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Examination of the African Coup Crisis in the Context of International Law

SUMMARY

The frequency of military coups in Africa increased following the independence wave and then stabilised, particularly during the democratic transition phase that began in the early 1990s. However, coups have resurged in recent years to the extent that they have become one of the quickest and most straightforward means of seizing power on the continent. This paper examines the crises of coups in Africa within the context of international law. In doing so, it aims to enhance understanding and provide insights into potential solutions. To achieve this objective, tools specific to history, political science, and international law were used. This paper employed document analysis, causal analysis, comparative analysis, and case studies. The findings reveal the inadequacy of international rules in addressing and preventing the crises. Furthermore, these rules frequently leave loopholes that allow coup plotters to legitimise their actions and evade accountability. Therefore, a balanced approach that integrates the strengths of both soft and hard law may be essential for enhancing existing mechanisms and developing new strategies that prioritise prevention, promote good governance, and ensure accountability for coup leaders.

***Keywords*:** Africa, African coup, coup crisis, coups, international law, military coup, charters, agreements, coup belt.

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Ispitivanje afričkih kriza puča u kontekstu međunarodnog prava

SAŽETAK

Učestalost vojnih pučeva u Africi povećala se nakon talasa nezavisnosti, a zatim se stabilizovala, posebno tokom faze demokratske tranzicije koja je počela početkom 1990-ih. Međutim, pučevi su ponovo porasli poslednjih godina, do te mere da su postali jedno od najbržih i najjednostavnijih sredstava za preuzimanje vlasti na kontinentu. Ovaj rad ispituje krize pučeva u Africi u kontekstu međunarodnog prava. Time ciljem je da se poboljša razumevanje i pruži uvid u potencijalna rešenja. Da bi se postigao ovaj cilj, korišćeni su alati specifični za istoriju, političke nauke i međunarodno pravo. Korišćena je analiza dokumenata, uzročna analiza, uporedna analiza i studije slučaja. Nalazi otkrivaju neadekvatnost međunarodnih pravila u rešavanju i sprečavanju kriza. Štaviše, ova pravila često ostavljaju rupe koje omogućavaju zaverenicima puča da legitimišu svoje postupke i izbegnu odgovornost. Stoga, uravnotežen pristup koji integriše snage i mekog i tvrdog prava može biti neophodan za unapređenje postojećih mehanizama i razvoj novih strategija koje daju prioritet prevenciji, promovišu dobro upravljanje i obezbeđuju odgovornost vođa puča.

Ključne reči: Afrika, afrički puč, kriza pučeva, pučevi, međunarodno pravo, vojni puč, povelje, sporazumi, pojas pučeva.

Introduction

The number of military coups has significantly increased following the independence of African nations, stabilising particularly with the onset of the democratic transition period in Africa during the early 1990s. However, there has been a recent resurgence of these events to such an extent that military coups have become the most rapid and straightforward method for seizing power in Africa. Over nearly 70 years, which marks the duration of contemporary African states, the number of declared military coups has exceeded 215 attempted coups, with almost half resulting in the successful ousting of existing governments, while the remainder were thwarted. As a result, Africa has become one of the most prolific regions in the world for military coups.

Over the past five years, an analysis reveals that the year 2019 witnessed one coup in Sudan, alongside an attempted coup in Gabon. In 2020, there was a single coup in Mali (Wilén 2024, 243-245). The subsequent year, 2021, recorded four coups occurring in Sudan, Mali, Chad, and Guinea Conakry, in addition to one attempted coup in Niger. The year 2022 saw two successful coups in Burkina Faso and three attempted coups in The Gambia, Guinea-Bissau, and Burkina Faso. As of October 1, 2023, there have been two coups,

one in Niger and another in Gabon, along with three attempted coups in Chad, São Tomé and Príncipe, and Burkina Faso. Cumulatively, over these five years, the continent has experienced a total of ten successful coups and eight attempted coups (Kolade and Ayodele 2025).

This crisis raises complex legal questions regarding the effectiveness of international law and its accountability, as well as the ruling on coups within its diverse and multiple sources.

While the history, trajectory, causes, and threats to democracy posed by military coups in Africa have been extensively examined in numerous research studies, this paper explores the response of international law to the resurgence of coups in Africa.

This paper begins by outlining the concept and characteristics of a coup before briefly discussing the narrative surrounding coups in Africa. The main body of the article is then divided into an analysis of the effectiveness of international law and accountability in relation to coups, as well as the ruling on coups within its diverse and multiple sources. The article concludes by suggesting possible strategies for international democratic actors to mitigate the occurrence of coups.

