Confronting complex political crises in West Africa

An analysis of ECOWAS responses to Niger and Côte d'Ivoire

INTRODUCTION

Recent political crises in West Africa have resulted from a variety of factors, including bad governance, the uneven distribution of national wealth and the manipulation of ethnic communities. The majority of crises facing the region also display a confluence of local, regional and extra-regional dynamics. As Ndiaye has indicated: 'Every conflict in West Africa, as anywhere in the world, stems first from objective socio-economic, psychological and political conditions on the ground in the confines of national boundaries. In an increasingly interdependent world, however, no conflict can escape the influence of realities and dynamics of the immediate sub-regional, regional and wider international, ever-evolving environments in which it unfolds.'[1]

Despite some success in countering the effects of armed conflicts in West Africa, the region still faces a number of serious threats to the security of its people. These threats come in a variety of forms, many of which interact with each other: military interventions in the political arena, constitutional or electoral manipulation, international criminal networks, religious intolerance, communal violence and natural disasters. According to Anning and Bah,

> West Africa's relative stability following a period of violent and protracted conflicts in the 1990s is under increasing attack from a range of existing and emerging threats. The emergence or in some cases re-emergence of certain trends, namely armed sub-state groups, small arms flows and the narcotics trade, could erode the stability that the region currently enjoys. Despite progress in consolidating democracy over the past two decades, a series of recent military coups has raised questions about the state of the democratic structures that are currently in place. More generally, much of the region is still waiting for a 'democratic dividend': despite the return to civilian rule and holding of periodic elections, the social and economic well being of the vast majority of people in the sub-region remain dire.[2]

Niger and Côte d'Ivoire provide good illustrations of West Africa's complex political crises. Both countries have, for the last few years, manifested the consequences of a governance deficit and the challenges of democratic transition in the region. Niger appeared to be recovering from the chronic instability that had characterised its political landscape in the 1990s. Regular elections were being held and institutions were being restored to functionality. But then, in 2009, in a move that is becoming recurrent with some 'democratically elected leaders' in Africa, President Mamadou Tandja, who was about to complete his second and final term in office, decided to amend the 1999 constitution in a bid to prolong his hold on power, triggering yet another political crisis.

Côte d'Ivoire, on the other hand, has experienced one of the region's most difficult and complex crises, even though for many decades it enjoyed a socio-political and economic stability on the foundations laid by Felix Houphouet-Boigny, the country's first post-colonial president. Despite the absence of well-functioning democratic institutions, Houphouet-Boigny was successful in managing conflicting interests that could otherwise have undermined the state's survival. But his death and the failure of his successors to achieve a coherent political transition, coupled with deteriorating living conditions, led Côte d'Ivoire into violence and protracted conflict. A decade of peace processes from the mid-1990s onwards was unable to lead the country back to peace. The situation was worsened by a military coup in December 1999. As a result, Côte d'Ivoire is far from exiting the zone of turbulence.

The question addressed in this paper is how the Economic Community of West African States (ECOWAS) has attempted to address the crises in Niger and Côte

d'Ivoire. How has it sought to implement the norms, activate mechanisms and establish structures to advance good governance, democracy and peace? Although ECOWAS has sometimes appeared to be overwhelmed by the numerous crises it has had to face in the region, and despite its own structural problems, in its approaches to the situations in Niger and Côte d'Ivoire it has engaged in initiatives that demonstrate a commitment to conflict management and the promotion of democracy.

This paper argues that while ECOWAS policies on issues of peace and security are works in progress, the fact remains that there is a gap between the policies and their implementation by member states. This can be attributed to both an absence of political will by some leaders and the weak enforcement capability of ECOWAS. However, in the cases studied, our contention is that there was in fact a change. For once, ECOWAS more or less strictly remained within its normative and institutional framework in its attempts to resolve the two crises.

The paper will place the response of ECOWAS to the crises in Niger and Côte d'Ivoire in its proper political context. It will explore the strengths and weaknesses of the regional body in addressing two political crises, one emanating from constitutional manipulation and the other from contested electoral results. These aspects are among the most prominent sources of instability to be confronted by ECOWAS. The paper will also examine why, despite the prevention and reaction capacities of ECOWAS, military coups and other violations of governance norms still occur in the region, with Niger and Côte d'Ivoire as case studies.

Its main objective until the 1990s was economic integration

The paper is divided into two parts. It begins by reviewing the existing norms and mechanisms established by ECOWAS, particularly those following the 1993 review of its founding treaty and the 2005 transformation of its secretariat into a commission. It then moves on to discuss the situations in Niger and Côte d'Ivoire, and the nature of the responses adopted by ECOWAS. The paper seeks to analyse some of the main factors that may have informed the responses of the regional organisation and the behaviour of domestic actors in the two countries. Finally, an attempt is made to draw some lessons and make a few recommendations.

REGIONAL NORMS ON DEMOCRACY AND GOOD GOVERNANCE

Since the independence of the majority of West African countries in the early 1960s, the region has experienced numerous coups d'état, with military coups the rule rather than the exception.[3] In the post-Cold War era major civil wars with devastating impact have also occurred in four countries in the region, namely in Liberia (1989–96 and 1999–2003), Sierra Leone (1991–2002), Guinea Bissau (1998) and Côte d'Ivoire (2002–2007 and 2010–2011).

In the decade following its creation ECOWAS did not position itself as an organisation promoting good governance. Its main objective until the 1990s was economic integration. Since then, however, there have been many efforts at both the continental and regional levels to generate governance norms, to create institutions and to adopt mechanisms to tackle some of the continent's more pernicious security challenges.

In the early 1970s several West African leaders understood the need to define common norms that could steer regional initiatives for the promotion of socio-economic development and the improvement of living conditions through a process of integration. The creation of the ECOWAS on 26 May 1975 was aimed at realising this vision, even though emphasis was placed on economic integration. Today, after more than three decades of existence, ECOWAS appears to have established an impressive normative and institutional framework to realise the core objectives of not only regional economic integration, but also of good governance, peace and security.

Towards a consolidated regional normative framework in West Africa

The civil war that broke out in Liberia in December 1989 forced ECOWAS to review its initial position on regional integration based exclusively on economic cooperation. The military intervention by its newly created Ceasefire Monitoring Group (ECOMOG) was the result of a better understanding of the link between security and economic development. While ECOMOG's intervention in Liberia signified a widening of the organisation's focus to issues of peace and security, a number of practical steps implemented subsequently consolidated it. First, in 1991, ECOWAS adopted a Declaration on Political Principles that took into consideration governance issues as a way of intensifying peace and regional security efforts.[4] However, the declaration was never fully implemented; its scope was limited and it lacked critical political support. On 24 July 1993 ECOWAS reviewed its Founding Treaty[5] in Cotonou and in 1999 it adopted

a Protocol Relating to the Mechanisms for Conflict Prevention, Management, Resolution, Peacekeeping and Security (the mechanism). These developments constituted the institutional and normative transformation process of the organisation as far as peace and security issues are concerned. All these initiatives were aimed at adapting ECOWAS to the post-Cold War realities and subsequent security challenges.

There are a number of innovations in the revised treaty. While the primary objective of the revision was to accelerate economic integration, the treaty now also placed emphasis on political cooperation with regard to peace and security issues. Indeed, the principle of gradually introducing supranationality to the implementation of community decisions was one of the major changes introduced. In the preamble of the treaty, ECOWAS leaders state that 'the integration of Member States into a viable regional community may demand the partial and gradual pooling of national sovereignties to the Community within the context of a collective political will'.[6] While the implementation of the supranationality principle has not been without its challenges, in the long term it can be seen as crucial to speeding up the decision-making process on regional instruments.

