

## **A Contrastive Analysis of Word Formation Processes in Interrogating Widespread Democratic Decay and Breakdown in some West African Countries**

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### **Abstract**

In contemporary times democracy is threatened across West African states like never before. Democracy is under increasing assault from the elected leaders and their cronies. A noticeable, subtle, stifling strangulation of democratic structures and substance leads to the erosion of democracy in more than a few West African countries and a total breakdown of democracy through coups in others. Despite the attempts by the ECOWAS and AU to discourage democratic breakdown in Africa, military intervention continues to truncate democracies in many African countries. This paper interrogated the root-causes of the prevalence of democratic breakdown in West African countries and the factors sustaining military interventions in the region. Building upon earlier scholarly work on democratic breakdown and deploying the doctrinal research methodology, the researcher analysed the resurgence of and effects of military intervention and truncation of democratic practices in West Africa. The findings of this research showed that military intervention is edging West African countries to the precipice and there have been more than a few complete democratic breakdowns in West African countries in recent times. In conclusion, the researcher offers suggestions on how democratic breakdown can be arrested in the West African region and/or reduce its occurrence by advocacy, enthronement of good governance, citizenship participation, application of the rule of law, and upholding of constitutional provisions.

**Keywords:** Democratic decay, Illiberalism, Democracy, Citizenship participation, West African region, Coup d'état.

## **Introduction**

Sixteen countries (Benin, Burkina-Faso, Cape Verde, Cote d'Ivoire, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone and Togo) constitute the Economic Community of West African States (ECOWAS) which dates from the 1975 Lagos Treaty, but Mauritania withdrew its membership from the organization in 2000. All of these countries with the exception of Cape Verde and Senegal have experienced coup d'état, post-colonialism, particularly between the period of 1960 and 2005. The current democratic situation across West African countries is worrying and calls for urgent introspection and solutions. In some of these countries, there are democratic decays (Zakaria, 1997) such countries include Benin, Nigeria, Ghana, Togo, Senegal, Gambia, Liberia, Senegal and Cote d'Ivoire. For example, in November 2020, Alassane Ouattara won a third term in office in elections boycotted by the opposition. This was the same person who was helped to power by the soldiers of ECOWAS when President Laurent Gbagbo refused to step down and hand over power after Ouattara won the election. These countries though pretend to hold elections and lay claim to liberal democracy, still, they are characterized by the failure of governance, including pervasive corruption, insecurity, excruciating poverty, nepotism, the conduct of skewed elections and the collapse of democratic and constitutional institutions (Warren, 2004). Whereas, other West African countries are witnessing democratic breakdown through military interventions, such countries include Chad, Mali, Guinea, Mauritania, Burkina Faso (which had seven coups in 26 months), Niger and Guinea-Bissau.

In the 1990s, West African countries embraced nominal democratization which resulted in the decline of coup d'état and military intervention in politics. In recent times, however, West African states have experienced the rise of coup d'état and military intervention. This trend is worrying. Burkina Faso has had 9 successful coups and one failed attempt. Ghana 10, Sierra Leone 10, Benin Republic, Burkina Faso, Guinea Bissau, Nigeria and Mali have had 8 coups, while Chad and the Niger Republic have had 7 coups each. Guinea Bissau had a failed attempt on February 1, 2022. To arrest this trend, at the thirty-sixth Ordinary Session of the Heads of State and Governments of the Organization of African Unity held in

Lome, Togo from July 10 to 11, 2000, the Assembly was worried by the prevalence of democratic decay and breakdown across the region. By reason of the resurgence of coup d'etat across African states and in aiming to consolidate democracy in Africa, the Assembly made a declaration that democratic breakdown constitutes a threat to peace and security across Africa and a backward step to the African democratization process (McGowan & Johnson, 1984). Hence, the Assembly condemned any unconstitutional change of government. In addition, they commit to respecting the rule of law and the electoral process.