The Narrative of Coup

The concept of a coup has been heavily politicised by researchers and academics in this field, particularly by African and Arab scholars who have resorted to creating wishful justifications to provide more lenient interpretations. This phenomenon is included in the epistemological analysis of desire. What is considered a coup in its constitutional form is perceived by others as a revolutionary correction and a natural state of conflict among the ruling elites. That represents a significant academic error, the repercussions of which continue to undermine the African academic domain.

Some researchers, including Ahmed Amal, a professor of political science at the Faculty of African Graduate Studies at Cairo University, highlight the increased analytical value of the concept of coup d'état. That is evidenced by the emergence of "military interventionism" as a growing trend in developing countries worldwide. Numerous writings have also proposed an alternative conceptual framework termed "military engagement", which refers to military intervention in politics, whether by members of the official or "traditional" military institutions, or by any military forces of a "private" or "non-traditional" nature. Conversely, alternative concepts have emerged, such as "military takeover", a term the US administration employed to describe the actions taken by General Abdel Fattah al-Burhan, the head of the Sudanese Sovereignty Council, on October 25, 2021, which included the dismissal of the transitional cabinet. This terminology allowed the United States to circumvent the negative repercussions associated with labelling the

events in Sudan as a coup at a time when it needed to maintain several channels of cooperation to safeguard its strategic interests in the country (Qawi 2022).

Within English etymology, the term "coup" refers to a sudden, violent, and illegal seizure of power from a government. (Oxford Living Dictionaries 2025). The concept of coups d'état has generated several scholarly definitions over time. This paper, however, adopts the definition provided by Luttwak (1969). Luttwak explains that a coup d'état "consists of the infiltration of a small but critical segment of the state apparatus, which is then used to displace the government from its control of the remainder" (1969, 172). Typically, coups are executed swiftly, usually within forty-eight hours.

Some people also confuse coups with revolutions; therefore, it is important to distinguish between the two. Coups and revolutions share the commonality of being irregular forms of governmental change. However, they possess several key differences. Coups are typically executed by a small group of individuals who already hold some power, such as military officers. On the other hand, revolutions involve widespread uprisings by a large number of ordinary citizens. Coups primarily alter the composition of the government or ruling body, while revolutions aim to transform the entire social system (Dictionary of Politics and Government 2004, 60). Following a coup, the influence of military forces tends to increase, thereby exerting a greater impact on civil governance (Andereski 1971, 104).

Arguably, revolutions are often characterised by chaos, violence, or significant bloodshed, whereas coups are not always marked by political and/or economic turmoil (Tanter and Midlarsky 1976, 3).

The ravaged continent, as described in media literature, remains vulnerable to the epidemic of coups—a term coined by UN Secretary-General Antonio Guterres in response to their surge over the past two years, following a brief period of stability.

A wave of coup attempts swept across Africa following the independence of various countries; the number of coup attempts exceeded 200, with over 50% proving successful. Most resulted in the displacement of leaders and the suspension of constitutions. By 2019, 27 countries in Africa had experienced coups (Wilén 2024, 243–261).

The phenomenon of coups in Africa must be incorporated into studies of security and peace, which aim to identify the variables and challenges associated with peace, as well as the mechanisms for its establishment through carefully considered phases and steps. This approach positions peace as the ultimate goal for a continent that has long endured bloody conflicts and ethnic purges. Furthermore, international interests view Africa as the focal point of the empowerment strategy for both great powers and emerging nations in the twenty-first century, a situation often referred to as the new scramble for Africa.

The geography of coups in Africa suggests that the Sahel region acts as a breeding ground for such events, as it is a focal point for various threats, including arms trafficking, drug trafficking, organised crime, and illegal immigration.

Among the 25 coups that have occurred in Africa since 1990, 20 took place in West African countries, with 12 in the Sahel and eight in the Gulf of Guinea. The frequency of coups in the Sahel has been increasing. In the years following 2010, six coups were recorded in Sahelian countries, compared to just two in the Gulf of Guinea, indicating that the phenomenon of coups is more concentrated in the Sahel than in other regions (Amal 2022).

By and large, over the past six decades, more than 200 coup attempts have been made in Africa, most of which have succeeded in seizing power. The deteriorating security situation has been identified as one of the reasons for this resurgence.

