

# Special Report

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## Third Time's a Charm? Reflections on the First and Second APRM Reports of Kenya, Mozambique and Uganda

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African perspectives  
Global insights

# Executive summary

The African Peer Review Mechanism (APRM) was designed to enhance governance on the continent through self-assessment and the sharing of experiences between countries. Since its establishment in 2003, only three out of a possible 47 African countries have undergone the full review process twice, namely Kenya, Mozambique and Uganda.

The purpose of undergoing the review process more than once is to record progress and take note of new or remaining issues. Read together, the country review reports (CRRs) of these three countries reveal patterns of progress and regress between reviews in the areas of democracy and political governance, and socio-economic development. This special report analyses the concerns raised in each CRR, and considers the improvements made between each review. Overall, it finds that all three countries made significant improvements in the area of democracy and political governance. This is evidenced by constitutional and legislative commitments to democracy, the rule of law and human rights. However, while all three countries have been praised for their achievements in consolidating democracy, persistent issues such as corruption, poverty and gender inequality still require attention. In some instances, commitment to good governance remains in the realm of legislation with follow-through in terms of practical implementation often lagging.

Despite improvements, this report also finds that all three countries remain vulnerable to regression, particularly when it comes to managing diversity and tensions along ethnic lines. Here, the APRM's potential to act as an early warning system should be harnessed.

In preparation for their second and third APRM reviews, governments should build upon previous reports, responding strategically to the concerns raised. The CRRs of Kenya, Mozambique and Uganda also provide a valuable starting point for those countries that have yet to embark on the review process for either a first or a second time. Overall, the APRM process should be approached holistically and be seen as an ongoing attempt to improve governance, rather than an exercise carried out once every few years.

# Abbreviations & acronyms

|            |  |
|------------|--|
| APRM       | African Peer Review Mechanism  |
| APRM Panel | APRM Panel of Eminent Persons  |
| AU         | African Union  |
| CEDAW      | Convention on the Elimination of All Forms of Discrimination Against Women |
| CNE        | National Electoral Commission  |
| CRM        | Country Review Mission   |
| CRR        | Country Review Report  |
| CSAR       | Country Self-Assessment Report   |
| EACC       | Ethics and Anti-Corruption Commission                                      |
| Frelimo    | Liberation Front of Mozambique   |
| GDP        | gross domestic product   |
| GPA        | General Peace Agreement  |
| KACC       | Kenya Anti-Corruption Commission   |
| LGBTQI     | lesbian, gay, bisexual, transgender, queer and intersex                    |
| NARC       | National Rainbow Coalition   |
| NPoA       | National Plan of Action  |
| NRM        | National Resistance Movement   |
| NSNP       | National Safety Net Programme  |
| PSC        | Public Service Commission  |
| Renamo     | Mozambican National Resistance Movement                                    |
| STAE       | Technical Secretariat for Election Administration                          |
| UHRC       | Uganda Human Rights Commission   |
| UN         | United Nations   |

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### Cover image

5 to 6 year olds have a computer lesson at the kindergarten school of the Wema Centre in Mombassa, Kenya. The Wema Centre provides a rehabilitation program for street children, disadvantaged youth, and orphaned and vulnerable children affected by poverty (In Pictures Ltd./Corbis via Getty Images)

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## CHAPTER 1

# Introduction

The African Peer Review Mechanism (APRM) was established in 2003 as Africa's premier governance self-assessment and promotion tool. It grew from the acknowledgment that the continent's slow development was largely due to poor governance – something only African countries, in partnership with civil society and the private sector, could remedy.<sup>1</sup>

The African Peer Review Mechanism was established in 2003 as Africa's premier governance self-assessment and promotion tool

Through a series of consultative, voluntary peer reviews, African countries identify governance issues, suggest solutions and share best practices. The process is guided by the APRM questionnaire, which highlights the country's performance in four main thematic areas: 'democracy and political governance'; 'economic governance and management'; 'corporate governance'; and 'socio-economic development'.<sup>2</sup> The country then develops a Country Self-Assessment Report (CSAR) to evaluate its own progress and shortcomings. After this the APRM Panel of Eminent Persons (APRM Panel), the APRM Secretariat and technical advisors complete a Country Review Mission (CRM). During the CRM, a group of experts will travel to the country under review to gain a better understanding of the issues raised in the CSAR. This includes meeting with the government, business, civil society and other stakeholders. The CRM also assesses the integrity of the CSAR, seeking confirmation that it was conducted independently.<sup>3</sup> Finally, the CRM and CSAR are combined to produce a Country Review Report (CRR) and a National Programme of Action (NPOA) to address the weaknesses identified.

Countries are also meant to prepare for subsequent reviews, which are used to track progress and identify new issues. Although 41 African countries had acceded to the APRM by September 2021, only three have undergone the full review process twice: Kenya, Uganda and Mozambique.<sup>4</sup> What do their CRRs tell us about the persistence of certain issues? Was any progress made between the first and second reports? What new concerns have cropped up? These are some of the questions we address in this special report.

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1 New Partnership for Africa's Development, *African Peer Review Mechanism (APRM): Base Document, AHG/235 (XXXVIII), Annex II* (Durban: AU, 2002), 1.

2 South African Institute of International Affairs and Centre for Policy Studies, *Implementing the APRM: Views from Civil Society* (Johannesburg: SAIIA, 2011), 11.

3 African Peer Review Mechanism, *Republic of Uganda: APRM Second Country Review Report* (Midrand: APRM, January 2018), 2.

4 APRM, "[Continental Presence](#)".

## CHAPTER 2

# Kenya

Kenya was one of the first countries to accede to the APRM in 2003. It signed the APRM Memorandum of Understanding in March that year, along with Algeria, Burkina Faso, the Republic of Congo, Ethiopia and Ghana.<sup>5</sup> It was also one of the first countries to be selected for a review, which took place in 2005/6. The process was consultative, with public hearings and workshops held around the country and a wide range of voices included.

In January 2009, following the presentation of a progress report on the implementation of Kenya's NPoA, it was recommended to then president Mwai Kibaki that Kenya undergo a special APRM review in light of the 2007/08 post-election violence. Protests erupted throughout Kenya – lasting for two months and resulting in the death of over 1 000 people – in reaction to concerns about the legitimacy of the presidential vote.<sup>6</sup> Kenya's 2006 APRM review had highlighted the potential for such violence, citing historical patterns of electoral conflict. The violence was 'predictable', the APRM said, and therefore preventable.<sup>7</sup> Unfortunately, the warning went unheeded.

In 2011 an APRM mission travelled to Kenya and produced a report that focused on two of the APRM's thematic areas: 'democracy and political governance' and 'socio-economic development'. The report was submitted to the Kenyan government in November 2011, which in turn requested that the report be withdrawn due to 'inaccuracies and omissions'.<sup>8</sup> An inter-ministerial committee of permanent secretaries agreed that the APRM report had been overtaken by events.<sup>9</sup> For example, the AU Panel of Eminent African Personalities had helped to mediate a power-sharing agreement, signed in February 2008. The panel included former UN secretary-general Kofi Annan and Mozambican humanitarian Graça Machel, who was lead APRM Eminent Panel Member during Kenya's 2006 review. Moreover, many of the APRM's 2006 recommendations were brought into the mediation process, and later included in Kenya's 2010 constitution.

Many of the APRM's 2006 recommendations were brought into the mediation process, and later included in Kenya's 2010 constitution

5 Institute for Security Studies, "ISS Profile: African Peer Review Mechanism (APRM)".

6 Human Rights Watch, *Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance* (Nairobi: Human Rights Watch Africa Division, 2008), 3.

7 APRM, *Country Review Report of the Republic of Kenya [Kenya: First Country Review]* (Midrand: APRM Secretariat, 2006), 69.

8 Terence Corrigan, "Next Time Better? Conducting the APRM's 'Second-Generation' Reviews" (Policy Briefing 141, SAIIA, Johannesburg, 2015).

9 Steven Gruzd, "Kenya Gears Up for Second Peer Review ... Again", SAIIA, May 22, 2014.



Kenya committed to a full second review and hosted a Country Review Mission in November 2016. During the launch of the second CRR, President Uhuru Kenyatta said he was pleased with the progress the country had made through the APRM.<sup>10</sup> Indeed, several positive developments took place between the first and second review: a new constitution was promulgated and a devolved system of government established. These developments addressed many of the concerns relating to the ‘democracy and political governance’ thematic area identified during Kenya’s first review. But read together, the CRRs also reveal patterns of problems in the ‘socio-economic development’ and other cross-cutting thematic areas, including corruption, transformative leadership, poverty and inequality, and gender inequality.

## Constitutional reform

The APRM aims to promote democracy and good governance in Africa. While these are contested terms, the consensus is that they are based on and guided by the existence of a democratic constitution. There is no doubt that Kenya’s first constitution, introduced during the colonial era in 1963 and written without input from Kenyans, needed reform. However, various attempts to do this since 1993 had failed, including shortly before Kenya’s first APRM review in 2006.

At the height of the debate around constitutional reform, in November 2005, a referendum on a new draft constitution was held. According to observers, the process was ‘largely free and fair’, demonstrating growing democratic maturity among Kenyan governance institutions, particularly the Electoral Commission of Kenya.<sup>11</sup> However, voters rejected the draft by 57% to 43%, indicating that Kenyan politics was still deeply polarised along ethnic lines.<sup>12</sup> Some argue that this too should have been a warning of the ethnic violence to come.<sup>13</sup>

Following the failed referendum, Kibaki established a committee to facilitate a countrywide collection of views on how the constitutional review process could move forward. It was also tasked with identifying any legal, political or social obstacles. Some members of the opposition, however, expressed concerns around the makeup of the committee, and established their own teams.<sup>14</sup> The environment at the time of the first APRM review was therefore tense, and the APRM Panel recommended the establishment of a high-level group to facilitate a bipartisan solution to the constitutional crisis.<sup>15</sup>

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10 President of the Republic of Kenya, “[Kenya To Customise African Peer Review Mechanism \(APRM\) For County Governments](#)”, March 29, 2019.

11 Bård Anders Andreassen and Arne Tostensen, “[Of Oranges and Bananas: The 2005 Kenya Referendum on the Constitution](#)” (Working Paper 13, Chr. Michelsen Institute, Bergen, 2006).

12 Andreassen and Tostensen, “Of Oranges and Bananas”, v.

13 Karuti Kanyinga, “[Kenya: Democracy and Political Participation](#)” (A Review by AfriMAP, Open Society Initiative for Eastern Africa and The Institute for Development Studies, Nairobi, 2014), 10.

14 APRM, *Kenya: First Country Review*, 11.

15 APRM, *Kenya: First Country Review*, 17.

One of the major concerns regarding the 1963 constitution was that it did not quite enforce separation of power between the three arms of government in Kenya. Although a system of checks and balances worked well in the years following independence, over time the executive became the dominant arm of government, and the legislature and judiciary were increasingly seen as subordinate. For example, the president could, at any point, unilaterally dissolve Parliament, and was responsible for vetting the work of the legislature.<sup>16</sup>

One of the major concerns regarding the 1963 constitution was that it did not quite enforce separation of power between the three arms of government in Kenya

The judiciary was also left vulnerable to the executive under the 1963 constitution. The president had the power to appoint high-level judges without consulting the Judicial Service Commission, and their promotion through the ranks was thought to carry political overtones.<sup>17</sup> Other contentious issues raised during the constitutional review process included the choice between a parliamentary or presidential system of government, the extent of devolution, and the appropriate electoral system. The 1963 constitution was also silent on economic, social and cultural rights.

The government of Kenya was largely aware of these shortcomings, and in many cases had already put in place measures to address them. For example, at the time of the 2006 CRR, the government, through the Judicial Service Commission, had embarked on a programme to enhance the capacity of the judiciary through continuous training of personnel and provision of research facilities.<sup>18</sup> Judicial reforms that had been in place since 2003 were also expected to enhance the performance of members of the Bench.<sup>19</sup> And, as discussed above, debates and processes to review and draft a new constitution were at an advanced stage.

When a new constitution was finally endorsed by referendum in 2010, it placed emphasis on the rule of law and separation of powers. It has been widely praised, including by the APRM, for creating a stronger legal basis for democracy and good governance in Kenya.<sup>20</sup> The judiciary was strengthened, subject now 'only' to the constitution, while the introduction of a competitive appointment and vetting process saw the removal of 42

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16 APRM, *Kenya: First Country Review*, 51.

