

# AU stance on Egypt is a rare show of commitment

But some issues warrant clarification, writes **Solomon Ayele Dersso**

**T**HE DOMINANT sentiment by the international community towards President Mohamed Mursi's forcible ousting has been one of ambivalence and acceptance. The EU issued a statement supporting the Egyptian public's demand that Mursi steps down. UN secretary-general Ban Ki-moon expressed concern over the army's interference but stopped short of calling it an unlawful forcible overthrow.

US President Barack Obama expressed deep concern and urged the swift return of democracy. Although none condoned the ousting, they did not condemn it, perhaps due to Mursi's association with the Muslim Brotherhood.

The AU broke ranks and is the only international body to punish Egypt for deposing Mursi. On July 5, the AU Peace and Security Council (PSC) determined that "the overthrow of the democratically elected president does not conform to the relevant provisions of the Egyptian constitution and therefore falls under the definition of an unconstitutional change of government".

It decided to suspend Egypt's participation in AU activities "until the restoration of constitutional order".

While the AU's stance is legal and in accord with its practice regarding unconstitutional changes of government, Egypt's circumstances invite questions. The first relates to the application of this principle when a government is overthrown through a popular uprising. In objecting to the PSC's decision, Egypt's ambassador in Addis Ababa, Mohamed Edrees, said: "The African Union is not used to addressing change by the mandate of the will of the people. This is a new challenge from a political and legal aspect to the African Union's existing rules and instruments."

For the AU, the main reason for treating this as an unconstitutional change of government is the electoral credentials of Mursi's government. The AU commissioner for peace and security, Ramtane Lamamra, has said the principal guide for the PSC was that there is now "an elected president who continues to claim that he is the legitimate leader and has supporters that agree with him".

While this is a key consideration, it is not the most decisive one. Given that Mursi's overthrow was the result of protests accompanied by army intervention, similar to Hosni Mubarak's toppling, the key factor should have been whether

Egyptians could have achieved a change of government without street protests. This distinguishes the removal of Mubarak from that of Mursi.

Another major factor distinguishing Mursi's government from that of Mubarak is that it has not closed all options for its replacement. Ousting the government through street protests was not the last option. As Abdullah al-Arian pointed out, people who opposed Mursi "could have mobilised their energies toward upcoming parliamentary elections, won the majority, and proceeded to amend the constitution and empower a prime minister to take on a greater share of policy-making than Mursi".

There are a number of reasons for insisting that overthrowing a government through popular uprisings should be an exceptional act of last resort for it to be legitimate. The most important is stability and order.

As is underscored by the crisis in Egypt, the PSC was right to express its concern at the risks the situation poses for the long-term stability of Egypt and the cohesion of its people, "with far-reaching national and regional consequences".

Another consideration for judging whether the overthrow meets

the AU's standard of unconstitutional change of government is the role played by the military, although this was not identified as a factor in the AU's decision. While millions of Egyptians demanded Mursi's expulsion, the military's intervention was decisive. As Marwan Bishara observed, the military's intervention prevented "any last-minute efforts that would save face and pave the way for constructive change, such as holding a referendum over the presidency or the building of a national unity government, leading to early elections".

A number of issues must be resolved with respect to the applicability of the norm on unconstitutional changes of government, particularly when a popular upris-

ing is involved in ousting a government. First, if a government is toppled through a popular uprising and the AU treats this act as legitimate, it is imperative to clarify the standard for determining the popularity of an uprising as a manifestation of the "will of the people" and hence as a legitimate act. Second, in the context of Egypt there is the question of the standard applied for determining the moment of restoration of constitutional order, which will mark the end of Egypt's suspension from AU affairs.

Unfortunately, there is no consistent practice on this and there have been instances in which the AU lifted the suspension of a member state after the establishment of a transitional government but before elections were held, such as Mali. During the press briefing after the July 5 PSC meeting, AU Commission head Nkosazana Dlamini-Zuma said: "Nobody will sit behind the (Egyptian) flag – neither the previous government nor the present interim government – until there is an election." This means the establishment of a transitional government might not be enough to reinstate Egypt's full participation in AU affairs.

Rather than insist on elections, the AU could make lifting the sus-

pension dependent on establishment of an all-inclusive transitional government that also represents Mursi's support base.

Another aspect of the AU's rule on unconstitutional changes of government is its prohibition on people who perpetrated that change from participating in subsequent elections. A key question is whether personalities such as Mohamed ElBaradei would be seen as playing a critical part in ousting Mursi and should not, as per AU rules, participate in the election to be held at the end of the transition now being negotiated. While the AU decision represents a rare show of its commitment to stand firmly by this norm even with respect to one of the "big five" countries that contribute most to AU finances (Algeria, Egypt, Libya, Nigeria and South Africa), there are issues the AU needs to clarify with respect to its norm on unconstitutional changes of government, particularly in cases involving popular uprisings.

● *Solomon Ayele Dersso is a senior researcher in the conflict prevention and risk analysis division of the Institute of Security Studies in Addis Ababa. This article first appeared on [www.issafrica.org/iss-today](http://www.issafrica.org/iss-today)*



**FUTURE IN THE AIR**

**Supporters of President Mohamed Mursi wave to a military helicopter during a protest in Alexandria**



**WHILE THE AU STANCE ON EGYPT IS LEGAL, EGYPT'S CIRCUMSTANCES INVITE QUESTIONS**

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