Deteriorating Security Situation

The coups that have occurred in West Africa, particularly in the Sahel region, share a common denominator: a lack of security and the rise of violent terrorist groups. In northern Mali, jihadist groups have expanded their presence towards the centre in recent years, particularly in the so-called "border triangle" area where the borders of Mali, Burkina Faso, and Niger intersect. The attacks have primarily targeted security and military institutions but have also included civilian targets and infrastructure.

Since 2015, Burkina Faso has experienced terrorist attacks from groups such as ISIS and al-Qaeda, resulting in numerous fatalities and the displacement of over 1.5 million people. Since that time, the security situation has deteriorated significantly, potentially providing a compelling justification for the military's intervention to depose an impoverished civilian government.

In the December 2021 edition of the Dakar International Forum on "Peace and Security in Africa", Mohamed Bazoum, who had been ousted as President of Niger, attributed the chaotic situation in the Sahel region to the rise of terrorist groups against the backdrop of the crisis in Libya. Likely, the primary reasons for the resurgence of coup patterns in Africa are the state's inability to effectively address terrorist groups and issues of poor governance. It is evident that Western conditionality has stripped African democracy of its essence, and the recurrence of coups in Africa seems to highlight the failure of this conditionality policy. Democracy is not a one-size-fits-all solution; it must be adapted to the unique cultural and social contexts of African countries. The military appears to be the only force capable of addressing Africa's demands for change while defending state sovereignty and independence. However, this military institution finds itself

entangled in political roles for which it lacks the necessary qualifications. In late 2019, protests erupted in Sudan as the populace rose against an authoritarian regime and an economy on the brink of collapse. However, the ruling elites have taken a misguided approach. Rather than fostering sustainable development, they are entrenching a patriarchal system founded on political patronage networks and corrupt practices. In Mali, for instance, when the population grew disillusioned with the political system, which occasionally operated under a popular mandate, the army's intervention was met with significant public support (Hamdi 2025).

Coups in International Law

Official sources of international law are enumerated in Article 38 of the Statute of the International Court of Justice. Article 38(1) of the Statute states the following:

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply:
   a) international conventions, whether general or particular, establishing rules expressly recognised by the contesting states;
   b) international custom, as evidence of a general practice accepted as law;
   c) the general principles of law recognised by civilised nations;

   subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law (ICJ 1945, Art. 38). Therefore, it is crucial to examine these sources to understand the accountability and effectiveness of international law, as well as its rulings regarding the resurgence of coups in Africa.

The sources of international law can be divided into original (formal) sources and substitute (informal) sources (Schwarzenberger 1957, 26–27). Official sources are those that create binding legal rules, while substitute sources assist in defining and interpreting these rules. However, this distinction has been criticised due to the overlap that sometimes occurs between these categories, resulting in a lack of clear differentiation. For the purposes of this chapter, it is therefore not worthwhile to pursue such distinctions. Nevertheless, examining the sources of international law is crucial, as stated in Article 38(1) of the ICJ Statute.

a) General Principles of Law

The general principles of law refer to a set of rules that govern legal systems and from which other applicable rules emerge, taking effect in the form of customary law. In practice, these principles serve as standards that

guide the court when issuing its ruling, particularly after it has been established that there is no contractual or customary rule applicable to the dispute at hand (Bassiouni 1990, 782).

b) Judicial decisions and the teachings

Firstly, judicial decisions of international courts serve as the primary source for the interpretation of international law. In principle, the decisions of national courts do not have any effect beyond the territories of a sovereign state, in accordance with the principle of the territoriality of laws and decisions.

Secondly, international law has long benefited from the contributions of a substantial group of scholars who have elucidated its established rules and developed its various theories. The research published by these scholars is referred to as international jurisprudence, and it is relied upon as a source of reasoning in the derivation of international legal rules (Bn Saalim 2020, 46).

Considering that general principles of law, judicial decisions, and scholarly writings are subsidiary in nature, this chapter does not examine them as standalone sources of international law. Instead, their significance will be assessed in relation to current treaties and customs. Consequently, treaties and customs will be the primary focus of this chapter.

c) International Conventions/Treaties

There are numerous definitions of international treaties; however, in terms of linguistic formulation, the meaning remains consistent across these definitions. All agree that the first paragraph of Article 2 of the Vienna Convention on the Law of Treaties, concluded in 1969, provides the most comprehensive definition. It states that a treaty is "an international agreement concluded between two or more states in writing, and subject to international law, whether it is contained in one or more documents, and whatever the name given to it".

