

The Role of the Governance and Legal Committees in the sports governance architecture

Constitutional Governance: From Compliance to Constitutional Stewardship

By Dennis A. Mumble
28 August 2026



Background

A few days ago I encountered a response from the chairperson of the SAFA Governance Committee to a complaint about the SAFA President unlawfully accessing confidential nomination forms and posting it on a WhatsApp group. The chairperson stated that his committee's role commenced from the moment the SAFA CEO handed over the nominations to them. He further claimed that their powers did not include investigations.

The chairperson wrote *“It appears from the above [Articles 25.13 and 25.14 of the SAFA Statutes] provisions what duties are assigned to the Governance Committee. The committee only receive nominations and conduct eligibility on what it received. At no stage does the statutes confer any other powers on the committee prior to receiving nominations.*

The committee cannot act ultra [sic] vires by conferring extra powers on itself including investigative powers on processes leading up to its receipt of nominations. The committee only receives and report back to the CEO on its findings.”

This was indeed a shocking revelation that caused me to delve deeper into the role of a typical Governance Committee in a sports organisation because his response revealed a disturbing lack of understanding of the committee’s role by the very body responsible for advising the association on how to prevent such governance lapses. The implications for a credible SAFA electoral process are profound.

Introduction

Over the past three years, I have conducted a series of interviews and engaged in lengthy discussions with football administrators across South Africa to better understand the governance and administrative capacity required to manage football as a modern sports institution. These engagements have also provided an opportunity to reflect on the numerous governance frameworks available internationally and to consider which of them are genuinely suited to the particular character, structure and realities of a sporting organisation such as the South African Football Association.

The descriptive model of the Governance Committee developed in this article is therefore not conceived in isolation. It is informed by these conversations with practitioners, by the constitutional work undertaken in developing the governance frameworks for other sporting federations, and by the evolution of FIFA's own governance architecture since 2016. It is an attempt to draw these strands together into a more coherent conception of governance — one that moves beyond narrow legal compliance and recognises governance as the protection of an institution's constitutional, ethical, democratic and philosophical foundations.

The article consequently asks a broader question: What should a Governance Committee actually do if, as the chairperson states, its purpose is not to protect the integrity and sustainability of the organisation, but instead to simply administer a very limited set of rules?

There is a tendency in sporting organisations to regard governance as something that happens after the constitution has been written. Committees are established, regulations are adopted, elections are conducted and officials are appointed, and governance is then treated as the machinery that keeps all of this functioning.

That understanding is too narrow. Governance begins much earlier. It begins with a question that is deceptively simple: *What kind of institution are we trying to create?*

Before one writes a constitution, one must decide what values the institution will embody, what relationship it will have with its members, how power will be acquired and exercised, what restraints will apply to those who hold office, how accountability will be secured and what kind of organisational culture the constitution is intended to produce.

The constitution is therefore not merely a rulebook. It is the institutional expression of a philosophy.

This is the theme I explored when I appeared on the Robert Marawa Show on 27 August 2026, where I described constitutional development as resting upon a series of foundational layers: the philosophical, moral, ethical, constitutional, political, executive and administrative layers.

The order is important. A constitution should not begin with politics. Politics is one of the things that the constitution must regulate. The constitution should instead emerge from a deeper set of principles that precede the politics of the day. That distinction is particularly important when considering the role of a Governance Committee.

The seven layers of a good governance system

Every serious sporting constitution rests, whether explicitly or implicitly, upon a hierarchy of ideas.

*At the deepest level is the **philosophical layer**:* This asks: Why does the organisation exist? What conception of human dignity, fairness, participation, justice, equality, responsibility and institutional legitimacy informs it? What is the organisation ultimately for?

*Above that is the **moral layer**:* Moral principles concern what the institution regards as right and wrong. They inform its understanding of honesty, fairness, responsibility, respect and the proper use of entrusted power.

