



# WEST AFRICA NETWORK FOR PEACEBUILDING

## WARN POLICY BRIEF

NOVEMBER 4, 2014

# Transitions and Tensions in West Africa: Building on the Strength and Bridging the Gap in the ECOWAS Protocol on Democracy and Good Governance

## 1.0 INTRODUCTION

In the past two decades, the ECOWAS region has been confronted with various levels of violent conflicts occasioned by bad governance, poor management and equitable distribution of resources and identity crises. West Africa has had three notable civil wars, and experienced several coup d'états, civil unrests, electoral violence and most recently upsurge of violent extremism in Nigeria and the Sahel region. At the heart of most of these conflicts are the tensions associated with transitions including unclear and ambiguous tenure of office, weak electioneering processes, constitutional manipulations, consolidated autocracy among others. Juxtaposed to this is the issue of underdevelopment and chronic poverty, which provides the structural background for the conflicts to fester and thrive. These factors have had devastating consequences on human lives and retarded social and economic developments in the region.

The frequency and intensity of these tensions coupled with the refusal of incumbents to relinquish power after

losing elections continue to undermine political transparency and democratic stability. A case in point is the complications surrounding former President Laurent Gbagbo's ceding of power to Alassane Ouattara after the 2010 elections, a situation that plunged the country into political crisis. Also, the militarization of politics, series of coup d'états and tensions associated with transitions in Guinea Bissau has led to a situation in which no elected president has completed a term in office. Drug trafficking spanning over a decade has further worsened the instability of the country and also accounts for the power struggles and deterioration of relations between the military and political elites<sup>1</sup>.

These experiences have continued to reinforce the inseparable link between economic development and integration, and peace and conflict. In the face of these, ECOWAS as part of measures to effectively manage and resolve these challenges and ensure a conducive environment for economic development, on December 10, 1999, signed the Protocol relating to the

Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security in Lomé, Togo. This instrument mainly aimed at addressing inter-state conflicts at a moment when intra-state conflicts were escalating in West Africa. In order to address the root causes of conflicts especially relating to governance and constitutional rule, ECOWAS further adopted a Supplementary Protocol on Democracy and Good Governance in Dakar, Senegal in 2001. The Supplementary Protocol specifically deals with issues of elections and accession to power, decentralization of power and participatory democracy, poverty alleviation, human rights and education among others.

This policy brief emanates from proceedings of a consultative meeting on **"Managing Transitional Governance and the Application of the ECOWAS Protocol on Democracy and Good Governance"** convened by the West Africa Network for Peacebuilding, WANEP in Accra in July 2014. The meeting analyzed the effectiveness of the Supplementary Protocol and proffered recommendations on how to

<sup>1</sup> M. Ukpanah, F. Mendy and C. Fernandes, WANEP Policy Brief on "Ending the Vicious Cycle of Instability in Guinea -Bissau: What Next After 2014 Elections?" April 2014

## West Africa Early Warning & EARLY RESPONSE Network (WARN)

The West Africa Early Warning Network (WARN) is an integral part of the West Africa Preventive Peacebuilding Program co-ordinated by the West Africa Network for Peacebuilding (WANEP). Through its WARN Program, WANEP is setting the stage for a civil society-based early warning and response network in Africa with emphasis on human security.

WARN covers the entire Economic Community of West African States (ECOWAS) region.

Since 2002, WANEP entered into an agreement with ECOWAS through the signing of a Memorandum of Understanding (MOU) in the framework of capacity building in Conflict Prevention. One of the goals of

this agreement is to interface WARN with the ECOWAS Early Warning Systems to optimize early warning conflict prevention in West Africa. In view of this development, WANEP has been operating a liaison office located at the ECOWAS Secretariat in Abuja, Nigeria since April 2003.

In recognition of the role and achievements of the West Africa Network for Peacebuilding (WANEP) in Conflict Prevention and Peacebuilding in Africa, particularly in West Africa, the Economic and Social Council of the United Nations at its substantive session of 2006 granted WANEP Special Consultative Status to the UN. WANEP is therefore mandated to designate official representatives to the United Nations in New York, Geneva and Vienna to further its advocacy and outreach strategies for peace and human security.

bridge the gaps in its application amongst the member states. Participants were selected from the 15 ECOWAS Member States including government agencies, academia, international developmental partners and Civil Society Organizations working in the area of democracy and governance. The policy brief summarizes the views of participants at the meeting as well as insights from WANEP'S monitoring of political dynamics and shenanigans in the region.

