Research Report

Leiden Model United Nations 2016
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Forum: *African Union*
Issue: *Distinguishing between a legitimate uprising against an authoritarian government and an unconstitutional change of government in the context of the PSC*
Position: *Deputy President*

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Introduction

In the past few years the return of military coups in Africa poses a huge challenge to the growth and development of democracy in the continent. The term the African Union uses is unconstitutional change of government. Democracy is new and fresh in Africa. The process of establishing a strong and stable democracy is slow and it takes a lot of time for the threat of military coups to decline. Therefore, preventing military coups can encourage the development of democracy and this would be a good step forward for Africa. In the year 2000, the Organisation of African Unity (OAU), a precedent of the AU, has set up a framework for the response to an unconstitutional change of government. This was a good improvement in the prevention of possible military coups, however one element is still missing in the solution. This element is the definition of an unconstitutional change of government. There is no guideline yet to define when a military coup is destructive for the development of a democracy and not justifiable. The reason that a guideline is absolutely necessary is because the African Union needs to know exactly when to set their plan in action. Yet, most importantly there are cases in which an uprising against a government is legitimate, for example in the case of repression and violation of human rights by an authoritarian government. Thus, the implementation of a framework to tackle unconstitutional changes of government would be helped if a definition of an unconstitutional change of government is created.

General Overview

In a true democracy the people have a voice in multiple ways, such as voting and protesting. Thus, if they do not agree with governmental procedures and acts they are allowed to protest in a peaceful manner. The problem in Africa, however, is that democracy is a relatively new system of government, as formerly many states knew and nowadays still know an authoritarian government. Thus, African States are still in the process of forming a good, functioning democratic government. In fact, Mauritius is thus far the only state to have a full democracy. Other states still have what they call a flawed democracy in which there is an underdeveloped political culture, or they have a hybrid democracy in which there can still be much corruption, unfair elections and a weak rule of law. Also often within the political systems, there are still flaws. Many states in Africa do not have a fully developed political culture which is an important aspect of democracy. The definition of political culture is: "Historically-based, widely-shared beliefs, feelings, and values about the nature of political

systems, which can serve as a link between citizens and government." Trust in a government can be problematic when a country is on the transition of an authoritarian government into a democracy. Distrust can also be a reason for citizens of a country to protest and possibly rebel against their governments. And this is the problem that occurs often in Africa.

As mentioned in the introduction, unconstitutional changes of government (UCG) occur often on the African continent and this can be undermining for the development of democracy in Africa. To begin with, it is important to explain what falls under the term of an unconstitutional change of government. UCG's are for example: A military coup against a democratically elected government, intervention by mercenaries or a private army to replace a democratically elected government, replacement of a democratically elected government by armed dissident groups and rebel movements, and the refusal of an incumbent government to hand over power to the winning party of a free, fair and periodic election.

Unconstitutional changes of government can be destructive for the development of a democracy. There are multiple reasons for this. First of all, following a UCG there is a relatively long period in which there is no true government ruling the country, which causes for a development stop and can be chaotic. Secondly, everything the newly developed democratic government has build up until then, has to be thrown away and everything has to start over again. Thus, UCG's extend the period of the development of a democracy. Furthermore, a UCG worsens the political culture, as the citizens get the feeling that everytime they do not agree with the political system, they can protest and possible overthrow the government. This is of course not part of democracy, as sometimes one has to accept for example that the winning party in an election is not the party you voted for.

There are multiple reasons for an unconstitutional change of government. In a press release from the AU they stressed that: "In situations of greed, selfishness, mismanagement of diversity, mismanagement of opportunity, marginalization, abuse of human rights, refusal to accept electoral defeat, manipulation of constitution, as well as unconstitutional review of constitution to serve narrow interest and corruption, among other factors, are potent triggers for unconstitutional changes of government and popular uprisings."

The African Union has made a framework to tackle and prevent unconstitutional changes of governments, and a plan of how to act as a union in the case of a UCG. The problem, however, with this policy is that, as mentioned before, there are still many authoritarian governments in Africa. In these systems often human rights are violated, and the society is marked by underdevelopment and suppression of opposing opinions. The African Union recognizes the fact that an uprising against an authoritarian government is in some way legitimate This is because these systems go against human rights, but also because they leave no room for citizens for a democratic protest to change the situation. Thus, very often the only option of changing the situation is an uprising or a military coup.