The definition indicates that:

1) A treaty is an agreement between subjects of international law.

2) This agreement must be in writing.

3) This agreement must be subject to the rules of international law.

4) The agreement must aim to produce legal effects.

In terms of subject matter or content, a treaty is regarded as an agreement in every sense. The agreement is deemed to be the essence of the contract and the foundation for its existence, as the contract is based on the principle of mutual consent between the parties and is contingent upon agreement. It is a contract arising from the concurrence of two or more wills to achieve a

specific purpose and goal. Each treaty varies from others according to the nature of its subject matter and the intentions of its parties. Furthermore, treaties are exclusively established between entities subject to international law, such as states, international organisations, and liberation movements striving for independence. Any agreement concluded between other parties, regardless of whether it is an international agreement, is not classified as a treaty (Dupuy 2008, 420).

A treaty aims to establish a legal effect, which means it creates rights and obligations for the parties involved. Not all international agreements are classified as treaties; only those concluded between subjects of international law, based on the legislative intent of those subjects, are considered as such.

A treaty may be referred to by different names without compromising its status as an international treaty or the rules that govern it. This applies regardless of whether the agreement is documented in one or more written forms.

United Nations Conventions/Treaties on coups d'état and democracy

The idea that coups d'état constitute an international crime has been supported by the international community's recurrent condemnations of these occurrences. However, there are no treaties or agreements that specifically prohibit coups d'état under UN international law (Pausewang 1992, 67).

International law at the UN level, however, lacks treaties or conventions that explicitly prohibit coups d'état. It is important to highlight that international agreements have traditionally been ambiguous in their structure. This ambiguity can largely be ascribed to the necessity for consensus during the formulation of such agreements. An explicit and detailed condemnation of coups d'état through treaties or conventions would arguably be unusual. Consequently, a more extensive topic would be that of "democracy". This becomes particularly relevant in light of the claim that coups d'état, by their very nature, oppose democratic principles (Alweqyan 2024, 61–86).

The UN Charter, recognised as a significant treaty in international law, does not explicitly reference the term "democracy" (Iyer 2006, 39). Nevertheless, its preamble begins with the phrase "We the people…", which can be interpreted as an implicit representation of democratic principles, suggesting that the legitimacy of sovereign states arises from the "will of the people". Given that the sovereignty of states is a fundamental concept in international law, this also arguably enhances the significance of democracy.

The Universal Declaration of Human Rights (UDHR) describes the "will of the people" as being the ultimate source of governmental power (UDHR 1948, Art. 21(3)). Further, such "will" is to be expressed through regular,

democratic elections. The UDHR on its own does not command binding force, and it merely serves as a framework for human rights in international law (Alweqyan 2024, 70).

However, scholarship has emerged suggesting that several UDHR provisions have evolved into customary international law, thus binding all states.

The International Covenant on Civil and Political Rights (ICCPR), on the other hand, establishes the legal framework for democratic principles under international law. This framework encompasses the freedom of opinion and expression, the freedom of association, the right to engage in public affairs, and the right to vote and be elected in regular democratic elections (ICCPR 1966, Art. 19, 22, 22 (a)). With 172 states as parties to it, almost 90% of UN member states have ratified the ICCPR. All African nations have endorsed the ICCPR, except South Sudan and Western Sahara.

We deduce there is no explicit prohibition of coups d'état in international conventions or treaties. However, considering the acknowledgement of the concept of democracy, especially by the UDHR and ICCPR, one could argue that this implies an implicit prohibition of coups d'état within the framework of international law.

African Conventions/Treaties on coups d'état and democracy

The African Constitutive Act (AUCA), the Lomé Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government (Lomé Declaration), and the African Charter on Democracy, Elections, and Governance are the three primary instruments that are significant at the African Union level concerning the issue of coups d'état and democracy (Alweqyan 2024, 86).

The Lomé Declaration was ratified by the Organisation of African Unity (OAU) and later endorsed by the African Union (AU). Formulated against the backdrop of the increasing frequency of coups d'état in Africa, the Lomé Declaration defines such coups as an intolerable threat to peace and security on the continent, describing them as "disturbing" and contrary to the ongoing and continent-wide movement towards democratisation. Furthermore, it acknowledges that coups d'état in Africa have led to severe violations of both AU and UN principles. Essentially, the Lomé Declaration prohibits coups d'état, categorising them as unconstitutional alterations of government. However, it is important to note that the declaration itself is not legally binding, despite its broad political acceptance and its role as a guiding framework in numerous situations (Ibid.).

