

Growing Democracy in Africa

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Growing Democracy in Africa:

*Elections, Accountable
Governance, and Political
Economy*

Edited by

Muna Ndulo and Mamoudou Gazibo

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ACRONYMS

AfDB	African Development Bank
AMA	Accra Metropolitan Authority
B-BBE	Broad Based Black Economic Empowerment
B-BBEE	Broad-Based Black Economic Empowerment
CALPERS	California Public Employees Retirement System
CalPERS	California Public Employees Retirement System
CDD-Ghana	Ghana Center for Democratic Development
CHRAJ	Commission on Human Rights and Administrative Justice
CKRC	Constitution of Kenya Review Commission
CSO	Civil society organizations
CVC	Citizens Vetting Committee
CWSA	Community Water and Sanitation Agency
DA	District assembly
DA	Democratic Alliance
DACF	District Assemblies Common Fund
DCEs	District Chief Executives
DEC	District Election Committee
DP	Democratic Party
DPP	Director of Public Prosecutions
ECA	Excess Crude Account (Nigeria)
ECA	Economic Commission for Africa
EMB	Electoral management body
EPRDF	Ethiopian People's Revolutionary Democratic Front
EPWP	Expanded Public Works Program
ERISA	Employee Retirement and Income Security Act (U.S.)
ERISA	Employee Retirement and Income Security Act
FDC	Forum for Democratic Change
FGDs	focus group discussions
FRELIMO	Mozambique Liberation Front
FSDEA	Sovereign Fund of Angola (<i>Fundo Soberano de Angola</i>)
GBA	Ghana Bar Association
GBC	Ghana Broadcasting Corporation
GEPF	Government Employees Pension Fund (South Africa)
GEPF	Government Employees Pension Fund
GGP	Ghana Gas Project
HCR	High Council of the Republic

ICAC	Independent Commission against Corruption- in Australia
ICT	information and communications technology
IDEA	Institute for Democracy and Electoral Assistance
IGEPE	Institute for the Management of State Holdings (Mozambique)
IGEPE	Institute for the Management of State Holdings
IMF	International Monetary Fund
INC	Interim National Constitution of 2005
MCEs	Municipal Chief Executives
MLGRD	Ministry of Local Government and Rural Development
MPs	Members of Parliament
NAPRM- GC	National African Peer Review Mechanism-Governing Council
NCP	National Congress Party
NDC	National Democratic Congress
NDPP	National Director of Public Prosecutions
NMC	National Media Commission
NNPC	Nigerian National Petroleum Corporation
NPP	New Patriotic Party
NRM	National Resistance Movement
NSIA	Nigerian Sovereign Investment Authority
NSIA	Nigerian Sovereign Investment Authority
NSSF	National Social Security Fund
NSSF	National Social Security Fund (Kenya)
NUGS	National Union of Ghanaian Students
ODI	Overseas Development Institute
ODM	Orange Democratic Movement
OECD	Organization for Economic Cooperation and Development
OPIC	Overseas Private Investment Corporation
PDC	People's Defence Committee
PDP	People's Development Party
PE	Private Equity
PETS	Public Expenditure Tracking Systems
PFMA	Public Finance Management Act
PIC	Public Investment Corporation (South Africa)
PIC	Public Investment Corporation (South Africa)
PNDC	Provisional National Defence Council (Ghana)
PPP	People's Progressive Party
PRCC	Public Relations and Complaints Committee
RAIDS	Resource-based Industrialization and Development Strategy

RBA	Retirement Benefits Authority
SAC	Social Accountability
SADC	Southern African Development Community
SFO	Serious Fraud Office
SITET	Special Investigations Team on Economy and Trade
SLCAC	Senate Legal and Constitutional Affairs Committee
SMDP	single-member district plurality
SNG	Subnational government
SOE	State-owned enterprise
SONIP	Sonangol Imobiliaria e Propriedades
SPLM/A	Sudanese People Liberation Movement/
SSNIT	Social Security and National Insurance Trust
SWF	Sovereign Wealth Fund
TCSS	Transitional Constitution of the Republic of South Sudan
TUC	Trade Union Congress
UFA	Uganda Federal Alliance
UNCAC	UN Convention against Corruption
UNIP	United National Independence Party
UPC	Uganda People's Congress
WDC	Worker's Defence Committee