> There is little doubt about the importance given to the ideals of democracy, political accountability and good governance in the vision of ECOWAS following the collapse of the Berlin Wall and the subsequent changes in the international order

The incorporation of a security dimension in the integration project and the bold stance taken so far to address issues of governance and political instability attest to the organisation's ability to adapt to changing environments and realities in an attempt to play an effective role in the transformation of West Africa from a poor and war-ridden region to a politically stable and socio-economically prosperous entity.

This is clearly spelled out in the mechanism of 1999. It addresses a full range of peace efforts while aiming to achieve greater transparency in decision-making. The mechanism also seeks to improve effectiveness in the operation of peace missions and establishes ECOWAS's institutional capacity for peace-building. It recognises that 'economic and social development and the security of peoples and States are inextricably linked' and commits to 'promote and consolidate democratic government as well as democratic institutions in each Member State, protect fundamental human rights and freedoms and the rules of international humanitarian laws, preserve the equality of sovereign States' territorial integrity and the political independence of Member States'.[7]

There is little doubt about the importance given to the ideals of democracy, political accountability and good governance in the vision of ECOWAS following the collapse of the Berlin Wall and the subsequent changes in the international order. One of the most progressive instruments adopted is the organisation's 2001 Additional Protocol on Democracy and Good Governance (the protocol). This protocol did not come about by accident, but as a response to an imperative to take a closer look at political causes that breed instability and wars, which are sometimes simplistically portrayed as ethnic or religious conflicts. Indeed, it was with a view to strengthening the organisation that West African leaders adopted this protocol to supplement the 1999 mechanism at the 25th Summit of Heads of State and Government held in Dakar in 2001.

The protocol is one of the most ambitious texts adopted by ECOWAS to strengthen peace, democracy and stability in the region.[8] The first section of the protocol is devoted to what is called constitutional convergence principles, a set of rules that reiterate the commitment of leaders to the rule of law (free and fair expression of the will of the people), credible and independent institution building (separation of powers) and a commitment to a respect of peoples' rights. The section also insists on the necessity to access power through constitutional means (respect for the constitution), while issuing a warning to leaders who might consider remaining in power unconstitutionally. This is a sharp departure from what the region and indeed Africa is used to. Indeed, the protocol makes it clear that 'every accession to power must be made through free, fair and transparent elections' and that there will be 'zero tolerance for power obtained or maintained by unconstitutional means'.[9] The protocol also reinforced the Lomé Declaration on unconstitutional changes of government adopted at the 36th Ordinary Session of the Assembly of Heads of States and Governments of the Organisation of African Unity (OAU) held in Togo in July 2000.

It is important to recall that prior to 1990 the political domain in West Africa was regulated by two

protocols relating to defence, signed in 1978 and 1981 respectively, namely the Protocol on Non-Aggression and the Protocol Relating to Mutual Assistance of Defence.[10] While the Protocol on Non-Aggression sought to implement the OAU's old and discredited stance on non-interference in the internal affairs of states, the Protocol Relating to Mutual Assistance of Defence made provision for ECOWAS to intervene within the national borders of its member states in defence of the territorial integrity of such threatened states. It was, therefore, a sort of collective security mechanism.

> With its newly ratified Conflict Prevention Framework, ECOWAS has established a consolidated normative arsenal that provides guidelines for meeting the challenges of the multifaceted regional security threats

With its newly ratified (2010) Conflict Prevention Framework (ECPF), ECOWAS has established a consoli- dated normative arsenal that provides guidelines for meeting the challenges of the multifaceted regional security threats. The ECPF identifies two approaches to conflict prevention. Firstly, operational prevention entails the use of early warning/actions, mediation, conciliation and preventive diplomacy through good offices and, if necessary, the preventive deployment of the ECOWAS Standby Force. Second, the ECOWAS approach deals with structural prevention as part of peace-building activities, such as the promotion of political and institutional governance, socio-economic development and a campaign to enhance a culture of peace throughout the region. In the West African context, this is the first time that a clear link has been established between the two approaches. While the traditional ingredients of a peace process still apply, regional leaders now also insist on political reforms and, in the case of countries emerging from conflict, a coherent post-conflict reconstruction strategy that takes into consideration democratic transformation and socio-economic reforms.[11] This is crucial in a region where the absence of socio-economic opportunities has resulted in many young people and children joining rebel groups and militias.

Institutional readjustments: responding to new security threats

Another important dimension worth mentioning is the institutional changes introduced by ECOWAS to achieve the institutional transformation of its decision-making organs. At the 29th Ordinary Summit of the ECOWAS Heads of State and Government held in Niamey, Niger, in January 2005, the organisation took the bold step of approving the transformation of its Executive Secretariat into the ECOWAS Commission. The purpose of this initiative was to enhance the power of the com- mission, and to strengthen its influence and the degree of supranationality.[12] Even though the supranational authority of ECOWAS has yet to become fully effective, most of its institutions now have increased powers and the authority to take decisions and implement initiatives. For instance, the Council of Ministers and the commission now have greater decision-making and implementation powers within the structures of ECOWAS.[13]

Within the ECOWAS conflict prevention archi- tecture, the Mediation and Security Council (MSC) can also decide on all matters relating to peace and security on behalf of the Authority of Heads of State and Government. The MSC has an explicit mandate to address conflict prevention and even peace-building in addition to peacekeeping.[14] Its role and powers are similar to those of the UN Security Council (UNSC), though no ECOWAS member state has a veto power. Decisions can only be approved with a two-thirds majority.

The Council of the Elders is an important institution since it forms part of ECOWAS' preliminary tools for conflict prevention and is deployed at the early stage of a conflict. The council is subject to oversight not only by the region, but also by development partners attempt- ing to strengthen the council's effectiveness, which can include training.[15] The Council of the Elders serves as a moral voice that can call for restraint and soften the positions of the protagonists.

The evolving institutional framework of ECOWAS has also seen the establishment and coming into operation of a community court. Since 2005 the ECOWAS Court of Justice has had the competence to rule on human rights violations through an individual complaints procedure. Particularly noteworthy is that local or national remedies do not need to have been exhausted before cases are brought before the court. Thus, victims of a human rights violation can appeal directly to the court even though the case may still be subject to a national proceeding.[16] Even though there has been some resistance, the organisation remains firm in its commitment to ensuring the implementation

of human rights norms.[17] On 6 October 2009 the Court of Justice ignored Gambian President Yahya Jammeh's threats and unanimously endorsed the decision of the Committee of Legal Experts to maintain the protocol establishing the jurisdiction of and access to the ECOWAS Court of Justice by ordinary citizens.[18]

Considering the stance of ECOWAS on Côte d'Ivoire and President Mamadou Tandja's illegal constitutional amendment in Niger, one cannot help but ask if the regional body can effectively ensure compliance with its own norms. This will not be without challenges, as the practice of democracy in the region has a chequered record, while ECOWAS's role is not always clear-cut and supported by existing mechanisms. But the search for solutions to specific crises increases the pressure on the organisation to live up to its responsibilities.

Before looking at how ECOWAS used its mechanisms in the countries under discussion and what this has achieved, it is useful to shed some light on the crisis situations in Niger and Côte d'Ivoire.

> The history of political power abuse in West Africa since the 1960s and the various conflicts that have emanated from governance problems, human right abuses and political exclusion give this arrangement particular relevance

NIGER AND CÔTE D'IVOIRE: THE CHALLENGE OF UPHOLDING REGIONAL NORMS

In anticipating crises that could emerge from political manipulation, the ECOWAS 2001 Protocol makes provision for sanctions to be imposed where domestic or regional norms of good governance are breached, at least in cases of unconstitutional government changes. The key protocol provisions are contained in Articles 2 and 45. According to Article 2(1), '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'.[19] Where it appears that this norm may be breached, ECOWAS could resort to

the good offices of the Mediation and Security Council and the Panel of the Wise (Council of the Elders) to engage political actors and remind them of their legal commitment to regional norms. If these initiatives fail and the unconstitutional removal of a democratically elected government comes about, Article 45 enables ECOWAS to impose sanctions. The ultimate aim is return of democracy to the country in question.