The Assembly also prescribed sanctions for unconstitutional change of government (UNHCHR Lomé Declaration, 2000). Despite the Lomé Declaration on the framework for an OAU response to unconstitutional changes of government, which prohibits coup d'état and prescribes sanctions against military regimes that had taken power through a coup, democratic breakdown continues unabated in West Africa. The Lomé Declaration defines an unconstitutional change in government as military coup d'état against a democratically elected government; intervention by mercenaries to replace a democratically elected government; replacement of democratically elected government by armed dissident groups and rebel movements; the refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections (OAU A.H.G. Decl. 5 (XXXVI) & O.A.U. Doc. AHG/Decl.5 (XXXVI), 2000). The Lomé Declaration failed to prevent or discourage unconstitutional change in government essentially because it was not legally binding (Rules of Procedure of the Assembly of the African Union Rules 33 (1) (C) 2002) and the stipulated sanctions were not only ineffective, they have never been properly applied (Nikolay, 2005).

The Lomé Declaration was subsequently codified into Articles 4 (P) and 30 of the 2000 Constitutive Act of the African Union and the 2007 African Charter on Democracy, Elections and Governance, which was adopted in Addis Ababa, Ethiopia, on January 30, 2007 and entered into force on February 15, 2012. As of date, 46 out of the 55 member states have signed, 34 have ratified, and 34 have deposited it. The Charter is an instrument adopted by member states of the African Union (AU) to promote liberal democracy and human rights in Africa. It is a binding instrument among the member states of the African Union. Its primary objective is to proscribe unconstitutional regime changes, and it acknowledges that constitutional coups are a form of unconstitutional regime change (Elvy, 2013). It is distressing to note that despite the fact

that Cameroon and Burkina Faso have ratified it, they remained meshed in illiberalism. Democratic decay and breakdown are evident in those countries (Christopher, 2012). In contemporary times, many African countries have continued to experience democratic breakdown through coup d'état, Guinea (December 2008), Guinea-Bissau (December 2008 and April 2012), Mauritania (August 2008), and Niger (February 2010). This shows that the adoption of the Charter is still not effective enough to prevent democratic decay and breakdown (Elvy, 2013). Assimi Goita led a coup that overthrew Ibrahim Boubacar Keïta in the 2020 Malian coup d'état and there was a counter-coup in 2021, within nine months of the earlier 2020 coup, there have been democratic breakdowns in Chad. In 2021 President Déby of Chad, a despotic leader, who assumed power through a coup d'état was killed by rebels. Thereafter, his son Mahamat Déby assumed power and dissolved the indolent National Assembly. The country has since been plagued with conflicts and violence and recurrent attempted coups d'état. Guinea, Sudan and Burkina Faso have recently experienced a democratic breakdown by reason of a coup d'état, while Niger experienced a, failed coup attempt in 2021.

Based on the above worrying trends across West African states, this discourse explored the situation in five segments. The opening segment is introductory. It focuses on the state of democratic affairs across West Africa and explores how elected leaders are paving or paved the way for democratic failures in the region. In the second segment, the structural factors leading to democratic failure are examined, including weakening and hijacking of democratic institutions, illiteracy, and poverty, deliberate pauperization of the people by the elected leaders, abuse of the judicial process and the conduct of skewed elections. The third segment examines the effects of democratic decay and breakdown including voter apathy to democratic processes and democratic rule that is significantly informed by the unwillingness of politicians to play by the rules of the game, the creation and fostering of corrupt political dynasty on the people. Further, the paper focuses on the roles of the legislature, whose members have made themselves accomplices to the erosion of democratic values and the abandonment of their oversight functions for seeming selfish gains. The courts are not left out in these democratic melee. In playing its constitutional role of adjudication, the courts often give contradicting judgments that violate the time-honoured constitutional principle of *stare decisis*. Election disputes are often decided by the court in variance to this principle that states that legal principles must be determined in

accordance with precedents, thereby fostering unelected and ill-prepared candidates on the people. The trend must be urgently reversed. In the last segment, the article examines the prospects for arresting democratic decay and breakdown and improving democratic values across the region.