INTRODUCTION

MUNA NDULO AND MAMOUDOU GAZIBO

What is the state of governance in sub-Saharan Africa, and is it possible to identify best practices and approaches to establishing political systems that promote accountability, transparency, peace, and civic space to all? These are the questions addressed in this book. This focus is not arbitrary but was chosen for at least three broad reasons. First, as of 2015, a quarter-century has passed since the onset of democratisation in Africa and since democratisation was imposed in the nineties by popular mobilizations demanding better governance; it is now time to critically examine the record thus far in order to understand what has been achieved and what still needs to be done. Second, although the concept of governance is now considered central in political science, our understanding of what it encompasses and how it can be operationalized in the academic study of Africa is still weak. Third, the vast majority of studies on governance in Africa consist either of think-tank indicators (e.g. the World Governance Index, Ibrahim Index of African Governance); managerial perspectives centred on economic management; or strictly political studies on democratisation.

This book does not reject the studies mentioned above. However, it seeks a new, integrated, focused approach to governance. Such an approach requires revisiting the concept of governance itself; emphasizing certain specific and decisive components; and giving an integrated view of the most critical governance issues in Africa.

Revisiting Governance: the Need for a New Study

The concept of governance has become one of the most often used in the social sciences (Levi-Faur 2014). Its success is partly due to its transversal character, as it is used in a variety of subfields such as public administration, international relations, and comparative politics (Kjaer 2014). With regard to Africa, the concept is often considered as synonymous to “good” governance. This is not surprising given the context in which its application to Africa has blossomed. In fact, even though the

theoretical roots for the concept are profound and the issues it is applied to in Africa diverse (see chapter 1), the concept of governance became truly central following the 1989 World Bank publication entitled *Sub-Saharan Africa: from Crisis to Sustainable Growth*. This publication appeared in a time when state economic bankruptcy and political deadlock and conflict were prevalent in most African countries. Africa was considered to be in a “crisis of governance”—a concept referring to economic mismanagement and lack of politically responsive institutions capable of guaranteeing liberty and sound economic policies. Good governance was thus seen as the solution to Africa’s political and economic crisis.

We will not discuss the concept of governance further here as the first chapter of the volume (Göran Hyden, “Revisiting the Study of Governance”) is devoted entirely to an in-depth discussion of the complexities and controversies surrounding it. Hyden reviews the theoretical origins of the concept and examines how its uses have changed over time, observing that the term “governance” has become a catch-all notion referring to various reform projects in public administration, macro-economic management, and policies. He specifically considers the challenges of studying governance in the African context, concluding with a proposal for how to study democratic governance—the focus of this book—and an explanation of why such an approach makes sense in the current context.

The contributors to this book share two characteristics. On a conceptual level, whether they study democratisation, elections, decentralization, corruption, or economic issues, they all approach their studies from a democratic governance framework, which means they explore either the representative or monitoring aspect of governance in Africa. As Hyden notes, “Governance has two dimensions, one representative (voice) and a second monitory (accountability). The issue is how these two dimensions can be further disaggregated and operationalized. One possibility is to do this with reference to political functions: articulation, aggregation, and so on. Another is to distinguish between different arenas, e.g. civil society, political society, and so forth. Data availability becomes a critical factor in determining how to proceed.” The second thing the contributions share is their methodological approach. No matter the specific issue they study, they do their best to focus their work on the following objectives:

- To capture the current state of knowledge and discourse and review the lessons learned as well as the problems and challenges;
- To examine the progress made in the past quarter century since democratisation began on the continent;

- To provide, when necessary, policy recommendations that could strengthen democratic institutions and good governance in Africa.