## 2.0 TRANSITIONAL DYNAMICS AND TRENDS IN THE REGION

Since the inception of democracy in West Africa, election disputes have become a common feature of democratic transition. Most states in West Africa are characterized by chequered political system, with several years of repressive and corrupt civilian and military regimes leading to years of setbacks to the democratization process. Violent democratic transitions have been linked to a poor culture of electoral dispute management, weak democratic structures and institutions to deal with sectarian politics framed along ethnic and religious sentiments. These transitional tensions are manifested across the region in the following ways;

**Lack of Consensus on Electoral Process:** electioneering process across the region is often characterized by disagreements between Government and opposition parties beginning with the promulgation of electoral laws to composition of electoral commissions, constituency gerrymandering, review of voters' register and the actual voting and result acceptance among others. In 2013, violence erupted in Guinea over disagreements in the legislative election time table including date, voter's register and participation of Guineans in the Diaspora. A similar situation occurred in Togo in the 2013 legislative elections, when the opposition sought to postpone the polls in order to reform

the electoral process. Failure to address these reforms before the 2013 elections have led to series of protests in the build up to the 2015 presidential elections. Insightful comments by leading politicians on perceived irregularities of the process before and after announcement of final results also instigate violence as witnessed in the 2010 presidential elections in Cote d'Ivoire and 2011 presidential elections in Nigeria respectively. In addition, the creation of partisan boundaries as was the case in Togo where the ruling Union for the Republic (UNIR) created additional constituencies and 10 seats in the National Assembly led to the unprecedented demonstrations, witnessed in the last legislative elections. The creation of 45 constituencies in addition to the 230 parliamentary seats in Ghana also created tensions during the 2012 general elections.

**Political Maneuverings and Tampering of Constitutions:** Another major catalyst for disputes during transitional processes across West Africa is "review and amendments" of constitution. The region continues to suffer from leaders who have entrenched themselves in power - some for nearly three decades - through manipulation of the constitution. The tenure extension agenda in Senegal, which was justified and legalized through parliamentary endorsement, has become a model of political transitional agenda now being copied and executed by some West African leaders. This was further validated through the ruling of a constitutional court allowing President Abdoulaye Wade of Senegal to stand for a third term of seven years. The immediate consequence was the turning of the hitherto stable West African country into a boiling cauldron of violence and instability as opposition rallies took to the streets. In the 12 years of President Wade's governance of Senegal, his administration has been dogged by allegations of corruption, nepotism and abuse of power. At some point, he was rumored to be grooming his son, one of his two children, who is a high profile member of his cabinet to succeed him in office. His daughter was also a prominent member of his administration. This flagrant abuse of

power has been termed by many as "Familycrazy". In 2006, the alleged attempt by former president Olusegun Obasanjo of Nigeria to amend the constitution to get a third term in office nearly plunged the nation into chaos but for the timely intervention of the parliament, particularly the upper chamber – the Senate. President Mamadou Tandja of Niger attempted to replicate the same via a referendum to allegedly elongate his tenure in 2009. In a recent development, tensions and violent demonstrations erupted in Burkina Faso in the build up to the 2015 presidential polls over attempt by President Blaise Compaore to amend Article 37 of the Constitution in order to pave way for him to contest the election after close to three decades in office. This instigated widespread violent protests culminating into loss of lives and destruction of properties forcing the president to flee the country.

**Intimidation of Candidates and Electorates:** Intimidation of voters and opposing candidates is another key issue undermining democratic consolidation in West Africa. Some candidates or their family members have often been abducted or assassinated in a bid to intimidate them out of the political race. In Gambia, the opposition parties boycotted the 2011 presidential elections on grounds of intimidation and unequal playing field; a development which compelled ECOWAS to rely on the reports and analysis of the Early Warning Mechanism (ECOWARN) and refused to deploy observers to monitor the elections. In Cote d'Ivoire, opposition boycotted the elections of 1995 and 2000 owing to perceived electoral malpractices; while the lack of consensus on electoral laws and processes also instigated series of opposition boycotts in Togo (1993, 1999, and 2002).

**Rejection of Electoral Results:** This has become a major trend and threat in the region with most losing candidates rejecting the electoral results and seeking redress in court where petitions may linger on for months or years in some cases. Notable examples included the Ghana 2012 presidential elections where the opposition New Patriotic

Party (NPP) challenged the victory of the incumbent President at the Supreme Court; and in Sierra Leone, the Sierra Leone People's Party (SLPP) also challenged the outcome of the 2007 and 2012 presidential elections at the Supreme Court. In Nigeria, several election petitions were made at all levels challenging the outcome of the 2011 presidential elections. These trends show that while the use of legal and peaceful means is healthy for the consolidation of democracy, to some extent it also brings a lot of anxiety and tension and retards democratic processes and economic stability.