17 APRM, *Kenya: First Country Review*, 71.

18 APRM, *Kenya: First Country Review*, 262.

19 APRM, *Kenya: First Country Review*, 266.

20 APRM, *Second Country Review Report of the Republic of Kenya* [Kenya: Second Country Review] (Midrand: APRM Secretariat, 2017), 33.

unsuitable judges.<sup>21</sup> Similarly, the president no longer has a role to play in the calendar of Parliament, which is now expected to make its own legislative decisions.<sup>22</sup>

With the 2010 constitution came a system of devolution that created 47 county governments, bringing government closer to the people and addressing one of the key issues identified in Kenya's first APRM CRR

With the 2010 constitution came a system of devolution that created 47 county governments, bringing government closer to the people and addressing one of the key issues identified in Kenya's first APRM CRR. The county governments exist independently of national government and are responsible for health services, agriculture and pre-primary education, among other functions.<sup>23</sup> According to Article 187(2) of the constitution, these counties must be allocated sufficient funds to carry out their functions, allowing the design of programmes that directly respond to people's needs. The 2010 constitution provided Kenyans with a comprehensive Bill of Rights in the areas of housing, health, sanitation, social security and education. Cross-cutting issues such as gender equality and land were also included.

Kenya's second APRM CRR notes that the 2010 constitution was, in many ways, based on the recommendations of the first CRR in 2006. It responded to the call for greater separation of power and citizen-centred governance.<sup>24</sup> While this addressed many of the concerns initially raised by the APRM Panel, others remain.

## Corruption

Corruption was identified in Kenya's 2006 CRR as one of the overarching obstacles to sustainable development in the country.<sup>25</sup> At the time of the review, several high-profile

Corruption was identified in Kenya's 2006 CRR as one of the overarching obstacles to sustainable development

21 Kenyan Constitution, Article 161, Section 1.

22 APRM, *Kenya: Second Country Review*, 83.

23 APRM, *Kenya: Second Country Review*, 41.

24 APRM, *Kenya: Second Country Review*, 76.

25 APRM, *Kenya: First Country Review*, 14.

corruption scandals were being investigated. Although many of these dubious contracts began under the previous Kenya African National Union government, the ruling National Rainbow Coalition (NARC) at the time was coming under increasing pressure to act against the implicated officials. In fact, the NARC was elected to government in 2002 on a ‘zero tolerance for corruption’ campaign. True to its word, it put in place several legal, investigative and enforcement mechanisms to curb corruption, such as the Kenya Anti-Corruption Commission (KACC), the Anti-Corruption and Economic Crimes Act and the Public Officers Ethics Act.<sup>26</sup>

However, the effectiveness of these mechanisms is open to debate. The KACC, for example, was mandated to investigate corrupt activities but could not prosecute cases on its own and had to hand its files to the attorney general for a final decision. Its recommendations to prosecute rarely targeted ‘big fish’ and commission members did not have security of tenure, leaving them vulnerable to intimidation.<sup>27</sup> New reports of corruption were also recorded during the 2006 APRM review, with the attorney general, vice president and finance minister among the accused.<sup>28</sup>

Corruption has affected all walks of life in Kenya, but has arguably been most damaging to the economy. It contributed to the country’s declining gross domestic product (GDP) between 1997 to 2002,<sup>29</sup> scared off investors and put extra pressure on taxpayers. Non-monetary forms of corruption such as nepotism and political influence have also raised questions around the government’s integrity and competence.<sup>30</sup>

## The APRM’s 2006 CRR recommended the strengthening of Kenya’s anti-corruption bodies

Given that the existing mechanisms for addressing corruption were insufficient, the APRM’s 2006 CRR recommended the strengthening of Kenya’s anti-corruption bodies. These should be efficient ‘so as to restore citizen trust in public institutions’, it said.<sup>31</sup> And although there were renewed attempts to combat corruption, by the APRM’s second CRR in 2017 no significant impact had been felt.<sup>32</sup>

26 APRM, *Kenya: First Country Review*, 25.

27 Letitia Lawson, ‘The Politics of Anti-Corruption Reform in Africa’, *The Journal of Modern African Studies* 47, no. 1 (2009): 73-100.

28 APRM, *Kenya: First Country Review*, 53.

29 APRM, *Kenya: First Country Review*, 17.

30 APRM, *Kenya: First Country Review*, 53.

31 APRM, *Kenya: First Country Review*, 16.

32 APRM, *Kenya: Second Country Review*, 36.

An Ethics and Anti-Corruption Commission Act was introduced, establishing the Ethics and Anti-Corruption Commission (EACC), which replaced the KACC in 2011. While the new commission has proved adept at tracing and recovering money lost through economic crimes (having recovered \$6.3 million between 2008 and 2013),<sup>33</sup> the speed with which corruption complaints move through its systems is extremely slow. Moreover, the EACC still does not have the authority to prosecute criminal corruption cases on its own and must make recommendations to the director of public prosecutions instead. While this is not unusual for anti-corruption agencies (whether they should be granted prosecutorial powers is debated around the world),<sup>34</sup> it does have implications for the number of cases that reach conclusion.

For example, of the 8 044 corruption complaints lodged with the EACC during the 2016/17 financial year, only 3 735 were investigated. Of those cases, a mere 143 were referred to the director of public prosecutions, who in turn approved 110.<sup>35</sup> It is worth noting that these are only complaints recorded by the EACC. Public trust in the commission is said to be so low that only 6% of corruption incidents are reported to it.<sup>36</sup> In addition, although a number of high-ranking government officials (including the chairperson of the National Land Commission, the managing director of the Kenya Railways Corporation and the permanent secretary of the Ministry of Public Service) have been arrested on charges of corruption, there have been no convictions.<sup>37</sup> Apart from not being able to prosecute on its own, the EACC's shortcomings have also been attributed to a lack of financial resources and the constant threat of destabilisation. These threats tend to occur just as the commission is making progress on 'politically sensitive' cases.<sup>38</sup>

Encouragingly, Kenya's National Assembly has passed laws to domesticate the [UN Convention against Corruption](#) and the [AU Convention on Preventing and Combating Corruption](#). Together with the 2010 constitution, Kenya has a legal framework grounded in accountability. However, the country's anti-corruption bodies remain weak and uncoordinated, and there has been no significant decline in the number of corruption cases. Kenya's scores on Transparency International's Corruption Perceptions Index also do little to build confidence. Where 0 is most corrupt and 100 is least, Kenya scored 28 in 2017.<sup>39</sup> Although this figure increased to 31 by 2020, Kenya consistently ranks among the world's most corrupt countries.

Corruption is a cross-cutting governance issue identified in the first CRRs of several African countries, including Algeria, Benin, Ghana, Nigeria and South Africa. Best practices

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33 Ethics and Anti-Corruption Commission, *National Survey on Corruption and Ethics 2012* (Nairobi: Research and Planning Department Directorate of Preventative Services, 2013), 17.

34 Richard Messick, "Should Anticorruption Agencies Have the Power to Prosecute?", *The Global Anti-Corruption Blog*, December 9, 2015.

35 Yusuke Ishikawa, "A Critical Analysis of Why Anti-Corruption Reforms in Kenya so Often Fail" (Masters diss., University of Sussex, 2019), 19.

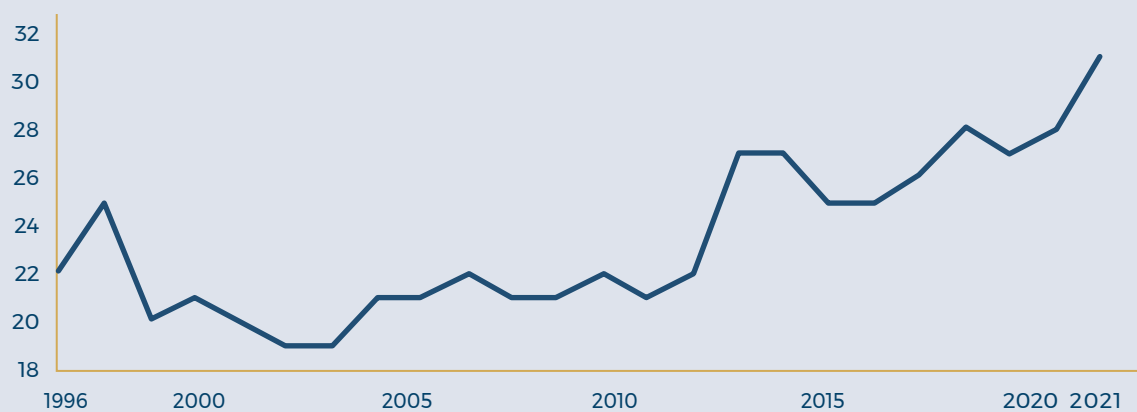
36 Ethics and Anti-Corruption Commission, *National Survey on Corruption*, 17.

37 Pauline Mpungu, "Kenya's Corruption Crackdown: New Era, or Political Theatre?", *Al Jazeera*, July 26, 2019.

38 AfriMap, "Effectiveness of Anti-Corruption Agencies in East Africa" (Review, Open Society Foundations, Cape Town, 2015), 23.

39 Transparency International, "Corruption Perception Index 2017". The index ranks 180 countries and territories by their perceived levels of public sector corruption.

Figure 1 Kenya's Corruption Perceptions Index scores, 1996–2021



Source: Transparency International, "Corruption Perceptions Index 2017"

identified to fight corruption in these countries include ownership of the process and leadership by example.<sup>40</sup> As the next sections will show, Kenya suffers from a lack of both.

## Transformational leadership

Closely related to corruption is the issue of transformational leadership. According to the APRM, transformational leadership is managing change in a way that ensures broad ownership and legitimacy. In Kenya's case, it means uniting the populace, taking a stand on difficult issues and prioritising for the future.<sup>41</sup> In its 2006 CRR, the APRM noted that this kind of leadership needed to be present at all levels of government, but the judiciary and the civil service were mentioned specifically.

Transformational leadership is managing change in a way that ensures broad ownership and legitimacy

Kenya's court system, the APRM noted in 2006, was slow and inefficient, and needed to be capacitated with more judges.<sup>42</sup>

40 Tsoeu Petlane, "APRM Best Practices in Democracy and Political Governance", in *African Solutions: Best Practices from the African Peer Review Mechanism*, eds. Tsoeu Petlane and Steven Gruzd (Johannesburg: Fanele, 2011), 37.

41 APRM, *Kenya: First Country Review*, 26.

42 APRM, *Kenya: First Country Review*, 19.

Questions were raised around the judiciary's independence and impartiality. It was often seen as being more lenient towards business and was vulnerable to the executive, as discussed above. Corruption within the judiciary and the court support staff was also cited as a problem in Kenya's own CSAR.<sup>43</sup> Although there were attempts at reform prior to 2006, Kenya's civil service was also largely corrupt. Appointments were not based on merit and several officers were accused of bribing their way into office. As a result, the civil service was not accountable to the electorate and resources were channelled only to select areas.<sup>44</sup>

The lack of public trust in both the judiciary and the public service meant that people often relied on self-help mechanisms, which did not always adequately address their needs.<sup>45</sup> The APRM recommended that reform efforts be coordinated at the highest levels: the Presidency and the Public Service Commission (PSC).

Following Kenya's 2006 CRR, a Public Sector Reform Programme was introduced, based on the vision of the 2010 constitution. It turned the PSC into an independent body with far-reaching powers, including the enforcement of a code of conduct and financial disclosure requirements.<sup>46</sup> The independence of the judiciary was also strengthened, as noted above.

However, nepotism, bribery and slow, ineffective service in both the judiciary and civil service have continued. Kenya's 2017 APRM CRR again cites the lack of transformational leadership as a factor enabling corruption.<sup>47</sup> Corruption in both the public and private sector has outlasted several governments and leaders despite various reforms, highlighting the need for leadership that is committed to change. The APRM is positive that only a shift in the orientation of leadership will help Kenya build on the limited success of its war on corruption.<sup>48</sup> Since 2017 several studies have shown that transformational leadership has had a positive impact on public participation in county government,<sup>49</sup> public universities<sup>50</sup> and the Kenya Ports Authority.<sup>51</sup>

Nepotism, bribery and slow, ineffective service in both the judiciary and civil service have continued. Kenya's 2017 APRM CRR again cites the lack of transformational leadership as a factor enabling corruption

43 APRM, *Kenya: First Country Review*, 163.

44 APRM, *Kenya: First Country Review*, 92.

45 APRM, *Kenya: First Country Review*, 54.

46 APRM, *Kenya: Second Country Review*, 101.

47 APRM, *Kenya: Second Country Review*, 281.

48 APRM, *Kenya: Second Country Review*, 45.

49 Paul Njiiri, Susan Were and Willy Muturi, "Transformational Leadership Style and Public Participation in the County Governments in Kenya", *Global Journal of Management and Business Research: Administration and Management* 21, no. 2 (2021): 1-14.