The AU Constitutive Act, which serves as the foundational document of the African Union, emphasises its disapproval and denunciation of unconstitutional changes in government among its core principles (AU

Constitutive Act 2000, Art. 4 (p)). Furthermore, it specifies that governments that come to power through unconstitutional means shall be suspended from engaging in AU activities (Ibid.). Its provision can be understood as a clear prohibition of coups d'état as outlined in the AU Constitutive Act. The AU Constitutive Act has been ratified by all member states of the AU, thereby rendering it binding on them.

In its Preamble, the African Charter on Democracy, Elections and Governance (ACDEG) acknowledges democracy as a fundamental universal value and principle. It expresses its apprehension regarding unconstitutional changes of government and their contribution to the continuation of violent conflict, insecurity, and instability across the continent. Furthermore, the Charter aims to encourage adherence to these "universal values and principles" of democracy among the member states of the African Union. Additionally, the Charter stipulates the imposition of sanctions by the African Union in cases of unconstitutional transitions, which encompass coups d'état, among other forms. The ACDEG is a legally binding instrument that has been signed by over 80% of African States.

The African framework regarding coups d'état and democracy can thus be understood as a clear prohibition against such actions, considering the recognition of democracy as part of the "universal values and principles" in international law, the disapproval of extra-constitutional governmental changes, and the mandated response, which includes suspension from AU activities and the enforcement of sanctions.

Regional and Sub Regional Conventions/Treaties on coups d'état and democracy, Central, North and South American Blocs

Article 29 of the Treaty of Perpetual Union and Confederation, concluded in 1826 between several North and South American countries, stipulates that "a significant change in the nature of the government can lead to the suspension of a member state" (Treaty of Perpetual Confederation 1826, Art. 29).

Some Central American countries, namely Costa Rica, Guatemala, El Salvador, Honduras, and Panama, also agreed to a treaty called the Central American Democratic Security Agreement. Article 8 of this agreement states that "in order to promote democracy, the parties must reaffirm their commitment to refrain from providing any political, military, financial, or any other support to individuals, groups, irregular forces, or armed gangs that threaten the unity and order of the state or call for the overthrow of democratically elected governments or destabilise any of the other parties" (Framework Treaty on Democratic Security 1995, Art. 8).

The OAS also agreed on a procedure for consultation in the event of "any incidents leading to the sudden or irregular interruption of democracy in a

member country". The OAS then went further by suspending that country's membership. The Organisation of American States reaffirmed its commitment to defending and promoting democracy in 1991, through resolution 1080. It also stressed "the commitment of member states to take joint and immediate action to protect democracy in any member state when it is threatened" (Perina n.d., 79).

Accordingly, "at the request of the governments of Nicaragua (2005), Ecuador (2005), Bolivia (2008), Guatemala (2009), Honduras (2009), and Haiti (2010), the Permanent Council and the Secretary-General acted diligently and effectively by approving the relevant resolutions and sending political missions which successfully prevented a political crisis from tearing apart the democratic system. It should also be noted that when a member state requests assistance from the Organisation of American States during a political crisis, such requests are not considered foreign intervention" (Ibid., 80).

The Southern African Development Community (SADC)

The SADC treaty, which serves as SADC's foundational document, recognises the necessity for the "guarantee of democratic rights, observance of human rights and the rule of law" within its preamble (SADC 1998). Additionally, it delineates, as part of the principles of the body, the rule of law, solidarity, democracy, peace and security, and human rights (Ibid., Art. 4). However, the treaty does not explicitly prohibit coups d'état or any other forms of extra-constitutional governmental changes.

The treaty also establishes the SADC Organ on Politics, Defence and Security, whose aims and objectives are articulated in the SADC Protocol on Politics, Defence and Security (Protocol 2001, Art. 2(g)). This protocol acknowledges, among its objectives, the promotion of the development of democratic institutions and practices within SADC member states, as well as the respect for universal human rights, among other objectives. In line with the Organ's commitment to managing inter- and intra-state conflicts through peaceful means, the protocol categorises military coups as instances of intra-state conflict (Ibid., Art. 2, 11 (2) (b) (ii)).