**Militarization of Politics:** Perennial meddling of the military in politics which has led to unconstitutional change of government through coup d'états is common amongst countries approaching or undergoing transitions in the region. The recent military dissolution of power in Burkina Faso following violent protests against alleged attempt by President Blaise Compaore to extend his rule has ushered in a wave of uncertainty in the political landscape of the region. Perceived inability to respond to the Tuareg insurgents in northern Mali instigated a coup, which ousted the government of President Amadou Toumani in March 2012 weeks to presidential elections. Guinea Bissau has witnessed five coups in the past decade, a situation that has derailed the political process and continues to weaken national institutions. While some political elites purportedly manipulate the military for political gains, analysts opine that the resurgence of coups in the region can be attributed to a combination of factors including corrupt civil-military relations and poor army pension scheme in some countries.

### 3.0 MANAGING TRANSITIONAL GOVERNANCE IN WEST AFRICA – ECOWAS RESPONSE STRATEGIES AND GAPS

The Supplementary Protocol was adopted by ECOWAS to put in place elaborate normative frameworks and mechanisms to strengthen the regional peace and security architecture due to the successive outbreak of conflicts in the region. It establishes a clear link between the objective of conflict prevention and resolution and the will to positively influence political developments in the region<sup>2</sup>. The Protocol is a remarkable step and veritable tool by ECOWAS to consolidate peace, security and stability in a region that has witnessed more than a decade long violent civil wars. Experts agree that the protocol provides principles and guidelines for the promotion of democracy and peace including modalities for its implementation thus stipulating ECOWAS role and contribution to the organization of free, fair and transparent elections. However, as laudable as the provisions contained in the Protocol may seem, it has undoubtedly suffered diverse challenges especially relating to its implementation. A key challenge as observed by a scholar is the "ignorance on the part of the citizenry regarding provisions of the protocol which have thus weakened citizens' ability to effectively engage the governments and relevant agencies on the issues, in terms of benchmarking them against some of the issues in the country."<sup>3</sup>

Citizens' inadequate knowledge on the provisions of the protocol and possibility of seeking redress through the ECOWAS Court of Justice for the violation of human rights constitute serious impediments to its implementation. In addition, there is a perception by citizens that ECOWAS is not doing enough to popularize the contents of the protocol. Decisions reached at ECOWAS meetings are not

effectively communicated by national delegates to relevant stakeholders and the citizenry for implementation at national level. Owing to this communication gap, there is lack of ownership of the ECOWAS instruments by the citizens of the community, which hinders their domestication and implementation.

Whereas ECOWAS via the Supplementary Protocol remains resolute in its belief in constitutional ascension and retention of political power, transitional governance in the region has become one of the most formidable challenges facing reconstruction and stabilization in post-conflict states. Although member states comply with the provision of the Supplementary Protocol which stipulates that "No substantial modification shall be made to the electoral laws in the last six (6) months before the elections, except with the consent of a majority of Political actors"<sup>4</sup>, some Presidents have capitalized on this and made glaring attempts to tamper with their constitutions in a bid to elongate their tenure in office. Such allegations are evident in Niger, Benin, Burkina Faso and Sierra Leone and have created opposing camps among the populace where citizens are oftentimes manipulated to support such endeavours at the detriment of national interest.

Another challenge to the implementation of the Supplementary Protocol is the lack of political will by member states to abide by its provisions, with particular emphasis on perceived "threats" to national sovereignty. The non-ratification and domestication of the Supplementary Protocol by five member states including Nigeria and Cote d'Ivoire who are considered 'big players' in the region has to some extent hindered its implementation. There is a perception that the adoption of the Supplementary Protocol came at a time when some

<sup>2</sup> Cheick Oumar Diarra, "ECOWAS Protocol relating to the Mechanism on Conflict Prevention", Paper delivered at a Consultative Meeting organized on Human Security Mechanism for EAC and GIL", Nairobi, 24-28 February, 2002.

<sup>3</sup> ECOWAS Protocol on Democracy and Good Governance in Sierra Leone, Sahel and West Africa Club; Mar 20, 2006.

<sup>4</sup> Supplementary Protocol on Democracy and Good Governance, 2001, Section II, (Article 2:1)

Heads of States and Government were in power for over ten years; a situation which limited their commitment to consider all tenets of democracy and good governance and restricted their ability to set a limit for presidential terms.