50 Veronicah Milelu, "Effects of Transformational Leadership on Organizational Performance within Public Universities in Kenya: A Case of Kenyatta University" (Masters diss., US International University - Africa, 2019).

51 Godwin Machanja Dickson and Titus Kising'u, "Effect of Transformational Leadership on Change Management in Kenya Ports Authority", *The Strategic Journal of Business & Change Management* 6, no. 2 (2019): 1150-1172.

## Poverty and inequality

Poverty was identified by the APRM in 2006 as a marker of civil strife in Kenya.<sup>52</sup> Although at the time the country's inflation rates and fiscal deficits were within target, these achievements did not translate into economic growth, with consequences for rates of poverty and inequality.<sup>53</sup> At that stage, 46% of the population lived in absolute poverty, with pockets of 'very high' poverty that exceeded the national average.<sup>54</sup> The APRM correctly predicted that at those levels Kenya would not meet the 2015 Millennium Development Goal of eradicating poverty.

The 2006 CRR noted challenges in the areas of housing, water, nutrition and economic services. It also noted the absence of social safety nets for the poor, particularly in terms of healthcare. This was largely due to the elimination of several government subsidies.<sup>55</sup> Other efforts to alleviate poverty suffered from several weaknesses, the APRM noted, chief among these the inability to reach those who needed the most help.<sup>56</sup> Poverty in Kenya had also resulted in other social ills such as child labour and early marriage.

In response to these challenges, the APRM Panel recommended the accelerated implementation of programmes to alleviate poverty, including the Social Action Fund, the Slum Upgrading and Low-Cost Housing programmes and the Vulnerability Programme.<sup>57</sup>

Inextricably linked to poverty is the issue of inequality, a characteristic of Kenya's political economy since independence. At the time of the first review, Kenya ranked among the top 10 most unequal countries in the world and the most unequal in East Africa, with rural women and children the most affected demographics.<sup>58</sup> These groups had the hardest time finding employment and accessing basic services. Income distribution by region also showed that the top 10% of households held 43% of the total income, while the bottom 10% held less than 1%.<sup>59</sup> Inequality had led to 'poverty, insecurity, crime, social unrest and [had] undermined overall economic growth and development' in Kenya, the APRM said in 2006.<sup>60</sup>

Some progress has been made with the poverty alleviation programmes named by the APRM. For example, the Kenya Slum Upgrading Programme has constructed hundreds of low-cost houses since 2004 and installed infrastructure such as community halls and

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52 APRM, *Kenya: First Country Review*, 14.

53 APRM, *Kenya: First Country Review*, 20.

54 Milu Muyanga and Phillip Musyoka, "Households' Incomes and Poverty Dynamics in Rural Kenya: A Panel Data Analysis" (AERC Research Paper 287, African Economic Research Consortium, Nairobi, 2014), 1.

55 APRM, *Kenya: First Country Review*, 81.

56 APRM, *Kenya: First Country Review*, 217.

57 APRM, *Kenya: First Country Review*, 220.

58 Society for International Development, *Pulling Apart Facts and Figures on Inequality in Kenya* (Nairobi: SID, 2004), 7.

59 APRM, *Kenya: First Country Review*, 46.

60 APRM, *Kenya: First Country Review*, 46.



school classrooms.<sup>61</sup> However, real progress came with the introduction of the National Safety Net Program (NSNP) in 2013. The NSNP provides a common framework for the provision of four cash transfer programmes: Persons with Severe Disabilities Cash Transfer, Older Persons Cash Transfer, Cash Transfer for Orphans and Vulnerable Children, and the Hunger Safety Net Cash Transfer. According to the Kenyan government, over 500 000 households receive cash transfers, and an additional 300 000 households in northern Kenya receive cash assistance during extreme weather events.<sup>62</sup> While the programme is supported by the World Bank, in recent years the government has taken the lead in its financing.

In its 2017 CRR the APRM acknowledges the progress made through the NSNP, but states that there have been mixed results in terms of expected outcomes. For example, while an audit of the programme has shown that cash transfers largely reach those who need it most, there have been complaints of backlogs with some only receiving money after five months to a year.<sup>63</sup>

## Poverty and inequality therefore again appear as a ‘long-standing issue’ in Kenya’s second CRR

Poverty and inequality therefore again appear as a ‘long-standing issue’ in Kenya’s second CRR. While Kenya is no longer ranked among the world’s most unequal countries<sup>64</sup> and poverty levels decreased slightly between 2007 and 2012, by 2014, 46% of the population (or 20 million people) were living below the poverty line.<sup>65</sup> A 2020 report by the Kenya National Bureau of Statistics found that 53% of the population (23.4 million people) were ‘multidimensionally poor’, meaning they were deprived of at least three basic needs and services.<sup>66</sup>

Some of the causes of poverty include historical inequalities, high levels of unemployment, lack of skills and resources, and limited access to markets. However, external shocks such as food price inflation and droughts or floods also play a role. Addressing these root causes of poverty and inequality will be key, the APRM has said.<sup>67</sup>

61 Government of Kenya, Ministry of Transport, Infrastructure, Housing and Urban Development, “Kenya Slum Upgrading Programme (KENSUP)”.

62 Government of Kenya, Social Protection, “National Safety Net Program”.

63 APRM, *Kenya: Second Country Review*, 123.

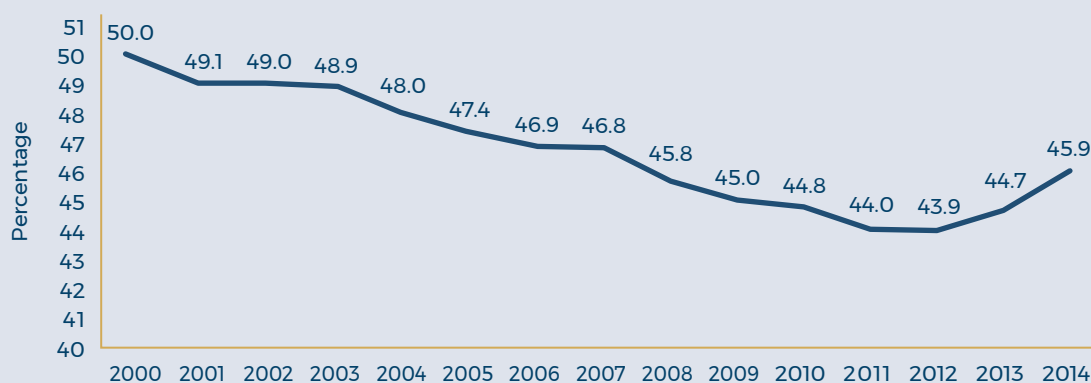
64 World Bank Data, “Gini Index (World Bank Estimate)”.

65 Government of Kenya, *Progress in Achievement of Millennium Development Goals in Kenya* (Nairobi: Ministry of Devolution and Planning, 2016), 18.

66 Republic of Kenya, *Comprehensive Poverty Report* (Nairobi: Kenya National Bureau of Statistics, 2020), ii.

67 APRM, *Kenya: Second Country Review*, 46.

Figure 2 Trends in poverty levels in Kenya, 2000–2014



Source: Republic of Kenya, *The 2015–16 Kenya Integrated Household Budget Survey Basic Report* (Nairobi: Kenya National Bureau of Statistics, 2018)

## Gender inequality

Another overarching issue identified in the APRM’s 2006 review of Kenya was gender inequality. In Kenya women hold a subordinate status to men, with consequences for attitudes around how women should be involved in governance. Despite their wish to do so, women played no meaningful role in the political arena and held just 8.3% of seats in the National Assembly in 2006.<sup>68</sup> Many women therefore felt unrepresented and marginalised.<sup>69</sup> Barriers to greater political participation by women include ethnicity, marital status and low financial capacity.

In Kenya women hold a subordinate status to men, with consequences for attitudes around how women should be involved in governance

The 2006 CRM found that poverty in Kenya was also gendered, and equal access to wealth for women remained a challenge. For example, although women were allowed to acquire, own and dispose of property, customary laws prevented women in rural areas from inheriting land. Culturally, women did not inherit land from their fathers, especially if they

68 APRM, *Kenya: First Country Review*, 249.

69 APRM, *Kenya: First Country Review*, 104.

were married.<sup>70</sup> This lack of access to land directly affected their ability to secure credit. Women were therefore largely confined to employment in the informal sector, with little to no labour protection.

Access to education was also unequal, the CRM found. Although the government had recently introduced free primary school education, enrolment figures for girls remained low. Poor literacy and numeracy skills deterred women from pursuing business opportunities.<sup>71</sup> Difficulty accessing healthcare and violence against women were some of the other issues identified in Kenya's 2006 CRR. In response, the APRM Panel recommended the design and adoption of a comprehensive affirmative action policy that could address the inequality faced by women in Kenya. It also recommended that Parliament pass the Political Parties Bill, section 6(2) of which would ensure the enforcement of gender and ethnic equity within political parties. Women, on their part, needed to target leadership positions, engender political manifestos and insist on issues-based politics, the APRM said.<sup>72</sup>

The government of Kenya accepted that there was a 'serious' imbalance in gender representation at all levels of government.<sup>73</sup> Action was being taken under specific ministries, it said. For example, the Ministry of Education promised that by 2010, 30% of all top management positions at universities would be held by women. A number of studies show, however, that this target has not been met. In 2016 women at Moi University occupied just 1% of senior management positions.<sup>74</sup> At the University of Eldoret in 2019, 10% of the head of department positions were held by women while at Baraton University the figure increased to 20%.<sup>75</sup>

By the APRM's second review of Kenya in 2017 it was clear that government had made great strides in addressing gender inequality. Affirmative action measures have meant that women's participation in areas of education, health and entrepreneurship has increased. For example, a new land policy acknowledges property not just as a commodity but as a principal source of livelihood. The policy has the potential to address discrimination against women in terms of land ownership, the CRM has found.<sup>76</sup> The introduction of a women's development fund has also meant that women can now access credit for enterprise development, encouraging entrepreneurship and capacity building.<sup>77</sup> In addition, primary school completion rates among girls have increased, with the ratio of girls to boys rising from 0.95 in 2003 to 0.98 in 2013.<sup>78</sup> Public service and justice institutions are also

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70 APRM, *Kenya: First Country Review*, 236.

71 APRM, *Kenya: First Country Review*, 105.

72 APRM, *Kenya: First Country Review*, 105.

73 APRM, *Kenya: First Country Review*, 272.

74 Rebecca Makori et al., "Organizational Cultural Factors Hindering Women Ascending to Top Management Positions in Public Universities in Kenya: A Case of Moi University", *Journal of Education and Practice* 7, no. 11 (2016): 79–84.

75 Mallion Onyambu, "Gender Disparity in the Management of Kenyan Universities: Experiences and Lessons from Selected Universities in Uasin Gishu County, Kenya", *Africa International Journal of Management Education and Governance* 4, no. 3 (2019): 1–11. Also see Bhoke Chacha, "Persistence of the Glass Ceiling in Academia Globally with a Focus on Women Academics in Kenyan Universities", *Journal of International Women's Studies* 22, no. 1 (2021): 215–225.

