



Media and Research Services



Insights on Peace & Security Council

Statement by Amani Africa at the PSC Open Session on The African Charter on Democracy, Elections and Governance: Challenges and Prospects for Structural Prevention of Conflict'

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Amani Africa is an independent African based policy research consulting think tank, with expertise on the African Union (AU) system, including the African Peace and Security Architecture, which contribute to the work of the PSC through providing pre-session analysis on the agenda of the PSC through its flagship project 'Insights on the PSC'.

The theme of this session lies at the cross section of the PSC mandate that combines security and democratic governance. Indeed, under Article 7(1)(m) of the PSC Protocol the PSC is explicitly mandated to 'follow up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by member states'. Undoubtedly, the African Charter offers the PSC the best framework in the pursuit of delivering on its mandate under this provision.

As a point of departure in addressing the issue of the challenges facing the African Charter and its role in structural conflict prevention, Amani believes that there is no need for the AU to adopt any protocol to the Charter. It is our belief that nearly all the issues facing the effective operationalization of the African Charter and its role in structural conflict prevention are associated with its effective institutionalization and implementation by the AU and member states.

In terms of institutionalization by AU and member states, the first challenge is the lack of full ratification by all AU member states. The full continental implementation of the African Charter and its promotion by the AU, including by the PSC as instrument for structural conflict prevention, requires its full ratification.

The other issue is that, despite its direct relevance in the work of the PSC, the African Charter is not properly and systematically applied by the PSC. The reference by the PSC to the Charter for relevant cases remains ad hoc.

Additionally, while the elaboration of the state reporting guidelines within the AGA framework is a crucial step in its institutionalization, the lack of submission of reports by state parties to the Charter undermines it. In this regard, it is worthwhile to explore the review of compliance of states parties with the provisions of the Charter within the framework of the African Peer Review Mechanism (APRM) with periodic reporting to the PSC where issues requiring the attention of the PSC have been identified. Finally, there remain gaps between the AGA institutions and frameworks and the African Peace and Security Architecture (APSA) that supports and relies on the PSC. One of the ways of bridging this gap is to expand the input of AGA to the work of the PSC beyond the periodic briefings on elections. Importantly, in developing responses, the PSC should make use of not only the APSA but also the AGA frameworks and institutions as well.

In terms of its implementation, the first issue facing the African Charter is the domestication of the African Charter in the national legal system and its internalization in practice in the conduct of public affairs. There is also the issue of the popularization of the African Charter among wider sections of the public in states parties to the Charter that requests the DPA and the AGA platform to establish strategic alliance with the media, civil society organizations and academic and policy research institutions.

A major implementation challenge relate to the effectiveness of the continental enforcement mechanism. In this regard, the AU rule on sanctions for breach of AU norms on democratic governance is currently limited in its application to unconstitutional changes of government. The result of this practice is that if the breach of AU norms on democratic governance does not qualify to be unconstitutional change of

government, the PSC does not invoke its Article 7(g) power to sanction a member states, irrespective of the gravity of the breach. The lack of clarity on the question of term limits and notably the application of Article 23 (5) on manipulation of constitutional amendments meant that contestations over third termism has increasingly become a source of political instability and in some instances conflicts.

From the perspective of the role of the PSC, a major challenge is achieving consensus among its member states. It is not clear how the PSC can promote and make use of the Charter in pursuit of its mandate while some of its members are not parties to it. More importantly, there is the perennial issue of sovereignty, which some member states tend to invoke particularly in the realm of democratic governance. In this respect, apart from deliberating on the development of guidelines on the amendment of constitutions, the PSC should provide for elaboration of guidelines on the application of sanctions for major democratic governance breaches under the African Charter other than unconstitutional changes of government.

In taking this thematic area forward, the PSC could indicate the imperative of accepting and clearly affirming the application by the PSC of the African Charter as part of the implementation of its mandate, particularly as it relates to prevention of conflicts. Equally, the PSC could consider establishing the theme of this session as a standing thematic agenda of the PSC during which the PSC receives, from independent expert group established by the PSC, an annual report on the state of democratic governance and threats to peace and security in Africa.

I thank you for your attention and express the readiness of Amani Africa to enhance its support for the work of the PSC and collaborate with all PSC stakeholders in the noble endeavor of delivering on the mandate of the PSC for a peaceful Africa.



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ABOUT US

Amani Africa is an independent African based policy research; training and consulting think tank that operates as the first and only institution with a specialization and primary focus on Africa multilateral policy processes notably the African union.

We support the pan-African dream of peaceful prosperous and integrated Africa through research, training strategic communications, technical advisory services and convening and facilitation.

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