## **Democracy**

Democracy as generally known involves the conduct of free and fair elections at a predetermined time and the totality of processes that govern the electorate and the elected. It is “the selection of leaders through competitive elections by the people they govern” (Huntington, 1991, p.6). Democracy has been one of the most debased words and wrongly applied by politicians and commentators. Politicians with diverse and often debased actions tend to appropriate democracy to their actions (Schmitter, 1991, pp.75-78). Scholars have, however, learned to use the word with circumspection and often qualify the use of the word. Huq and Ginsburg describe liberal democracy to include: “political rights employed in the democratic process, the availability of neutral electoral machinery, and the stability, predictability, and publicity of a legal regime usually captured in the term “rule of law” (2018, p.87). Huq and Ginsburg implicitly concede that to have a semblance of democracy, the democratic process must be anchored by an independent and unbiased electoral commission, and there must be compliance with the rule of law. Robert Dahl listed minimum compliance for modern democracy to include the vesting of electoral policies in elected officials; the elected officials are chosen from frequent and fairly conducted elections; adults having the right to vote in the election of officials; all adults having the right to run for elective positions; citizens have the right to express themselves without restraint or anticipation of punishment; citizens have the right to seek an alternative source of information and alternative sources of information exist and are protected by law and citizens have the right to hold independent political opinions and form independent political parties (Dahl, 1982). Furthermore, Scheppele states that:

Democratic and liberal constitutionalism put democratic electorates in charge of their own destiny, with political power controlled and checked in ways that govern the continued respect for individuals and their ideas about self-governance... In its simplest form, a constitutional commitment to self-sustaining democracy prohibits an elected leader from simply abolishing future elections. In its

more complicated form, a constitutional commitment to self-sustaining democracy requires that leaders be prohibited from hampering the institutional prerequisites for free and fair elections, among which are a pluralistic media, a range of effective parties, an independent judiciary, recognition of a legitimate and loyal opposition, neutral election officials, a system of representation that does not unduly dilute the powers of minorities, and legally accountable police and security services, as well as a free and active civil society – all of which should have constitutional protection for a democracy to be considered self-sustaining. In its even more substantive varieties, democratic constitutionalism is bound to honor what democratic publics should want if they were able to follow liberal theoretical commitments through from beginning to logical end point. Starting from liberal premises, it is possible to construct the arguments for both constitutionalism and democracy together (Scheppelle, 2018, p. 558).

In the context of this paper, this author agrees with the expansive definition of democracy as espoused by Robert Dahl and Scheppelle as stated above. Democracy is more encompassing than the charade that goes on in many West African countries under the disguise of practising democracy with zero tolerance for opposition and independent media and views. Democracy is more than organizing a predetermined election and self-perpetuation in power as is rampant in several West African countries (Pastor, 1999).

### **Democratic Decay**

The phrase ‘democratic decay’ has been used to describe the corrosion of democratic principles, institutions and values by a few elites. It is characterized by the deterioration of democratic values as opposed to the complete breakdown of democracy by coup de tat. It is the degradation of the principles of liberal democracy under the pretence of practising democracy. The political system might have the outward appearance of democracy or populism but the substance runs contrary and abhors the core principles of liberal democracy. For example, in countries experiencing democratic decay, though elections may hold at predetermined cycles, such elections are characterized by various forms

of manipulation, including disappearing opponents, executive interference with the electoral commission and tampering with the independence of the judiciary. In Nigeria, as the 2019 general election was approaching, the Chief Justice of the Federation was unceremoniously removed by the President based on an *ex-parte* order of the Code of Conduct Tribunal in violation of the 1999 Nigerian Constitution that stipulates that Supreme Court justice can only be removed from office on the recommendation of two-thirds of the Nigerian Senate. Species of democratic decay have been described by various scholars as ‘democratic deconsolidation’, ‘constitutional rot’ (Foa & Mounk, 2016 p.5) and ‘democratic capture.’ (Gyimah-Boadi, 2021, p. 20). Features of democratic decay include the appropriation of state resources and powers by a few individuals to themselves, their cronies and members of their families and significantly for their selfish use (Gyimah-Boadi, 2021, p. 21) in a supposed democracy.

### **Democratic Breakdown**

Maeda postulates two kinds of democratic breakdowns. He stated that on one hand when a democratically elected government is overthrown by an external force outside of the government, such as a military intervention there is a democratic breakdown. On the other hand, democratic breakdown occurs when a democratically elected president puts the democratic process in abeyance (Maeda, 2010). He referred to them as “exogenous termination” and “endogenous termination,” (Maeda, 2010, p. 1131) respectively.