76 APRM, *Kenya: Second Country Review*, 235.

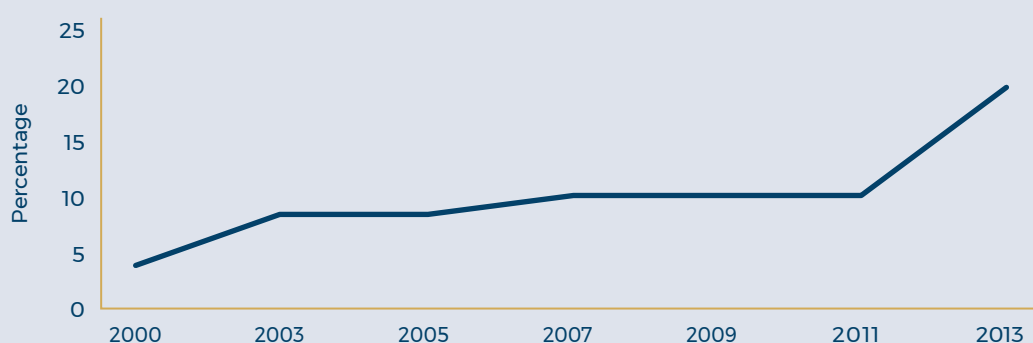
77 APRM, *Kenya: Second Country Review*, 247.

78 APRM, *Kenya: Second Country Review*, 258.

embracing more gender-responsive environments, making it easier for vulnerable women to access services from an empowered position.<sup>79</sup>

In addition, progress can be seen from a political participation perspective. Women's representation in Parliament has increased, growing from 4.1% in 2000 to 19.7% in 2013.<sup>80</sup> By the APRM's second review in 2017 women occupied 23% of seats in the National Assembly.<sup>81</sup>

**Figure 3 Women's representation in Kenya's National Assembly**



Source: APRM, *Second Country Review Report of the Republic of Kenya* (Midrand: APRM Secretariat, 2017), 258

While this growth is commendable, it does not yet meet the constitutional requirement that women occupy one-third of the seats. And while the Political Parties Bill was approved, coming into effect in 2011 and including conditions that a political party may not receive funding if more than two-thirds of its registered office bearers are of the same gender, it does not appear to have made much difference to party structures. Political will from party leadership is lacking and the Office of the Registrar of Political Parties is said to be too weak to enforce the rule successfully.<sup>82</sup>

Kenya's 2017 CRR demonstrates that while several policies and laws have been introduced to achieve gender equality, some of the barriers identified in 2006 remain, chief among them attitudes and societal norms that perpetuate discrimination against women.

79 APRM, *Kenya: Second Country Review*, 46.

80 APRM, *Kenya: Second Country Review*, 257.

81 National Democratic Institute, "Record Number of Women Elected in Kenya's 2017 General Elections, but Women's Representation Remains Low", February 28, 2018.

82 Magnus Ohman and Carol Lintari, *Political Party Financing and Equal Participation of Women in Kenyan Electoral Politics: A Situation Overview* (The Hague: Netherlands Institute for Multiparty Democracy, 2015).

While several policies and laws have been introduced to achieve gender equality, some of the barriers identified in 2006 remain, chief among them attitudes and societal norms that perpetuate discrimination against women

## Conclusion

As one of only three countries to have undergone two full reviews thus far, Kenya's commitment to the APRM as a tool to improve governance is to be commended. It has taken to heart some of the recommendations made in the 2006 CRR, and with its 2010 constitution has set itself firmly on the path towards sustainable democracy. However, the government failed to heed warnings around the potential for conflict along ethnic lines that may have seen it avoid the devastating post-election violence in 2007/08. While tensions have since eased, Kenya remains vulnerable to ethnic conflict.

The APRM's 2017 CRR also shows that several issues raised in 2006 have not been adequately addressed. The persistence of corruption, poverty and gender inequality is of particular concern, directly affecting socio-economic development in Kenya. As the country gears up to undergo a targeted APRM review of its efforts to accelerate economic growth and improve the quality of life of its citizens, these issues should be front and centre.

# Mozambique

Present as one of its founding members, Mozambique acceded to the APRM in 2003, expressing the desire to be peer-reviewed. It started the APRM process almost immediately.<sup>83</sup> Research organisations selected to conduct the country's self-assessment process in 2007 relied on research methods that have become the norm: desk research, expert panel interviews, focus group discussions and a national sample survey. These methods were supported by public hearings, as well as memoranda and other written submissions received from concerned interest groups across Mozambique.<sup>84</sup> Mozambique submitted its CSAR to the APRM Secretariat in April 2008 and a CRM was fielded to Mozambique from 7 February to 3 March 2009 to conduct its first country review.<sup>85</sup>

Between the first and second country reviews in Mozambique, two progress reports were submitted detailing the advances made in addressing the concerns of the first CRR, as well as progress made on advancing the goals of the NPoA. The submission of the second progress report in 2016 represented the completion of the APRM cycle in Mozambique and paved the way for the second review.<sup>86</sup> The second CRM took place from 10–26 November 2018.<sup>87</sup>

Mozambique gained independence from Portugal in 1975 following a lengthy armed struggle. Expectations for the creation of 'a united, peaceful and egalitarian society' were high, but Mozambique's post-independent years were stained by the mark of civil war.<sup>88</sup> In 1992 the signing of the General Peace Agreement (GPA) placed Mozambique on the road to a positive transition. It gave the country and its leaders the opportunity to focus fully on democratic consolidation, good governance and socio-economic development. Mozambique has been heralded as a prime example of post-conflict reconstruction, having achieved 'impressive economic growth and sustained macro-economic and political stability'.<sup>89</sup> In spite of the challenges of post-conflict reconstruction, the first CRR found that the government had progressed significantly in its mission to 'institutionalise democracy and political good governance'.<sup>90</sup>

However, establishing sustainable peace and unity remains a complicated matter. Several of the civil war's long-lasting consequences presented significant challenges to the

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83 APRM, *Country Review Report: Republic of Mozambique* [Country Review Report: Mozambique] (Midrand: APRM Secretariat, June 2009), 70.

84 APRM, *Country Review Report: Mozambique*, 71.

85 APRM, *Country Review Report: Mozambique*.

86 APRM, *Mozambique Second Country Review Report*, February 2019.

87 APRM, *Mozambique Second Country Review*.

88 APRM, *Country Review Report: Mozambique*, 29.

89 APRM, *Country Review Report: Mozambique*, 29.

90 APRM, *Country Review Report: Mozambique*, 30.

government of Mozambique and continue to do so today.<sup>91</sup> These include ‘competing political and social interests’, as well as an ‘inadequacy of human and material resources’.<sup>92</sup>

## Several of the civil war’s long-lasting consequences presented significant challenges to the government of Mozambique and continue to do so today

Since 1975 Mozambique has transitioned from a one-party socialist state to a ‘multi-party free market democracy’.<sup>93</sup> At each point of its political transition, the country’s constitution has evolved in tandem, gradually reinforcing the commitment of leadership to democracy, human rights, and the rule of law. For example, the constitution of 1975, which established Mozambique as a one-party state under the leadership of the Liberation Front of Mozambique (Frelimo), did not include stipulations for the separation of powers. In 1990 a new constitution was drafted that ‘established a multiparty constitutional democracy’, enshrining human rights at a fundamental level while making provision for the ‘independence of the courts from executive and party control’.<sup>94</sup> Mozambique’s third post-independence constitution of 2004 reinforces the importance of human rights in the country and marks a significant shift from the ‘struggle rhetoric’ prevalent in previous versions.<sup>95</sup>

The findings of the first CRR indicate that Mozambique’s particular political evolution was driven by three objectives. The immediate concern of leadership following independence and the end of the civil war was cementing peace. Democratic consolidation and meaningful development are not possible in conflict situations. Therefore, the first objective of the government was to establish peace. From there, it could focus on enhancing civil, political, economic and social rights, and advancing socio-economic development.<sup>96</sup>

Read together, Mozambique’s APRM reviews reveal key areas of progress and concern. The following section demonstrates that, in many cases, factors identified as signs of progress are also found to contain some of the biggest challenges to democracy and political good governance.

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91 APRM, *Country Review Report: Mozambique*, 30.

92 APRM, *Country Review Report: Mozambique*, 96.

93 APRM, *Country Review Report: Mozambique*, 30.

94 APRM, *Country Review Report: Mozambique*, 32.

95 APRM, *Country Review Report: Mozambique*, 32.

96 APRM, *Country Review Report: Mozambique*, 30.

## Democratic consolidation

The APRM's first CRR found that significant progress had been made towards democratic consolidation in Mozambique, citing great respect for the principles of democracy. It further noted that, although constrained in some instances, the country managed to hold elections cyclically (every five years) without fail since 1994 (except for the 2007 municipal elections, which were postponed to 2009).<sup>97</sup> This is a finding corroborated by the second CRR.<sup>98</sup> The government of Mozambique was also praised for its efforts in consolidating democracy by adhering to the presidential term limits specified in the constitution and for allowing these to remain unamended. This significantly enhanced the country's young multi-party democracy.<sup>99</sup>

However, the first CRR identified the bipartisan composition of the Technical Secretariat for Election Administration (STAE) and the National Electoral Commission (CNE) as a source of tension and weakness in Mozambique's electoral system. The director-general of the STAE, for example, is appointed by the president while Frelimo and Renamo (Mozambican National Resistance Movement) – the largest political parties in Mozambique – each appoint a deputy director-general.<sup>100</sup> In addition, at the time of the first CRR, the STAE was accused of conspiring to 'inflate results in favour of Frelimo' (the ruling party). In 2003 these allegations were seemingly confirmed when the CNE announced three different election outcomes within the space of one week following local elections.<sup>101</sup>

The 2018 CRM finds that significant progress has been made in addressing these and other concerns identified regarding elections in Mozambique since 2008. In particular, the report cites amendments to the country's electoral law (a recommendation of the previous CRM to Mozambique) prior to the 2018 municipal elections that allowed for CNE and STAE membership to be reconstituted at district, provincial and national levels.<sup>102</sup> The constitution is itself cited as an indication of significant progress in the democracy and political governance thematic area. The two most recent incarnations each strongly affirm the importance of human rights, but also enshrine the government's commitment to ensuring that 'the basic necessities of the people are met within an expanding framework of rights, duties and responsibilities' as part of its political evolution.<sup>103</sup>

Mozambique's constitution is also regarded as being particularly compatible with and well disposed towards international law. According to its stipulations, a treaty becomes part of Mozambican law as soon as it has been officially published after being entered into and does not require any further 'legislative act of domestication or incorporation'.<sup>104</sup> It is noted

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97 APRM, *Country Review Report: Mozambique*.

98 APRM, *Mozambique Second Country Review*, 175.

99 APRM, *Country Review Report: Mozambique*.

100 APRM, *Country Review Report: Mozambique*.

101 APRM, *Country Review Report: Mozambique*, 34.

102 APRM, *Mozambique Second Country Review*.

103 APRM, *Country Review Report: Mozambique*, 30.

104 APRM, *Country Review Report: Mozambique*, 31.



in both CRRs that Mozambique has signed and ratified several important international and regional standards and codes since independence, although progress across thematic areas in this regard is not even.<sup>105</sup> These include the UN Charter, the AU Convention on Preventing and Combating Corruption, the AU Peace and Security Protocol, and the International Covenant on Civil and Political Rights.

The GPA is considered another important component in the consolidation of democracy in Mozambique. It is a mechanism through which the government can ‘maintain peaceful conditions necessary for political stability and socio-economic development’ and provides for the resolution of intra-state conflict as well as ‘the conditions for the establishment and consolidation of multi-party democracy’.<sup>106</sup>

While the country has been praised for holding regular elections, both CRRs identify elections as a potential source of conflict

While these developments have helped Mozambique to consolidate its democracy, related challenges threaten to derail its positive trajectory. For example, while the country has been praised for holding regular elections, both CRRs identify elections as a potential source of conflict. The 2008 CRM cited, among other examples, the violent clashes between Frelimo and Renamo in Inhaminga during the 2004 elections that resulted in the death of an armed guard of one of the Renamo leaders. Violence erupted at the same time on Mozambique Island and in Chimoio and Angoche. The conflict was attributed to ‘the incitement of political leaders and reluctance to permit campaigning opponents in party strongholds’.<sup>107</sup>

Findings from the second CRR indicate that ‘limited efforts have been made to take the necessary steps to avoid pre- and post-elections conflicts’.<sup>108</sup> It indicates that Renamo continues to challenge election outcomes, citing concerns about the transparency and fairness of elections.<sup>109</sup> This relates to findings noted by the first CRM fielded to Mozambique in 2009 after stakeholder consultations concerning ‘misgivings about the conduct of elections’ ranging from voter registration all the way through to the vote count and collation of results.<sup>110</sup> The CRM to Mozambique in 2018 went so far as to conclude that the country’s entire ‘political architecture’ – its ‘electoral laws, elections, constitution, and

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105 APRM, *Country Review Report: Mozambique*; APRM, *Mozambique Second Country Review*.