Upon a recommendation of the Mediation and Security Council, sanctions may be imposed by the Authority of Heads of State and Government. The sanctions comprise, in increasing order of severity, the following steps: refusal to support the candidates presented by the defaulting state for elective positions in international organisations; refusal to hold ECOWAS meetings in such a state; and suspension of the state from all ECOWAS decision-making bodies. During the period a country is under sanction, ECOWAS may continue to monitor, encourage and support the efforts being made by that country to return to normalcy and constitutional order. Article 45 also provides for the restoration of political authority wherever this has been undermined.[20]

The history of political power abuse in West Africa since the 1960s and the various conflicts that have emanated from governance problems, human right abuses and political exclusion give this arrangement particular relevance. The choice of Niger and Côte d'Ivoire to illustrate how ECOWAS has sought to deal with some of these issues in recent times does not mean that other examples could not have been used, in particular Guinea and Guinea-Bissau. However, in the cases of Niger and Côte d'Ivoire ECOWAS took unprecedented stances. The regional organisation suspended Niger for the failure of its incumbent president to abide by democratic principles and described his regime as 'unconstitutional'. In the case of Côte d'Ivoire, ECOWAS validated the electoral victory of the opposition candidate despite claims to the contrary by the incumbent, and resolved to remove the latter from office even by military force should diplomatic efforts fail. In this instance ECOWAS maintained its principled position even though it found itself constrained as regards military intervention because of disagreements among its members that exposed the fragility of the regional consensus.

NIGER: AN UNNECESSARY INTERRUPTION OF A PROMISING DEMOCRATISATION PROCESS

Niger embarked on a process of democratisation in 1991 following a historical national conference and multiparty elections inspired by the experience of Benin. This

process was interrupted in 1996 by a military coup and was followed by about three years of unconstitutional rule. The assassination in 1999 of President Ibrahim Bare Mainassara paved the way for a return to constitutional order. The elected government led by President Mamadou Tandja then served for ten years in a context of political stability and democratic dispensation. A military coup by General Salou Djibo on 18 February 2010 was the culmination of a series of actions aimed at undermining democracy in the country.

Even though Tandja had ruled with the support of a coalition of political parties, sharp disagreements emerged as soon as he made public his intention to amend the constitution to allow himself a third term in office. The ensuing fragmentation of the ruling coalition made it difficult to pass the controversial amendment through parliament. Domestic political actors and regional leaders were puzzled by Tandja's decision to hold onto power after two successful terms that had partially restored economic growth and political stability, and had raised the prospect of a successful democratic transition.

Niger's 1999 constitution contains provisions that make it particularly difficult to change the constitution: either two-thirds of the national parliament has to vote in favour or the proposed changes have to be submitted to a referendum

Niger's 1999 constitution contains provisions that make it particularly difficult to change the constitution: either two-thirds of the national parliament has to vote in favour or the proposed changes have to be submitted to a referendum (Article 135). Its provisions concerning the presidential term (Article 36) cannot be modified at all. Article 136 clearly stipulated that 'the Republican State, the multi-party system, the principle of separation of State and religion and the provisions of articles 36 regulating presidential mandate and 141 related to the amnesty for those responsible for the 1995 and 1999 coups d'état of the present constitution cannot be the object of any revision'.

Tandja argued that he needed three more years to complete his reforms, but opposition leaders believed

Niger's problems were too immense to be resolved by a 71-year-old leader in just three additional years. It was thought that Tandja's attempt to stay in power indefinitely was motivated more by the parochial interests of his administration than by concerns about national development. Lucrative mining contracts signed with various companies, including French uranium giant AREVA with its 1,2 billion investment and Chinese organisations, could have played a role.[21] Following the junta's rise to power after the coup, an investigation was ordered by the commission against economic and financial crime. This revealed that Tandja and 200 of his collaborators over a 10-year period had been involved in state financial misappropriation amounting to nearly 98 million.[22]

It is clear, however, that beyond the anticipated financial incentives from the uranium deals and oil discoveries, the fear among Tandja's closest ministers and collaborators of losing access to the privileges of power had an important influence on his decision to manipulate the constitution and the institutions that had made such a significant contribution to political stability and socio-economic improvement in the past decade. Tandja's bid provoked widespread protest and his main support base, the Convention Démocratique et Sociale (CDS) of former President Mahamane Ousmane, withdrew eight ministers from the government in June 2009. The consolidated opposition denounced the developments as an institutional coup d'état. Some 230 political parties and NGOs joined to form the Front pour la Défense de la Démocratie (FDD) as tens of thousands rallied in the capital Niamey to challenge the president's bid.

National and regional opposition to the fraudulent constitutional change

Labouring under the delusion of his being the 'saviour of Niger', Tandja paid heed to neither the calls from opposition parties and civil society leaders, nor to the multiple missions from ECOWAS, the African Union (AU) and the country's development partners who urged him to refrain from violating his country's constitution and throwing Niger into unnecessary political turmoil. The fact that Tandja held a referendum within the proscribed six-month period established by the ECOWAS protocol provided the organisation with the authority to intervene. Had Tandja called for a referendum two years before his term ended, ECOWAS would have found it difficult to take the stance it did.

As early as June 2009 the ECOWAS Commission warned that Niger could face sanctions if Tandja forged ahead with the referendum to remove the term limit and retain power beyond 2009.[23] On 21 July that same

year a delegation composed of ECOWAS, AU and United Nations (UN) representatives visited Niger to reiterate their opposition to the presidential initiative. In addition, the European Union (EU), a major development partner of Niger, threatened to suspend financial aid, while the United States (US) expressed 'deep concerns' over Tandja's attempt to retain power against the will of the people.[24]

Nevertheless, the president went ahead with both the controversial referenda in August and legislative elections in October, even after the Chairman of ECOWAS' Authority of Heads of State and Government had dispatched a high-powered delegation comprising Liberian President Sirleaf Johnson, the president of the ECOWAS Commission, Mohamed Ibn Chambas, and former Nigerian leader, General Abdulsalami Abubakar, to persuade Tandja to postpone the election to enable the country's political stakeholders to discuss a resolution to the constitutional crisis. Adhering to the framework of the regional arrangements, ECOWAS leaders showed the political will to exhaust the peaceful diplomatic options available. The gradual nature of regional intervention increased the pressure on the regime to preserve the fragile political order established in the aftermath of the 1999 post-coup transition.

> A new constitution controversially adopted by Niger in 2009 concentrated power in the hands of Tandja, allowing him to remain in power until December 2012

The suspension of Niger and its implications

The ECOWAS decision in October 2009 to suspend Niger's membership was taken in accordance with the provisions of Article 45 of the 2001 Additional Protocol. Niger's authorities reacted to this suspension by sending a team of 26 high-profile politicians to tour the region in order to 'explain' the situation to West African leaders. They had little success in conveying an image of Tandja as a 'man of peace and dialogue'.[25] Regional leaders understood that Tandja was buying time and that his insistence on remaining in power beyond his constitutional term in the face of great national opposition undermined not only the democratisation process in Niger and the credibility of ECOWAS, but also threatened national and regional peace and stability. Closely linked to his strategy of buying time was an amnesty deal Tandja proposed to Tuareg insurgents, a crisis difficult to handle against a background of political and civil society opposition.

A new constitution controversially adopted by Niger in 2009 concentrated power in the hands of Tandja, allowing him to remain in power until December 2012. It removed the term limit and suppressed the position of prime minister. It provided for a bi-cameral legislature with a national assembly and a senate, as against the unicameral system under the 1999 Constitution.

