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International Regime Complexity in EU–Africa Relations

Fru Norbert Suh I

Structured Abstract

Article type: Research paper

Purpose—The purpose of this paper is to show how international regime complexity affects coherence in understanding EU–Africa relations and how Africa has been able to instrumentalize this condition.

Approach—The work builds on existing literature on EU–Africa relations with a focus on international cooperation, democracy/human rights/good governance, and international solidarity regimes. It defines a complex regime as any rule agreement in EU–Africa relations that can be instrumental in promoting incoherence and cracks in relations owing to its ambiguity.

Findings—This paper finds that international regime complexity favored three core political behaviors on the part of Africa: forum-shopping, regime-shifting and strategic manipulation of values.

Practical implications—Although these political behaviors affect coherence in EU–Africa relations, they are more or less perceived as expressions of African agency in global politics.

Originality—This paper shows that international regime complexity can sometimes be a source of agency or political expediency for actors hitherto perceived as weak in global politics.

Key words: Africa, African agency, EU–Africa relations,
International regime complexity

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I. Introduction

Relations between Europe and Africa have historically been characterized by European domination.¹ The emergence of the EU (representing Europe) and its connection to Africa through a framework of partnership agreements is raising hopes about the transformation of the relationship from a dominant-subordinate one to a partnership or win-win. Both parties have agreed to pursue certain norms and values and to work in synergy for their mutual development in such areas as peace and security, democratic governance and human rights, trade, regional integration and infrastructure, Sustainable Development Goals (SDGs), energy and climate change, migration, mobility and employment, science, information society and space. These agreements are backed by three different but interrelated legal frameworks, namely: the Cotonou Partnership Agreement (CPA), the Economic Partnership Agreement (EPA) and the Joint Africa EU Strategy (JAES). It might be tempting to think that in spite of this partnership dimension of the relation, nothing fundamental has changed in the behavior of both actors, and that the EU is still acting as though it was the “master” and Africa the “servant.” At best, it is thought that the EU–Africa partnership is another European domination of Africa.² This perspective finds credence in the failure of both parties to sometimes respect their partnership agreements and the tendency of one (EU) to act as donor, and the other (Africa), acting as recipient. Whatever the case, these agreements are complex regimes, and this raises questions about coherence in understanding relations. How can it be understood, for example, that Africa, through the African Union (AU) was at odds with the EU over the 2011 Libyan crisis in spite of the agreement on political dialogue? How can it be understood that in spite of the agreement to respect human rights, the EU still had to enter into an ongoing battle with Africa over the rights of individuals in regard to their sexual orientation? How can incoherence be understood and explained in EU–Africa relations and what does this imply for the relationship and from an African perspective? These and other related questions are examined in this paper.

International regime complexity (IRC) partly explains incoherence in EU–Africa relations. The proliferation of different frameworks raises questions about inter-linkages and the ability to approach the partnership between the EU and Africa in a coherent manner (see Figure 1). The dominance of the oldest cooperation framework between the EU and Africa, the Africa Caribbean and Pacific group of States (ACP), is being challenged by the emergence of the new key frameworks of the Joint Africa EU Strategy (JAES) and the Economic Partnership Agreements (EPAs). Yet, these new frameworks are still in their fledgling stages, and many uncertainties surround their future status and value. In terms of trade regime, for example, the preferential access to EU markets enjoyed by ACP countries for over 30 years on a nonreciprocal basis is under pressure to comply with World Trade Organization (WTO) rules.³

The proliferation of these frameworks coupled with the emergence of “new” actors to enter partnership agreements within and around the EU–Africa partnership has sometimes been perceived as positive for Africa. Some see these new partners

as “providing an alternative to counterbalance Western partners, new markets and a different model of development, as well as the transfer of skills and resources.”⁴ Regime complexity, therefore, offers opportunities and inspires different strategies for Africa’s conscious or unconscious engagement in other multilateral fronts.

Basically, the purpose of this paper is to elicit reflection on a possible source of incoherence in EU–Africa relations with a focus on complex regimes in the partnership framework. An emphasis is made on Africa’s ability to instrumentalize regime complexity as well as its perception of it as more or less an expression of agency.

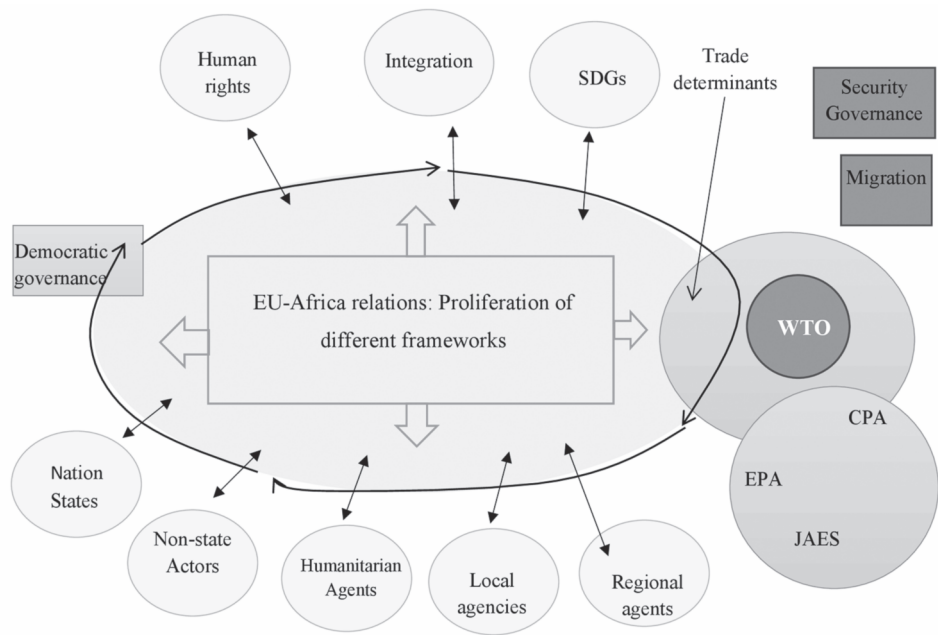


Fig. 1. The proliferation of different frameworks in EU–Africa relations (Source: Author, 2018).