106 APRM, *Country Review Report: Mozambique*, 31.

107 APRM, *Country Review Report: Mozambique*, 108.

108 APRM, *Mozambique Second Country Review*, 52–53.

109 APRM, *Mozambique Second Country Review*.

110 APRM, *Country Review Report: Mozambique*, 34.

decentralisation model and community involvement in the General Peace Agreement’ – is simultaneously a driver of ‘stability and peacebuilding’, and conflict.<sup>111</sup>

Both CRRs cite concerns around declining voter turnout. The 2008 CRM noted a steady decline from 1994, when voter turnout was recorded at 88%, to 43.6% in 2004.<sup>112</sup> The second CRR records a further decline to 40% in the elections held in 2013/2014. The CRM’s consultation with stakeholders revealed low levels of confidence in the country’s electoral system.<sup>113</sup> Although Mozambique is technically a multi-party democracy (with 54 registered parties), it is effectively a two-party state due to the dominance of Frelimo and Renamo. This could be a potential contributing factor to the declining voter turnout recorded.<sup>114</sup> Significantly, the first CRR found that competition for political power in Mozambique was not fair.<sup>115</sup> Similarly, the second CRR notes the ‘growing hegemony’ of Frelimo. It also points out that Renamo seems to be splitting, which it attributes to ‘the unfinished leadership succession process’ following the death of its veteran leader Afonso Dhlakama in 2018. Furthermore, there are indications of possible polarisation in the country resulting from ‘growing dissatisfaction with and the dropping of popularity’ of Frelimo in the north of the country.<sup>116</sup> The ‘uneasy power balance’ between the two main parties does not bode well for political good governance or respect for the rule of law.<sup>117</sup>

While Mozambique has adopted multiple international and regional standards and codes, its track record on the implementation and enforcement of these standards is poor

Similarly, while the GPA was a monumental first step in Mozambique’s transition to multi-party democracy and paved the way for continued development, it appears to be under threat. The 2008 CRM cited a slow erosion of trust and, by extension, of the peace established through the GPA.<sup>118</sup> In particular, it referred to challenges experienced in ‘inclusivity and political pluralism’. The same CRM found that the stipulations of the GPA were implemented in an inconclusive fashion, ultimately signalling ‘a gradual retreat from the compromises and concessions agreed to in 1992’.<sup>119</sup> The first CRR attributed these challenges and regression to ‘*incomplete disarmament, economic exclusion and social exclusion*’.<sup>120</sup>

111 APRM, *Mozambique Second Country Review*, 52.

112 APRM, *Country Review Report: Mozambique*, 115.

113 APRM, *Mozambique Second Country Review*, 53.

114 APRM, *Mozambique Second Country Review*.

115 APRM, *Country Review Report: Mozambique*.

116 APRM, *Mozambique Second Country Review*, 18.

117 APRM, *Country Review Report: Mozambique*, 37.

118 APRM, *Country Review Report: Mozambique*.

119 APRM, *Country Review Report: Mozambique*, 31.

120 APRM, *Country Review Report: Mozambique*, 31, original emphasis.

Building on these findings, the second CRR indicates that while, overall, Mozambique's track record of implementing the GPA is respectable, things began to turn after 2009. According to the 2018 CRM, a regression in GPA implementation and national reconciliation is clearly evident in the increasing violence erupting across the country after 2009, attributable to a resurgence in 'political-military conflict' between Frelimo and Renamo factions.<sup>121</sup> Lastly, while Mozambique has adopted multiple international and regional standards and codes, its track record on the implementation and enforcement of these standards is poor. Both CRRs find that low levels of awareness among the people of Mozambique – and among those meant to enforce standards – further impede their effectiveness.<sup>122</sup>

## Gender inequality

Noteworthy progress has been made regarding women's representation in government and decision-making. At the time of the first CRR, women constituted around 37.2% of the National Assembly. This percentage was high in comparison with the rest of Africa.<sup>123</sup> At the local level, women's participation has been improved through affirmative action, which requires that 30% of local council positions be occupied by women.<sup>124</sup> Building on this assessment, the 2018 CRM concludes that the 'inclusion of women in decision-making at senior levels is a commendable practice that should be shared with other countries'.<sup>125</sup> Furthermore, since the first CRR there has been clear evidence that the commitment to increasing women's representation in decision-making has been sustained, and ultimately the country aspires to reach 'at least 50% of women in decision-making in line with SADC guidelines'.<sup>126</sup> At the time of the second CRR Mozambique was ranked third among African countries and 29<sup>th</sup> globally on the 2017 Global Gender Gap Index.<sup>127</sup>

Mozambique's commitment to gender equality at the highest levels of decision-making does not filter through to the rest of society – in terms of gender parity and equality, Mozambique is failing its women

However, Mozambique's commitment to gender equality at the highest levels of decision-making does not filter through to the rest of society – in terms of gender parity and equality, Mozambique is failing its women. The country is yet to ratify key instruments, for

121 ARPM, *Mozambique Second Country Review*, 51.

122 APRM, *Country Review Report: Mozambique*; APRM, *Mozambique Second Country Review*.

123 APRM, *Country Review Report: Mozambique*, 34.

124 APRM, *Country Review Report: Mozambique*.

125 APRM, *Mozambique Second Country Review*, 63.

126 APRM, *Mozambique Second Country Review*, 63.

127 APRM, *Mozambique Second Country Review*, 63; World Economic Forum, *The Global Gender Gap Report 2017* (Geneva: WEF, 2017).

example the Optional Protocol on the Elimination of All Forms of Discrimination Against Women (1999), protocols on the Right to Development (1986), Sustainable Development Goals (2002), and at the regional level, the SADC Protocol on Gender and Development.<sup>128</sup> The first CRR found that in spite of high levels of representation, women continued to experience discrimination and were especially threatened by gender-based violence and high levels of human trafficking. Cross-border crime and trafficking have been noted to affect women and children in particular.<sup>129</sup> The 2018 CRM records no real progress in this regard, concluding that although women's rights have been prioritised at the highest level, they remain vulnerable not only to gender-based violence but also to poverty. This is because women 'have limited access to capital and resources such as land' and 'structural discrimination' virtually traps them in poverty.<sup>130</sup> The second CRR notes that in 2017 Mozambique was ranked at 138 globally in the UNDP Gender Equality Index.<sup>131</sup>

## Gender-based violence also poses a significant problem for women's development and affects both adults and children

Gender-based violence also poses a significant problem for women's development and affects both adults and children. It is reported that the girl child is highly susceptible to sexual harassment in Mozambique, compounded by the issue of child marriage, which is regarded as 'a way of handling issues of sexual abuse'.<sup>132</sup> At the same time, the safety and well-being of women and children are also threatened by human trafficking. Many anti-trafficking laws are in place, but the first CRR found that prosecution for this crime was frustratingly low.<sup>133</sup> Although the second CRR indicates<sup>134</sup> that there has been a decrease in the number of cases of child trafficking, it notes that the country's high school dropout rate leaves children more vulnerable to this crime.<sup>134</sup>

## Poverty, education and health

Between 1996 and 2007 Mozambique recorded one of the highest global economic growth rates, at 8%. In this way it succeeded in reducing poverty significantly, lifting some 3 million people out of its (then) population of 20 million out of poverty.<sup>135</sup> It also recorded significant progress in human development, with a decrease of 35% in infant and under-

128 APRM, *Mozambique Second Country Review*.

129 APRM, *Country Review Report: Mozambique*.

130 APRM, *Mozambique Second Country Review*, 57.

131 APRM, *Mozambique Second Country Review*, 63.

132 APRM, *Country Review Report: Mozambique*, 40.

133 APRM, *Country Review Report: Mozambique*.

134 APRM, *Mozambique Second Country Review*.

135 APRM, *Country Review Report: Mozambique*.

five mortality, accompanied by a 65% increase in primary school enrolment.<sup>136</sup> The second CRR reports further progress, citing a decline in the poverty headcount ratio from 69.7% in 1996/7 to 46% in 2014/15.<sup>137</sup> By engaging with several bilateral and multilateral partners, Mozambique has successfully produced its own development plans. The most significant of these have been Agenda 2025: Action Plan for the Reduction of Absolute Poverty (of which there are two versions), and the Five-Year Plan.<sup>138</sup>

## Notable reductions notwithstanding, poverty continues to plague the country

Notable reductions notwithstanding, poverty continues to plague the country. The second CRR notes that more than half of the population remains trapped in poverty, challenged further by a life expectancy of just 38 years and high levels of youth unemployment. A weak public transport system and insufficient transport infrastructure also mean that access to work is limited.<sup>139</sup> Youth unemployment is a particularly important concern since more than half of Mozambique's population is made up of young people. Employment is prioritised in the government's Five-Year Plan (2015–2019), with a policy framework to improve employment approved in 2016.<sup>140</sup>

Under the Five-Year Plan, the government applied a multi-sectoral approach to reduce unemployment and enhanced its support efforts for 'employment, professional training, pre-professional apprenticeships and the provision of toolkits for self-employment'.<sup>141</sup> Despite these initiatives, however, the second CRR identifies significant shortcomings, highlighting 'a lack of skilled labour to take advantage of opportunities in the oil and gas, and tourism industries'.<sup>142</sup> Jobs in these important sectors of the country's economy are held by foreigners, with labour sourced mostly from South Africa and Europe.<sup>143</sup>

The agriculture sector has been identified as the largest employment sector in Mozambique, home to some 75% of the country's workforce. Yet it only contributes 25% of the country's GDP.<sup>144</sup> Important to consider in this regard is the issue of land. The first CRR noted that subsistence farming and production was the lifeblood of the people of Mozambique, yet the land allocation system did not allow for 'promoting equal

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136 APRM, *Country Review Report: Mozambique*.

137 APRM, *Mozambique Second Country Review*.

138 APRM, *Country Review Report: Mozambique*; APRM, *Mozambique Second Country Review*.

139 APRM, *Mozambique Second Country Review*.

140 APRM, *Mozambique Second Country Review*.

141 APRM, *Mozambique Second Country Review*, 134.

142 APRM, *Mozambique Second Country Review*, 134.

143 APRM, *Mozambique Second Country Review*.

144 APRM, *Mozambique Second Country Review*.

opportunities for economic activities'.<sup>145</sup> The government is responsible for land allocation, but according to the first CRR, 'the choicest parts [of land] in urban areas [were] being allocated to the wealthy and influential'.<sup>146</sup>

The country's education sector has recorded significant progress. The 2008 CRM reported that primary school enrolment had increased substantially, from 51% in 1997 to 95% in 2007.<sup>147</sup> Between the two country reviews the government continued to make improvements in this area. School fees were abolished in 2003/04, with the government directly supporting schools and offering free textbooks. It also increased its investment in teachers and proceeded to build more classrooms. This, in turn, resulted in an increase in primary and secondary school enrolments, from 3.6 million in 2003 to over 6 million by 2014. The 2018 CRM reports that primary school enrolment has improved to 97%. Significant improvements in gender parity in school enrolment have also been recorded,<sup>148</sup> crippled, however, by high drop-out rates. The second CRR indicates that girls on average have a higher enrolment rate than boys, but simultaneously have a higher primary school dropout rate. High school dropout rates also contribute to unemployment.<sup>149</sup>

Significant improvements to the health sector were needed at the end of the civil war. In this regard the first CRR noted an increase in the number of health centres, from 683 in 2003 to 859 in 2007, as well as an increase in human resources in the sector, with higher medical staff increasing from 500 in 2003 to 634 in 2007.<sup>150</sup> Although the provision of healthcare has been improved through an increase in the number of health centres and critical medical staff, both public and private health systems remain unable to accommodate the needs of the entire population.<sup>151</sup>

Since independence Mozambique has also begun including socio-economic rights, especially those pertaining to education, healthcare and gender equality, in key legislative instruments

Since independence Mozambique has also begun including socio-economic rights, especially those pertaining to education, healthcare and gender equality, in key legislative instruments such as the constitution, as well as through the adoption of certain international and regional standards and codes. Despite this progress, the government

145 APRM, *Country Review Report: Mozambique*, 36.

146 APRM, *Country Review Report: Mozambique*, 36.

147 APRM, *Country Review Report: Mozambique*, 228.

148 APRM, *Mozambique Second Country Review*, 159.

149 APRM, *Mozambique Second Country Review*.

150 APRM, *Country Review Report: Mozambique*, 228.

151 APRM, *Country Review Report: Mozambique*.

continues to face governance challenges that inhibit the enhancement of socio-economic development in the country.