### **Some Core Reasons for Democratic Breakdown in West Africa**

There have been many coups and nurturing of outright dictatorship in many West African countries. What are the drivers of these maladies? How are the constitutions across West African countries responding to these problems? Do constitutions across West African countries include enforceable fundamental rights? And provisions on inclusivity? In many African countries, there is noticeable voter apathy, vote buying and citizens’ disillusionment. Some core reasons for democratic breakdown in West Africa are highlighted below:

#### **Tenure Elongation and Term Time Extension**

No doubt, tenure elongation is one of the factors that drive democratic breakdown in West African states. It has become part of the “institutional

landscape in authoritarian regimes” (Grauvogel & Heyl, 2020, p. 217). Tenure elongation occurs when an incumbent officeholder perpetuates themselves in power beyond the constitutional provisions by seeking to elongate their tenure through constitutional amendment of term limits. In Guinea constitutional referendum led to a change of government. Other examples include Gnassingbé Eyadéma of Togo who led the country for 38 years and died in office and Felix Houphouët-Boigny of Côte d’Ivoire was President for 33 years when he died in office. President Idriss Deby of Chad assumed power forcefully by a coup in 1990, he transformed into a *democratic* government and was re-elected for the fifth time in April 2016. He finally died in office when shot by a rebel fighter. It has been reported that not less than 18 political leaders across African countries have elongated term limits (Cassani, 2021) while other accounts claim not less than 30 African leaders have tried to extend their terms by seeking constitutional term limits (*ThisDay* Newspaper, 2022).

### **Greed, Pervasive Poverty and Economic Downturn**

It is generally agreed that excruciating poverty is rampant across West African states (Ake, 2003). This has put a majority of the countries in the region under constant conflicts and aggression. To make matter worse, political elites often exhibit opulent and extravagant lifestyles. This often generates rebellious feelings amongst the rank and file against the political elites. Research findings by Londregan and Poole conclude that “economic backwardness is close to being a necessary condition for coups” (Londregan & Keith, 1990, p.151). Also, Johnson, Slater, and McGowan postulate that: “states with relatively dynamic economies whose societies were not very socially mobilized before independence and which have maintained or restored some degree of political participation and political pluralism have experienced fewer military coups, attempted coups, and coup plots than states with the opposite set of characteristics” (Johnson et al., 1984, pp. 622-640). The African Union Peace and Security Council also claims that: “unconstitutional changes of government and popular uprisings were deeply rooted in governance deficiencies. They stressed that in situations of greed, selfishness, mismanagement of diversity, mismanagement of opportunity, marginalization, abuse of human rights, refusal to accept electoral defeat, manipulation of constitution, as well as an unconstitutional review of constitution to serve narrow interest and corruption, among other factors, are potent triggers for unconstitutional changes of government and popular uprisings (Peace



and Security Council African Union, 2014). For example, Chad ranks the 3rd lowest on the Human Development Index, with 42.3% of the population living in abject poverty (World Bank, 2023). Chad has been ranked as one of the poorest and least developed countries in the world. Unfortunately, the country is at present under military occupation.

### **International Politics**

The international community has been reluctant to take effective measures against the recent democratic breakdown in West Africa (Herbst, 1996). It is most worrying that the UN Security Council was unable to take decisive action against the coup plotters. For example, Russia and China blocked the imposition of fresh actions on the coup plotters in Mali. It has been alleged that Russia supplies arms to some of the West African countries, using the Wagner mercenary group as a proxy. It has also been reported and remains uncontested that Russia, Saudi Arabia, the United Arab Emirates and Egypt perceive coups in the West African regions as a tool for enhancing their regional ambitions. They have been supporting the Sudanese military and Kais Saied's auto-golpe in Tunisia (Joseph, 2021). The West has been alleged to be the greatest beneficiary of the breakdown of democracy in Africa (Börzel, 2017). Questions also need to be asked of them and their conduct in encouraging the instability and accepting proceeds of corruption into their banks.