The figure above indicates regime complexity in EU–Africa relations. There are multiple frameworks and the institutions involved handle overlapping political, economic and development cooperation issues between the EU and African countries, regions and the continent. These overlaps have led to a certain lack of clarity on what is the best forum to discuss and decide issues. This illustration corroborates Alter and Meunier’s contention that “international agreements are negotiated by governments, transformed into domestic implementing legislation by legislative bodies, actually implemented by sub-state actors (administrative agencies, state governments, local police, contracted firms, NGOs, etc.), whose actions get reviewed by domestic and sometimes international courts. The result is that treaty implementation involves actors who played little to no part in crafting the original agreement.”⁵

1.1 Some Approaches and Perspectives in EU–Africa Relations

Several approaches have been used to describe and explain EU–Africa relations. However, two of them are common in the literature. The first is a neo-colonial approach that is common among authors studying Franco-African relations. According to this perspective, EU–Africa relation is still caught in the web of neo-colonial tendencies particularly from France, a major former colonial power in Francophone Africa.⁶ For Guy Martin, France still has the tendency to exercise neo-colonial control over its former colonies. He finds that French policies of reform are a smoke screen behind which the traditional status quo policy of *francafrique* is maintained.⁷ French interests are protected by French government “traditionally through the African affairs *cellule* at the Élysée Palace; through its global power businesses such as Total and Areva, and through its occult *reseaux* (networks such as the Freemasons).”⁸ This approach is essential in revealing the fact that individualistic tendencies can influence coherence in EU–Africa partnership. However, it does not consider the effect of the presence of a partnership between EU–Africa and perhaps how that partnership may be used to overcome neo-colonial practices. It is true that France, an influential actor in African politics is still maintaining ties of particularistic connections with certain African countries.⁹ The emergence of the EU–Africa partnership might not have completely eradicated this tendency but both parties have pledged to observe principles such as democracy and human rights, which is redefining the Franco-African bond. It is argued that democratization process in Africa after the Cold War saw the old French puppets being challenged through the ballot box by free polls conducted for the first time in Francophone Africa.¹⁰ While there is no substantial data to corroborate this argument, further research into EU–Africa relations could consider how African countries at individual or collective levels instrumentalize the EU–Africa partnership to weaken neocolonial influence and ties.

A *collectivity* approach has also been adopted to see how far EU–Africa relations can develop into a win-win. This approach stems from the fact that Africa has been considered a victim in international relations.¹¹ This consideration is derived from the dominance of the donor-recipient practices between the two parties.¹² Thus it was believed that if Africans speak and act as one man, Africa stands the chance to substantially influence outcomes in its relation with other actors. Rooted in pan-Africanism, this approach advocates a United States of Africa and considers it an effective instrument to promote African agency in the international arena.¹³ It was argued that “true African unity was anathema to both the Superpowers and the ex-colonial masters, and all sorts to emasculate the continent.”¹⁴ This approach minimizes the complexity of regimes that determine Africa’s relations with the EU, and how it sometimes enables manipulation of values.

Another approach is to investigate the EU’s “actorness” in its relations with other actors including Africa.¹⁵ The intention here is to see how far the EU has gone or can go to influence substantial outcome in its foreign policy. This approach tries to put the EU at the center of any action with other actors of the international scene. It can therefore be said to be somewhat biased in investigating what other actors in

relation with the EU can or cannot do. A set of literature focuses on identifying winners and losers in the EU and Africa.¹⁶ This win-lose approach is interesting because it can reveal the strengths and weaknesses in the partnership. However, it neglects the complexity of the trade and economic regime including parallel regimes that could expose the partnership to manipulation for political expediency. For example, ACP governments in the West African regional configuration were able to challenge the EU's agenda by seizing on ambiguities in the legal frameworks governing the international trading system.¹⁷ Little has been documented about the international condition as it is and how it can be instrumental in understanding incoherence in EU–Africa relations. Even where an attempt is made to explain incoherence, focus has always been on the international trade regime and from the perspective of the EU.

The approach in this paper is the political instrumentalization of regime complexity from an African perspective. It considers how complex regimes have been exploited by stakeholders in EU–Africa relations to their own advantage. Complexity as part of a condition in EU–Africa relations has enabled Africa to take affirmative action in international politics in general and specifically in its relations with the EU. Such affirmative action can sometimes be at odds with rule agreements in the cooperation, however, it can also be perceived as an expression of African agency.

This paper builds on existing literature on EU–Africa relations with a focus on those regimes that make the relationship complex. It identifies complex regimes and shows their implication in EU–Africa cooperation. It defines complex regimes as any rule agreement in EU–Africa relation that, owing to its ambiguity, can be instrumental in promoting incoherence and cracks in relations. It enables us to grasp the details of the effective instrumentalization of IRC in a given domain of a bilateral relations (EU and Africa).

The paper is divided into two main parts. The first part examines IRC as a relevant international relations theory applicable to Africa and shows how it promotes African agency in EU–Africa relations. The second part examines three complex regimes related to forum-shopping, regime-shifting and strategic manipulation of values.