The **ethical layer** translates those moral commitments into standards of conduct. It asks how people exercising authority ought to behave, particularly when the rules do not provide an explicit answer.

The **constitutional layer** converts those principles into institutional architecture. It establishes the distribution of powers, the rights of members, the authority of Congress or the General Assembly, the powers and limits of the executive, the independence of oversight bodies and the mechanisms of accountability.

The **political layer** then provides the mechanism through which competing interests, constituencies and ideas interact within that constitutional framework.

The **executive layer** exercises the powers conferred by the constitution.

And finally, the **administrative layer** translates decisions and policies into operational reality.

The danger arises when these layers are inverted. When political interests begin determining constitutional principles, and when constitutional principles are then rewritten to accommodate political interests, the constitution ceases to be the framework within which politics occurs. Politics begins to become the author of the constitution. That is precisely what good constitutional design must prevent.

A constitution must outlive its authors

There is a profound philosophical problem when a constitution begins to take on the personality of a particular leader. A constitution should be designed to govern people whom its authors do



Strong Governance. Trusted Leadership. Sustainable Sport.

not know and circumstances that its authors cannot predict. It should therefore be capable of surviving changes of leadership, changes of political faction and changes of organisational fashion.

The danger of constitutional personalisation is that the constitution begins to mirror the character, ambitions and moral and ethical proclivities of the person or group currently controlling the organisation.

The result can be described as constitutional capture. The constitution may continue to look legitimate. It may still contain articles, clauses, committees and elections. But its underlying purpose has subtly changed.

Instead of asking: *What institutional arrangement best protects the organisation and its members?* the constitutional drafter begins asking: *What institutional arrangement best protects the people currently in power?* That is the point at which constitutional development becomes political engineering.

A progressive constitution must do precisely the opposite. It must be designed to restrain the powerful as much as it empowers them.

Why a Governance Committee exists

This brings us to the Governance Committee. A Governance Committee should not exist simply because modern constitutions are expected to contain one. Its existence should reflect an understanding that governance is a continuing institutional discipline.

The committee should be concerned with whether the organisation remains faithful to its constitutional purpose and whether its governance arrangements continue to provide appropriate checks, balances, accountability and institutional independence. This is consistent with the international direction of governance thinking.

ISO 37000:2021, which may be applied to organisations of all types, identifies purpose, values, strategy, oversight, accountability, stakeholder engagement, leadership, risk governance and long-term viability among the central concerns of organisational governance. It describes good governance as a system through which an organisation is directed, overseen and held accountable for achieving its purpose ethically and responsibly.

That conception is fundamentally different from the idea that governance is simply the legal enforcement of a constitution. Governance asks whether the institution is being directed towards its proper purpose and within appropriate ethical and institutional boundaries.

A Governance Committee should therefore be the conscience of the constitutional architecture.

- Not the conscience of a President.

- Not the conscience of the NEC.
- Not the conscience of the CEO.

The conscience of the institution.

The FIFA example

FIFA provides an instructive example. When FIFA established its Governance Committee following its governance reforms, it described the committee's principal role as dealing with, and advising and assisting the Council on, all FIFA governance matters. The committee's responsibilities extended beyond candidate eligibility to election monitoring, governance reforms, conflicts of interest, human rights, transparency and other matters affecting the integrity of football governance.

This is important because it demonstrates the conceptual distinction between governance and administration.

Eligibility checking is a governance function. But it is only one governance function. Monitoring elections is a governance function; examining conflicts of interest is a governance function; advising on constitutional and institutional reforms is a governance function; promoting transparency and accountability is a governance function; assessing whether governance reforms are being properly implemented is a governance function.

The committee does not become a Governance Committee only when election nominations arrive. It is a standing institutional mechanism for protecting the quality of governance.