### **Effects of Democratic Breakdown in Some West African States**

#### **Creation of Corrupt Political Dynasties**

In countries experiencing a democratic breakdown in West Africa, there is an erosion of constitutionalism, accountability and good governance. Military rulers are not accountable to anyone and cannot be held accountable for their actions. Rule of force prevails over rule of law (Chidume, 2013). Democratic breakdown as experienced in some West African countries has created a significant number of deep rooted problems which includes the creation and foisting of unpopular oligarchic dynasty enmeshed in corruption and human rights abuses (Edi, 2006). For example, In Equatorial Guinea, Francisco Macías Nguema became President in 1968. He was overthrown by his nephew Teodoro Obiang Nguema Mbasogo in 1979 and has ruled ever since. He metamorphosed into nominal democracy in 1982. He is reputed to be the longest-serving president of any country ever (*The Economist*, 2016). The abuses under

Obiang include, "unlawful killings by security forces; government-sanctioned kidnappings; systematic torture of prisoners and detainees by security forces; life-threatening conditions in prisons and detention facilities; impunity; arbitrary arrest, detention, and incommunicado detention. (United States State Department, 2009, p.1). He is reputed to have claimed to be god with "all power over men and things." and "can decide to kill without anyone calling him to account and without going to hell" (BBC, 2003, p.1). Also, in Guinea, Alpha Conde was overthrown on the 5th of September 2021 in a coup led by Colonel Mamady Doumbouya. Preceding that, Conde in the practice of *sit-tightism* had amended the constitution in 2019 to permit him to contest the third term. This practice was inherited by Conde from Lansana Conte who equally repealed term and age limits for the presidency in 2001. The military junta cited corruption and bad governance as the primary reasons for the coups d'états (Kemence, 2013).

### **The Inaction of the Legislature**

In most West African countries, the legislature is the primary law-making organ of government. They are also charged with oversight functions. However, by reason of military interventions in these countries, the legislative arm remains the least developed organ of government. During a military regime, the legislature is often suspended and its functions are taken over by the military legislative council. And as it most often happens, when the military junta decides to transform into a democracy, the legislative organs are usually filled up with cronies handpicked by the military dictators, in a usually predominantly one-party state. The hybrid regime then takes advantage of this lopsidedness and lukewarmness of the legislative organ by amending the constitution to permit tenure elongation and time limit extension. This sometimes infuriates the military hierarchy who then forcefully takes over the reins of government. The cycle of manipulation, entrenchment and greed continues until the next overthrow. This cycle has necessitated the weak legislative structure across West African states, both in countries experiencing democratic decay and democratic breakdown. For example, in Benin, President Talon's regime has an unquestionable and total control of the Benin parliament since his assumption of office in 2016. Benin's parliament is constituted and composed of 83 parliamentarians, all coming from the two parties – Union Progressiste (UP) and Bloc Républicain (BR) that were created and funded exclusively by the Head of State since the electoral

process in April 2019. All the other political parties were exempted from the legislative elections despite the intervention of the regional and international mediators. Immediately Talon assumed office he captured the electoral process through dubious constitutional amendments of the constitution. The opposition has since been excluded from the legislative, communal and presidential election" (Expédit, 2021, p.33).

### **The Failure of the Judiciary**

It is elementary that the judiciary interprets the law, adjudicates disputes and determines rights. To be able to perform its duties effectively, the judiciary must be independent, open-minded and possess the ability to write judgments that are clear, logical and cogent. Research has shown that an independent and efficient judiciary promotes and sustains democracy. Research findings have established that independent judiciaries are successful at preventing democracies from breaking down (Douglas & Kirk, 2011). The judiciary in West African countries experiencing democratic decay and/or democratic breakdown is, unfortunately, not so independent. The potency of the powers of the judiciary is eroded by the executive through the appointment of incompetent and politically biased individuals. For example, in Benin, President Tolan appointed his personal lawyer, Joseph Djogbénou as the President of the Constitutional Court. It is a commonality in West African countries for the executive to deprive the judiciary of financial autonomy and independence. In these West African countries, election periods are challenging as judges are intimidated and offered bribes by the executive in a bid to buy favourable court judgments and win election petition cases in courts. Hence, in political cases, the courts often give contradicting judgments that violate the time-honoured constitutional principle of *stare decisis*.