II. IRC and the International Mindset of the African State

2.1 Conceptualizing Regime Complexity

Stephan Haggard and Beth Simmons explain that regime is linked to: (1) patterned behavior (which end up becoming norms and expectations), (2) rules and commitments to secure norms and expectations and (3) multilateral arrangements among States which tend to regulate national action within an issue area.¹⁸ This understanding of regime suggests that the regulation of international life through the promotion of cooperative behavior is what is expected from actors who enter

into agreements. The importance of regimes is to facilitate the institutionalization of international life by regularizing expectations, patterns of behaviors or practices; and by facilitating order and stability.¹⁹ The EU–Africa relationship is governed by regimes that represent strategic and binding expectations defined in partnership agreements. Some of them include peace and security, democracy, good governance and human rights, human development, sustainable and inclusive development growth and continental integration, global and emerging issues.²⁰

These regimes have become complex because they are nested—they overlap and are parallel. Regime complexity is, however, appearing as an alternative to the normative understanding of regimes. Regime complexity itself reflected in lack of clarity, can be a source of conflict over implementation of agreed-upon arrangements. Questions such as: How did the regime come about? Who is behind it? Is it the fruit of collective bargaining/decision making? Or is it the outcome of unilateral action? indicate that the international regime is not just about identifying patterns of institutional behaviors. It goes beyond that. The ability of a regime to ensure compliance depends on *original legitimacy*, i.e., whether all the parties who accept the implementation of a rule participated meaningfully in framing it. Some rules or norms have unilateral sources and are expected to be weakly institutionalized. Others are products of collective bargaining and are expected to be binding. Each mode has a different impact on collective compliance. A regime that emerged from interaction among a group of actors and not others is likely to obtain little or no compliance because it is exclusive in character. Nevertheless, compliance in this type of regime could depend on what the regime is offering to those who never participated in crafting it. Regimes such as human rights, good governance and democracy could be said to be products of Western *arrangements*.²¹ They were crafted and constructed as reality by the West, without any meaningful participation of Africans. That could partly explain why Africans have either reluctantly embraced those regimes or are doing so with difficulty.

A comprehensive understanding of regime complexity is offered by Alter and Meunier in *The Politics of International Regime Complexity*. They first define a complex system as one with a large number of elements, building blocks or agents capable of interacting with each other and with their environment.²² Such interaction is not linear because regimes connect to each other in several ways. Alter and Meunier propose three possible patterns of regime complexity: (1) parallel regimes where there is no direct formal overlap; (2) overlapping regimes where multiple institutions have authority over an issue; and (3) nested regimes where institutions are embedded within each other in concentric circles.²³ The third complexity is best captured through the picture of a spaghetti bowl. Complexity can also be seen as (1) the number of actors who engage in cooperation and with authority over an issue area (see figure 2); (2) the nature of cooperation—bilateral or multilateral; (3) the degree of diversity in interest and values; and (4) the degree of diversity in the ability to regulate discourse and allocate resources. The greater the number of actors involved in a regime, the higher the degree of parallel and overlapping preferences and the greater the complexity. Overall, overlapping agreements create spillovers—sub-groups of

States desire different or deeper cooperation than the whole, thus creating additional agreements, the negotiation of second and third agreements leading to ambiguities over their interpretation, and the creation of packages that are more attractive to participants and for which they are willing to agree to at the expense of or in violation of agreements.²⁴

Consider the following example. The human rights regime was used as an instrument by Africans to achieve independence (the right to self-determination) and thereafter, substituted for African socialism. Although African leaders transformed human rights into an internal constitutional provision, usually with the help of departing colonial authorities, rights abuses became common as those countries began divorcing human rights from their respective constitutions in the name of African socialism.²⁵ African socialism argued for an African concept of democracy distinct from Western notions. It was defined as democratic socialism as conceived by Africans in Africa, evolving from the African way of life.²⁶ It also found a home in pan-Africanism and the Organization of African Unity (OAU) and was reinvented as gateway to rapid economic development. Though it never averted human rights (in fact it insisted on its protection), African socialism gave excessive powers to the African State to control the means of production and distribution and also individual rights. As El-Obaid and Appiagyei-Atua put it: human rights were to be seen as national freedom, not individual freedoms, while the class struggle was to be between the developing nations and the developed ones, the widening gap between the rich/emerging political elites and the ordinary citizens was overlooked. Africans have never denied democracy (they have even always claimed to be democratic) but they have coined it in parallel and overlapping ways. African socialism was in reality a parallel regime to democracy/human rights whose weaknesses influenced the human rights provision of the subsequent African Charter.

The principle of non-interference is another parallel regime to human rights. While a growing number of regional bodies such as ASEAN and the AU have made a formal commitment to human rights, their even stronger commitment to the principle of non-intervention in domestic affairs provides an extra layer of cover against the EU's attempts to impose its own model in region-to-region cooperation. In debriefing sessions with NGOs following various rounds of the EU African Union Human Rights dialogue since 2009, European Commission officials have reported that the African governments have refused to discuss domestic issues except in the most extreme cases, such as Darfur.²⁷

In a nutshell IRC refers to nested, partially overlapping, and parallel international regimes that are not hierarchically ordered.²⁸ This definition suggests some disorder in the international system. However, the disorder is productive because actors do not challenge it. Instead, they take advantage of it to lay claims and obtain benefits which perhaps cannot be found in a non-complex regime.

Figure 2 shows that there are multiple institutions with authority on political dialogue. This implies that decision making in EU–Africa cooperation is not limited to a single institution. For example, the African Group within the ACP Group alone accounts for 4 of the 6 regions, and make up 48 of the 79 countries of the ACP.

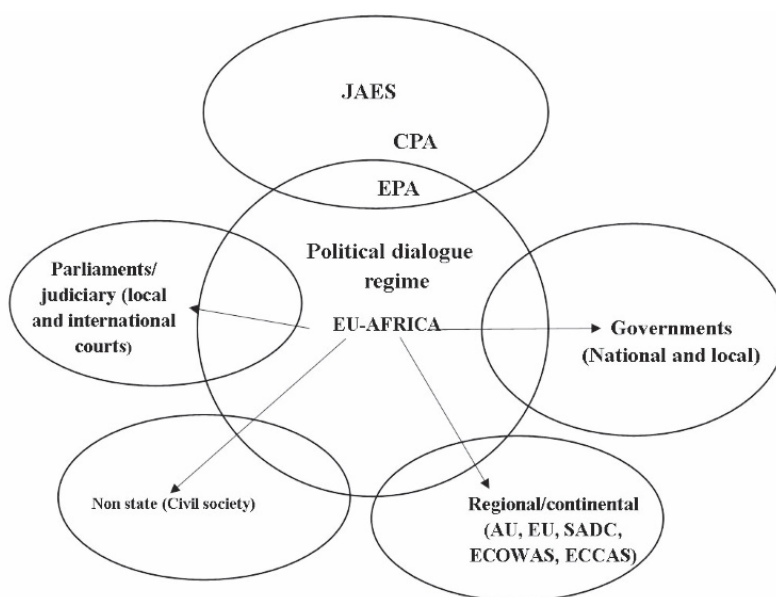


Fig. 2. Duplication of various political dialogue structures in EU–Africa relations (Source: Author, 2018).