This was the context in which ECOWAS appointed a mediation team led by the former Nigerian President General Abdulsalami Abubakar to find a consensual solution to the crisis and 'create an atmosphere conducive to the restoration of democratic governance, the respect for the rule of law and the creation of an opportunity for all political actors and the citizenry to participate in the electoral process'.[26] It was thus the mediator's aim to reverse, through political dialogue, all the controversial initiatives taken by Tandja, including the new constitution that removed the term-limitation clause.

The mediation team soon came to the realisation that without Tandja's being prepared to make concessions, no progress could be made. Even the mediator's proposed plan to maintain the president in power while a prime minister from the opposition was appointed for a transition period during which a new constitution could be written and fresh elections held, failed. The mediation process was brought to an end on 18 February 2010 when a group of military officers seized power in a coup that claimed the lives of at least ten people.

The opportunity provided by the military coup and a new transition in Niger

The coup was seen as an opportunity to restore democratic transition. Although the coup was, of course, condemned by the AU, ECOWAS and the international community, most observers, including West African leaders, saw it as a blessing in disguise. There was a sense of relief that the embarrassment caused by Tandja's intransigence was at an end.

The military junta, named the Supreme Council for the Restoration of Democracy (CSRD), dissolved the government and with it the regime's tailor-made 2009 constitution. It appointed a new civilian prime minister, Mahamadou Danda, and tasked him to form a new government. The ensuing largely civilian transitional government was given the responsibility of taking the necessary initiatives leading to elections. These actions by the junta provided an indication that the process

was likely to lead to a new political dispensation favourable to the democratisation process. One of the most reassuring signs, however, was a promise by the junta's leaders and government ministers not to stand for election in any subsequent elections.

A new constitution and electoral law were compiled and the government re-established an independent electoral commission. It also established a consultative committee drawn from all sectors of society to assist in the transition process. The new constitution reinstated the limitation on presidential mandates and the principle of the separation of powers, and upheld the amnesty law for former coup-makers. Niger successfully concluded the transition process and a new president, Mahamadou Issoufou of the opposition Parti Nigerien pour la Democratie et le Socialisme (PNDS), was elected president in March 2011.

> The personal commitment and leadership of Salou Djibo, the leader of the CSRD, were key factors in addressing internal divisions that at one time threatened to derail the process

Apart from the presidential elections, Niger's transition process took place with minimal international supervision and concern, unlike the processes in Côte d'Ivoire and Guinea. Niger's leaders were entrusted with the confidence of the regional leaders to return the country to democratic order. This was a risky position to take since post-coup transitions are often unpredictable since they are complicated by personal ambitions and fraught with security threats, as illustrated by Mauritania in 2008 and Guinea under Captain Dadis Camara in 2009. The personal commitment and leadership of Salou Djibo, the leader of the CSRD, were key factors in addressing internal divisions that at one time threatened to derail the process.

There is consensus in Niger that the new president should focus his attention on the socio-economic challenges facing the country. At the same time, while the Touareg insurgency might appear to be dormant, if not defeated, the new government will need to take proper measures against the threat posed by Al-Qaeda in the Islamic Maghreb (AQIM), which has extended its operations to urban areas in Niger. It is also hoped that

the consensus built around the transition to give a new chance to Niger's democratisation process will prevail and that efforts will be made to consolidate national institutions. This will be important in ensuring that the February 18 coup d'état becomes the last coup in Niger.

THE RESPONSE OF ECOWAS TO THE CRISIS IN CÔTE D'IVOIRE

The role of ECOWAS in the crisis in Côte d'Ivoire took two forms. The regional organisation played a role in the peacekeeping phase while serving as the facilitator in the implementation of peace agreements. The key to understanding these roles and their significance is found in the facilitator's mandate, which not only made ECOWAS an important actor in the peace process, but also placed it at the heart of the electoral process. To appreciate ECOWAS's role in the crisis in Côte d'Ivoire, a brief overview of the origins of the conflict and its dynamics follows.

A crisis with multiple root causes

For many years after its independence in 1960, Côte d'Ivoire was ruled by Felix Houphouet-Boigny, its first president. On the economic level he advocated the proper use of land by all residents in Côte d'Ivoire, regardless of their origins or nationality, while on the political level his rule was marked by the overbearing dominance of the ruling party, the Democratic Party of Côte d'Ivoire (PDCI). As a result his legacy was mixed. On the one hand his many years in office were characterised by the absence of good governance, a one party system and restrictions on opposition politics. On the other, his open door policy towards migrants ensured a certain social stability and provided the country with the labour force needed to achieve considerable economic prosperity. However, despite the obvious advantages of the open door policy, it did not survive Houphouet-Boigny's demise in 1993.[27]

During Houphouet-Boigny's last years in office, the impact of shrinking commodity prices and inflation reduced the government's ability to respond to the increasing demands of a significant youth sector in search of socio-economic opportunities. The situation was compounded by rising international demand for political liberalisation at a time of socio-economic deterioration characterised by high unemployment, a massive reduction in public spending, rising national debt and rampant corruption.[28] The strong social agitation that ensued created a volatility that prompted Houphouet-Boigny to launch a controlled and half-hearted process of democratisation that included the

introduction of political pluralism and trade unions, but would not necessarily lead to genuine democracy.[29]

From political crisis to civil war: a failed political transition

The instability in Côte d'Ivoire also brought to the fore questions about who would succeed Houphouet-Boigny as head of state. When he died in December 1993, Henri Konan Bedie, the then speaker of the national assembly, outmanoeuvred the last prime minister, Allasane Dramane Ouattara, and rose to power. Instead of continuing with Houphouet-Boigny's inclusive approach to political and economic management, Bedie created a narrowly defined citizenship concept, *Ivoirité*, which he thought would instil a deeper sense of nationalism, garner support for his political endeavours and facilitate the political exclusion of Ouattara ahead of the 1995 elections. However, *Ivoirité* fostered social tensions and polarised this former beacon of stability.

A coup attempt against Gbagbo resulted in a civil war in 2002, which led to the country's being split between the rebel-held north and the government-controlled south

This was one of the major reasons for the first military coup in post-independence Côte d'Ivoire. Bedie was overthrown by a group of young officers in a military coup on 24 December 1999 following his rejection of demands for a pay increase. The junta appointed General Robert Guei to lead the transition, but he failed to set the country's democratisation process in motion. The elections held in 2000 were rigged, while most of the potential candidates, such as Ouattara, were either excluded from the race or boycotted it, e.g. Bedie. Guei's attempt to legitimise himself ended in a violent popular uprising that brought to power Laurent Gbagbo of the Front Populaire Ivoirien (FPI).

A coup attempt against Gbagbo resulted in a civil war in 2002, which led to the country's being split between the rebel-held north and the government-controlled south. A group of rebels named the Movement Patriotic de Côte d'Ivoire (MPCI), which in alliance with other rebel groups would later be renamed the Forces

Nouvelles (FN), seized the opportunity to launch a civil war in an attempt to make their voices heard on the issue of citizenship. The MPCI/FN was headed by Guillaume Soro, a disgruntled former FPI member and student activist.

The peace process in Côte d'Ivoire: challenges and opportunities

The crises in Côte d'Ivoire led to intensive regional and international diplomatic activity that resulted in more than ten peace agreements, 12 UN resolutions and many more meetings and consultations. The role of the international community was a complex one. At one stage the situation became controversial and compelled key protagonists to resort to home-grown mechanisms. It is important to note, however, that the first peace initiatives were taken by ECOWAS through the late Togolese president Gnassingbé Eyadema's aborted Lomé peace negotiations of 2002. The involvement of France through the Linas-Marcoussis Agreement in 2003 and of the UN was no less successful, especially as Gbagbo suspected a 'neo-colonial agenda'. This suspicion partly explains why the international community-led mediation process could not achieve the breakthrough necessary for the normalisation of the political situation, even though it did contain the conflict and improved the humanitarian situation.