Election disputes are often decided by the court in variance to this principle that states that legal principles must be determined in accordance with precedents, thereby foisting unelected and ill-prepared candidates on the people. The trends must be urgently reversed. It is edging West African countries to the cliff edge and there have been more than a few complete democratic breakdowns in West African countries in recent times. Oputa JSC in *Adegoke Motors Ltd v Dr. Babatunde Adesanya & Anr* (1989) 13 NWLR (Pt.109) 250 held that "this supreme court is required by the doctrine of *stare decisis* to be bound by its previous decisions and not to deviate from it without justification to sustain the legitimate

expectations of the public. However, the general opinion is that the courts often do not abide by the principle of stare decisis in electoral matters in recent times. Olatubora (2022) contends that: there appears to be a high level of consistency and some appreciable degree of adherence to the doctrine of stare decisis in the decisions of the Supreme Court in pre-election matters decided under the Electoral Act 2006, there is an unimpeachable avalanche of evidence to show a persistent non-observance of the principle in decisions of the court in pre-election cases decided under the Electoral Act 2010 (as amended) (Olatubora, 2022 p. 195).

In *Sodeinde Bros Ltd v ACB Ltd* 1982) Vol 13 NSCC 1, for example, it was held that a five-member panel of the supreme court cannot depart from or overrule a decision made by a seven-member panel of the court, only a seven-member panel can. In *CPC v Ombugadu* (2013) 18 NWLR (Pt.1385) 66, the Supreme Court held that a person who did not participate in an election could not be declared the winner of the election. In contradiction to *Ombugadu*, in *Gbileve v Addingi* (2014) 16 NWLR (Pt.1433) 394, the Supreme Court reversed itself by a five-member panel and ordered that a candidate who did not participate in an action be declared the winner. Chief Akin Olujinmi (2021) commented thus:

As we all will remember, it was the lack of internal democracy in the organisation of the affairs of political parties that gave birth to the jurisprudence of *Amaechi v. INEC*. In protest, the National Assembly rushed an amendment to the Electoral Act, 2010 as reflected in Section 141, which provides that “An election tribunal or court shall not under any circumstance declare any person a winner at an election in which such a person has not fully participated in all the stages of the said election. Based on this provision, the Supreme Court in *CPC v. Ombugadu* (2013) 18 NWLR (Pt. 1385) 66 at 119, held that Section 141 of the Electoral Act, 2010 as amended had set aside the decision in *Amaechi v. INEC* (2008) 5 NWLR (Pt. 1080) 227 at 296. That was a five-person panel. In its subsequent decision in *Eligwe v. Okpokiri&Ors* (2014) LPELR -24213, page 31-33 or (2015) 2 NWLR (Pt. 1443) 348, the Supreme Court differently constituted (also 5 member panel) held that Section 141 of the Electoral Act applied to only Election Tribunal and the Court of Appeal sitting at first instance in the hearing of election petition affecting the office of the

President and did not affect the jurisdiction of the regular courts seized of pre-election cases to invoke the law as laid down in *Amaechi v. INEC*. In its latest decision in *Modibbo v. Usman* (2020) 3 NWLR (Pt. 1712) 470 at 517, the Supreme Court revisited the issue of Section 141 of the Electoral Act. It was again a panel of 5 members. It disagreed with the decision in *Eligwe v. Okpokiri&ors* and held that it was no longer good law. I have a dilemma here. What has played out in these cases is that the Supreme Court has in three different cases taken positions in which a five-person panel reversed, overruled or disagreed with a former five-person panel on the same point. Yet this has happened notwithstanding the decision of the Supreme Court in *Sodeinde Brothers (Nig.) Ltd v. African Continental Bank Ltd* (1982) 6 S.C. 70 at 71line 10 where it was held that a panel of the Supreme Court with equal number as a former panel cannot overrule or reverse the former panel on the same issue. There is no doubt we will have to live with the uncertainty and the injustice it spins for some period of time (p.19)