In view of the aforementioned gaps and in order to ensure implementation and compliance with Section III (Election Monitoring and Assistance) of the Supplementary Protocol, ECOWAS established an Electoral Assistance Unit. The Unit facilitates electoral intervention through its work with member states and civil society organisations to ensure transparent, free and fair electoral processes. The Unit also provides coordination in the deployment of fact-finding missions and Election Observation Missions in the course of the electoral process in order to assess national preparations towards elections. This initiative has contributed significantly to the reduction of election-induced violence. Furthermore and in a bid to improve electoral processes to facilitate the conduct of free, fair, transparent and credible elections and deepen democracy in the region, a Network of Electoral Commissions in West Africa (ECONEC) was established in 2008. The Network is charged with the responsibility of improving the role of Electoral Management Bodies (EMBs) in managing and resolving problems associated with the electoral processes.

Stemming from the legal instruments, ECOWAS maintains strict adherence to its policy of 'Zero Tolerance' towards unconstitutional change of government backed by strong determination to ensure credible and peaceful elections in the region. Since the adoption of the Supplementary Protocol, ECOWAS has intervened in several political crises and facilitated the emergence of constitutional rule in some member states. This was demonstrated in opposition to the military coup d'état in Guinea Bissau (2003), succession in conformity with the constitution of Togo following the death of President Gnassingbe Eyadema in 2005 and condemnation of the coup and

concerted efforts to restore constitutional authority in Guinea Bissau and Mali (2012).

The doggedness of ECOWAS as an institution is evident in the suspension of member states and barring of Heads of government who came to power through unconstitutional means from attending ECOWAS meetings as in the case of Cote d'Ivoire and Niger respectively. In Cote d'Ivoire, ECOWAS validated the electoral victory of the opposition candidate in 2010 despite claims to the contrary by the incumbent president and was determined to remove the latter from office even by military force in case diplomatic efforts failed to yield the desired result<sup>5</sup>.

#### 4.0 RECOMMENDATIONS

The following recommendations have been formulated in view of addressing the gaps and challenges identified in order to enhance the use of the Protocol to promote democratic governance, peace and security in the region:

- The Supplementary Protocol should be reviewed to include two terms limit for the Presidency with a clause to prohibit constitutional review aimed at extending Presidential term limits.
- Election Observation Missions should be reviewed to include long-term observation missions to ensure coverage of the entire electoral process. Security forces should also be part of election observation missions when the need arises, especially in fragile situations. It should also be expanded to include election observation missions in local, municipal, and communal elections.
- There should be collaboration and support between existing national and regional civil society organizations and coalitions on the popularization of the supplementary protocol.
- Reinforce the effectiveness of early warning and response processes in the Supplementary Protocol

- ECOWAS Zonal Bureaus should be enhanced and all national units in Member States activated to promote good governance and work on the implementation of the Protocol.
- The democratic convergence principle with respect to shared values, as defined by the Constitutive Act and other policy documents of the African Union should be strengthened and fully operationalized through the RECs
- Ensure a gradual harmonization of the varying legal standards across the continent to guarantee uniformed and easy implementation of the rules and decisions of the body.
- Principle of subsidiarity and complementarity with the regional economic blocs should be applied to ensure coordination, cooperation and effective use of resources and to avoid duplication of efforts and tensions.
- Section 8 of the Supplementary Protocol, which deals with Women, Children and Youths, should also be reviewed to include Persons with Disabilities (PWD) to encourage their full participation in governance and peace efforts.
- Mediators should be selected on grounds of morality and credibility given the strategic impact they will have in political conflict situations.
- The capacity and resources of civil society organisations working in the field of governance, democracy and peace should be enhanced.
- Collaborate with the academia to incorporate the provisions of the Protocols in the curricula of their respective institutions.
- Utilize the Social media and other cultural platforms (music, drama, theatre) to popularize the Protocol.
- Engage with relevant parliamentary sub-committees and organize workshops to facilitate the ratification and operationalization of the Supplementary Protocol
- Create national platforms to improve citizens' awareness and understanding of electoral laws and regional Protocols that relate to elections.
- Establish and or strengthen a CSO coordination unit at the national and regional levels to sensitize and

<sup>5</sup> Final communiqué of Extraordinary Session of the Authority of Heads of State and Government on Cote d'Ivoire, December 24, 2010