World Athletics: governance as a continuing responsibility

World Athletics provides another useful example. Its Governance Commission is concerned with a wide range of governance initiatives, including improving and upholding integrity, promoting ethical compliance standards, developing educational material and ensuring that governance standards are implemented and embedded across World Athletics, Area Associations and Member Federations.

This is instructive because it shows that governance is not treated as an occasional intervention. It is part of the organisation's continuing institutional life.

The Governance Commission exists because good governance requires constant attention. A constitution is not self-executing. It must be interpreted, applied, monitored and periodically evaluated. And where weaknesses emerge, they must be identified before they become institutional crises.

Governance is not the same thing as law

This brings us to an important distinction that I deliberately incorporate into any sports constitutional architecture: the distinction between a Governance Committee and a Legal Committee.

The two should never be conflated. A Legal Committee is principally concerned with the law. Its work may include:

- legal interpretation;
- contractual matters;
- litigation;
- legal opinions;
- regulatory drafting;
- statutory compliance;
- disputes;
- legal risk; and
- relationships with external legal advisers.

The Governance Committee has a different centre of gravity. It is concerned with how power is structured, exercised, constrained, supervised and made accountable.

Its work should include:

- constitutional compliance;
- governance policy;
- institutional accountability;
- separation of powers;
- conflicts of interest;
- governance risk;
- effectiveness of governing structures;
- independence of oversight bodies;
- ethical governance;
- electoral governance;
- stakeholder participation;
- constitutional reform; and
- monitoring the overall health of the governance system.

The Legal Committee asks: **“Is this lawful?”**

The Governance Committee asks: **“Is this good governance?”**

Those questions overlap, but they are not identical. Something may be legally permissible and yet inconsistent with good governance. Conversely, a governance concern may arise before there

is a clearly defined legal violation. That is precisely why the Governance Committee cannot simply be absorbed into the Legal Committee.

The difference between legality and legitimacy

This distinction has serious implications.

Law establishes minimum enforceable standards. Governance should aspire to something higher. Consider a simple example. Suppose a constitution gives an executive body a particular power. The Legal Committee may conclude that the executive has authority to exercise that power.

The Governance Committee should still be able to ask:

- Is the power appropriately located?
- Are there sufficient checks and balances?
- Is there a conflict of interest?
- Is the exercise of the power transparent?
- Does it undermine institutional independence?
- Does it concentrate excessive authority in one office?
- Does it create a risk of abuse?
- Is it consistent with the organisation's values and purpose?
- Would the arrangement remain appropriate if a different person occupied the office?

Those are governance questions. And they cannot be answered simply by consulting a statute book.

Another practical example which the Governance Committee completely missed is the restoration of voting rights for NEC Members. The Governance Committee should have asked whether this change may not be blurring the line between ownership and control of the association.

The Governance Committee's role is to ensure that **constituent power** remains with the constitutional sovereign – the Members – who establish the organisation, adopt its constitution and determine who shall govern. It should ensure that **constituted power** remains with the institutions created by that sovereign authority, including executive committees, boards and office-bearers.

The King V dimension

This understanding also resonates with the South African governance tradition.

King V, released by the Institute of Directors in South Africa in October 2025 and effective for financial years beginning on or after 1 January 2026, superseded King IV and continues the South

African emphasis on ethical and effective leadership, accountability, transparency and appropriate governance structures.

The broader King tradition has consistently recognised the importance of delegation to committees as a means of promoting independent judgement, balance of power and the effective discharge of governing-body responsibilities.

That principle translates naturally into sport. A governing body should not create committees merely to distribute workload. It should create them to provide specialised competence and independent judgement.

The Governance Committee therefore exists not because the NEC lacks enough meetings to attend, but because governance itself requires a dedicated institutional capability.

The Governance Committee must be capable of saying “no”

Perhaps the most important characteristic of a Governance Committee is its capacity to provide uncomfortable advice. A committee that merely confirms the preferences of the executive is not providing governance. It is providing reassurance.