### **Voter Apathy to Democratic Processes and Democracy**

Voter apathy is the lack of interest by registered voters in electioneering or the election process, often resulting in very low turnout during elections. Democracy is reputed to be the rule of the majority, with lofty ideals, which other forms of government arguably do not have (Omoera, 2010; Omoera & Okhakh, 2013). It is expected that the majority confers legitimacy on the elected. However, in reality, the majority of registered voters in most West African countries do not turn out to vote, leaving a significant minority to vote and determine the outcome of the elections, thus diminishing the social contract between the elected and the governed. This happens because of diverse problems including failure of the state apparatus to guarantee the safety of registered voters on Election Day, kidnapping and killing of opposition members, ballot snatching and rigging of elections. These elections invariably fail to produce democratic dividend and the much-desired transformative change. Ultimately, it leads to more people not believing that the electoral process can deliver the desired transformative change, hence, the apathy. It is evident that the coup plotters feed on these sentiment. In addition, democratic breakdown only benefits the elite and grants them access to unmerited favours to the

detriment of the majority. It erodes democratic principles, values and culture thereby foisting on the people the rule of force, poor quality governance, poverty, oppression and social conflicts and the weakening of democratic institutions.

## **Reversing Democratic Breakdown**

### **Considering Constitutional Transformations in West African Countries**

Constitutional transformation is the ability of a constitution to respond to challenges. It may otherwise be called constitutional change, reform or amendment capable of birthing major social change. The process is threefold. Firstly, it embodies a new constitution making and making a significant amendment. Secondly, it includes processes leading to the drafting or revision of a constitution, including consultation, peace building, conflict resolution and taking into consideration the history of the people. Thirdly, it includes the processes after the drafting of the constitution, its implementation and interpretation. At this juncture, it is useful to consider some theories underpinning constitutional transformation. Griffin argues that constitutional reform should take into consideration the history behind the constitution to have a full understanding of the significance of change on the functions of government institutions and the court system (Griffin, 1999). Constitutional changes should be informed by politics and not theory. It should be a state centred approach and historical reality because the state is a crucial part of determining the outcome of any political struggle. He further contends that judges should be conservative and not allow their personal ideology to influence their decisions, which forms part of constitutional change (Griffin, 1999). While Ackerman acknowledges the need to embrace the historical approach (Shklar, 1992), he explains the implications of effective as opposed to cosmetic constitutional transformation for constitutional law and development. He contends that there are events in the history of a country that signal trigger, and consolidate constitutional transformations (Michael, 2011) but historians are not concerned with these events. This paper is in agreement with Ackerman. West African countries need a genuine constitutional transformation (Luckham, 1996), not a cosmetic amendment and given the recent history of these West African countries, as shown in the term elongation malady above, West African countries urgently need a constitutional transformation.

Latin America (Argentina in 1994, Bolivia in 2009, Brazil in 1988, and Costa Rica in 1989, Ecuador in 1998, Colombia in 1991, Mexico in 1992, Paraguay in 1992 and 2008, Peru in 1993 and Venezuela, Europe, South Africa and recently Kenya have experienced major and impactful constitutional transformations. These transformed constitutions across the continent emphatically recognized and incorporated the principles of inclusivity, fairness, human rights provisions, protection of individual and collective rights including granting special protection to minorities, respect for rule of law, access to justice and independent electoral bodies. They recognized that unity cannot be achieved by prioritizing and reinforcing religious and ethnic, sentiment. They acknowledge that their societies have become multi-cultural and multi-ethnic. Hence, they enacted a constitution that accommodates these diversities. They recognized different religions, including indigenous religions. Preference was not given to any religion. The constitutional changes include expanded and innovative provisions on citizen participation in and entrenchment of democracy including the establishment of independent electoral umpires and specialized democratic institutions.

It is sad, however, that a majority of West African countries are lagging or making insignificant and ineffectual changes. Some have even argued that some constitutions in Africa are imperialist or military induced constitutions. The need for constitutional transformation in many African countries cannot be overemphasized because constitutional provisions that are valid today may become obsolete in the future (as in *Brown v. Board of Education*, 347 U.S. 483 (1954) reversing the precedent of segregation in *Plessy v. Ferguson* 163 U.S. 537 (1896), vague and repugnant to natural justice and good conscience at a later time, for example, a racist constitution, will not stand the test of validity in contemporary times (Caenegem , 1995). In addition, there is a need for the constitution to continuously respond to emerging problems and reconsider new approaches to old problems that demand new thinking (Endicott, 1999). West Africa is besieged with many problems, democratic decay and hybrid governments are part of these problems. In many African countries, there is voter apathy, vote buying and citizens' disillusionment. Nigeria and other African countries need a complete overhaul of their constitutions to ensure citizen participation and discourage the deferential attitude of the electorate. Governance should not be left in the hands of a few oligarchs who have deliberately weaponised poverty for easy vote

buying during elections and put major obstacles to discourage citizens from participating in the electoral process.