## Cross-cutting or special issues

Several of the issues identified in the two country reviews conducted in Mozambique are cross-cutting and have an impact on the ability of the government to enhance both political governance and socio-economic development. First, Mozambique is particularly affected by climate change, described as a Special Issue in the first CRR.<sup>152</sup> Due to its geographical location, Mozambique is susceptible to natural disasters, with tropical cyclones, cyclical droughts and flooding not unusual. As climate change continues to worsen, its vulnerability becomes ever more evident. The second CRR notes that 60% of the country's population live in low-lying areas along the country's 2 470km-long coastline. They are especially vulnerable to storms on the Indian Ocean and, increasingly, rising sea levels, which threaten 'infrastructure, coastal agriculture, key ecosystems and fisheries'.<sup>153</sup>

Second, the reputation of the public service in Mozambique has been marred by corruption. Issues such as 'negative value orientation, insufficient mechanisms for ensuring transparency and accountability, low staff wages and the wide gap between high- and low-income workers' contribute to its poor image.<sup>154</sup> The second CRR mentions that the World Bank Institute has ranked Mozambique's capacity for control and prevention of corruption as one of the lowest in the Southern African region.<sup>155</sup>

A third cross-cutting concern is drug trafficking and drug use which, according to the 2008 CRM, affect unemployed youth especially.<sup>156</sup> The drug trade in Mozambique also has strong links to the country's corruption problem. Mozambique is a key point of transit for an international heroin smuggling network. Heroin produced in Afghanistan makes its way to Pakistan, from where it is transported by dhow to Mozambique. From Mozambique the heroin is moved to Johannesburg before finally making its way to Europe. According to 2018 estimates, around 40 tonnes of heroin pass through Mozambique in this way each year.<sup>157</sup>

Mozambique's heroin trade, ongoing for more than two decades, contributes around \$100 million annually to its economy. A network of local trading families oversees the heroin trade, but it is also regulated by high-level Frelimo officials. Estimates suggest that for every tonne of heroin exported from Mozambique, \$2 million remains in the country. Through bribery much of this money has, over the years, lined the pockets of senior officials in Mozambique. Although it exacerbates the country's corruption problem, the involvement

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152 APRM, *Country Review Report: Mozambique*.

153 APRM, *Mozambique Second Country Review*, 26.

154 APRM, *Country Review Report: Mozambique*, 38-39.

155 APRM, *Mozambique Second Country Review*.

156 APRM, *Country Review Report: Mozambique*.

157 Joseph Hanlon, "The Uberization of Mozambique's Heroin Trade" (International Development Working Paper Series 18-190, London School of Economics and Political Science, London, 2018).

of senior officials in the heroin trade has ensured peaceful relations between rival trading families and, significantly, also ensures that little heroin remains in the country.<sup>158</sup>

Mozambique's heroin trade, ongoing for more than two decades, contributes around \$100 million annually to its economy

Finally, conflict can be considered one of the most pressing cross-cutting issues. Of the most immediate concern is the violence in Mozambique's northern Cabo Delgado province. The second CRR makes brief mention of mounting tension and violence in Cabo Delgado in 2017 following the discovery of natural gas in the province. It states that the CRM was not able to determine the root causes of the violence but advised the government to act swiftly and decisively to secure the local population and sustain peace in the country.<sup>159</sup> Some three years after the second CRR was conducted, the conflict in Cabo Delgado has become a threat to stability not only within the country but also in the SADC region. It is testing the ability of the government to achieve one of the key objectives of the democracy and political governance thematic area: the management of intra- and inter-state conflict. Returning to the issue of the cause(s) of the conflict, it becomes clear that several of the country's socio-economic development challenges have had a hand in fuelling violence and unrest.

Some three years after the second CRR was conducted, the conflict in Cabo Delgado has become a threat to stability not only within the country but also in the SADC region

A recent report on the Cabo Delgado insurrection notes that, among other factors, Mozambique's high youth unemployment can be considered a driving factor in the expansion of the conflict.<sup>160</sup> Warning signs appeared long before the escalation of this conflict to its current levels. The first signs of unrest came in 2007, when 'frustrated' youth in the ethnic Makua-dominated southern part of the province rejected the authority of their local religious (Islamic) leaders. Not long after, ethnic Mwani militants joined, and by the

158 Hanlon, *The Uberization of Mozambique's*.

159 APRM, *Mozambique Second Country Review*.

160 International Crisis Group, *Stemming the Insurrection in Mozambique's Cabo Delgado*, Africa Report No. 3 (Brussels: ICG, June 11, 2021).



mid-2010s unrest had spread to the coastal part of the province.<sup>161</sup> The discovery of precious stones and natural gas in Cabo Delgado was the final trigger, and the situation is rapidly spinning out of control. The International Crisis Group reports a worrying escalation since the end of 2019. In particular, civilian casualties are on the rise as fighting and raids increase. The number of displaced persons reaches into the hundreds of thousands. With the increase of conflict in the area, French energy company Total has suspended its liquified gas project and so removed a substantial amount of income for the country.<sup>162</sup>

This has created a domino effect, leaving the government to deal with new challenges of coping with internally displaced persons; sustaining peace; managing diversity; and preventing conflict along ethnic lines. Although ethnicity has played a part in the Cabo Delgado insurrection, pitting the Mwani and Makua peoples against the Makonde, the conflict is firstly political. A senior government official in Cabo Delgado confirmed this to the International Crisis Group, maintaining that the insurrection is ‘essentially a protest against socio-economic asymmetries and inequalities’.<sup>163</sup> Although there has been a religious motivation to the insurrection and jihadist involvement,<sup>164</sup> the Cabo Delgado insurrection is ultimately the combination of a number of cross-cutting issues, leading back to significant shortcomings in the country’s socio-economic development and democratic consolidation.

## Conclusion

Mozambique has come a long way since independence and has indeed shown that post-conflict reconstruction is possible. However, the country is currently being tested by a situation that could reverse all previous progress and that threatens sustained peace. Once again, the government is faced with having to establish peace before addressing other developmental and governance concerns. The two country reviews conducted in Mozambique have both emphasised that even though peace has been reached, the real challenge lies in sustaining peace. The current insurrection in Cabo Delgado speaks volumes on its fragility. Mozambique cannot afford more division or conflict. It is important that what progress has been made is protected, and continuously built upon.

The country is currently being tested by a situation that could reverse all previous progress and that threatens sustained peace

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161 ICG, *Stemming the Insurrection*, i.

162 ICG, *Stemming the Insurrection*.

163 ICG, *Stemming the Insurrection*, 4.

164 ICG, *Stemming the Insurrection*.

## CHAPTER 4

# Uganda

Uganda acceded to the APRM as one of its founding members in 2003. Five years later, in February 2008, the country hosted an official CRM that conducted Uganda's first APRM country review. Uganda again hosted a CRM in November 2017, becoming the second country, after Kenya, to undergo peer review for a second time.<sup>165</sup>

In line with the requirements for undergoing peer review as part of the APRM, Uganda conducted self-assessments ahead of each of the official reviews. Following these self-assessments, the country was required to submit a CSAR and an NPoA to the APRM Secretariat to prepare for the CRM. In terms of methodology, desktop research, surveys, panel interviews and focus group discussions were chosen as research methods for the compilation of the CSAR.<sup>166</sup> The APRM National Commission overseeing the CSAR also reached out to various stakeholders at both national and local levels of government to validate the report. These consisted of the private sector, academia, media, labour, women's and youth organisations, civil society and faith-based organisations.<sup>167</sup>

Uganda's democracy is young and still being consolidated. A creation of imperial conquest, it gained its independence from the UK in 1962. A brief period of parliamentary democracy in the country's immediate post-independence years was eclipsed by many years of military dictatorship characterised by civil war, repression and little to no economic development.<sup>168</sup> In 1986 the National Resistance Movement (NRM) came to power, led by Yoweri Museveni – today still the president of Uganda, six consecutive presidential terms and 35 years later. The NRM introduced mechanisms that 'stabilised the economy, neutralised rebel activity, and launched a system of administration that respected human rights and promoted press freedoms'.<sup>169</sup>

Uganda's democracy has undergone significant changes since 1986: until 2005, when a national referendum brought about the introduction of multiparty democracy, a no-party system with elections conducted through individual merit was the norm. Elections under the new multiparty system have taken place in 2006, 2011, 2016 and, most recently, 2021.<sup>170</sup> The 2017 CRM reports that elections in Uganda have been declared free and fair since 1996.<sup>171</sup>

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165 APRM, *Republic of Uganda: APRM Second Country Review Report* [Uganda Second Country Review], January 2018, 2.

166 APRM, *Republic of Uganda: APRM Country Review Report No. 7* [Uganda First Country Review], January 2009, xxxvii.

167 APRM, *Uganda Second Country Review*.

168 APRM, *Uganda First Country Review*, xxxvii.

169 APRM, *Uganda Second Country Review*, 2.

170 APRM, *Uganda Second Country Review*.

171 APRM, *Uganda Second Country Review*.

Although both CRRs indicate that significant progress towards democratic consolidation and socio-economic development has been made in Uganda since the NRM came to power, they also find that significant challenges remain. They caution that certain developments in the country's political governance place its young democracy at risk, blurring the line between democracy and authoritarianism.

Certain developments in the country's political governance place its young democracy at risk, blurring the line between democracy and authoritarianism

## Democratic consolidation

Welcoming the introduction of a multiparty system in Uganda, the first CRR of 2009 found that in terms of political governance, the country had progressed commendably towards democracy, firmly shifting away from the authoritarian system in place prior to 1986.<sup>172</sup> According to the first CRR, this was evidenced most clearly by the NRM government's commitment to ensuring that the necessary institutions and policies for democratic consolidation had been put in place. This was expressed through the 1995 constitution and the Bill of Rights it established.<sup>173</sup> The government also showed its commitment to democratic consolidation and political good governance through the creation (under the constitution) of institutions geared towards the protection of democracy and promotion of human rights. These include the Uganda Human Rights Commission (UHRC), the Inspectorate-General of Government, the Auditor-General and the Electoral Commission.<sup>174</sup>

A government's will to subscribe to international and regional standards and codes can be regarded as a strong indication of its commitment to democracy and political good governance. According to the first CRR, most of the African standards and codes required under APRM stipulations had been ratified by Uganda.<sup>175</sup> These included the New Partnership for Africa's Development's Declaration on Democracy, Political, Economic and Corporate Governance (2003), the African Charter on Human and Peoples' Rights (1981) and the African Charter on Democracy, Elections and Governance (2007).<sup>176</sup> Other standards include, but are not limited to, the Universal Declaration of Human Rights (1948); the International Covenant on Civil and Political Rights, which the country ratified in 1995 along with its Optional Protocol; as well as the Convention on the Elimination of All Forms

<sup>172</sup> APRM, *Uganda First Country Review*.

<sup>173</sup> APRM, *Uganda First Country Review*.

<sup>174</sup> APRM, *Uganda First Country Review*.

<sup>175</sup> APRM, *Uganda First Country Review*.

<sup>176</sup> APRM, *Uganda Second Country Review*.

of Discrimination Against Women (CEDAW) and the Convention on the Political Rights of Women (both ratified in 1995, but not domesticated); and the Convention on the Rights of the Child (ratified in 1990).<sup>177</sup> Many of the ideals of these standards and codes are also enshrined in the country's constitution.

Having evaluated the findings of the first CRM to Uganda, the second CRR concludes overall that since 2008 Uganda has progressed remarkably in terms of 'institutionalising mechanisms to promote constitutional democracy, protect the political, economic and socio-cultural rights of its people, and especially the vulnerable groups in society'.<sup>178</sup> But the progress it refers to is legislative, evidenced primarily by the country's signing and/or ratifying important standards and codes, and domestic policies, although some areas – like women's rights – still lag behind. Yet the second CRR laments the weak implementation of these instruments.