Yet, this restricts the African Union to provide a legally binding instrument to condemn and prevent unconstitutional changes of government (UCG). This is because they cannot implement the policy against UCG's throughout the entire African continent, as some countries do have a democratically chosen government

and others suffer from an authoritarian government. Thus, there needs to be guidelines and rules for when an uprising is called legitimate (in for example the case of an authoritarian government) and when an uprising is called a unconstitutional change of government (in the case of a democratically chosen government which still needs to form and develop), in order for the framework/policy to be effective.

The Peace and Security Council (PSC) will be the organ for executing the framework and all complications coming with it. The PSC is an organ of the African Union and is set up for the prevention, management and resolution of conflict. "The PSC's core functions are to conduct early warning and preventive diplomacy, facilitate peace-making, establish peace-support operations and, in certain circumstances, recommend intervention in Member States to promote peace, security and stability. The PSC also works in support of peace-building and post-conflict reconstruction as well as humanitarian action and disaster management. For more information go to http://www.au.int/en/organs/psc.

The most important conclusion of this story is that there are weaknesses in the solution for preventing UCG's. It is important to fix these weaknesses as UCG's are destructive for the development of democracy in the African continent. The most important weaknesses that have to be solved in order for the policy to be effective is that there is no distinction made between when an uprising/UCG is legitimate and when a UCG is not and thus needs to be prevented by the PSC. The reason that a distinction needs to be made, is because there are still to many authoritarian governments in Africa, which is also another problem that prevents the policy from being effective.

Definition of Key Terms

Authoritarian government
It is a form of government in which there is a strong central power and limited political freedom.

Unconstitutional change of government
As said in the general overview, examples of UCG's are: A military coup against a democratically elected government, intervention by mercenaries or a private army to replace a democratically elected government, replacement of a democratically elected government by armed dissident groups and rebel movements, and the refusal of an incumbent government to hand over power to the winning party of a free, fair and periodic election.

Political culture
"Historically-based, widely-shared beliefs, feelings, and values about the nature of political systems, which can serve as a link between citizens and government."

Democracy
A system of government in which the entire population elects their representatives. Four elements of democracy are: "(a) A political system for choosing and replacing the government through free and fair elections; (b) The active participation of the people, as citizens, in politics and civic life; (c) Protection of the human rights of all citizens, and (d) A rule of law, in which the laws and procedures apply equally to all citizens."

Major Parties Involved

In this issue all countries are involved as it concerns all states in the African Union. Seeing that thus far Mauritius is the only nation in Africa with a full democracy, all the other states do not have a fully developed democracy yet, or still have an authoritarian government. Thus, all states will profit from the finding of a solution on unconstitutional changes of government. The guidelines of distinguishing between a legitimate uprising against an authoritarian government and a unconstitutional change of government (against a democratically elected government) need to be accepted and created by all the members of the African Union.

Timeline of Events

1990	Until this year military coups were the most common form of changes of government in Africa.
July 2000	The Lomé declaration on the framework for an OAU Response to Unconstitutional Changes of Government was created
January 2007	The "African Charter on Democracy, Elections, and governance" was adopted and it was set into force in 2012. The charter has been ratified bij 24 of the 54 member states of the AU. This charter prohibits, condemns and rejects UCG's
2010	The start of the Arab Spring, there were many uprisings and government changes in several states.
2014	A military take-over in Burkina Faso was regarded and treated by the African Union as an act of UCG while it was not considered unconstitutional but rather a popular uprising.

Previous Attemps to solve the issue

Multiple attempts have been done to solve the issue of unconstitutional changes of government. The most important one is of course: "The Lomé declaration on the framework for an OAU Response to Unconstitutional Changes of Government" created in 2000. This framework puts sanctions on governments which have come to power through unconstitutional means. One of these sanctions are that these states are not allowed to profit from and join the African Union. Other sanctions are from example economic sanctions. The PSC is also allowed to sanction other states who support states with an unconstitutional government. In this way there are multiple dreadful consequence on an unconstitutional change of government, which makes it a lot less tempting and profitable to do this.