Economic Community of West African States (ECOWAS)

Coups d'état are not specifically forbidden by the ECOWAS Treaty, which is the organisation's founding document (ECOWAS Revised Treaty 1993). Nevertheless, the treaty identifies the "promotion and consolidation of a democratic system of governance" within its member states as one of its core principles. "Zero tolerance for power obtained or maintained by unconstitutional means", "strict adherence to democratic principles", and public participation are all affirmed in the ECOWAS Protocol on Democracy

and Good Governance (Ibid., Art. 4 (j), Art. 1 (c), Art. 1 (d)) and in the Constitutional Governance Principles. The protocol's Section IV states that the defence of a nation's independence, territorial integrity, and democratic institutions is the responsibility of its security forces. The protocol also stipulates that the different elements of the security sectors of the member states must be governed by legitimate civilian authorities (Ibid., Art. 19 (1), Art. 20 (1)).

The Protocol also mandates sanctions on states that abruptly end democracy or commit serious human rights violations (ECOWAS Protocol 1999, Arts. 3(h), 31). It also allows the Mediation and Security Council to recommend a conflict management regime, including the deployment of civilian and military forces.

Consequently, none of the aforementioned regional frameworks explicitly prohibit coups d'état. Additionally, the SADC framework's recognition of democracy is not as emphatic as that of ECOWAS, which mandates a "strict adherence to democratic principles while completely denouncing the unlawful acquisition of governmental authority". The ECOWAS framework reinforces its dedication to democracy and the repudiation of unconstitutional power grabs by also stipulating the imposition of sanctions in instances where democratic processes are disrupted.

d) International Custom as a Source of International Law

International custom is considered one of the important primary sources in international law, characterised by its evolving nature and ability to adapt to the changing circumstances of international life. It was previously the primary source of international law before the movement to codify international legal rules relegated it to a secondary status, which did not diminish its past and present importance, value, and influence on the prevailing relations between subjects of international law.

International custom is considered the external manifestation of international legal sentiment, which is formed by repeated and permanent actions and conduct accompanied by a feeling and belief in their binding nature as a mandatory legal rule. It is defined as behaviour that is repeated time and again in the form of performing or refraining from an action by subjects of international law until these subjects are convinced that this behaviour has become binding and that violating it constitutes a breach of law that entails international responsibility (Abul Wafa 2006, 189).

International Custom on Coups d'état and Democracy

It would appear that there is no international custom prohibiting coups d'état. International law also entails that there is no right to democracy.

Nevertheless, it should be noted that the UDHR under Article 21(3) describes "the will of the people", expressed through regular, democratic elections, as the ultimate source of governmental authority (UDHR 1948). This provision is key, as it is commonly argued that the UDHR has, in fact, evolved into CIL. As is known, a state's internal affairs, including the form of governmental transition, were traditionally deemed as exclusive to the respective state and sacrosanct. However, the post-Cold War era has been characterised by the increasing popularity of democracy. This inevitably influences the status of coups d'état in international law, with scholars arguing that by inference, the emergence of norms on the "democratic entitlement" inevitably entails a proscription of coups d'état in international law, as the ascension of governments to power via coups cannot be reconciled with democratic norms. The "democratic entitlement" inevitably entails a prohibition of coups d'état in international law, as the ascension of governments to power via coups cannot be reconciled with democratic norms (Central American Treaty 1907, Art. 1).

Customary International Law Proscription of Coups d'état

Coups d'état were condemned before democratic norms emerged, with Central American states imposing sanctions in the early 20th century. The Cold War witnessed an increase in the toleration of coups. However, post-Cold War, legitimacy was recognised as based on democratic sources of power, leading to systematic rejection and condemnation of coup regimes (D'Aspremont 2010, 456).

This by implication means that there is an implicit proscription of *coups d'état* under customary international law.

The coup between the effectiveness of international law and accountability

The international resolutions and charters included executive steps, legal and international procedures, and prosecution. For instance, in relation to a coup in the Organisation of American States, the Secretary-General is entrusted with powers, including the power to convene a meeting of the Permanent Council of the Organisation of American States when there is a sudden or irregular interruption of the democratic political process or the legitimate exercise of power by a democratically elected government in a member state. In turn, the Council may call a special meeting of foreign ministers to decide on specific measures to be taken by the OAS. That has been implemented in four specific cases: Haiti, Peru, Guatemala, and Paraguay.