Uganda has progressed remarkably in terms of 'institutionalising mechanisms to promote constitutional democracy, protect the political, economic and socio-cultural rights of its people, and especially the vulnerable groups in society'

The task of democratic consolidation is by no means finished and there are still multiple challenges that hinder 'institutionalising and consolidating democratic governance'.<sup>179</sup> For example, the institutions responsible for safeguarding democracy in Uganda are 'battling to adjust to the new multiparty system'.<sup>180</sup> These institutions are described as severely constrained by 'inadequate resources' in terms of both staff and finances.<sup>181</sup> Parliament itself has also struggled to adjust to the new multiparty system. Three years after it was abolished, the 'political culture of the no-party movement' was still present, weakening the multiparty Parliament.<sup>182</sup> Although the first CRR acknowledged that Uganda was moving away from authoritarianism, it cautioned against possible democratic backsliding, noting clear signs of 'mounting authoritarianism and rapidly escalating corruption in the country'.<sup>183</sup> A constitutional amendment in 2005 that removed presidential term limits raised concerns around the undermining of Uganda's 'fledgling multiparty democracy and the emerging,

177 APRM, *Uganda First Country Review*, 44.

178 APRM, *Uganda Second Country Review*, 5.

179 APRM, *Uganda First Country Review*, xxxviii.

180 APRM, *Uganda First Country Review*, xxxviii.

181 APRM, *Uganda First Country Review*, xxxix.

182 APRM, *Uganda First Country Review*, xxxix.

183 APRM, *Uganda First Country Review*, 26.

yet still embryonic, culture of constitutionalism'.<sup>184</sup> The first CRR also noted that popular participation in this decision was 'non-existent'.<sup>185</sup>

## Further issues worth noting include a balance of power leaning towards the executive, decentralisation, and difficulties with managing diversity

Further issues worth noting include a balance of power leaning towards the executive, decentralisation, and difficulties with managing diversity. The government of Uganda introduced the Decentralisation Policy in 1993 with the aim of creating 'an enabling environment to bring about an accountable, efficient and effective public service' while also increasing citizen participation.<sup>186</sup> However, instead of enhancing the efficiency of the public service and local government, decentralisation has had the opposite effect. It has made local governments more dependent on the central government for funding. Although the first CRR presented decentralisation as an example of political good governance, it also acknowledged that it 'exacerbated the financial challenges of the government'.<sup>187</sup> In spite of the government's expressed commitment to fighting corruption, the first CRR found that it remained 'endemic' in Uganda, especially in the political sphere, adding to the financial challenges faced by the government.<sup>188</sup>

Between reviews, many of these concerns have not been resolved and, in some instances, have worsened. The second CRR concludes that the implementation of legislative and policy commitments remains a challenge. This is due in part to a 'lack of sufficient human and financial resources necessary for the fullest possible implementation of its policies'; concerns it shares with the first CRR.<sup>189</sup> The second CRR finds that because local governments have become overly dependent on the national government as a result of decentralisation, a return to centralisation is underway.<sup>190</sup> Its findings indicate that, on paper at least, while there is a clear separation of powers in Uganda, 'there is the perception that the executive remains unduly dominant in the country'.<sup>191</sup> This power imbalance is found to be inhibiting the functions of the judiciary and of Parliament.<sup>192</sup>

184 APRM, *Uganda First Country Review*, 59.

185 APRM, *Uganda First Country Review*, 64.

186 APRM, *Uganda Second Country Review*, 248.

187 APRM, *Uganda Second Country Review*, 9.

188 APRM, *Uganda First Country Review*, 94.

189 APRM, *Uganda Second Country Review*, 10.

190 APRM, *Uganda Second Country Review*.

191 APRM, *Uganda Second Country Review*, 7.

192 APRM, *Uganda Second Country Review*.

While Uganda's second country review was underway, another constitutional amendment to remove the age limit for presidential candidates was being debated. Although this was not mentioned in the CSAR, the 2017 CRM finds that it is 'the most explosive issue in the country at the time'.<sup>193</sup> The second CRR also notes significant concerns with regard to competition for political power. In spite of constitutional provisions for fair competition for political power and other relevant codes and standards to which the country subscribes, the second CRR finds that 'the political playing field in Uganda remains far from level'.<sup>194</sup> Some of the biggest warning signs in this area include political party funding disparities, where some 80% of government funds are channelled to the ruling party; the ability of the ruling party to use state resources and facilities for campaigning; media bias towards the ruling party with more than 200 radio stations seemingly linked to individuals with ties to the ruling party; and shrinking political space as a result of the eagerness with which the Public Order Management Act (2013) is implemented.<sup>195</sup>

In spite of constitutional provisions for fair competition for political power, the second CRR finds that 'the political playing field in Uganda remains far from level'

## Corruption

The first CRR noted that the government, well aware of the devastating impact of corruption on development and progress, had taken a combined legal and institutional approach to combat the phenomenon.<sup>196</sup> The Inspectorate of Government, for example, is mandated to fight corruption and empowered by a vast legislative arsenal. This includes the Prevention of Corruption Act of 1970 (replaced by the Anti-Corruption Act of 2009), the Penal Code Act, Local Government Financial and Accounting Regulations of 1998, and the Public Procurement and Disposal of Public Assets Act of 2003.<sup>197</sup> This is clear evidence of a commitment to fighting corruption, at least at the institutional and legislative level. In practice, however, anti-corruption institutions are not given the necessary resources to fulfil their core functions. On occasions when they do succeed, interference from the executive branch of government prevents follow-through on penalties for offenders, especially those in senior positions.<sup>198</sup>

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193 APRM, *Uganda Second Country Review*, 7.

194 APRM, *Uganda Second Country Review*, 46.

195 APRM, *Uganda Second Country Review*, 46.

196 APRM, *Uganda First Country Review*.

197 APRM, *Uganda First Country Review*.

198 APRM, *Uganda First Country Review*.

## In practice, anti-corruption institutions are not given the necessary resources to fulfil their core functions

The second CRR reports no evidence of corruption levels improving, mentioning that corruption in Uganda has become ‘too deep-rooted to remove with the type of measures that have been attempted so far’ and urging the government to change its approach to fighting the scourge.<sup>199</sup> Measures traditionally relied on in Uganda include the creation of institutions dedicated to fighting corruption, improved legal frameworks to tighten crackdown measures, and empowering dedicated institutions to fight corruption. Among these measures are the Whistle Blowers’ Protection Act (2010), the Anti-Corruption Act (2010), and the Witness Protection Bill (drafted in 2015). Transparency International’s Corruption Perception Index scored Uganda 26 out of 100 in 2008 (where 0 is the most corrupt and 100 the least). This indicates high levels of perceived corruption.<sup>200</sup> In 2017 Uganda again scored 26/100, suggesting no real improvements in weeding out corruption.<sup>201</sup> The measures in place in the country have failed to meaningfully reduce corruption due to a lack of resources.<sup>202</sup>

### Gender inequality

Sections 32 and 33 of the constitution address gender equality and tie in with Section 21, which addresses freedom from discrimination.<sup>203</sup> Uganda has also committed to gender equality and the empowerment of women through various international and regional standards and codes. Among the most important of these are CEDAW, the African Charter on Human and Peoples’ Rights, and the UN Millennium Development Goals.<sup>204</sup>

However, the first CRR noted that the government had signed but not ratified the Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa (Maputo Protocol).<sup>205</sup> By the time the second country review was conducted, Uganda had ratified the protocol but with reservations on articles 14(1)(a) and 14(2)(c).<sup>206</sup> Article 14(1)(a) states that women have ‘the right to control their fertility’ while Article 14(2)(c) places the responsibility on governments party to the protocol to ‘protect the reproductive rights of women by authorising medical abortion’ where a woman has become impregnated

199 APRM, *Uganda Second Country Review*, 9.

200 Transparency International, “Corruption Perceptions Index”.

201 Transparency International, “Corruption Perceptions Index”.

202 APRM, *Uganda Second Country Review*.

203 APRM, *Uganda First Country Review*.

204 APRM, *Uganda First Country Review*.

205 APRM, *Uganda First Country Review*.

206 APRM, *Uganda Second Country Review*.

through ‘sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother’ or puts the life of either mother or foetus at risk.<sup>207</sup> Both the delay to ratify and subsequent reservations on Article 14 can be attributed to opposition from religious groups in Uganda. In addition, Article 14(2)(c) was found to contravene domestic law: read together with the constitution, the Penal Code dictates that abortion is illegal.<sup>208</sup> Neither CEDAW nor the Maputo Protocol has been domesticated.

Through affirmative action the government of Uganda has sought to correct ‘historical imbalances’ by allowing women a seat at the table, so to speak.<sup>209</sup> This includes affirmative action to improve women’s representation; affirmative action in education for girls, which sees their enrolment numbers increasing; and affirmative action for persons with disabilities, which also sees disabled women benefitting.<sup>210</sup> The political participation of women in all levels of government has been enhanced and encouraged. According to the first CRR, women’s representation in Parliament increased to 25% in 2008, up from 18% in 1993. At the time of the first review, five of the 24 ministers and 11 of the 44 deputy ministers in Uganda were women. Furthermore, the number of women in key positions in the civil service, judiciary and other key sectors also increased.<sup>211</sup>

## The political participation of women in all levels of government has been enhanced and encouraged

Since the 2008 review new national laws and ratified standards and conventions for the further enhancement of women’s rights in the country have been enacted. These include the Labour Union Regulations (Labour Union Act No. 7 of 2006), the National Employment Policy of 2011, the Workers’ Compensation Regulations of 2012, and the Sexual Harassment Regulations of 2012.<sup>212</sup> The 2017 CRM notes ‘increased recognition’ on the part of the government of the necessity of ‘policies that meet service needs of women, and redress social injustices towards them’.<sup>213</sup> It singles out the medico-legal services available to victims of gender-based violence as being of ‘paramount importance in providing access to legal services, justice and redress for victims of gender-based violence’.<sup>214</sup>

207 AU, ‘Protocol to the African Charter on Human and Peoples’ Rights on the Rights of Women in Africa’, 2003, 15.

208 Victor Oluwasina Ayeni, ed., *The Impact of the African Charter and the Maputo Protocol in Selected African States* (Pretoria: Pretoria University Law Press, 2016).

209 APRM, *Uganda First Country Review*, 98.

210 APRM, *Uganda Second Country Review*.

211 Government of Uganda, Ministry of Gender, Labour and Social Development, *National Report on Implementation of the Beijing Declaration and Platform for Action: Final Report*, June 2019.

212 APRM, *Uganda Second Country Review*.

213 APRM, *Uganda Second Country Review*, 245.

214 APRM, *Uganda Second Country Review*, 242.



While undeniable progress has been recorded, the government falls short in its practical implementation of legislation intended to enhance gender equality and the rights of women. The second CRR therefore finds that discrimination against women is still rampant, often at institutional and legislative levels.<sup>215</sup> It notes that numerous religious and cultural traditions are ‘biased against women and continue to inhibit progress towards full gender parity and equality’.<sup>216</sup> While legislation exists to improve gender equality and women’s rights in Uganda, in some cases it also ironically works against it. One notable example highlighted in both CRRs is the Land Act of 1998, which essentially denies women ownership rights since it addresses only their rights to ‘access land use and the occupancy of land’.<sup>217</sup>

While undeniable progress has been recorded, the government falls short in its practical implementation of legislation intended to enhance gender equality and the rights of women

Various other laws (the Registration of Titles Act and Marriage Act, for example) were also found to contain ‘discriminatory clauses against women’, and the first CRR strongly advised that these pieces of legislation be revised. The second CRR, however, notes that no progress has been made in this regard.<sup>218</sup> The Domestic Violence Act (2010) is another example of discriminatory legislation, since it excludes unmarried persons from its provisions.<sup>219</sup> There is also legislation that penalises sexual orientation. The Sexual Offences Act (2011), for example, makes provision solely for ‘heterosexual relations’, thereby overlooking an entire group of people who could also be affected by sexual violence.<sup>220</sup> The act was made into law in 2021 and lesbian, gay, bisexual, transgender, queer and intersex (LGBTQI) relationships are now criminalised.<sup>221</sup> The LGBTQI community is not only overlooked in legislation – the CRRs also do not mention LGBTQI issues. Considering the extent to which gender equality is evaluated, this is a significant oversight. Furthermore, certain traditional practices such as early marriage are also found to ‘encourage the violation of women’s rights’ and link directly to a high school dropout rate among girls in Uganda.<sup>222</sup> Female genital mutilation has not been eradicated and directly violates those instruments that provide for women’s rights over their reproductive health.<sup>223</sup>

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215 APRM, *Uganda Second Country Review*.