Another attempt to solving this problem is the "African Charter on Democracy, Elections, and governance" created in 2007. This charter sets out international standards of good governance and democracy in areas such as rule of law, free and fair elections, and condemning unconstitutional changes of government. All states who ratify the charter have to: "(1) Have representative systems of government with separation of powers between branches (2) Promote democracy, rule of law and basic human rights (3) Ensure democratic rule and constitutional changes of power through free, fair and transparent elections (4) Respect ethnic, cultural and religious diversity" (https://www.ndi.org/WAEON-symposium). Countries that have ratified the charter are: Benin, Burkina Faso, Cameroon, Chad, Ethiopia, Ghana, Guinea, Guinea-Bissau, Lesotho, Malawi, Mali, Mauritania, Niger, Nigeria, Rwanda, Sierra Leone, South Africa, Sudan, Togo and Zambia.

Yet, both declaration did not solve the problem yet that you have to solve. Namely the distinction between a legitimate uprising and a unconsitutional change of government. In 2014 the AU high panel in Egypt released a report in which several condition of an UCG were defined. (http://www.peaceau.org/en/article/final-report-of-the-african-union-high-level-panel-for-egypt). In this report they decided on several features that make an UCG legitimate. Such as the existence of an authoritarian government, total ineffectiveness of the constitutional, popularity of the uprising, non-involvement of the military and peacefulness of the process. Yet there still needs to come a definite answer, conclusion and guideline on this issue.

Possible Solutions

Your job is to come up with definitions and features of legitimate uprising and an unconstitutional change of government. In this matter one can look at the report from the high level panel in Egypt for inspiration of definitions, yet they have to be specific and must be able to be used in the entire African continent.

Another important part of the solution would be to create a database or a research team upon the amount of democracy in all states of Africa is analysed and documented. In this way the PSC can more quickly say whether or not an uprising is legitimate in the cause for example of an authoritarian government.

Furthermore, it is important to improve the level of democracy in the African Continent in general. This can be done by, for example, creating a reward or advantage when an African state signs the African charter on democracy. Or to impose sanctions on countries that have not signed the treaty yet.

Useful documents/Appendix/Appendices

http://www.huffingtonpost.com/maciej-bartkowski/popular-uprising-against-_b_9567604.html

http://www.peaceau.org/uploads/ahg-dec-150-xxxvi-e.pdf

http://www.peaceau.org/uploads/psc-protocol-en.pdf

http://nai.diva-portal.org/smash/get/diva2:478511/FULLTEXT01.pdf → research paper upon unconstitutional changes of government in africa

http://home.uni-leipzig.de/~gchuman/fileadmin/media/publikationen/Working_Paper_Series/RAL_WP_9_Engel_web_101207.pdf → research paper

file:///C:/Users/Karlijn/Downloads/2012_The_African_Union_and_mediation_in.pdf

http://www.harvardilj.org/wp-content/uploads/2010/05/HLI203.pdf

https://www.thefreelibrary.com/A+club+of+incumbents%3F+The+African+Union+and+cou

ps+d'etat.-a0250578538

http://www.europarl.europa.eu/RegData/etudes/ATAG/2015/551307/EPRS_ATA(2015)551307_EN.pdf

http://www2.ohchr.org/english/law/compilation_democracy/lomedec.htm → framework on unconstitutional changes of government

http://nai.diva-portal.org/smash/get/diva2:478511/FULLTEXT01.pdf

https://books.google.nl/books?id=MKMCQxIwDrQC&pg=PA34&lpg=PA34&dq=military+coup+threat+to+democracy&source=bl&ots=o-kiO9hkPj&sig=b-TCoOmZ-M1QtYsuMYm5EeoB6rY&hl=en&sa=X&ved=0ahUKEwjjutGvj9rPAhXGuBoKHQ-mDggQ6AEIPzAH#v=onepage&q=military%20coup%20threat%20to%20democracy&f=false

https://www.theguardian.com/global-development-professionals-network/ng-interactive/2015/feb/25/democracy-africa-maps-data-visualisation

http://dspace.africaportal.org/jspui/bitstream/123456789/30819/1/P197.pdf?1

http://www.peaceau.org/en/article/press-statement-of-the-432nd-meeting-on-unconstitutional-changes-of-governments-and-popular-uprisings-in-africa

http://addisstandard.com/bringing-an-end-to-unconstitutional-change-of-governments-in-africa/

http://www.idea.int/resources/analysis/loader.cfm?csModule=security/getfile&pageID=78020