

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, Ethiopia P. O. Box 3243 Telephone: (+251) 11 5517 700 Fax: (+251) 11 5511299
Website: www.au.int

**CONSULTATIVE CONSULTATION WITH CIVIL SOCIETY, MEMBERS OF
PARLIAMENTS AND MINISTRIES OF FOREIGN AFFAIRS TO PROMOTE
CONSTITUTIONALISM, RULE OF LAW AND GOOD GOVERNANCE
THROUGH THE AU INSTRUMENTS NAMELY THE AFRICAN CHARTER ON
DEMOCRACY, ELECTIONS AND GOVERNANCE AND THE CHARTER ON
VALUES AND PRINCIPLES OF DECENTRALISATION, LOCAL
GOVERNANCE AND LOCAL DEVELOPMENT
IN EASTERN AFRICA**

14 -16 November 2016

KIGALI, RWANDA

DEPARTMENT OF POLITICAL AFFAIRS



I. CONTEXT

The importance of Constitutionalism and Rule of Law remains primordial in entrenching a culture of democratic governance on the African continent. This vision is also echoed and strengthened by the African Union Shared Values instruments which also form the pillars of the realisation of the vision of the African Union- that of a peaceful Africa, prosperous, integrated and driven by the people, as highlighted in Agenda 2063.

To promote Constitutionalism, Rule of Law and democratic governance on the continent both globally and locally, the AU Shared Values Instruments are: the African Charter on Democracy, Elections and Governance (ACDEG) and the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development.

The entrenchment of constitutionalism and rule of law as stipulated in the ACDEG¹, aims to contribute to the institutionalization of a democratic culture in Africa. The values of constitutionalism and rule of law are strengthened by an active participation from the citizens on all levels ranging from political to economic. Good governance thus embodies the proximity with citizens to be able to have a voice in the decision making of their state affairs.

As such, to further consolidate the broader ambit of democratic governance under which the values of constitutionalism and rule of law lie, there has been a recent addition to the AU Shared Values Instruments which is the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development which was adopted by AU Member States in 2014.² This Charter further helps to promote the cause of good governance and democracy on the continent. For an inclusive and holistic development, it is important for Member States to recognize the importance of government that is sensitive to the local context, close to the people, and accessible by all, and agree that strong local governance and decentralization of power are key to achieving those goals.

On the African continent and especially in the Eastern African region, there has been a growing interest on issues of constitutionalism, rule of law and good governance and this can be demonstrated by an increased interest in the regional treaties which the

¹ As at 4 October 2016, twenty-three (23) States Parties have ratified, namely: South Africa, Benin, Burkina Faso, Cameroon, Ivory Coast, Djibouti, Ethiopia, Ghana, Guinea, Guinea Bissau, Lesotho, Mali, Malawi, Mauritania, Niger, Nigeria, Rwanda, Sierra Leone, Sahrawi, Sudan, Chad, Togo, Zambia.

Twenty-four (24) States have signed but have not yet ratified the Charter. These are: Algeria, Angola, Burundi, Central African Republic, Cape Verde, Comoros, Congo, Democratic Republic of Congo, Equatorial Guinea, Gabon, Gambia, Kenya, Liberia, Madagascar, Mozambique, Mauritius, Namibia, Senegal, Somalia, Sao Tome and Principe, South Sudan, Swaziland, Tunisia and Uganda.

Six (6) other States have neither signed nor ratified. These are: Botswana, Egypt, Libya, Seychelles, Tanzania and Zimbabwe:

² As of yet, only nine countries have signed the charter, and none have ratified; fifteen must ratify before the Charter can enter into force.

Regional Economic Communities have also been pushing for. The entrenchment of constitutionalism, rule of law and good governance is both a matter of duty and rights for any citizen. These civic rights and responsibilities are also based on the assumption that people participate effectively and that their voices are taken into account on issues that have a direct bearing on their lives; that public actions or decisions taken by government are managed in a transparent, efficient, responsible and fair manner while abiding by the rules. Thus this brings us to the concept of the collaboration between legislators and policy makers (that is, parliamentarians), Ministry of Foreign Affairs as being one of the focal point for the signatures and ratifications of international treaties; civil society organisations, as being the oversight mechanism for the implementation of these treaties.

For effective good governance, public service delivery remains key. It also requires a holistic approach, an active role and responsibility of all stakeholders to promote constitutionalism and rule of law while ensuring effective public service delivery. As the ACDEG encourages parliaments as the guarantor of the constitutional order, to work with more collaboration, cooperation, interaction to facilitate the experience sharing and good practices on democratic principles and good governance, it is in this context that this regional stakeholders consultation with parliamentarians, representatives of Ministries of foreign affairs, CSOs and media is being organised so that engagement and contribution from both sides can strengthen legislature roles in having access to evidence that in turn facilitates improved policymaking.³

Furthermore, with regard to the African Charter on the Values and principles of decentralisation, Local Governance and Local Development, though many countries have made progress in implementing decentralization policies and local governance reforms, much remains to be done. The ratification and implementation of the Charter on the Values and Principles of Decentralization, Local Governance, and Local Development is an important step toward achieving the continent's governance and democracy goals. As of yet, only nine countries have signed the charter, and none have ratified; fifteen must ratify before the Charter can enter into force.