These countries and groups have individual decision-making structures which are linked to the AU, ACP and JAES institutions as well as the joint ACP–EU institutions. Under such conditions, and as suggested by Alter and Meunier, this could retard effective implementation because preferences diverge along the implementation line, and other challenges are faced.

2.2 Regime Complexity and African Agency

The argument for a focus on agency is in part an attempt to challenge narratives of Africa that present the entire continent as perpetual victim and lacking political initiative.²⁹ Although complexity is said to empower the powerful actors because they already have the resources to work through more easily,³⁰ weaker actors are not disempowered by complexity. IRC offers an opportunity for instrumentalism. Sometimes complexity can be used to empower Africa (a purported weaker actor), even though at other times it can reduce the amount of control Africa may have. Africa has consciously or unconsciously developed an agency attitude as a result of her ability to take advantage of regime complexity. Indeed, if at first, during the colonial period, a dependency attitude prevailed, now there is evidence that such a political attitude is becoming dynamic. The complexity of international regimes enhances in some way Africa’s agency in its relationship with the EU, not necessarily in the form of having the courage to undermine an agreement with the EU, but also and possibly in the form of forcing an agenda. African agency is expressed in collective action (one continental voice, e.g., the AU), sub-regional action (regional groupings), individual state action, and non-state action (African diasporas, migrants, etc.).

Two relevant and interconnected situations between Africa and the EU suggest a tendency toward African agency in the relationship. The first is the partnership dimension the relation is taking and the second is the agreement/disagreement/opposition discourse that sometimes characterizes the relation. The existence of concord and discord, agreement and disagreement between Africa and the EU over certain rule agreements is suggestive of African agency which didn't exist until recently. Africa and the EU today agree to disagree and Africans have learned to oppose some EU objectives and goals in the continent and on other matters. In some cases, the AU has pursued strategic goals that are at odds with EU interests or those of EU member states. For example, the AU was fiercely critical of the EU's policy toward Libya in 2011 and the Arab League. The AU's actions in response to the Libya crisis—criticizing the UN-sanctioned NATO intervention, launching its own high-level diplomatic mission to broker a ceasefire and initial non-recognition of the new regime—was notable for the extent to which it stood out from the route pursued by the EU. In climate change negotiations, the three-way polarization between the USA, the EU and China, in a multilateral setting, allowed a freedom of action for key African leaders (notably Ethiopia, South Africa and Sudan) to give expression to a collective “African” voice. The EU members fought a running battle with African and Islamic countries over individual rights related to sexual orientation. The African bloc was able to remove a long-standing reference to sexual orientation as a source of persecution in an annual resolution on extra-judicial killings.

In other cases, individual African states have opposed the EU's intervention in their internal affairs. In Chad—where France drives EU policy—the EU backed a UN peacekeeping force deployed to replace EU troops in 2009. However, at the insistence of the Chadian government and despite EU objections, this force was removed at the end of 2010—a further sign of the EU's limitations in the relationship.

Egypt has been accused of undermining the EU's security concerns because the country was able to manipulate both the EU and the U.S. in their struggles against terrorism. According to Anthony Dworkin, although Egypt's leadership likes to present itself as a valuable partner in counterterrorism for Europe and the United States, Western security officials who have tried to work with Egypt describe a frustrating partnership.³¹ These officials say that their Egyptian counterparts display no interest in developing a more focused counterinsurgency approach which implies that Egypt's approach to counterterrorism remains very distant from anything the EU would recognize.

The discourse on partnership in the JAES reflects a broader trend in EU and AU foreign policy. There is an important power dimension to the partnership agenda. The EU is facing increased competition from new powers, including Brazil, Russia, India, China and South Africa (BRICS), as well as from other emerging nations. In this new power constellation, a relationship based on partnership is more easily put in practice. Partnership is determined by shared values, equality and trust. In the context of the JAES, Del Biondo defines shared values as general ideas but also how these ideas are applied to concrete cases: equality as joint decision-making

in agenda-setting and ownership by the weaker partner of capacity-building, and trust reflects the donor's belief that its investments will be worthwhile and the recipient's belief that the donor will not abuse its position of power.³² This is particularly the case in Africa, where many other international actors are now providing countries and regional organizations with financial support. This makes these countries and regional organizations less dependent on support from the EU.

2.3 Forum-Shopping, Regime-Shifting and Strategic Inconsistency as By-Products of Regime Complexity

Globally, regime complexity facilitates the emergence of African agency. Specifically, agency can be classified under three possible action outcomes: forum-shopping, regime-shifting and strategic inconsistency.

Forum-shopping defines how regime complexity alters the strategic playing field, enabling actors to select international venues based on where they are best able to promote specific policy preferences.³³ Actors wishing to change an existing situation do not have to resort to bilateral interaction alone because other avenues of interaction exist. This could be a threat to bilateral cooperation. The fact that networks of donors (as well as their motives) have become increasingly disparate has increased opportunities for forum-shopping. The emergence of donor countries that did not provide significant amounts of development aid until recently, e.g., Brazil, China, India and Thailand, increases the potential for forum-shopping among Africans. Other international forums such as the International Organisation of La Francophonie, Commonwealth, etc., are all forum-shopping venues which may lower the EU's voice in the continent.