As Bah rightly pointed out, 'The typical ingredients of the internationally mediated peace agreements in African conflicts are the provisions on ceasefire, power sharing, disarmament, human rights, and elections … This path to peace is predicated on successful democratic elections. In Côte d'Ivoire, this recipe failed because it did not pay sufficient attention to citizenship, which is the underlying cause of the war. With the exception of the Linas-Marcoussis Agreement, the internationally engineered accords were often mute on citizenship. Instead, they focused on the distribution of power, disarmament, and elections. The end results were successive failed peace agreements.'[30] Indeed, Gbagbo consistently contested the roles of France and the UN before allowing the latter to serve as a certifying authority for the electoral process within the framework of the Pretoria Agreement on the Peace Process in the Côte d'Ivoire (PAPP), signed on 6 April 2005, and the Ouagadougou Peace Agreement (OPA) of 4 March 2007.

In essence the Pretoria and the Ouagadougou agreements defined the national electoral bodies and delineated the role of external actors in the peace-building process (peacekeeping, political and financial assistance, logistics and certification of electoral results).[31] They also dealt with the question of the office

of the presidency's eligibility, which was one of the contentious issues that previous agreements (Lome 2002, Linas-Marcoussis 2003, Accra I-III 2004) had failed to address effectively.

The PAPP and more specifically the OPA ultimately incorporated a provision that allowed the then opposition leader, Ouattara, to participate in the presidential elections by instituting a waiver of article 35 of the constitution that forbade individuals suspected of being of non-Ivorian lineage to stand for the presidency. A milestone achieved by the OPA was the recognition that the citizenship issue was among the root causes of the conflict and therefore deserved careful consideration. The OPA also responded to the political calculations of both Gbagbo and Soro. Gbagbo could secure his power and even extend his term in office beyond ten years, while Soro anticipated that he could finally resolve the citizenship issue and aspire to a greater political role in Côte d'Ivoire.[32]

> A milestone achieved by the OPA was the recognition that the citizenship issue was among the root causes of the conflict and therefore deserved careful consideration

As Gberie and Ado rightly indicate: 'The question of national identity in Côte d'Ivoire, in other words, although instrumentally used by all parties, has become a key issue in the conflict, one that has threatened to unravel all the best efforts at bringing peace to the country. It may yet unravel the Ivorian state itself. For a country with more than 40 per cent (sic) of its population immigrant, the threat can hardly be over estimated.'[33] Indeed, the OPA and its additional memoranda played a crucial role in the peace process by identifying four major areas requiring attention and agreement. These were the identification process; the restoration of state authority; disarmament, demobilisation and reintegration (DDR); and the electoral process. Of all these undertakings, the restoration of state authority over the whole of Côte d'Ivoire proved to be the most challenging as the FN continued to control the northern part of the country.

With regard to the DDR process, stakeholders agreed on the need to complete this process before polls could be held. However, this aim was not achievable for two main reasons. Firstly, Gbagbo was not trusted by the FN, which therefore refrained from disarming completely. Secondly, the FN knew that if it was to merge fully with the national defence force this would result in an annual revenue loss of some US$ 30 million in taxes it levied on merchandise such as cocoa transiting the north.[34] Finally, under pressure from external partners a ceremonial DDR came about, while both camps continued to rearm ahead of the elections.[35]

Post-electoral crisis and the role of ECOWAS

It is important to stress that ECOWAS's role in Côte d'Ivoire did not begin at the time of post-electoral violence. In 2002, in addition to its involvement in the very first peace initiative in Lomé, an ECOWAS Mission in Côte d'Ivoire (ECOMICI) was already deployed. ECOMICI's aims were to protect the state and its remaining institutions. This initiative was followed by the arrival in May 2003 of the UN Mission in Côte d'Ivoire (MINUCI), which in April 2004 was replaced by the UN Peace Operation in Côte d'Ivoire (UNOCI), which took over from MINUCI and ECOMICI.

It was the OPA that redefined the role of ECOWAS in relation to Côte d'Ivoire, making it a facilitator of the peace process that came about as a result of home-grown talks between Soro and Gbagbo in 2007. The facilitation role was carried out by the Permanent Consultative Committee (Cadre Permanent de Consultation – CPC), which had the objective of helping the main protagonists to deal with the challenges and contentious issues arising from the implementation of the OPA. These regular consultations with key political actors appeared to be an effective mechanism for dispelling frustrations, fears and uncertainties. As a result of the consultations, the committee that monitored the OPA accepted the stipulations for certifying the validity of the electoral process as proposed by YJ Choi, the UN Secretary-General's Special Representative (SRSG) in Côte d'Ivoire. The five-criteria framework, which was approved by a follow-up meeting of the committee in Ouagadougou in 2008, consisted of the following aspects:

- Restoration of peace across the country
- An inclusive political process
- Equal access to the state media
- The establishment of objective electoral lists
- Fair and unbiased poll results

Acceptance of this framework represented an important breakthrough, particularly given the strained

relations among Côte d'Ivoire's ruling party, France and the UN. More importantly, it revived hopes for elections and was seen as a guarantee for transparent presidential polls. But in spite of this, the electoral process was postponed five times in six years. While the ruling party argued that the delays were caused by financial and technical difficulties, such as the uncompleted DDR process, opposition leaders believed that the incumbent's reluctance stemmed from a fear of what the vote might reveal. The ruling camp's uncertainty of victory delayed the elections until 2010.[36] Rarely has an electoral process taken so long, cost that much (an estimated cost of CFA 115 billion equating to US$ 7 per voter) and held such potential risks of all-out war in West Africa.[37]

When the first round of the presidential elections was finally held on 31 October 2010, none of the three main contenders, Gbagbo, Ouattara and Bedie, gained an outright majority. Out of a total of 14 candidates, Gbagbo took the lead with 38,3 per cent of the votes, followed by Ouattara with 32,08 per cent and Bedie with 25,24 per cent. Ouattara and Bedie had agreed to back whomever qualified for the run-off and Bedie not only kept that promise but also campaigned with Ouattara, dashing Gbagbo's hopes of winning the run-off vote.

ECOWAS and all international observer missions hailed the first round as free and fair

Importantly, the results clearly indicated that voter alignment patterns in Côte d'Ivoire continued to be largely influenced by regional and ethnic affiliations. Ouattara remained a favourite candidate in the north while Bedie controlled the centre. Only Gbagbo's influence appeared to have moved from his Bete ethnic group in the western region to Abidjan. The electoral commission published the results 72 hours after the polls, in accordance with the electoral law. Although Bedie contested the results, he eventually accepted them, and the Constitutional Council and ONUCI subsequently certified them. ECOWAS and all international observer missions hailed the first round as free and fair.

The run-off held on 28 November proved to be a different ballgame altogether. On 2 December the head of the Independent Electoral Commission (CEI) declared Ouattara the winner with 54,1 per cent of the vote. Gbagbo obtained 45,9 per cent. It is worth noting

that the first time the CEI tried to publish these results, Gbagbo's supporters alleged that members of the commission had not reached a consensus. Television footage of a Gbagbo supporter tearing up result sheets indicated a deep misunderstanding and was a catalyst for the post-electoral crisis. Another contentious issue related to the CEI's decision to announce the provisional results at Ouattara's headquarters, which dented the credibility and impartiality of the CEI in the eyes of Gbagbo's supporters.