The consultation will thus provide the opportunity to sensitize Member States on the provisions of the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development to promote the ratification and national implementation of the Charter and highlight the importance of ratification, as well as to discuss methods and tools to effectively implement the Charter at the national level in the realm of democratic governance.

II. JUSTIFICATION

This consultation involves the efforts of the Department of Political Affairs of the African Union Commission, supported by Intergovernmental Authority on Development (IGAD), International Alert (IA) and International IDEA (IDEA) and it is designed to engage civil society organizations, parliamentarians and representatives of Ministry of Foreign Affairs in the importance of constitutionalism and rule of law, governance, especially decentralisation, local governance and development through focusing on the values of

³ Policy paper, East Africa....

constitutionalism and Rule of Law as enshrined in the ACDEG and the African Charter on the Values and Principles of Decentralisation, Local Governance and Local Development.

This consultation involves implementing the recommendations of the Dakar meeting held in April 2014 which aims to create a good synergy between the various actors to establish a structural dialogue for promoting and monitoring the implementation of the ACDEG while strengthening constitutionalism and rule of law.

Furthermore, a consultative meeting held with the civil society organizations and the media in July 2015 in Abidjan, Côte d'Ivoire to promote the ratification and implementation of ACDEG in West Africa highlighted the important role played by parliaments in promoting values of Constitutionalism and Rule of Law in their capacity as legislators. Recommendations were also made for more consultations with parliaments at regional levels to better understand their respective realities in promoting rule of law and constitutionalism. In the recent past, parliamentarians through the Pan-African Parliament have showed how important is the role of parliaments in the signing and ratification of legal instrument, in helping accelerate the signing and ratification of the ACDEG, especially with the campaign "11 by 2011" that allowed the ACDEG to enter into force in early 2012.

Additionally, a consultation with PAP and Regional Parliaments held in November 2015 in Midrand, South Africa, while discussing ways to address the fundamental challenges faced in fulfilling the three traditional functions of parliaments in advancing constitutionalism (law making, representation and ensuring accountability through oversight) called for such dialogue with national parliamentary. The current consultation is partly a response to these calls and is part of a series of regional consultations that will be held throughout 2016-2017.

Moreover sections (i) and (ii) of paragraph 3 of the decision taken by the General Assembly at the July 2015 Summit invite the Member States to accelerate the signature and ratification and implementation of the African Charter on the Values and Principles of Decentralization, Local Governance and Local Development in order to entrench a democratic culture, enshrined with constitutionalism and peace in respective countries.

III. OBJECTIVES

The overall objective of this consultation is to gather the parliamentarians and representatives of ministries of foreign affairs and CSOs of Member States of the African Union in the East Africa region to promote and further encourage the implementation of the ACDEG for the entrenchment of the values of Constitutionalism and Rule of Law and the African Charter on the Values and Principles of Decentralisation, Local Government and Local Development for the entrenchment of good governance and effective public service delivery.. It will be also to engage AU Member States on issues of local governance and decentralization and to advocate for the signing, ratification, and implementation of the African Charter on the Values and Principles of Decentralization, Local Governance, and Local Development.

More specifically, it aims to:

- Engage and inform stakeholders (Member States, agencies and organs of the African Union, Regional Economic Communities, parliamentarians, civil society) for the importance and urgency of the entrenchment of constitutionalism, rule of law and democratic governance through the effective implementation of the Charter;
- Speeding up the number of ratification of the Charter on the Values and Principles of Decentralisation, Local Governance and Local Development through the better understanding of its tenets among Member States;
- Providing opportunity for experience sharing among Member States and technical staff on effective implementation of the principles of the Charter and improvement of local governance.
- Enhance both horizontal and vertical accountability systems, civil society– legislator engagement to help develop a new political landscape both nationally and regionally;
- Strengthen the quality of national and regional-level policy debates and decision-making processes;
- Ensure connections and dialogues between MPs and their grassroots constituents;
- Ensure the commitment of MPs and civil society organisations to promote the ratification and monitor the effective implementation of the Charter through campaigns of advocacy and public awareness;

IV. EXPECTED RESULTS

The main expected outcomes of the consultation include:

- A renewed commitment of States Parties to implement the Charters to promote Constitutionalism and Rule of Law and take the necessary steps in this process;
- A renewed commitment of Members of States of the region to become party to the Charter of on the Values and Principles of Decentralisation, Local Government and Local Development;
- A commitment by the MPs and civil society to promote the Charters and to ensure its implementation at national level;
- The quality of national and regional dialogues between MPs and Civil society organisations enhanced.

V. PARTICIPANTS

This consultation will be attended by representatives of national parliaments and representatives of ministries of foreign affairs of East African Region, Member States of IGAD, the PAP, African Union Commission, the African Union Organs, Experts in Constitutionalism and Rule of Law, Local Government and Local development representatives of civil society, think tanks and other organizations.