Regime-shifting, unlike forum-shopping, is designed to reshape the global structure of rules.³⁴ For example, when terms of trade do not favor a State, it can regime-shift by turning to parallel regimes where alternative priorities exist. It is the ability to create and resort to parallel regimes. The juxtaposition of democracy and African socialism examined earlier is an illustration. African countries are no longer afraid to say no in global negotiations related to trade and climate change and have used justice and fairness as parallel regimes to exert blocking power.³⁵ Africa's deliberative capacity within the World Trade Organization (WTO) cannot be overemphasized. Africa is the largest strategic group within the WTO and has been effective in playing the numbers game: it has a number of states and thus votes in the WTO to block decisions and put issues on the table.³⁶

Strategic ambiguity/manipulation of values is when a party creates contradictory rules in a parallel regime with the intention of undermining a rule in another agreement. Strategic inconsistency suggests the ability to manipulate norms and values. It involves the ability to frame ambiguous rhetoric to undermine the understanding and implementation of universal values such as democracy, human rights and good governance. It also includes the circumstantial and selective implementation of a rule. Some States sometimes deny access to human rights in the name of maintaining peace and security. States juggle between access to human rights and rule of law.

The use of State violence is often a justification of restraint imposed on rights and freedoms. The display of these actions suggests that Africa is at least an emerging force to reckon with, and consequently, could be a crucial factor in a situation that could require cooperation.

III. The Manifestation of Regime Complexity on Cooperation

This section is concerned with the operationalization of regime complexity on EU–Africa cooperation. It identifies some issue areas of cooperation between the EU and Africa and considers each as a complex regime. It then examines how Africa uses complex regimes to promote her interests in cooperation.

3.1 The Origin of EU–Africa Cooperation Framework

The relationship between the EU and Africa may have begun in modern times,³⁷ but it is standing the test of time given that some EU member states still keep ties of particularistic connection with the continent. History teaches that for some 500 years, beginning from the 15th century with the practice of transatlantic slave trade to the mid–20th century with the end of colonialism, Africa was under European domination. Resentment of European domination was justified in African slave rebellions, anti-colonialism uprisings and movements toward national independence.³⁸ Today, this traditional European mentality of domination still persists even with the creation of the EU, but regime complexity is offering an opportunity for Africa to overturn the situation by regime-shifting, forum-shopping, and strategic manipulation of values. Europe (through the EU) can no longer explicitly dominate Africa, though it still sometimes meddles with internal affairs of African States.³⁹ The EU–Africa relationship is no longer a master/servant one, but that of partnership and cooperation with official agreements and binding principles which, at least symbolically, recognize both parties as equals in rights, duties, responsibilities and expectations.

If Europe began speaking as one voice through the European Economic Community (EEC), and now the EU, Africa can boast of the OUA and subsequently the AU as the continent's collective voice. From EU–Africa cooperation or partnership, it became the EU–AU partnership in the 5th Summit in Abidjan in November 2017. According to Mattheis and Kotsopoulos, this change is an upgrade in the level of cooperation for it reflects an increasing recognition of the AU as an international actor that is becoming difficult to circumvent when engaging Africa.⁴⁰

The ACP–EU Partnership Agreement builds on 25 years of ACP–EU cooperation under 4 successive Lomé Conventions. Relations between the European community and sub-Saharan African countries go back to the successive Yaoundé Conventions (1963–75). The accession of the UK to European communities in 1973 broadened the geographic scope of the partnership to Commonwealth countries in

Africa, the Caribbean and the Pacific. The “ACP Group of States” was founded by the Georgetown Agreement in 1975. It is the only grouping of poor countries with a permanent secretariat (located in Brussels) and is the world’s largest grouping of small island states and landlocked countries.

Although several cooperation agreements govern the EU–Africa relationship—such as the CPA with sub-Saharan Africa; the Euro-med Partnership with North Africa and European neighborhood policy⁴¹—the EU–Africa Strategic Partnership is the most recent formal channel through which the EU and the African continent work together. It was adopted by Heads of States and Governments at the 2nd EU–Africa summit in 2007, dubbed the Joint Africa–EU Strategy (JAES). The proliferation of these partnership frameworks, along with the emergence of IRC, tends to complicate understanding of coherence in the relationship. For example, global and internal developments are challenging the traditional dominance of the CPA as the key framework for relations between the EU and Africa. In terms of trade regime, the preferential access to EU markets enjoyed by ACP countries for over 30 years on a nonreciprocal basis is under pressure to comply with WTO rules.

3.2 African Usages of Forum-Shopping, Regime-Shifting and Strategic Inconsistency

The premise is that each issue agreement between the EU and Africa represents a regime in its own right and its complexity is determined by its nested, overlapping and parallel character. Regime complexity represents an opportunity for Africans to engage in forum-shopping, regime-shifting and strategic inconsistency/ambiguity which may enhance or undermine cooperation as the case may be. The focus is on three regimes: human rights/democracy/good governance, international cooperation and international solidarity.

3.3 International Cooperation Regime: Sino-African Cooperation

International cooperation is a complex regime primarily because it is nested. EU–Africa cooperation is embedded in infra-cooperation and bilateral arrangements in specific issue areas of financial, technical, humanitarian and emergency aid, technical and scientific cooperation, cultural cooperation, donations and subsidy areas. Multiple axes of cooperation enable Africa to become an integrated actor in its foreign policy rather than a victim of a power struggle or a spectator. Africans have been able to give in to many cooperation partnerships. The State in Africa is member of the UNO and is in unrestricted partnership with the EU, the North, Far East, China, Japan, etc. Belonging to multiple partnerships is perceived as a strategic opportunity because Africans are able to play off partners.

Africa has taken advantage of the emergence of China to enhance its interests in ways that undermine agreements with the EU. China is an alternative source of support to resource-rich African countries such as the Democratic Republic of

Congo, Angola, the Central African Republic and Guinea, where the EU aspires to use its influence. The EU perceives China as a threat and finds that their political, economic and development policies are undermined by China.⁴² China has been accused of unethical support for some African States with poor human rights records; China's unconditional aid and loans have undermined European and multilateral efforts to persuade African governments to increase transparency, public accountability and good governance; and the forum on China and Africa cooperation (FOCAC) is suspiciously seen by many as China's means of obtaining political power in multilateral forums such as the UNO.⁴³ This implies that Africans can sometimes play off the EU when it comes to respecting good governance, democracy and human rights by choosing to deal with "docile" China.

