

## **Unconstitutional Changes of Government: The Democrat's Dilemma in Theory and Practice**

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The African Union (AU) has taken a firm stand against a range of political crises in Africa, which fall within the organisation's definition of 'unconstitutional changes of government'. These situations have included coups d'état; 'counter-coups' (when one military junta topples another); assumption of power without holding elections; suspending constitutional term limits to stay in power; and the refusal of incumbent leaders to step down after electoral defeat. This paper examines how the rejection of unconstitutional changes of government has been defined and institutionalised in principle within the AU's peace and security architecture. It then analyses the AU Peace and Security Council (PSC) responses to such events in Togo, Mauritania, Central African Republic, Guinea, Niger, Côte d'Ivoire, Madagascar and the Comoros to trace how this norm has emerged in practice. It is argued that each unique case has tested and refined the general principle.

The problem faced by the PSC is that constitutional democracy is seldom firmly in place prior to the 'unconstitutional change'. In several cases, the instigators of change have a legitimate claim of seeking to restore democracy. The AU's stance is that the end cannot justify the means. The problem then becomes how to establish a democracy by democratic means, if authoritarian rule will not allow a peaceful transfer of power? It is a question that has vexed philosophers since the French Revolution and remains a dilemma for African norm entrepreneurs.

While the AU has portrayed action taken in each case as automatic and uncompromising, decisions whether and how to respond take place in the context of many factors beyond matters of principle. Cases which have not been taken up by the AU are as significant as those that have elicited a response. For example, why has Laurent Gbagbo faced stronger sanction from the AU than Robert Mugabe, when both leaders refused to admit to clear electoral defeat? Is the prevalence of West African cases because this region is less stable than others, or is there an uneven consolidation of the norm among regional economic communities (RECs)? Does ECOWAS prompt the AU to act more readily than SADC or IGAD, or are the regional hegemons like Nigeria and South Africa driving the PSC decisions? The conclusion seeks to identify a pattern in the AU's agenda of democracy promotion.