It is also worth mentioning that, rather than taking governance as a unified concept, we have opted for a “disaggregation and prioritization approach.” This means two things. First, we accept the fact that governance, if considered in a democratic framework, can be used to understand voice and accountability issues in a variety of arenas. Second, because we obviously cannot study all these arenas, we have chosen to prioritize those we consider, following the most salient and critical literature on democratic governance. Using this approach, we have identified four arenas for consideration here: institutions and the rule of law; constitution-making, elections, and political conflict settlement; distribution of power and citizenship; and political economy and corruption.

Governance Arenas and Critical Issues in Africa

Each contribution in the volume offers particular insights in one of the four arenas, which also constitute the four parts of the book. Together, the four arenas offer a broad—though yet not complete—view of the challenges to and prospects for good governance in contemporary Africa. The contributors all point out the challenges of accountability, participation, and transparency and offer (overtly or not) possible solutions to the problems identified.

Institutions and the rule of law

There is consensus that governance is at the heart of Africa’s development challenges and that the institutional aspects of governance are crucial (World Bank 1989; Ndulo 2006). This is at the heart of all the democracy promotion initiatives that have taken place in Africa since 1989. The past three decades have witnessed considerable flux in systems of governance at the political level. There is clearly a realization that institutions are central to the efficiency and effectiveness of public service delivery, poverty reduction, optimum resource exploitation and utilization, public management, transparency and accountability, peace and security, and respect for the rule of law. Thus, consolidating democracy in terms of the building of democratic institutions and the capacity of the state to manage the political and economic processes of society for development remains a major challenge for many African countries. Following the democratic wave that swept the continent a quarter-century ago, it had been hoped that greater

political freedoms and strong institutions would be crafted and in turn lead to more government accountability. The question is: has this happened? The first part of the book provides conceptual and macro level assessments on the matter. Given the richness and multifaceted nature of the concept of governance, Göran Hyden's chapter provides an invaluable resource as it traces the state of the art and some general and flexible conceptual guidelines for the rest of the book. Because governance is clearly—and perhaps firstly—about institutions and the rule of Law, Part I provides a general overview of what has been achieved in Africa in the first quarter-century since democratisation began, with particular emphasis on specific institutions such as electoral management bodies (Gazibo, chapter 2) and the judiciary (Fombad, chapter 3). As many contributors—including van De Walle in the conclusion—advise, it is useful to make a clear distinction between the open-ended process of democratisation attempts and the relatively stable institutions of democratic forms of government. Many of the contributors, while focusing on different specific issues, share the notion that the state of democracy in Africa is in a grey zone. The major question is whether the evidence in the book raises hope for democratic consolidation in Africa. The answer is particularly important today as Africa is in the midst of an economic and demographic transformation. Democracy and the rule of law remain the most important preconditions for the institutionalization of good governance and sustainable development practices.

Constitution-making, elections, and political conflict settlement

As part of part of the effort to consolidate democracy, promote good governance, and improve the state's delivery of public goods, a number of African countries have been involved in some type of political change in recent years. Constitutional change is one aspect of this effort; a good constitution, one that takes into account all stakeholders, forms the framework for good governance. Many African constitutions have undergone radical changes in recent decades, with every country except Botswana implementing some fundamental constitutional change since the 1990s. Christina Murray and Coel Kirby (chapter 4) give practical perspectives on the implications of constitution-making procedures, explore emerging norms, and examine the rise of participatory constitution-making in Anglophone Africa over the past two decades.

A large majority of African countries now conduct regular elections at national, regional, and local levels, enabling populations to choose their political leaders and ensuring legitimacy of elected government officials.