As Mugumya points out, African leaders have found an alternative ideology to "Western hypocrisy" and double standards in its cooperation with China.⁴⁴ It is easy for leaders who wish to resist pressure over human rights and political reform to cast doubt on the appropriateness of European prescriptions. Rwandan President Paul Kagame told an interviewer that the EU has overestimated its influence in Africa and its hubris is being tempered by the rise of alternative donors. "There have also been other events globally that have shown the limitations of the West," he said.⁴⁵ Xi Jinping, China's designated leader, hosted Zimbabwean President Robert Mugabe in Beijing in November 2012. He also allowed Sudan's President Omar al-Bashir to visit Beijing in June despite an arrest warrant from the ICJ, which China does not recognize.

China has invested massively in infrastructure development where the EU has neglected, and has provided loans and debt relief; including external market opportunities.⁴⁶ The inauguration of FOCAC in 2000 was seen by many African States as a positive direction to get Africa out of a dependent cycle.⁴⁷ Although the EU and China share common views on poverty reduction and work together toward SDGs, sustainable development in various sectors, aid effectiveness and local ownership⁴⁸ there is still ideological overlap related to China's preference for non-interference as opposed to the EU's promotion of good governance.

The EU has reacted to Chinese influence by engaging Chinese and African leaders in trilateral cooperation. The EU has called for increased transparency on trade deals and aid packages and has urged China to behave more responsibly in Africa regarding its human rights and good governance impact. In spite of this trilateral effort, there has been modest overall progress in engaging China and Africa from a European perspective. Setbacks on the trilateral dialogue have led the EU to reduce its ambitions and refocus its efforts on multilateral initiatives such as an OECD that looks at China's experience of poverty reduction and possible applications in Africa. Whatever the case, China's need for stability to protect its investments may create a new opportunity for cooperation with regards to democratic values. For example, at the end of March 2010, China supported a UNSC resolution that mandated the use of force by UN and French forces to protect civilians in Côte d'Ivoire from attacks by government troops. This was a big success for the EU in its attempt through the UN to uphold the results of the elections in 2010 in which President

Laurent Gbagbo was voted out of office. A similar pragmatism was displayed when China mandated election observers to monitor the referendum in South Sudan, where China's own oil and commercial interests mean it has a stake in conflict management.

Africa's forum-shopping for Sino-African cooperation is evidence of the limits of the effectiveness of EU conditionality. Against this background of diminishing leverage, the EU seems to have lost confidence in the effectiveness of coercive measures and have been notably inconsistent in their use of them within the cooperation. Overall, this has contributed to a downward spiral of confidence in promoting human rights. Strategically, many African countries realize the desperate need of both sides, and in many cases, they have been able to juggle between both partners. However, and as Muyunga puts it, Africa needs to proceed with caution so that they ensure they do not lose the support of the EU by being lured by short-term benefits from China.⁴⁹

3.4 The Human Rights/Democracy/Good Governance Regime

Hafner-Burton finds that the presence of nested and overlapping institutions around human rights creates incentives for actors to (1) forum-shop for more power; (2) advantage themselves in the context of a parallel or overlapping regime; and (3) invoke institutions "à la carte" to govern a specific issue.⁵⁰ Core values of human rights have sometimes been sacrificed at the expense of contradictory interpretations of the same. In addition, the conditions surrounding human rights are made, contested and implemented in an atmosphere characterized by nested and overlapping institutions, including both international organizations and treaties.⁵¹ Human rights is one of the cardinal principles enshrined in the JAES agreement, but it is not exclusive to it. The EU has often wanted Africa to implement it in a way defined by the West and in all circumstances. Nevertheless, the growing complexity of this regime (which itself enabled the EU to associate trade conditionality to it) is providing an incentive for the State in Africa to review not only its interpretation but also the context under which it can be applied. The notion of EU-Africa solidarity around the principle of human rights is porous, because human rights is an opportunistic notion that is only applied circumstantially. Africans have invoked other institutions to undermine human rights. Diplomacy of solidarity has been used to support regimes that are not committed to human rights. For example, African leaders have been unwilling to publicly criticize Robert Mugabe's human rights abuses. EU support for the ICC case against Bashir had limited impact, as African governments rejected the indictment. Bashir traveled to Kenya and other AU member countries with impunity. However, a European threat to walk out of the EU-Africa summit in Tripoli if Bashir attended persuaded the Libyans to ask the Sudanese leader to stay away. Whatever the case, Europe's ability to affect developments within Sudan appeared limited.

Africa has also forum-shopped for partners that are less strict in regard to human rights. Africa has gone for China or at least, accepted China's invitation to

do business, because China has limited constraints on human rights. Although Europe wants Chinese cooperation to limit the arms trade, support good governance in Africa and apply conditionality to development aid, China's approach to Africa has generally shown little regard for democracy.

Human rights is operating within the State sovereignty regime, still *en vogue* in Africa. According to this State-centric regime, States are elevated as ultimate promoters and guarantors of human rights/democracy/good governance. This implies that States determine when and how to implement human rights or at least, they juggle human rights and the responsibility of the State. The sovereignty regime gives a leeway to States to strategically select human rights partners who are docile and exclude agents outside the State, such as NGOs and civil society, from human rights frameworks and discussions. For example, during its 2016 activities under the theme "African year of human rights with particular focus on the rights of women" in Addis Ababa, the AU did not invite international and local civil society to deliberate as partners. This is an indication that human rights are being accepted with reluctance. Opposition movements and other pro-democracy manifestations have been suppressed (sometimes brutally) or at least denied in the name of rule of law. These are all intervening regimes that make the implementation of human rights difficult. To deviate from the pains that can come with an effective implementation of human rights, Africans have regime-shifted to other regimes (solidarity, sovereignty) and have forum-shopped for unconditional human rights trademarks.

3.5 *The International Solidarity Regime*

International solidarity is a norm with parallel and overlapping extensions. Solidarity has different connotations for many people. Engaging with "international solidarity," writes Henning Melber, suggests that there are different interpretations at play.⁵² The UN counts on international solidarity to implement its policies worldwide, the AU counts on it to survive as an institution, and the EU to attain its objectives. The complexity of international solidarity can weaken commitment to comply in one forum over another. Solidarity usually leaves unanswered the question of who practices solidarity with whom and for which purpose.⁵³ This has enabled actors to twist the concept in ways that meet their interests. What Africans understand by solidarity may be interpreted as discord by Europeans.