The Constitutional Council swiftly invalidated the results declared by the CEI and annulled more than 600 000 votes, representing 13 per cent of votes cast in seven constituencies favourable to Ouattara. The Council then proclaimed Gbagbo the winner with 51 per cent of the vote. This action was criticised by a number of national, regional and international actors, including the SRSG which was entrusted with certifying the results, the AU, ECOWAS, the EU and the governments of Britain, France and the US. All expressed concern about the government's attempt to usurp the popular will of the people and appealed to all stakeholders to accept the results declared by the CEI.

ECOWAS's quick acceptance of the results was not without criticism. For example, former South African president Thabo Mbeki, the AU's mediator in the post-electoral crisis, accused the regional body of being too quick to recognise Ouattara as the winner. However, he seems not to have taken into consideration the prominent role ECOWAS had played not only as the facilitator of the peace process, but also as one of the guarantors of the credibility of the electoral process.[38] The AU's prompt endorsement of the ECOWAS position was therefore seen as a bold display of exemplary leadership in a continent where 'presidential solidarity' often supersedes the will and aspirations of its citizens.

The AU's alignment to the ECOWAS position rested on an investigation by an AU ad hoc high-level panel of five heads of state, namely presidents Mohamed Ould Abdel Aziz of Mauritania, Jacob Zuma of South Africa, Idriss Déby Itno of Chad, Jakaya Kikwete of Tanzania and Blaise Compaoré of Burkina Faso, set up to find a political solution to the crisis. A communiqué released at the end of an AU meeting in Addis Ababa on 10 March 2011 endorsed the results of the run-off poll as proclaimed by the CEI and certified by the UN. The organisation then called on the Constitutional Council to swear in Ouattara as the legitimate president of the country and enjoined Ouattara to form a government of national unity and to take initiatives that would promote national reconciliation.[39] The AU went further with two additional and equally important proposals:

the appointment of a high representative to oversee the implementation of the resolutions and a timeframe of two weeks for parties to work out the modalities. At this point of time there was no guarantee that Gbagbo would heed the AU resolution.

A threat by Gbagbo's representative, Pascal Affi Nguessan, to hold the AU responsible for any outbreak of civil war in the light of its endorsement of Ouattara was a strategy not to abide by the AU's resolutions. Undoubtedly it was the breach of previous official agreements and commitments by key protagonists in the conflict that drew Côte d'Ivoire into a prolonged post-electoral impasse. There were concerns about how the AU would react to the intransigence of the key actors to implement its resolutions, but because of a lack of capacity there was never a real likelihood that it would adopt a military option.

As with Niger, when all diplomatic avenues had been exhausted, the military option became inevitable. At the request of ECOWAS the UNSC now passed Resolution 1975 of 2011, mandating the UN Mission in Côte d'Ivoire (MINUCI) to protect the civilian population.

> On occasion, cooperation agreements were signed by African leaders to the detriment of their country's interests to gain regime backing by external powers

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UN intervention and Ouattara's legitimacy

The four-month-long post-electoral crisis in Côte d'Ivoire only reached a turning point in April 2011 following a brief yet devastating armed confrontation between the National Security and Defence Forces (NSDF) loyal to Gbagbo and the pro-Ouattara Republican Forces of Côte d'Ivoire (FRCI). The confrontation culminated in the dramatic capture of Gbagbo on 11 April 2011 by FRCI forces with the strong backing of French troops acting under the aegis of the UN. The recourse to military force was a policy of last resort, informed largely by the Gbagbo camp's intransigence that saw it systematically reject and frustrate all diplomatic efforts to resolve the stalemate peacefully. Gbagbo's intransigence was partly predicated on notions of

resistance to imperialist designs on Côte d'Ivoire. The international recognition of Ouattara as the winner of the elections was seen as the epitome of this imperialist design. The forced exit of Gbagbo raises the question whether Côte d'Ivoire can establish a new socio-political order anchored on democratic norms.

There are concerns that the intervention by UN peacekeeping forces went beyond the mandate to protect civilians, mainly because of the aggressive role played by French troops in the arrest of Gbagbo. This concern is based on the notion that France had for almost a decade struggled to engineer a regime change in Côte d'Ivoire in order to re-establish the stranglehold that it had lost, to some extent at least, under the Gbagbo presidency. Some commentators have also argued that Ouattara's government runs the risk of defending French interests.

There might be some justification for these concerns. Firstly, Franco-African relations in the post-independence era have been complex and subject to controversy. Indeed, the cultivation by certain African leaders of close relationships with France have at times allowed these leaders to gain rewards in the form of military, political and economic support regardless of democratic credentials. On occasion, cooperation agreements were signed by African leaders to the detriment of their country's interests to gain regime backing by external powers. It has also made it possible for France to act as an advocate for these countries in the international arena. In spite of this, the relations between France and Africa have often been hailed as controversial, with France being accused by some of exploiting Africa, while others simply consider France to be a privileged trading partner or strategic ally.[40] Although there have been many calls for change in Franco-African relations that are based mostly on a clientelistic network known as *Francafrique*, the reality is that the process of change has been painfully slow and even stagnant, so much so that any French action or inaction on the continent has been viewed through neo-colonial lenses.

A second justification for concerns that France was out to engineer a regime change is the belief that the UN interpretation of the Responsibility to Protect (R2P) principle has been biased in favour of Ouattara, given that France took sides while allegedly protecting the electoral process and its outcomes. R2P is a broad principle without strong consensus among scholars and practitioners. While the protection of civilians in peril during armed conflicts has become an imperative, the principle's application in practice has become challenging and subject to disagreement. R2P is based on the responsibility of states to protect their own citizens. In fact, R2P outlines possible actions that can be taken

by the international community in terms of providing assistance and strengthening the capacity of states, and lays the framework for a resolute response by the international community to serious crises. According to the International Commission on Intervention and State Sovereignty (ICISS), R2P is generally premised not only on the importance of prevention, but also on the international community's responsibility to protect civilians. Based on a decision by the UNSC under Chapter VII of the UN Charter, it provides for the possibility of undertaking coercive military action in serious cases such as crimes against humanity and threats to international peace and security.[41]

It is important to note that while France's role was controversial, it took place within the framework of the UN's mandated peace mission. Already in 2004 UNSC Resolution 1528 provided for the involvement of UN forces supported by French troops to help Côte d'Ivoire achieve peace. In terms of that resolution, UNOCI's role was 'To protect United Nations personnel, installations and equipment, provide the security and freedom of movement of United Nations personnel and, without prejudice to the responsibility of the Government of National Reconciliation, to protect civilians under imminent threat of physical violence, within its capabilities and its areas of deployment'.[42]

> The post-electoral crisis in Côte d'Ivoire can be considered one of the most complex, divisive and intricate cases of peace-building and democratic transformation exercises in Africa since the end of the Cold War

The narrow interpretation of this mandate left the UN undecided about whether to use force while the regime unleashed its repressive machinery against unarmed civilians. Indeed, as the humanitarian crisis worsened, the incumbent government used the media to call on its supporters to attack UN peacekeepers, creating a serious dilemma for UNOCI on how to respond to such provocation. The UN was reluctant to implement its mandate provided by UNSC Resolution 1528 of 2003, which clearly permitted the use of force to protect civilians if government forces found themselves unable

to do so. Non-reacting could have led to a Rwanda-like genocide scenario.

The adoption of UN Resolution 1975[43] on 30 March 2011 was partly in response to the request by ECOWAS to take responsibility in Côte d'Ivoire, especially in light of the fact that diplomatic efforts had only yielded limited results and the intransigence of the authorities in Abidjan provided almost no opportunity for a peaceful resolution to the conflict. Former rebels converted into the FRCI with the support of some defected regular army officers opened many military fronts that overstretched the capacity of what remained of the NSDF, which was loyal to Gbagbo. At the same time Abidjan became a battleground between the so-called 'Invisible Commandos' led by a disgruntled army officer, Ibrahim Coulibaly,[44] and Gbagbo's Special Forces. There was an imminent risk of generalised violence with the potential for the use of heavy weaponry.