However, in most countries the progress remains fragile and in others there have been setbacks (Lynch and Crawford 2011). In its 2011 Annual State of the Continent report, the African Progress Panel observed—pointing to the crises in Libya and Ivory Coast as example—that nearly two-thirds of African countries have seen some deterioration in political participation, human rights, and the rule of law. The report notes a worrying trend—that of leaders clinging to power. Six of the nine presidential elections held in 2010, for example, were won by incumbents, some of whom have been in power for well over two decades. Holding elections is a massive enterprise anywhere in the world, let alone in a developing country with limited resources. Although holding elections is not in and of itself a sign of democratic consolidation, it is a defining characteristic of democracy and thus an integral part of democratisation and the democratic consolidation process. In post-conflict societies, elections are supposed to provide a means of jump-starting a new, post-conflict political order for stimulating the development of democratic policies, for choosing representatives, for forming governments, and for conferring legitimacy upon the new political order. But at the same time, one must not ignore the potential conflicts provoked by elections in Africa, as the post-electoral violence and civil war in Kenya (2007) and Côte d’Ivoire (2011) remind us. The chapters in Part 2 revisit these issues. Because elections are about replacing armed struggle for power by electoral struggle for citizens’ votes, reflecting on the possibility to influence citizens’ preferences through electoral campaigns (Conroy-Krutz, chapter 5) appears as important as analysing the peace-enforcing power of elections in post-conflict countries. The same could be said about elections at the sub-national level, because they may create vested interests among large numbers of households for whom elections become an important mechanism of governance that citizens can claim (Riedel and Dickovick, chapter 6).

There is a need to assess how free and fair electoral processes are in Africa. However, it is not just the conduct and outcome of elections that must be assessed, but the extent to which consolidation is grounded in an institutional development that ensures democracy’s viability and sustainability. In Africa, questions linger on how best to ensure free and fair elections and on whether elections lead to democratic consolidation—and if they do, in what situations this is likely to occur (for two different perspectives, see Adejumobi 2000 and Lindberg 2006a).

Distribution of power and citizenship

Governance, and particularly democratic governance, is clearly related to citizenship. The notion of citizenship refers to something more than being a mere member of a community; it means also the capacity for such a member to evaluate and take part in the decision-making processes of the polity. Historically, in countries formerly ruled by kings and monarchs, true citizenship has evolved only when these countries have witnessed the development of public arenas that transformed the subjects into full citizens. This process, which can be said to have begun in England in the early thirteenth century, evolved through two complementary processes: democratisation and the people's right to choose and remove their leaders on one hand, and territorial arrangements to accommodate sub-groups sharing the same polity on the other.

In Africa, achieving these two processes remains a formidable challenge. African countries are, in fact, very young. They face all kinds of issues such as nation-building, territorial integration, and coordination between traditional and European-style political structures. These issues were generally shadowed by authoritarian regimes during the first three decades following Africa's wave of independence, but were revived during the new constitutionalism era of the nineties.

Beginning around 1990, the new constitutions established institutional arrangements such as human rights commissions and the office of Public Protector to promote accountability, transparency, and service delivery. They also encouraged devolution to bring power and decision-making closer to local communities. Most African countries show signs of becoming increasingly adept at dealing with potential conflicts through some kind of territorial devolution, whether through nationalism and social category construction (Riggan, chapter 7), federal arrangements (Schmidt, chapter 8), rethinking the role of traditional rulers (Baldwin, chapter 9), or subnational decentralized units (Daddieh, chapter 10). The chapters in Part 3 analyse progress toward democratic governance by putting the focus on the citizenship issue. The effectiveness of institutions and policies in holding governments accountable—and indeed how the accountability institutions themselves are to be held accountable—remains a greatly contested issue.

Political economy and corruption

There is also agreement that accountable governance is central to all issues relating to the efficiency and effectiveness of governments. Good

governance promotes public service delivery and the eradication of poverty, thus fostering the capacity of citizens to participate in public affairs. On the contrary, bad governance, particularly corruption, impacts negatively on the continent's economic development. This arena is particularly crucial since Africa has been experiencing unprecedented economic development since 2000 (Handley, chapter 11) thanks to several factors such as high commodity prices and Africa's relations with emerging powers such as China. With an average economic growth rate since 2000 of about 5 percent, the continent has become the new frontier for investments (AfDB 2013). However, this growth has not necessarily translated into sound policies, as corruption and mismanagement—which undermine the capacity of institutions charged with the promotion of good governance, human rights, and the rule of law—often come with it.