Article 17 also allows the government of a member state to request assistance from the Organisation of American States to strengthen and

maintain its democratic system when it sees that its democratic process or legitimate exercise of power is in danger (Perina 2015, 80) (Ibid.). Other member states might consider it a foreign intervention, as in the case of Ecuador in 1997 and Honduras in 2009. In both cases, the "intervention" of the Organisation of American States did not prevent the coup (Ibid., 80).

These international rules and laws may have pushed the coup plotters to think and hesitate in their steps but undoubtedly did not deter them, especially those who had international backing (Hohlstein 2022, 189).

However, the greatest challenge, which is the manipulation of political will in the implementation of international rules, has not been ruled out. That is evidenced by multiple coup cases, including the 1993 coup in Haiti, where some countries supported the coup and even outpaced international organisations with their decisions and actions. The United States considered Aristide, the elected president of Haiti, as the first president after independence, with about 67% of the votes, and facilitated his departure. Moreover, both Washington and Paris sent peacekeeping forces without waiting for the Security Council to vote on the resolution to send multinational peacekeeping forces there after chaos spread in the country in 2004. Until 2019, there were clashes between the supporters of this president and the peacekeeping forces that later entered the country (BBC 2014).

Similarly, in Africa, the African Union condemned the resurgence of coups in its member states such as Mali, Burkina Faso, Gabon, and Niger. However, the means of reacting to these situations (especially the suspension of the state's membership in the African Union) did not yield any significant success. The perpetrators of the crime often go unpunished; they regain legitimacy after organising fraudulent elections, and then the new government is integrated into the African Union. (Kahombo 2017).

On the other hand, legal loopholes challenge the ideals of international law. Soft law often appears to dominate over hard law in this area, due to its flexibility and the difficulty in enforcing hard law against sovereign states. However, that can hinder enforcement and accountability. While hard law offers binding obligations and legal repercussions for non-compliance, soft law, like resolutions and declarations, relies on persuasion and reputational pressure rather than legal sanctions. This preference for soft law in coup condemnation reflects a desire to maintain diplomatic relations and avoid escalating tensions. However, it can create loopholes and make it difficult to hold perpetrators accountable.

Essentially, soft law is a more prominent tool for denouncing coups due to its flexibility and capacity to mobilise international opinion, especially when dealing with the complexities of state sovereignty and enforcement challenges, whereas hard law offers a framework for international relations (D'Aspremont 2010, 460).

Moreover, some professors of international law argue that "Proving the impossibility of holding any state responsible under international law for a coup supports the idea that coups are not necessarily an unfortunate means of changing the government" (Ibid.). In fact, it will be shown that coups can sometimes lead to a positive break from the current regime, generating a desirable change from the previous system, particularly in countries where the government is an endless tyranny (Ibid.).

Another legal loophole is that the issue of state responsibility for a coup is different from that related to the international criminal responsibility of the person who carried out the coup. The reason for this is that coups are not yet considered an international crime from the point of view of international criminal law. Only crimes alleged to have been committed during a coup may be crimes intended under international criminal law (Special Court Sierra Leone 2004, Case SCSL-2004-16-PT).

One of the oddities regarding the condemnation and prosecution of coup plotters is that "the animosity between the African Union and the International Criminal Court became apparent after the issuance of arrest warrants for African heads of state and senior government officials, prompting the African Union to take numerous countermeasures against the International Criminal Court, culminating in its international criminal jurisdiction. The African Union has initiated a process to enable its courts to prosecute international crimes committed by Africans in Africa" (Abass 2013, 28).

In conclusion, while soft law offers flexibility in responding to coups, its reliance on persuasion and the lack of robust enforcement mechanisms can hinder accountability and erode the effectiveness of international law.

Strategies for international democratic actors to mitigate coups

Sanctions and denial of legitimacy are among the most important actions the international democratic community and international organisations can take to reverse the trend of coups in Africa.

Sanctions can isolate coup regimes and undermine their legitimacy, potentially encouraging popular resistance and a return to democracy. That is why the European Union and the African Union sanctioned the leaders of the 2015 Burkina Faso coup, contributing to pressure on the military junta to relinquish power (Youngs et al. 2025). Also, in 2019, following the military coup that overthrew the government of President Omar al-Bashir, Sudan's membership in the African Union was suspended, signalling international condemnation of the coup. US economic and other international aid to Sudan was suspended. These pressures combined to force the military council to surrender power and transition to a civilian government. However, sanctions may not be effective if they are not comprehensive or if coup regimes are unable to find alternative sources of financial and commercial support.