African solidarity implies that Africans support each other and act like their brother's keepers.⁵⁴ Africans seem to have understood that "purported" European solidarity, reflected through aid and other forms of unconditional support, mask exploitative habits inherited from the colonial regime. African solidarity has enabled Africans to sometimes disagree or at least pretend to agree with the EU on certain issues, situations and events that would otherwise not be the case. African solidarity is expressed in two ways: *strategic support solidarity* and *strategic indifference solidarity*. The alliance of Africans behind "dictators," or their refusal to publicly condemn peer States with poor human rights records, is an act of African solidarity that challenges the EU–Africa principle of human rights/democracy/good governance.

There was no official African condemnation of Mugabe's regime, which according to the EU is on record for human rights violations. Nor did Africans rise as one to condemn Gaddafi's regime, which was considered a "dictatorship." Even South Africa, an example of an emerging power which considerably respects democracy and human rights domestically, has nevertheless aligned itself against what it portrays as a Western agenda to override national sovereignty in defense of individual rights.⁵⁵

Solidarity also clashes with a parallel regime—non-interference enabling regime-shifting. When the Libyan conflict broke out in 2011, only Rwanda and the Gambia called for quick AU reaction. The fact that the AU overtly abandoned Libya to its fate is an expression of *strategic indifference solidarity*. The AU considered the Libyan affair a purely internal affair which should be left to Libyans, thus warning other actors, including the EU, from taking a position or making pronouncements that can only complicate the search for a solution.⁵⁶ Here the AU was a strident critic of NATO action and, on the basis that it was upholding the AU's own rules on conflict and intervention, argued strongly that it should be left to African States to respond to the crisis.⁵⁷

The position of the AU in regard to the Libyan case suggests that Africans can challenge EU solutions to African crises. However, it also reflects a form of regime-shifting and strategic inconsistency. The regime of diplomacy of solidarity also explains to some extent why international sanctions sometimes fail. Mahmud argues that the failure of sanctions to successfully change the behavior of Libya can be found in diplomacy of solidarity.⁵⁸

3.6 Some Possible Implications

IRC intentionally or unintentionally enhances regime-shifting, forum-shopping and strategic manipulation outcomes among Africans. What, therefore, is the possibility that so acting can affect the relationship between Africa and the EU? To answer this question, it necessary to find out whether at any moment in time the EU has reviewed a position in favor of Africa's interests. Again, a tentative response to the question could be found at location of the level of power and who stands to win or lose whenever an agreement is undermined or respected. Regardless, such action may not intentionally mean to produce incoherence and cracks in the relationship. Rather, it is producing overarching effects that give the impression that Africa and the EU can engage in a win-win negotiation. To talk of effective partnership in the relationship is to find out if Africa has been able to not necessarily dictate the pace of the relationship but, at least, to set an agenda. While straight answers are hard to find, there are indicators of such. Basically, the agency model of understanding Africa in international politics is suggesting a possibility of thinking about partnership in the relationship. This model, as demonstrated throughout, the work hinges on the ability of Africa to make shrewd use of IRC by putting its interests first.

Many African States are fiercely protective of their independence and want to emancipate themselves from foreign, and in particular European, influence rather

than comply with EU norms—which appear less appealing. Africa was not satisfied with principles of conditionality and forum-shopped for partners (China) less strict on such, though this may not strictly be Africa’s only motivation for forum-shopping. This power dispensation has had the effect of making the EU think twice about its policy on the continent. It might have been argued that complexity gives power to the already powerful (Drezner, 2009), but there is no evidence that it renders the weaker less powerful. Rather, it empowers the weaker because it offers more opportunities than limited partnerships and connections. The struggle among Africans is to use IRC to obtain the power necessary to negotiate with the EU on a basis that put Africa’s interests first or at least considers the interests of both parties. The complexity of the international migration regime has been exemplified by Africa as a collective force and as an individual State through its perspective on Libya. In 2010, Gaddafi attempted to exploit the African immigration crisis when he requested the EU pay 5 billion Euros to stop migration. The recent AU–EU summit in Abidjan was partly dominated by struggles against illegal migration from Africa to Europe through Libya and the EU was more or less compelled to take resolutions to that effect.⁵⁹ Egypt has been swift in manipulating the struggles of the EU and the U.S. against terrorism to its favor, and even if the EU does not find in Egypt a constructive partner, it may have difficulties in counterterrorism without Egypt’s participation. This implies that Egypt has leverage in the relationship, no matter how symbolic that might be.

The emergence of African agency suggests that Africa could be a crucial factor in characterizing EU–Africa cooperation. Paradoxically, to overcome any impasse means dealing with African States’ interests, which in turn means that the EU has to abandon its ambition of creating Africa in its image. IRC is providing an opportunity to the EU to simplify its partnership with Africa.

IV. Conclusion

Bilateral EU relations with African countries are complex and diverse. IRC offers prospects of African agency, which are expressed in three key ways: forum-shopping, regime-shifting and strategic manipulation of values. These outcomes have gained currency in three key regimes: international cooperation, human rights/democracy/good governance, and international solidarity. Such actions, which derive from the complexity of regimes, cannot be said to overtly undermine EU–Africa cooperation. They are expressions of African agency which is attempting to put Africa’s interests first in a negotiation with the EU. In other words, the complexity of international regimes frame, in some way, African agency in its relationship with the EU, not necessarily in the form of an attempt to undermine an agreement with the EU, but also and possibly, in the form of forcing an agenda.