The value of governance oversight lies precisely in its capacity to say:

- *This is inconsistent with the constitution.*
- *This creates an unacceptable concentration of power.*
- *This creates a conflict of interest.*
- *This process is not sufficiently independent.*
- *This amendment has unintended consequences.*
- *This decision may be lawful, but it is not good governance.*
- *The institution needs a stronger safeguard.*

That requires intellectual independence. It also requires moral courage. A Governance Committee must therefore be designed so that its members can exercise independent judgement without fear of political retaliation.

Constitutional development must be principle-led

This brings us back to the seven layers. When an organisation proposes to amend its constitution, the starting question should never be: *What does the current leadership want?* Nor should it be: *What political problem are we trying to solve today?*

The first question should be: *What principle are we trying to protect?* The second should be: *What institutional problem are we trying to solve?* The third should be: *What constitutional mechanism best solves that problem without creating a greater concentration of power elsewhere?*

Only then should the political implications be considered. Political considerations matter. Of course they do. A constitution operates within a political environment and must accommodate competing interests. But politics should operate within constitutional boundaries, not dictate those boundaries whenever political circumstances change.

Otherwise every change of leadership becomes an opportunity to rewrite the constitution in the image of the new leadership. That produces constitutional instability.

The basic structure of every sound sports constitution

The work I undertook in developing the sports body constitutional framework proceeded from the recognition that every mature sports constitution requires a basic institutional architecture.

That architecture should ordinarily address:

- *Purpose and objects* — why the organisation exists.
- *Membership* — who owns and participates in the institution.
- *Congress or General Assembly* — the ultimate representative authority.
- *Executive governance* — who exercises delegated authority and within what limits.
- *Management and administration* — who implements decisions and under whose authority.
- *Independent oversight* — governance, audit and risk, ethics, elections and other assurance mechanisms.
- *Dispute resolution* — how conflicts are resolved independently and fairly.
- *Financial governance* — how resources are controlled and accounted for.
- *Elections* — how legitimate leadership is chosen.
- *Constitutional amendment* — how the fundamental rules can be changed and what safeguards protect them from opportunistic alteration.
- *Accountability and transparency* — how office bearers account to the membership.
- *Safeguarding and integrity* — how the organisation protects people, the sport and its reputation.
- *Dissolution and continuity* — what happens to the institution when circumstances fundamentally change.

These are not merely chapters in a document. They are interconnected parts of a constitutional ecosystem. Changing one can alter the balance of the entire system. That is why constitutional amendments should never be treated as isolated textual changes.

The danger of the personalised constitution

One of the greatest threats to sports governance is what might be called the personalised constitution. This occurs when a constitution gradually begins to reflect the preferences of the person or political group occupying power rather than the enduring interests of the organisation:

- Presidential powers expand.
- Congressional powers contract.
- Independent bodies become dependent.
- Eligibility provisions become politically useful.
- Electoral arrangements are modified.
- Checks and balances are weakened.

The language of the constitution remains intact, but its philosophy changes.

The institution then begins to serve the office rather than the office serving the institution. This is the constitutional equivalent of designing a house around its current occupant rather than building a structure that future occupants can inhabit safely.

It may work for one person. It may even work for one generation. But it is poor constitutional design.

A constitution is an intergenerational covenant

The better conception is that a constitution is an intergenerational covenant. Those who draft it are not its owners. They are temporary custodians. They are making decisions not only for themselves, but for people who have not yet joined the organisation, athletes who have not yet been born, and administrators who have not yet entered the sport and leaders whose names they do not know. That requires humility.

Constitutional drafting should therefore be approached with something approaching philosophical restraint. The drafter must resist the temptation to ask: *How can we protect our position?*

The proper question is: *What system would we want if we had no idea who would occupy the Presidency, who would sit on the NEC, which province would hold influence or which political faction would command a majority?*

That is the constitutional equivalent of John Rawls' "veil of ignorance".