Corruption is at the heart of governance issues. Yet it is difficult to propose a “one size fits all” definition of corruption. As Wedel (2012, 454) has stated, “the meanings of corruption and the practices the word evoke change over time and place, as do the social and political uses of anticorruption campaigns in the hands of leaders, organizations, and political regimes. Scholarly definitions and approaches to the topic are also subject to the influences of time, place, and politics.” Using a micro-level approach, one may equate corruption to acts of bribery, a phenomenon that, according to Hameed et al. (2014), exacts a global cost of at least one trillion dollars each year. When it is pervasive in society—particularly in the political system—corruption may also be defined at a systemic level. These two approaches have been applied particularly to the study of governance in Africa. Perhaps the concept of neopatrimonialism captures best these two intertwined levels of corruption and how the forms they take vary from one context to another (Bach and Gazibo 2012). According to Médard (1991), the main characteristic of neopatrimonialism is the absence of distinction between private and public affairs. This refers to a wide range of practices, such as the privatization of public resources by state officials, patronage, bribes taken by customs or police officers, collusion between political and economic milieus, and so on (Johnston 2006).

The importance of studying (anti) corruption as an essential aspect of any research on good governance (Ndulo, chapter 12) in an era of democratisation is thus obvious. Democratisation is supposedly a good antidote to corruption, while corruption (and bad governance) erode democracy.

As we stated above, these arenas are interconnected. For example, many of the new constitutions go beyond the traditional concepts of focusing on organs of government, separation of powers, and the protection of political and civil rights to include a role in service provision. There is a

growing realization that the state has a vital role to play in provision of basic services, either by direct action or by properly regulating the way services are provided via the private sector, especially in the areas of health, education, infrastructure, and basic necessities like water and electricity. This realization is reflected in the growing number of national constitutions that include provisions for social and economic rights as foundational, and provisions for social goods, the realization of social justice, and preservation of the environment as fundamental objectives. Also, institutional infrastructure is key if the economic growth Africa is experiencing is to be profitable to all citizens. Institutions cannot survive in an environment of poor governance, especially in a corrupt and conflicted state (Gazibo 2012).

This book will have achieved its purpose if the discussions contained herein and the various challenges, achievements, and lessons outlined contribute to research, inform teaching, and lead to a greater understanding of the challenges of democratic consolidation in Africa and the relationship between democratisation and development. In addition, our purpose is to share theoretical models and best practices for engaging in the issues around democratisation and economic development in Africa.

PART 1:
INSTITUTIONS AND CONCEPTS
OF GOVERNANCE

CHAPTER ONE

REVISITING THE STUDY OF GOVERNANCE

GÖRAN HYDEN

Governance is at the heart of Africa's challenges because it has implications for the continent's social and economic development as well as its political stability. But what is governance and how is it best defined and operationalized? Governance as a concept is itself a challenge. When it was first introduced some twenty years ago, it was an attempt by social science scholars to analyse and understand significant changes that were taking place: the rise of global policy issues like environmental protection and human rights, the emergence of a democratic transition, and the demand for greater public accountability in public service delivery. The concept of governance was intended to provide additional analytical leverage in an increasingly complex and challenging policy environment, but as an analytical tool it has fallen short of expectations.

Looking back over the past two decades, the problem is that governance has become a catch-all notion referring to all kinds of reform projects—in public administration, macro-economic management, and politics. "Governance" has become a programmatic rather than an analytical tool. With its ideological tie to liberal democracy, it has mostly been used prescriptively. Not surprisingly, the term has been used more by managers and practitioners than by academics.

So, should the concept be declared useless for scholarly purposes, or can it be salvaged for future research? This chapter argues the latter: that the time has come to resuscitate interest in the concept of governance for analysing and understanding political processes. More specifically, there is reason to link democracy and governance together in ways that broaden the use of the former and narrow the use of the latter. For political scientists, the concept of democratic governance offers a tool for analysis of politics in a post-transition period and sharpens the focus on what governance is really all about: the politics of rules.