216 APRM, *Uganda Second Country Review*, 8–9.

217 APRM, *Uganda Second Country Review*, 76.

218 APRM, *Uganda Second Review Report*, 76.

219 Sarah Ssali, “A Matrix and Analysis of Gender Equality Law and Policies in Uganda” (School of Women and Gender Studies, Kampala, April 2019).

220 Ssali, “A Matrix and Analysis”, 28.

221 Mimi Mefo Takambou, “Uncertain Future for LGBT+ Rights in Uganda as Controversial Bill Is Passed”, *Deutsche Welle*, May 5, 2021.

222 APRM, *Uganda Second Country Review*.

223 APRM, *Uganda Second Country Review*.

Discriminatory legislation and patriarchal practices perpetuating the ‘feminisation of poverty’ have meant that there has been little progress in the economic empowerment of women in Uganda.<sup>224</sup> On a related note, due to Uganda’s high fertility rate it has one of the youngest populations in the world. The average Ugandan woman gives birth to seven children – one of the highest birth rates globally. As a result of its rapidly growing population, Uganda has an alarmingly high youth unemployment rate, as acknowledged in both country reviews. At the time of the second CRR the youth unemployment rate was 83.2%.<sup>225</sup>

Discriminatory legislation and patriarchal practices perpetuating the ‘feminisation of poverty’ have meant that there has been little progress in the economic empowerment of women in Uganda

## Managing diversity

Managing diversity includes issues related to gender, refugees, ethnicity and persons with disabilities. This is an area that still presents some challenges for the Ugandan government. Since independence, ‘tribal and regional divisions’ have characterised the country’s politics.<sup>226</sup> In particular, the north–south divide has not only made managing diversity significantly more complicated but also contributed to challenges in managing intra-state conflict. The instability and conflict involving the Lord’s Resistance Army in the north of Uganda has been fuelled in part by ‘tribal or ethnic rifts and regionalism’.<sup>227</sup> Furthermore, findings from the second CRR indicate that ethnicity has been a historical driver of political mobilisation, resulting in political competition that divides Ugandans along ethno-linguistic lines.<sup>228</sup>

Both CRRs find that the government, despite its legislative commitment to the protection and promotion of minority rights, has failed to facilitate the practical implementation of relevant standards. It has also neglected to include minority concerns in policymaking, while institutions like the UHRC that are mandated to advocate for and protect the rights of minorities are constrained by a lack of resources.<sup>229</sup>

Uganda is home to some 65 indigenous communities of varying sizes. The 2017 CRM notes that the smaller indigenous communities are often at a disadvantage, and many have

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224 APRM, *Uganda Second Country Review*, 247.

225 APRM, *Uganda Second Country Review*, 251.

226 APRM, *Uganda First Country Review*, 297.

227 APRM, *Uganda Second Country Review*, 244.

228 APRM, *Uganda Second Country Review*, 244.

229 APRM, *Uganda Second Country Review*.

been subjected to 'forced removals from ancestral lands and exclusion from governance processes'.<sup>230</sup> This has led to a direct denial of their rights as provisioned through key legislative and policy documents. These include articles 32, 36 and 37 of the constitution, the African Charter on Human and Peoples' Rights, and the UN Declaration on the Rights of Indigenous Peoples.<sup>231</sup> The second CRR cautions that the marginalisation experienced by ethnic minorities could become a future source of conflict if not rectified with haste. It points to existing ethnic conflicts in 2017 between the Bagwere and Banyole, and the Bagwere and Bagisu, over the Namatala wetland.<sup>232</sup> Uganda's 17 ethnic minority groups also face significant challenges. For example, the Batwa, one such minority group, have been moved from their ancestral land to allow for the creation of the Bwindi Impenetrable Forest National Park. The Batwa used to live off the land, using the forest as their main supply of food and medicine. Since the creation of the national park the Batwa community has been forced to live outside the forest and has experienced an increase in child mortality.<sup>233</sup>

Sustainable development is virtually impossible in conflict conditions. In response to this, the government has established the Northern Uganda Reconstruction Programme I and II, the Northern Uganda Social Action Fund and the Peace, Recovery and Development Programme.<sup>234</sup> Although these are playing a role in bringing an end to the instability in the north of the country, corruption in service delivery and procurement threatens to reverse their successes.<sup>235</sup> The second CRR finds that management of diversity presents a specific challenge to socio-economic development, impacting 'gender, refugee management, persons with disabilities and ethnic minorities'.<sup>236</sup>

## Health and education

When the NRM assumed power in 1986, it found a social sector that was severely neglected and in desperate need of overhaul. These years of neglect were most evident in healthcare and education.<sup>237</sup>

Since then, public access to education and healthcare has improved significantly. The first CRR mentioned nationwide increases in the number of children enrolled in primary and secondary education institutions through the government's Universal Primary Education and Universal Secondary Education programmes.<sup>238</sup>

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230 APRM, *Uganda Second Country Review*, 244.

231 APRM, *Uganda Second Country Review*.

232 APRM, *Uganda Second Country Review*.

233 APRM, *Uganda Second Country Review*.

234 APRM, *Uganda First Country Review*.

235 APRM, *Uganda First Country Review*.

236 APRM, *Uganda Second Country Review*, 245.

237 APRM, *Uganda First Country Review*, xlvii.

238 APRM, *Uganda First Country Review*.

## Public access to education and healthcare has improved significantly

Apart from these, several legislative instruments have also been enacted to enhance girls' access to education. These include the National Strategy for Girls' Education (2014–2019) of 2004 and the National Gender Policy of 2007.<sup>239</sup> Access to healthcare has also improved, and the government has made major strides in reducing the prevalence of HIV/AIDS in the country from 18.5% in the 1990s to 6.4% by 2005.<sup>240</sup> According to 2019 estimates, this has decreased further to 5.8% of the country's adult population.<sup>241</sup>

The success of these initiatives may have been the result of the 'capacity and political initiative' with which the government has introduced public policy.<sup>242</sup> For example, the 2017 CRM notes that the government has reduced poverty significantly through its Poverty Eradication Action Plan – from 56% in 1992 to 19.7% in 2012/13. The Uganda National Household Survey conducted around the time of the second country review showed that national poverty had increased to 27%.<sup>243</sup> This is, however, lower than the poverty rate of 31% recorded in 2005/6 shortly before the first country review.<sup>244</sup> The strides made in socio-economic development could provide valuable lessons for other African countries. After all, the purpose of the APRM is not only to identify governance issues but also to share best practices.

### Cross-cutting issues

The APRM believes that 'the quality of democracy and political governance in a country determines its socio-economic development prospects'.<sup>245</sup> It is therefore important to acknowledge those sections where these two thematic areas intersect.

For example, standards and codes have played a big role in the progress made in both democracy and political governance, and socio-economic development in Uganda. Despite this, the people of Uganda are not fully aware of those agreements that have been signed, ratified and domesticated.<sup>246</sup> The first CRR mentioned agreements and protocols that were, at the time, neither signed nor ratified by the country. These included the Second Optional Protocol to the International Covenant on Civil and Political Rights; the Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or

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239 APRM, *Uganda Second Country Review*.

240 APRM, *Uganda First Country Review*.

241 Avert, "HIV and AIDS in Uganda".

242 APRM, *Uganda Second Country Review*, 197.

243 APRM, *Uganda Second Country Review*, 197.

244 APRM, *Uganda First Country Review*.

245 APRM, *Uganda Second Country Review*, 5.

246 APRM, *Uganda First Country Review*.

Punishment; and the AU Convention for the Elimination of Mercenarism in Africa.<sup>247</sup> The second CRR does not mention these standards specifically. The first CRR also noted that the government had ‘no systematic and comprehensive approach to the ratification and implementation of outstanding standards and codes’, and the assumption was therefore that no change had been recorded in this regard.<sup>248</sup>

The issue of land is also of particular importance in Uganda. The 2017 CRM describes land as ‘an important factor in addressing poverty, inequality, investment, unemployment and sustainable and liveable urbanisation’.<sup>249</sup> It notes a particular inability on the part of government policymaking to ‘effectively address the duality of land use and land ownership’.<sup>250</sup>

Lastly, with caution against democratic backsliding highlighted by both CRRs, the events before and after Uganda’s 2021 election are a possible cause for concern. In the build-up to the election, opposition rallies were disrupted by Ugandan security forces, often citing COVID-19.<sup>251</sup> Opposition presidential candidates Patrick Amuriat (Forum for Democratic Change) and Robert Kyagulanyi, popularly known as Bobi Wine (National Unity Platform), were arrested during these rallies, along with members of their respective parties and journalists. Protesters demanding Kyagulanyi’s release were dispersed by security forces, which deployed teargas, violent beatings and live ammunition. A total of 54 people were reported to have died in the incident.<sup>252</sup> The government also ordered a nationwide Internet shutdown and prevented election monitoring groups from observing the elections.<sup>253</sup> These actions undermine democracy and threaten to undo what progress has been recorded in Uganda in the democracy and political governance thematic area.

## Conclusion

From both CRRs it is clear the government of Uganda is committed to enhancing democracy, political governance and socio-economic development. Yet much has changed since these reviews were completed. No doubt, the COVID-19 pandemic will create new challenges, placing severe strain especially on poverty reduction. The constitutional

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247 APRM, *Uganda First Country Review*.

248 APRM, *Uganda First Country Review*, xvii.

249 APRM, *Uganda Second Country Review*, 250.

250 APRM, *Uganda Second Country Review*, 250.

251 Human Rights Watch, “Uganda: Elections Marred by Violence”, January 21, 2021.

252 Human Rights Watch, “Uganda: Elections Marred”.

253 Human Rights Watch, “Uganda: Elections Marred”.

amendments relating to term and age limits for presidential candidates put progress in democratic consolidation at risk. Reflections on the elections of 2021 confirm the findings of the second CRR regarding fair political competition. The violence leading up to and following the elections stands in stark contrast to the government's commitment to human rights and democracy previously acknowledged. It is therefore important that the commitment to democracy, political good governance and socio-economic development also finds expression in practice instead of primarily existing in the realm of legislation.

# Conclusion

The APRM's establishment in 2003 coincided with a wave of optimism around the advancement of Africa's development. It grew out of the recognition that governance matters, and that while the continent had a great many challenges to overcome, there was also much African countries could learn from one another.

Eighteen years on, the success of this vision is open to debate. That 41 African countries have acceded to the APRM and only three have undergone the review process twice is no doubt disappointing. However, there is value in assessing the reviews of Kenya, Mozambique and Uganda. Read together, they reveal patterns of progress and regress in key areas, providing insight into what works and what does not.

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Across all three countries, the most improvement has arguably occurred in the realm of democracy and political governance. Kenya and Mozambique have drafted new constitutions with positive implications for the rule of law, separation of power and human rights. This has been supported by the introduction of progressive legislation, placing both countries on the path towards democratic consolidation. In Uganda, constitutional amendments that seek to change presidential term limits and age limits have raised concerns around democratic backsliding.

Indeed, all three countries remain vulnerable to regression. This is particularly the case when it comes to managing diversity and tension along ethnic lines. The APRM reviews of Kenya, Mozambique and Uganda all highlight the potential for conflict and violence due to ethnic polarisation. The ability of the APRM to act as an early warning system should not be underestimated. While Kenya has had to learn this the hard way in the 2007/08 post-election violence, Mozambique may also have missed the opportunity to manage diversity in its Cabo Delgado province. The 2017 CRM notes the mounting tension but its advice to the government to act swiftly has gone unheeded.

Corruption, poverty and gender inequality are some of the other recurring issues found across the APRM reviews of all three countries. This suggests that, while progress has been

made in the democratic and political governance realm, socio-economic development requires further attention. Other issues have not been addressed in the reviews at all. For example, although climate change has been identified as one of the most urgent global challenges, it is only included in the Mozambique reviews. LGBTQI issues have also taken a back seat, with the homophobic attitudes of some African leaders well documented.

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These observations provide valuable lessons for countries yet to undergo their second reviews. If the purpose of the APRM is to conduct rolling reviews (with NPoAs to address concerns raised between each review) governments need to build upon each report, responding strategically to shortcomings and identifying new areas of concern. Given the number of years between each review (and the likely changes in a country's administration) it is crucial that the APRM process is approached holistically as an ongoing attempt to improve governance on the continent.





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