"The veil of ignorance is a thought experiment that asks you to design the rules of society without knowing who will be in it: rich or poor, talented or not, of any race, gender, or generation. Choose the rules from behind that veil, and you choose fairly¹."

If we do not know whether we will be powerful or powerless under the constitution we are writing, we are more likely to design rules that are fair.

¹ <https://www.philosophyprofessor.com/thought-experiments/veil-of-ignorance/>

The Governance Committee as institutional memory

A strong Governance Committee can serve another important purpose.

It becomes the institution's memory of governance.

- Political leadership changes.
- Executive members change.
- CEOs change.
- Committees change.

But governance principles should remain. The Governance Committee can therefore monitor whether reforms adopted five or ten years earlier continue to achieve their intended purpose.

- It can identify unintended consequences.
- It can recommend constitutional review.
- It can compare the organisation's practices against emerging standards.
- It can ensure that governance does not become hostage to organisational memory loss.

This is particularly important in sport because leadership transitions can be highly political. Without institutional memory, each new leadership group can believe that it is starting with a blank sheet. It is not. It inherits a constitutional system. And it has a duty to improve that system rather than reshape it for immediate political convenience.

Governance is ultimately about trust

The final purpose of all these structures is trust.

- Athletes must trust the organisation.
- Members must trust its elections.
- Officials must trust its disciplinary processes.
- Stakeholders must trust its financial stewardship.
- Government and sponsors must trust its accountability.
- International federations must trust its independence.
- And future leaders must trust that the rules will not be changed simply because they have inherited power.

ISO 37000 places purpose, values, accountability, oversight, stakeholder engagement, ethical leadership and long-term viability at the heart of good governance. That is particularly relevant to sport. A sports organisation is not merely an administrative machine for staging competitions. It is a social institution. It exercises authority over people, opportunities, resources, careers and participation. Its governance therefore has moral consequences.

From compliance to constitutional intelligence

The next generation of sports governance in South Africa should move beyond a narrow compliance mentality.

The question should not simply be: *“Does the constitution permit this?”* It should also be: *“What does this do to the institution?”*

- Does it strengthen or weaken accountability?
- Does it distribute or concentrate power?
- Does it increase or diminish independence?
- Does it protect or undermine member participation?
- Does it strengthen or weaken trust?
- Does it serve the organisation's purpose?
- Does it remain fair when applied to people we disagree with?
- Would we still defend the provision if our political opponents were exercising the power it creates?

These are questions of constitutional intelligence. And constitutional intelligence is what a mature Governance Committee should bring to the governing body.

The future of sports governance

The Governance Committee should therefore not be regarded as another committee occupying a box on an organisational chart. It is potentially one of the most important institutional safeguards in a modern sports organisation.

Its role is to help ensure that the organisation remains faithful to its purpose; that power remains accountable; that constitutional arrangements remain coherent; that ethical standards are embedded and that the institution is capable of surviving the personalities and politics of successive generations.

The distinction between the Governance Committee and the Legal Committee is central to this. The Legal Committee protects the organisation from **legal error**. The Governance Committee protects the organisation from **governance failure**. The Legal Committee asks whether the organisation has complied with the law. The Governance Committee asks whether the organisation is being governed in a manner worthy of its purpose.

Both are necessary. Neither can substitute for the other. And above both stands the constitution — not as a weapon for the executive, not as a political manifesto and not as the personal instrument of whoever happens to hold office — but as the enduring framework within which power is exercised on behalf of the membership.

That is ultimately what my work on constitutional frameworks sought to achieve. Not simply a better constitutions but better constitutional philosophy. Not just more rules but a more coherent system of accountability. Not governance designed around today's leadership but a governance model capable of surviving tomorrow's leadership.

That is the difference between writing a constitution and **building an institution**. And perhaps that is the standard against which every sports constitution in South Africa should now be judged.

###