Denying legitimacy, such as the international community's refusal to recognise the coup government, can weaken its legitimacy and reduce its ability to obtain external assistance. After the removal of President Mohamed Morsi in 2013, many countries and international organisations refused to recognise the new government headed by Abdel Fattah el-Sisi, weakening its legitimacy and affecting its relations with the international community. Following the 2021 military coup, the African Union suspended Guinea's membership and refused to recognise the new government, impacting the country's diplomatic and trade relations. However, denying legitimacy alone may not be sufficient to prevent a coup if it is not accompanied by other pressures, such as sanctions or military intervention.

Therefore, African governments that commit to and support democratic practices should receive greater diplomatic support, development and security assistance, as well as encouragement for private investment. There were clear international incentives to adopt democratic standards when local reformers led the wave of democratic transition in Africa in the 1990s and early 21st century. International democratic actors need to recommit themselves to these standards by building a more united position against coups and consistently opposing them (Siegel 2021). To support these standards, the African Union and regional economic organisations—each with its own democratic charter—must be actively involved in this diplomatic endeavour. These regional organisations are largely responsible for the public's response to the coup and the coordination of international responses. The international democratic community will find it much simpler to support this stance if regional African institutions are unambiguous in their denunciation of the coup (Ibid.).

It may be argued that, once a coup has occurred, the best course of action is to maintain engagement in the hope of encouraging gradual reform over time. The problem is that leaders who come to power by breaking the rules tend not to be moderate but rather act in ways that support impunity.

The need to continuously impose real costs on coup makers is another aspect of promoting democracy in Africa. It is not appropriate to recognise those who illegally seize power. The assets of the leaders of the coup should be frozen, and they should not be allowed access to the international financial system. Freezing the financial assets of coup leaders and their relatives abroad makes it more difficult for them to finance their activities and cover their expenses. The Economic Community of West African States' (ECOWAS) sanctions, which include the asset freeze of coup leaders and their families following the coup in Guinea, are a good example of this action (Kolade and Ayodele 2025). An asset freeze is a measure that prevents individuals or entities from accessing their funds or economic resources, making it difficult for them to use these assets to finance their activities or meet their personal needs (UN Security Council 2025). Governments emerging from coups should also be denied access to sovereign accounts.

The process should begin by reversing the coup and then negotiating, not the other way around (Ibid.).

International democratic actors can also help balance the scales locally by ensuring strict costs for coup leaders. Widespread protests and civil disobedience by citizens who reject the coup leader can increase pressure on the coup leaders. Popular resistance can play a crucial role in reversing coups, and sanctions and denial of legitimacy may help these forces. Therefore, international democratic actors must be careful not to inadvertently undermine this local resistance by recognising the coup, effectively providing legitimacy when it is absent (Ibid., 69).

This stance is not just a moral one but one that contributes to achieving a more stable and prosperous Africa, which can lead to more reliable partners in the fields of security and economy. Authoritarian regimes in Africa are responsible for more than 75% of the conflicts occurring on the continent. If they are to assist in stopping the spread of these destabilising forces, Western nations must be ardent supporters of democracy in Africa.

The international community's efforts to eliminate coups during the post-Cold War period had good reason. There is still a similar reason today. The question is whether international actors still remember this scenario or not.

Conclusion

The resurgence of coups in Africa poses a persistent challenge to regional stability and democratic governance. International law has emerged as a crucial factor in addressing this issue, primarily through charters, treaties, and protocols outlining principles and mechanisms for promoting democratic governance and preventing unconstitutional changes of government. International law has demonstrated a strong commitment to condemning and responding to coups, often through the imposition of sanctions on coup leaders and their supporters, as well as the suspension of member states. While these measures have been effective in certain instances, such as the recent coups in Mali, Sudan, and Burkina Faso, international law falls short in deterring coups due to a combination of factors, including enforcement challenges, political sensitivities, and the inherent limitations of international law itself.

Furthermore, this crisis affects international law and international criminal law as a whole. The political will of powerful states that support the institutions and organisations governing international law, along with their executive bodies, such as the Security Council, plays a crucial role in this context.

A balanced approach that integrates the strengths of both soft and hard law may be essential for enhancing existing mechanisms and developing

new strategies that prioritise prevention, promote good governance, and ensure accountability for coup leaders.

This article contributes to the scholarly literature by demonstrating that legal accountability mechanisms are limited in their effectiveness at deterring unconstitutional regime changes.

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