VI. COORDINATION

The consultation will be coordinated by: **Mr. Calixte Aristide Mbari**, Ag. Head of Division, Democracy, Governance, Human Rights, and Elections at the Department of Political Affairs: Tel. 00 251 115182611/Mob. 00 251 913361605; MbariC@africa-union.org, mbaricalixte@hotmail.com, and **Mr Issaka Garba Abdou**, Senior Political Officer, Garbaabdoul@africa-union.org.

The supporting officers are Ms Darsheenee Singh Raumnauth, Constitutionalism and Rule of law Analyst, Raumnauthd@africa-union.org , darsheenee@gmail.com and Mr. Marc Nindia Naba, Democratic Governance Analyst, marcnabaa@yahoo.fr; marcN@africa-union.org and Mr.Tchatcho T.Kevin, Consultant Governance Analyst, Kevint@africa-union.org ;

The dates of the consultation are from 14 to 16 November 2016.

VII. WORKING DOCUMENTS:

The following documents will be used as the working documents for the regional stakeholder consultation.

- The African Charter on Democracy, Elections and Governance;
- The African Charter on Human and Peoples' Rights;
- The African Charter on the Values and Principles of Decentralisation, Local Government and Local Development ;
- The Rules of Procedure of the AU-STC 8
- The AU-STC 8 Two-Year Work Plan
- Reports of the previous meetings
- Any other relevant document.

DRAFT AGENDA

14 NOVEMBER 2016	
ARRIVAL OF PARTICIPANTS AND CHECK-IN AT THE HOTEL	
DAY 1: 12 November 2016	
08h 30- 09 h00	Registration of Participants
09h 00 – 09h 30	<p>OPENING CEREMONY</p> <p>Chairperson: Representative of the Government of Rwanda</p> <p>Welcome and Opening Remarks:</p> <ul style="list-style-type: none"> • Speech of the Representative of International Alert • Speech of Prof. Adebayo Olukoshi, Regional Director of International IDEA • Speech of the Representative of IGAD • Speech of Dr. Khabele Matlosa, Director of Political Affairs, AUC <p>Opening speech</p> <p>Representative of the Government of Rwanda</p>
09h 30- 09h 45	Group Photo Session / Coffee-Tea Break
09h 45- 10h 30	<p>Chairperson: Dr Khabele Matlosa</p> <p>Topic 1: Promoting Constitutionalism and Rule of Law through the African Charter on Democracy, Elections and Governance</p> <ul style="list-style-type: none"> • Presenter: Prof Adebayo Olukoshi, Regional Director, International IDEA <p>Topic 2: The Parliament and the promotion of constitutionalism and rule of law in Africa: A Comparative Perspective</p> <ul style="list-style-type: none"> • Presenter: Prof Mbata Mangu, Prof of Constitutional Law, University of South Africa
10h 30-11h 15	DISCUSSIONS
11h 15- 12h 00	<p>Topic 3: Promoting the importance of decentralisation and good governance through the African Charter on the Values and Principles of Decentralisation, Local Government and Local Development:</p> <ul style="list-style-type: none"> • Presenter: Mrs. Chantal Uwimana <p>Topic 4: Role of national stakeholders in strengthening good governance through the the African Charter on the Values and principles of decentralisation, Local Government and Local Development</p> <ul style="list-style-type: none"> • Presenter: Mrs. Keneilwe Sadie Mooketsane
12h 00- 13 h 00	Discussions
13h00-14h 00	LUNCH BREAK
14h 00-15 h 00	Exchange sharing of Member States in Eastern Africa
15h 00- 15 h 15	Tea/Coffee Break

15h 15- 17 h 00	<p>Division of working groups (Each group will consist of One Member of Parliament, One representative of foreign Affairs, civil society)</p> <ul style="list-style-type: none"> - Classifying participants into groups and identifying rapporteurs for each group <p>Group 1: Stakeholders responsibility in promoting Constitutionalism and Rule of Law through the ACDEG</p> <p>Group2: Stakeholders responsibility in promoting the effectiveness decentralisation and good governance through the African Charter on the Values and Principles of Decentralisation, Local Government and Local Development.</p> <p>Group 3: Way forward: follow up mechanism for the recommendations on the national level</p>
17h 00	End of Day One
Day 2: 15 November 2016	
09. 00- 13h 00	Working into groups continued
13. 00- 14 h 00	Lunch
14h 00- 15h 30	Plenary sessions: presentation of the findings of the working groups
15h-30 – 15h45	Coffee break
15h45 – 17h30	Plenary sessions: Presentation of the findings of the working groups and discussion continued
DAY 3: 16 November 2016	
09h00-11h00	Report drafting (Outcomes of the consultation)
11h00 – 12h00	Review and Adoption of the consultation Outcomes Statement Chairperson:
12h00-12h45	<p>Closing Remarks:</p> <p>Chairperson: Representative of the Government of Rwanda</p> <ul style="list-style-type: none"> • Speech of the Representative of International Alert • Speech of Prof. Adebayo Olukoshi, Regional Director of International IDEA • Speech of the representative of IGAD • Speech of Dr. Khabele Matlosa, Director of Political Affairs, AUC <p>Closing speech Representative of the Government of Rwanda</p>