Liberal democracy cannot survive where the majority of qualified and right-thinking citizens abstain or are unable to participate in the electoral process. This happens because of a lack of faith in the electoral processes induced by vote snatching, killing, maiming and brazen corruption. The system is so flawed to the extent that the electoral institutions and the judicial structure are perceived and rightly so, to have been heavily compromised. Across West Africa, there is an urgent need for constitutional transformation to address the growing anomalies otherwise, liberal democracy will be at risk in that part of the world. This position is corroborated by the growing democratic decay, hybrid governance and illiberal democracies in the West African region. A majority of the constitutions make provisions for elections and rule of law but the provisions are more observed in breach without significant consequence. The democratic institutions that are the pillars on which democracy rest are either compromised or are not in existence. The electoral bodies are not independent, the officials are appointed by the government in power. The judicial officers are appointed by the executive and are deliberately made to be dependent on the executive for sustenance. Some of the constitutional provisions are also alien to the cultural practices of the people because most of the constitutions in the West African region have imperialist origins. European countries exerted influences on their former colonies and in some cases still dictate to them. West African countries need to amend their constitutions to reflect their cultural practices that are not repugnant to natural justice and good conscience. These highlighted problems must be resolved through constitutional transformation for democracy to thrive in West Africa.

When Latin American countries transformed their constitutions, the consequential effect was increased local participation in politics, and decentralization and more locals were elected into elective offices (Eliza Willis et al., 1999). Local communities were economically empowered, local participation in voting increased and local authorities were assigned new powers, consequently, there was more accountability and transparency (Jesús, 2006). The constitutional reforms also strengthened the judiciary, including mechanisms for conflict resolution and independence of judiciary. A key reform is the removal of appointment and promotion of the judges from the executive powers and the creation of autonomous bodies to perform these functions (Rodrigo et al., 2011). By



reason of these reformations and commitment to constitutionalism, there has been no military intervention in these parts of Latin America in recent times (Rodrigo et al., 2011). The legislature and the courts have critical roles to play in ensuring the transformation of the constitutions of African countries in addressing contemporary issues. Experience from other jurisdictions suggests that constitutional transformation can be initiated by diverse instrumentalities. For example, individual litigants played a significant role in the European constitutional transformation. They were willing and did question the authority of the state (Husa, 2011). The academia and fundamental human rights activists do have a role to play as well.

The Economic Community of West African States, the African Union and the UN must take decisive steps. The ECOWAS must do more to arrest the recent trend of military interventions in West African countries as well as curb democratic decay in the region, the need for peer review and peer influence cannot be overemphasized. Efforts should be focused towards cultivating and strengthening civil societies and democratic institutions through collaboration, mentoring and training. The ECOWAS must not only focus on the conduct of elections but must ensure that electioneering and the electoral processes conform to international best practices. The AU has the moral duty to revisit the Lomé Declaration which has failed to prevent or discourage unconstitutional change in government as well as the 2007 African Charter on Democracy, Elections and Governance. These instruments appear to have failed to prevent democratic breakdown and abuse of human rights. AU must ensure that stipulated sanctions for unconstitutional changes are timeously and uniformly applied without fear or favour. The UN and the Security Council should show good leadership by curbing the excesses of foreign countries responsible for supporting democratic breakdown in West African countries and unconstitutional change in government must be uniformly sanctioned by the United Nations.

## **Conclusion**

This article has interrogated the widespread democratic decay and breakdown in West African countries. It has underscored the dangers reflected in the unconstitutional change of powers. It also examined the factors that drive democratic breakdown and the effect on the generality of the masses. After a thorough analysis of the steps taken by the regional and international bodies in arresting democratic breakdown, the study

concluded that such steps are ineffective and inadequate. Consequently, the article suggested the urgent need to embark on constitutional transformation and the strengthening of democratic institutions by West African countries. It reiterates the crucial role of regional and international bodies in arresting the trend of democratic decay and breakdown across the West African region.

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