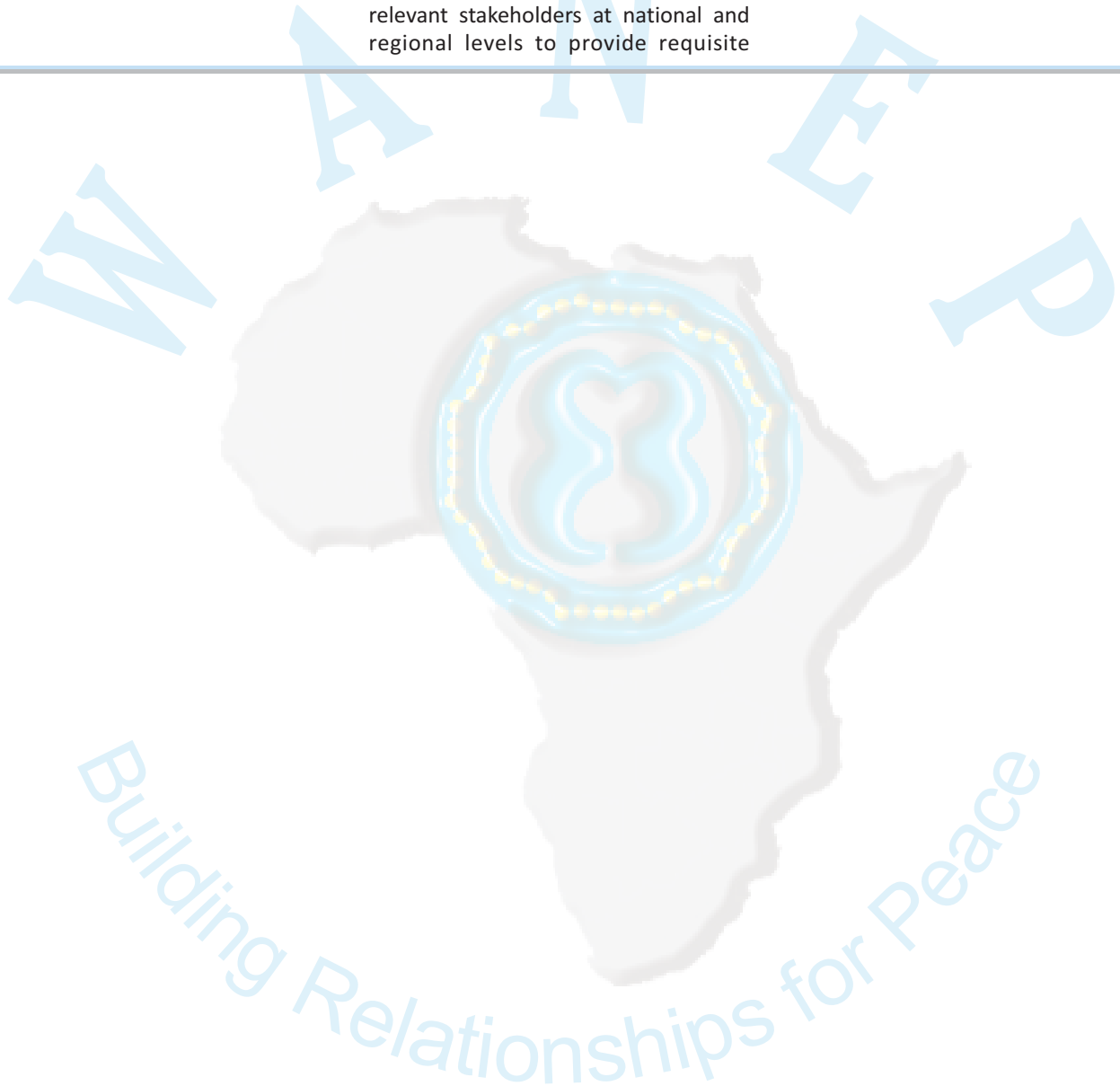
popularize the protocol, and canvass for its implementation.

- Engage with ECOWAS national units to develop national monitoring frameworks for the supplementary protocol
- Organize capacity building trainings for various actors including the media, political parties etc. on the Supplementary protocol.

## 5.0 CONCLUSION

There is no doubt that the Supplementary Protocol provides a great platform for the management of transitional governance in West Africa, however the gaps and challenges identified with particular reference to elongation of tenures and rejection of electoral results by candidates signal the urgent need to review the Protocol. While ECOWAS should lead its review thereof, it is imperative for CSOs and relevant stakeholders at national and regional levels to provide requisite

technical support in addressing the emerging trends through the sensitization and popularization of the Protocol for effective implementation and adherence by relevant stakeholders.



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