The multiplicity of AU partnerships is begging the question of what consequences this will have for the future of the Africa–EU Partnership? The EU is not, of course, denying Africans the opportunity to make new friends. However, the EU’s

wish is that Africans should “make new friends but keep the old.” Recent EU–Africa/AU summits are more or less focused on finding a common ground between the two parties rather than one of the parties (notably the EU) trying to impose an agenda. These very summits are parallel to others, such as the France–Africa Summit, the U.S.–Africa summit, the Sino–Africa summit, the UK–Africa investment summit, etc., which all follow a business-like approach, and which seem—at the moment—to match African priorities better, challenging the EU’s value-driven agenda. Because both continents are in partnerships that operate in a complex setting and affect each other, the question is whether EU–Africa cooperation is subsequent to other, more important ones. In any case, forum-shopping, regime shifting and the strategic manipulation of values are all causing the EU to review its strategy toward Africa by underlying the partnership aspect of the relationship and giving Africa a central role.

Notes

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2. See, for example, Sandra Barnes “Global Flows: Terror, Oil and Strategic Philanthropy,” *Review of African Political Economy*, 34(104/5) (2005), p. 236, <https://doi.org/10.1080/03056240500329148>.

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6. See Jean-François Bayart, “Bis Repetita: La Politique Africaine de François Mitterand de 1989 à 1995,” Colloque sur La politique extérieure de François Mitterand à l’épreuve de l’après-guerre froide, Centre d’études et de recherches internationales (CERI), Paris (May 13–15, 1997), p. 20; Philippe Hugon, *La zone franc à l’heure de l’euro* (Paris: Karthala, 1999), pp. 219–228; Pierre Péan, *L’Homme de l’ombre* (Paris: Fayard, 1990).

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9. For details see Jean-François Bayart, “Bis Repetita: La Politique Africaine de François Mitterand de 1989 à 1995,” prepared for Colloque sur la Politique Extérieure de François Mitterand à l’épreuve de l’après-guerre Froide, Centre d’études et de recherches internationales (CERI), Paris, May 13–15, 1997, p. 20; Philippe Hugon, *La Zone Franc à l’heure de l’euro* (Paris: Karthala, 1999), pp. 219–228; Pierre Péan, *L’Homme de l’ombre* (Paris: Fayard, 1990); François-Xavier Verschave, *Françafrique: Le Plus long scandale de la république* (Paris: Stock, 1998); Antoine Glaser and Stephen Smith, *Ces messieurs Afrique I: Le Paris-village du continent noir* (Paris: Calmann-

Lévy, 1992); and A. Glaser and S. Smith, *Ces messieurs Afrique 2: Des réseaux aux lobbies* (Paris: Calmann-Lévy, 1997).

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15. See Maurizio Carbone, "The European Union and China's Rise in Africa: Competing Visions, External Coherence and Trilateral Cooperation," *Journal of Contemporary African Studies*, 29(2) (2011), pp. 203–221, <https://doi.org/10.1080/02589001.2011.555195>.

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18. Stephan Haggard and Beth A. Simmons, "Theories of International Regimes," *International Organization*, 41(3) (1987), pp. 491–517, p. 495, <https://doi.org/10.1017/S0020818300027569>.

19. *Ibid.*

20. The EU–Africa Strategic Partnership is the formal channel through which the EU and

the African continent work together. It was adopted by Heads of State and Governments at the 2nd EU–Africa Summit in 2007 dubbed JAES—Joint Africa-EU Strategy.

21. As a conventional concept, human rights has its origins from the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), the Inter-American Convention on Human Rights, and the UN Covenant on Civil and Political Rights, between the 40s and 50s when Africa was still under foreign domination. See Andrew Moravcsik, “The Origin of Human Rights Regimes: Democratic Delegation in Postwar Europe,” *International Organization* 52(2) (2000), pp. 217–252, <https://doi.org/10.1162/002081800551163>.

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23. *Ibid.*, p. 15.

24. *Ibid.*

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34. *Ibid.*

35. For details see Siphamandla Zondi et al., “Meeting Summary: Emerging Agents of Change? Africa and International Negotiations,” *Chatham House*, 2011, <https://www.chathamhouse.org/sites/default/files/public/Research/Africa/020211summary.pdf>.

36. *Ibid.*

37. Yunguo 2008, pp. 9–23, p. 13.

38. *Ibid.*

39. *Ibid.*, p. 13. Politically, for example, Europe judges and measures Africa with its own values, resorting to sanctions or military means when Africa fails to meet EU standards of HRs, GG, etc. Economically, Europe often regards its responsibility and assistance as a favor or charity; more it imposes the Western economic model, e.g., structural adjustment programs (SAP).

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42. G. Mugumya, “China-Europe-Africa: Is There Possible Collaborative Partnership?” in

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43. *Ibid.*, p. 7.

44. *Ibid.*, p. 9.

45. Denisson and Dworkin 2010, p. 2.

46. Details of Chinese initiatives and investments in 2006 in Africa stand as follows: China is said to be the third biggest trading partner of Africa with trade valued at \$55.5 million, mostly imports of oil and raw materials; 800 Chinese companies invested \$1 billion USD; China imports 32 percent oil from Africa—oil related investment amounting to at least \$16 billion; China has cancelled almost \$1.3 billion in debt owned by 31 African countries, abolished tariffs on 190 kinds of goods from 29 least developed countries in Africa and promised to do so for more than 400 goods; since 1956, China has completed 900 projects of economic and social development in Africa; China has provided scholarship for 18,000 students from 50 African countries; China has sent 16,000 medical personnel who have treated more than 240 million patients in 47 African countries and there are approximately 3,000 Chinese forces participating in UN peacekeeping in Africa. See Mugumya 2008, p. 7.

47. *Ibid.*

48. At the 9th EU–China summit in 2006, China hesitantly agreed to a dialogue on peace, stability and sustainable development in Africa—which was seen as a first step towards larger dialogue and acknowledgement of common issues.

49. Mugumya 2008, p. 9.

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53. *Ibid.*

54. The concept of African solidarity partly derives from the Pan African movement under the drive of Kwame Nkrumah (first president of independent Ghana). He believed that it was necessary to speak with one voice as an effort to balance up with the political, diplomatic and even economic weakness of individual African States.

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56. It should be noted that Africa never intervened directly and militarily as did U.S., Britain and France before it continued under NATO.

57. Hoste and Anderson 2012, p. 22.

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