Regardless of the debate it generated, the UN's use of military force to neutralise the NDSF, protect the civilian population and provide Ouattara's forces with logistical support to capture Gbagbo was an important step toward averting a generalised armed conflict with serious security and human rights implications for the country and the West African region as a whole. Although large-scale massacre and destruction was avoided, Côte d'Ivoire emerged wounded and divided, with weak state authority and capacity. The security environment has deteriorated since then, as armed groups are still active in the country.

It can also be argued that the coming to power of Ouattara on the heels of a military raid on the presidential bunker to dislodge the election loser does not substantially affect his legitimacy. His electoral victory had been confirmed by the AU, which reinforced continental consensus. Following the military intervention by MINUCI, Côte d'Ivoire's Constitutional Court decided to abide by the AU resolution and proceeded to swear in Ouattara as the duly elected president of Côte d'Ivoire.

While France's post-colonial presence in Africa has generally been controversial, one can argue that this particular intervention was legitimate, even if it was influenced by geopolitical considerations. Its legitimacy stems from the fact that ECOWAS called for direct intervention and all diplomatic avenues had been exhausted. But a test for Ouattara's leadership will without doubt be its ability to redefine Côte d'Ivoire's relations with the former colonial power in the framework of a new partnership based on mutual interests.

The post-electoral crisis in Côte d'Ivoire can be considered one of the most complex, divisive and intricate cases of peace-building and democratic transformation exercises in Africa since the end of the Cold War. The conflict highlights two challenges. Firstly, it brought to

the fore the difficulty of ensuring that elections held in post-conflict societies do not lead to renewed instability. Secondly, beyond the controversy surrounding the legality of the Constitutional Council's decision to overturn the CEI's results, the issue of citizenship seems once more to have become a major issue in that country. Gbagbo and some of his supporters appear to have convinced themselves that even though Ouattara was permitted to stand in the elections, he is not a 'true Ivorian'. This sentiment could well have influenced their stance in the post-electoral crisis.[45]

> ECOWAS and African leaders need rather more than a declaration or an act of ratification to reiterate their commitment to strengthening good governance

CONCLUSION

The 2001 Additional Protocol of ECOWAS is firm about unconstitutional changes of government, the illegal retention of power and fraudulent elections, and complements existing treaties and instruments to foster democracy and good governance in Africa.[46] It is the foundation for ECOWAS's approach to coups and the democratisation process. Unlike previous crises in West African states, when discordant voices disrupted the regional consensus and favoured the auto-legitimisation of coup-makers,[47] there has been a sense of a shift in the attitudes of regional and extra-regional actors towards unconstitutional governments and electoral violence in Niger and Côte d'Ivoire.[48] At least in public, all interested parties condemned the illegal referendum in Niger and the brutal repression in Côte d'Ivoire. This in itself provided the context for ECOWAS to work with political actors in an attempt to find solutions to the problems.

However, it has become imperative for ECOWAS and the AU to be systematic and consistent in dealing with political crises. On many occasions ECOWAS and the AU have reiterated their opposition to any attempt to interrupt democratisation processes, while inviting member states to isolate leaders who have come to power by means of unconstitutional methods. If this indicates an acknowledgement of the threat posed by violent or unconstitutional regime changes, it also denotes a commitment by the two institutions to refine their role in dealing with the complexities of political transition. In a nutshell, the AU leans towards interdicting the auto-legitimisation of perpetrators of unconstitutional regime changes by subverting electoral processes. It also provides for sanctions to be imposed against any member state that is proven to have instigated or supported an unconstitutional regime change in another state. Such commitment has been missing in the governance architecture until now. Yet, the 2007 African Charter on Democracy, Elections and Governance, which is likely to fill this lacuna, is still far from being approved.[49]

The cases of Niger and Côte d'Ivoire have provided both ECOWAS and the AU with the opportunity to act in line with their democratic principles. Although the security and political situation is improving following a relatively peaceful transition in Niger and the brutal exit of Laurent Gbagbo in Côte d'Ivoire, there is a need for ECOWAS and its partners to address two key issues. The first is the legality and legitimacy of leadership. In confronting this issue, regional bodies need to take into consideration the way in which power has been acquired, maintained, exercised and transferred. Should the legality and legitimacy of leaders stem from hurriedly-drafted and opportunistic laws or fraudulent elections, even if they are at times judged peaceful by a regional body's own observers? It is against such matters that ECOWAS's 2001 Additional Protocol warns. The protocol determines that an electoral law cannot be changed less than six months before an election without the consent of the majority of political actors.[50] There are numerous cases of leaders having manipulated electoral laws to claim some 'legality' for their rule, or to rig elections on the pretence of popular legitimacy. Yet the legality and legitimacy of the political process should stem from consultative and largely participative processes to ensure the credibility of the emerging leadership.

The second issue that needs to be addressed is the role of the military in the democratic transformation process. If countries emerging from armed conflict and political crises undertook the reform of their security sectors, many difficulties would be avoided. The cases of Niger and Côte d'Ivoire demonstrate a disturbing belief that the army is the guardian of the democratisation process. Their experiences should serve as a warning to African leaders. ECOWAS's Additional Protocol clearly sets down a number of principles and rules to govern the relationship between the armed and security forces and government, and the forces' relationship to politics.[51] One can even argue that the legal and political environment for the full implementation

and enforcement of the principles and rules of the 2001 Additional Protocol exists now that it has been ratified by ten of the 15 signatory states, which is a sufficient number for the protocol to be implemented. Meanwhile, ECOWAS and African leaders need rather more than a declaration or an act of ratification to reiterate their commitment to strengthening good governance through effective institution building, respect for the rule of law and commitment to socio-economic development. Added to the concern raised by non-compliance to ratified instruments and ineffective institutions, the risk of instability is even greater if a national army is allowed to become the last resort for resolving internal political crises.

Moreover, regional leaders will gain by ensuring that their domestic political processes are aligned to accepted regional democratic norms. They need to strengthen the ability of their institutions to help resolve political crises, particularly those emanating from unconstitutional regimes changes and fraudulent elections. Different measures applied to different cases expose the vulnerability of a regional or continental organisation to opportunistic political manipulations.

> The newly elected presidents in Niger and Côte d'Ivoire have the task of restoring the authority of the state and the credibility of their institutions

It is now evident that upholding the constitutional legality of the state and reinforcing human rights in accordance with ECOWAS's normative provisions are crucial for sustainable political stability in West Africa. It is also evident that the implementation process requires the involvement of a variety of actors, including politicians and civil society organisations. More to the point, it is the responsibility of all governments in West Africa to implement and spread the principles and rules prescribed by the ECOWAS treaty and various protocols.[52] At least the AU summit in 2010 took the issue a step further by wanting to strengthen the organisation's approach to the tendency of actors responsible for coups d'état to cross over into civilian life in order to stand for elections and in this way remain in power legally.[53]

It remains to be seen how African leaders will respond to this issue in the future. But it can be said

that the blame can now no longer be placed exclusively on ECOWAS or the AU when national leaders fail to uphold their commitments to domestic and regional norms. ECOWAS and the AU are only as strong and effective as their member states permit. One thing that possibly needs further debate is what to do when diplomatic channels are exhausted, and actors ignore the calls of regional leaders and disregard the initiatives of regional organisations.