We begin with a brief review of the theoretical origins of the governance concept and how its uses have changed over the past twenty years. We then continue with a discussion of the challenges to studying governance in an African context and conclude with a proposal for how democratic governance might be studied and why such an approach makes sense in the current context.

Theoretical Origins of the Governance Concept

“Governance” may have been around as a concept for a long time, but it was essentially dormant until the 1970s, when the term began to be used in public administration literature and subsequently in the works of international relations and comparative politics students. Its sudden rise did not come out of nowhere. A convergence of factors helps explain why scholars in various fields adopted governance as a term to analyse their respective subjects. The growth of inter-jurisdictional policy issues encouraged public administration theorists to look for a concept that allowed them to think beyond conventional terms in their field. International relations scholars took on the term as a means of analysing the emergence of global issues such as the environment and human rights following the end of the Cold War. Students of comparative politics, finally, began to use “governance” during the wave of democratisation that began in the wake of the fall of Communism. Kjaer (2004) and Bevir (2010) have provided a thorough overview of the history of the concept, but a little more elaboration may still be justified here, especially to include the experience outside of academe.

Beginning with public administration, the first use of the term “governance” is attributed to Harlan Cleveland in the early 1970s (Frederickson 2005). Writing a guide for future managers, Cleveland (1972) called into question the vertical arrangements of conventional public administration and argued for more attention to horizontal relations between organizations. He wrote that organizations individually needed to become better at using their own, in-house expertise while at the same time, as a group, becoming more collegial and consultative. His assumption was that people wanted less of government and more of governance. The concept, therefore, appears to be the outgrowth of two simultaneous trends in the field of public administration: the blurring of the relationship between what is public and private and a similar tendency to dim the relationship between policy and politics, on the one hand, and implementation and administration, on the other. Governance became gradually associated with the New Public Management School and its prescriptions for reforming public ad-

ministration by contracting out responsibilities to non-state actors. A review of the uses of governance in the public administration field includes some advocates who hold the radical belief that it is possible to have governance without government, as discussed by Pierre and Peters (2000). Many scholars, especially in Europe, however, approached the subject of governance in less prescriptive terms and merely acknowledged and described a new decision-making reality characterized by inter-organizational dependencies and thus also by the need for multi-level and multi-organizational responses to societal problems (Kooiman 1993). Much of that perspective has made its way into the thinking and use of the governance concept in the international development community.

As Frederickson (2005, 293) notes, the problem with the governance concept in public administration is that it lacks a theory; he suggests that scholars should look to international relations studies, where regime theory constitutes the basis for understanding the term. Regimes are deliberately constructed orders at the regional or global level aimed at reducing the risk of unilateral action by powerful nations. They establish shared expectations about desired behaviour. Governance, then, is the exercise of establishing and sustaining such regimes. An example would be the efforts in the 1990s to institutionalize an international human rights regime drawing on the work prepared for the 1993 International Human Rights Conference in Vienna. Thus, as some influential scholars in the international relations field have argued, governance involves managing principles, norms, and decision-making procedures that facilitate the maintenance of an international order (Krasner 1983; Keohane 2001). Much of the literature and practice of global governance incorporates these insights. Rosenau (1992, 13) makes the point that global governance applies to any system of rules that has transnational implications.

Governance as related to systems of rule is found also in comparative politics literature, but here it is typically confined to individual countries and associated with regime transition issues spurred by democratisation (Hyden and Bratton 1992). Governance has spun off two distinct directions of research in the field. The first has been inspired by the work of rational choice theorists like Douglass North (1990) and Elinor Ostrom (1990), for whom the main objective has been to devise institutional solutions to issues such as bureaucratic red tape and top-down and centralized problem-solving. The second has been driven by the theoretical insights of Joseph Schumpeter (1942) and Robert Dahl (1971) on building democratic regimes.

As can be gathered from the overview, albeit compressed, the intellectual heritage on which governance discourse rests is varied and complex.