fair treatment for all people by the government”. Only 48 per cent think things have become better. Again, Nigerians (34 per cent) are very likely to wonder if the institutions of political democracy can bridge deep social and economic divisions in their tenuous federation. Detailed results and analysis can be found at the Afrobarometer website: [www.afrobarometer.org](http://www.afrobarometer.org).

### **Conclusion: The Challenges Ahead**

As we survey the African continent there is ample reason for hope of a brighter future. Democracy is advancing and the level of accountability is rising in several countries. Africa's media is growing freer and independent newspapers, radio and television stations are proliferating; thereby reducing the capacity of our leaders to misinform and intimidate.

In 1999 a fifth of all Africans lived in countries battered by wars. Over the last few years, however, Africa has grown more peaceful: the wars in Angola and Sierra Leone are over, the clash between Eritrea and Ethiopia has stopped, Congo's war is formally over and Liberia is on the road to recovery. All that said, the challenges that lie ahead are daunting. To begin with, a study quoted by *The Economist* magazine of the world's civil wars since 1960, found that the most important risk factors were poverty, low economic growth and a high dependence on natural resources such as oil or diamonds – unfortunately quite an accurate description of much of Africa today.

The goal should however be clear: democracy and development. Whether democracy leads to development or development advances democracy does not yet have a simple answer. The example is given of Cuba, which has made large advances in basic nutrition, education and health, without the ideals of freedom of speech and broad political choice; in contrast, say, to India, where these freedoms exist in large measure but a large part of the population continues to live at or below minimum subsistence. What African public opinion does clearly communicate, however, is that *both* democracy and development are considered important in their own right to Africans. How then should Africa proceed to deepen and consolidate democratic governance? The recent Afrobarometer results show that the proportion of



“committed democrats” in the African countries surveyed may have dropped to little more than one-third. Perhaps many of us share the sentiments expressed a few years ago by the highly respected former Malaysian Prime Minister Mahathir Mohamad, who said, “It is good governance by good people that we need. And feudal kings, even dictators, have provided and can provide good governance. . . Some countries must be ruled by dictators” to avoid the pitfalls of multiparty democracy. However, Dr. Mahathir had to acknowledge that “the problem with a dictator is that he's so difficult to change”. It must also be said that Mahathir concludes by advocating a “moderate democracy” to balance the rights of the majority and minority.

Indeed, the concept of a “moderate democracy” appears to find support even among some Western thinkers; after all, in America the three most highly respected institutions – the Supreme Court, the Armed Forces and the Federal Reserve System – are insulated from public pressures and operate undemocratically.

In several African countries, citizens appear relatively satisfied with the state of democratic governance, while still recognizing that there are (minor) problems to be fixed. Perhaps all that is required in such countries is to maintain the forward progress, which, of course, will require the continued vigilance and application of the citizenry. There are, however, several other countries whose citizens rightly, I am sure, perceive major problems with their democratic regimes – indeed in some, I would venture to say, the citizens perceive their democracies to be severely at risk. How best can those problems be addressed? For example, how can such countries hope to achieve free and fair elections – which, particularly when they result in alternation, so strongly legitimize democracy?

For some countries, I fear such may not be achievable in the short-term. Fareed Zakaria points out in a recent book entitled *The Future of Freedom*, that in societies with multi-ethnic groups and without strong traditions of tolerance, the easiest way for politicians in a multi-party arrangement to get support is by appealing to people's most basic affiliations – racial, religious, ethnic; and once a group wins, it is usually winner takes all. Even in India, a relatively mature democracy, we have recently seen Hindu fundamentalists adopting a similar course against the



Muslim minority. Zakaria further argues that liberal democracy has done best in countries where a certain pattern has been followed: capitalism and the rule of law were *first* established, followed by democracy. In much of East Asia, for example, a dominant ruling elite liberalized the economy and consolidated the legal system. Capitalism created a middle class that then pressured the government to open up the political system; it nurtured an independent civil society that has helped to consolidate democracy. In Zakaria's view, perhaps the most successful liberal democracy in Latin America today is Chile, which followed a similar path under General Pinochet. The dictators were most certainly not trying to create democracy, yet in modernizing their countries they ended up achieving that result.

“In framing a government,” wrote James Madison in the Federalist Papers, “you must first enable the government to control the governed; and in the next place oblige it to control itself”. So first order – a stable secure environment, a constitution with a bill of rights, an independent judiciary and a sound central bank. Then, a subsequent move to a full-fledged democracy (and along the way, the hope of electoral alternation).

One obvious lesson emerges for me from the foregoing. Each country's elite – the educated, the middle class – carries a special responsibility for that society's development. It cannot shirk its duty to take the lead in modernizing the state and in nurturing independent civil society – for when the elite fails, then the country fails. And clearly, by virtue of your positions as Public Relations professionals, you have a prominent role to play in that process of consolidating democratic governance.

In meeting the challenges ahead, we must not lose sight of the fact that history and culture are critical ingredients in the mix. To quote the Western philosopher Edmund Burke, “People will not look forward to posterity who never look backward to their ancestors”. We Africans should seek not merely imitate what we observe in other parts of the world, but with innate self-confidence and self-reliance build on our own peculiar skills, cultures and traditions to achieve unique and innovative results.



## ENDNOTES

- <sup>1</sup> Robert A. Dahl. 1989. *Democracy and its Critics*. New Haven: Yale University Press, p. 221-2.
- <sup>2</sup> Albert Venn Dicey. 1950. *Law of the Constitution*. London: MacMillan, 9th ed., p. 194.
- <sup>3</sup> Julius Nyerere, speech on Good Governance for Africa, 1998.