The newly elected presidents in Niger and Côte d'Ivoire have the task of restoring the authority of the state and the credibility of their institutions. They also need to define and uphold a new national political consensus based on democratic norms. This has been a contentious issue and a factor in prolonging the crises in these countries. Cohesion and coherence by the leaders of ECOWAS and the AU, as well as the evolution of the attitudes of development partners to conflict management, democracy and good governance, are likely to play a key role in determining the future outcomes of the two processes. But if these are completed successfully, they will add to the credibility of ECOWAS and be a significant step towards achieving democratic governance in West Africa. Successful post-crisis normalisation in both Niger and Côte d'Ivoire could provide a moral incentive for the efforts being made at the regional level to come to terms with unconstitutional regime changes and other re-emerging sources of political instability. It is also time for regional organisations tackling the challenges inherent in the democratisation process and good governance to rethink the role of the army and security agencies in political processes.

NOTES

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2   Kwesi Aning and Sarjoh Bah, *ECOWAS and Conflict Prevention in West Africa: confronting the triple threats*, Center on International Cooperation, 2010, 25. For a detailed analysis, see Adekeye Adebajo and Ismail Rashid (eds), *West Africa's Security Challenges: building peace in a troubled region*, Boulder: Lynne Rienner, 2004.

3   Paul Collier, *Wars, Guns and Votes: democracy in dangerous places*, London: The Bodley Head, 2009.

4   Declaration A/Dcl.1/7/91: Political Principles of the Economic Community of West African States, adopted in Abuja on 6 July 1991. In Emmanuel Kwesi Anning, Emma Birikorang and Thomas Jaye, *Compendium of ECOWAS Peace and Security Decisions: Protocols, Declarations and Peace Agreements*, Kofi Annan International Peacekeeping Training Center (KAIPTC), 2010.

5   The revised ECOWAS treaty entered into force in 1995.

6   Preamble to the revised ECOWAS treaty of 1993, in Emmanuel Kwesi Anning, Emma Birikorang and Thomas Jaye, *Compendium*

of ECOWAS *Peace and Security Decisions: Protocols, Declarations and Peace Agreements*, KAIPTC, 2010.

7   Ibid.

8   Club du Sahel, Presentation note on ECOWAS' Protocol on Democracy and Good Governance, Workshop on the role and place of the ECOWAS Supplementary Protocol in Security Sector Governance in West Africa, 16–18 November 2005, www.oecd.org/dataoecd/43/16/38961785.pdf [accessed 23 June 2010].

9   ECOWAS Additional Protocol on Democracy and Good Governance, Section I, Articles (a) and (b), in Emmanuel Kwesi Anning, Emma Birikorang and Thomas Jaye, *Compendium of ECOWAS Peace and Security Decisions: Protocols, Declarations and Peace Agreements,* KAIPTC, 2010.

10 In the light of the 1970s' political history of West Africa in the being one of military coups, the Protocol Relating to Mutual Assistance of Defence was intended to avert external condemnation of or foreign talks about interference in countries aimed at reversing coups.

11 See Funmi Olonisakin, Ecowas and West African Conflicts: the dynamics of conflict and peace-building In West Africa, in Thomas Jaye and Stella Amadi (eds), *ECOWAS and the Dynamics of Conflict and Peacebuilding*, CDD West Africa, 2008.

12 United Nations, The Emerging Role of the AU and ECOWAS in Conflict Prevention and Peacebuilding, background paper prepared for Expert Group Meeting, Windhoek, Namibia, November 2006, 16–17, www.humansecuritygateway.com/showRecord.php?RecordId=30552 [accessed 23 June 2010].

13 Ibid.

14 Ibid.

15 Emmanuel Fanta, The Capacity of African Regional Organisations in Peace and Security, paper presented at the ERD Workshop: Transforming Political Structures: Security, Institutions and Regional Integration Mechanisms, Florence, Italy 16–17 April 2009. See also Emmanuel Kwesi Aning, Investing in Peace and Security in Africa: the case of ECOWAS, *Conflict, Security & Development* 4(3) (December 2004).

16 In October 2007 the ECOWAS Court found the government of the Niger Republic guilty of failing to protect Hadijatou Mani from slavery. This was a landmark case that has put many governments on notice. The judge ordered the government, which claimed it had done all it could to eradicate slavery, to pay Mani 10 million CFA francs (US$ 19 750). In another landmark decision delivered in 2008, the same court declared the arrest and detention of a Gambian citizen, Ebrima Manneh, illegal and ordered the Gambian authorities to release him immediately. The government of Gambia claimed that Manneh was never in its custody. The court disagreed and awarded Manneh US$ 100 000 in damages. See Okey C Iheduru, The ECOWAS Court: dictators and your rights, *Business Day*, 18 February 2010, http://www.businessdayonline.com/ARCHIVE/index.php?option=com_content&view=article&id=8542:ecowas-court-dictators-and-your-rights-&catid=96:columnists&Itemid=539 [accessed 20 August 2010].

17 See also ECOWAS Judgment No. ECW/CCJ/JUD/06/08 of 27 October 2008 in the case of Hadijatou Mani Koraou vs The Republic of Niger. Available at http://www.courtecowas.org/site/index.php?option=com_content&view=article&id=83&Itemid=6&lang=en [accessed 13 December 2011].

18 Okey C Iheduru, The ECOWAS Court: dictators and your rights.

19 Eric Edi, Pan-Westafricanism and Political Instability in West Africa: perspectives and reflections, *Journal of Pan-African Studies* 1(3) (March 2006).

20 In situations where the authority of government is absent or has been seriously eroded, ECOWAS shall support processes towards the restoration of political authority. Such support may include the preparation, organisation, monitoring and management of the electoral process, with the cooperation of relevant regional and international organisations. The restoration of political authority shall be undertaken at the same time as the development of respect for human rights, enhancement of the rule of law and the judiciary. (Article 45 of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peace-Keeping and Security, adopted on 10 December 1999 in Lomé, Togo.)

21 The Imouraren mining site was said to be the second largest uranium site in the world. It had the capacity to produce at least 5 000 tons of uranium annually.

22 Virginie Baudais and Gregory Chauzal, The 2010 coup d'état in Niger: a praetorian regulation of politics? London, *African Affairs* 110(439) (April 2011).

23 See ECOWAS Communiqué N° 081/2009, 24 August 2009, in Emmanuel Kwesi Anning, Emma Birikorang and Thomas Jaye, *Compendium of ECOWAS Peace and Security Decisions: Protocols, Declarations and Peace Agreements,* KAIPTC, 2010.

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25 Emmanuel Gregoire, Coup d'état au Niger: le président Tandja Mamadou chassé par l'armée, *Herodote, Revue de Geographie et de Geopolitique*, February 2010 [special issue].

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ABOUT THIS PAPER

This paper aims to explain how the Economic Community of West African States (ECOWAS) has attempted to address the crises in Niger and Côte d'Ivoire. It argues that, for once, in spite of its structural and political deficiencies, ECOWAS more or less remained within its normative and institutional framework in its attempts to resolve the two crises. The paper places the response of ECOWAS to the situations in Niger and Côte d'Ivoire in its proper political context and explores the strengths and weaknesses of the regional body in addressing two political crises, one emanating from constitutional manipulation and the other from contested electoral results. It concludes that ECOWAS policies on issues of peace and security are works in progress.

ABOUT THE AUTHORS

Dr Dossou David Zounmenou is a senior researcher in the African Conflict Prevention Programme at the ISS Tshwane (Pretoria) office focussing on West Africa. A graduate from the Ecole Nationale d'Administration (ENA-BENIN), option Diplomacy and International Relations, Dr Zounmenou completed his postgraduate studies (MA Cum Laude and PhD) in International Relations at the University of the Witwatersrand and has worked on issues related to democracy and good governance, armed conflicts and human security. Recently he has become involved in a project that looks into political violence and issues related to elections and violence in Africa.

Reine Sylvie Loua holds an Honour's degree in International Relations from the University of Pretoria. She is currently enrolled for a Masters degree in Multidisciplinary Human Rights at the same university. At the time she contributed to this publication, she was a research intern in the African Conflict Prevention Programme at the ISS office in Pretoria.

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