



No. 28, November 2011

CONTENTS OF THIS ISSUE

Early Warning Issues for November	1	PSC Retrospective: Review of AU's norms on unconstitutional	
Pre-Election Analysis: DRC	2	Changes of Government and their implications for the North African	
Country Analysis: Libya	4	Popular uprisings	13
Country Analysis: Somalia	9	Important Forthcoming Dates	15

This Report is an independent publication of the Institute for Security Studies. It is also available on the ISS website and can be viewed together with Thematic Reports on the work of the PSC at www.issafrica.org. All documents referred to in this Report can also be found on the ISS website

Peace and Security Council Protocol

'The PSC shall encourage non-governmental organizations to participate actively in the efforts aimed at promoting peace, security and stability in Africa. When required such organizations may be invited to address the Peace and Security Council' – Article 20 of the Protocol Relating to the Establishment of the PSC of the African Union

Early Warning Issues for November

The scheduled Rotating Chair of the African Union (AU) Peace and Security Council (PSC) for the

month of November is Djibouti. In the absence of a country's representation at ambassadorial level, an alternate member will chair the Council for the month. Member States currently represented on the AU Peace and Security Council include Benin, Burundi, Chad, Côte

d'Ivoire, Djibouti, Equatorial Guinea, Kenya, Libya, Mali, Mauritania, Namibia, Nigeria, Rwanda, South Africa and Zimbabwe.

BIO DATA: H.E. Mohamed Idriss Farah

Current posts: Djibouti's Ambassador to Ethiopia, Permanent Representative to the AU and Chair of the PSC

DRC

On 28 November 2011, the DRC will hold presidential and legislative elections and, with both, high stakes are involved. Over 32 million voters

have been registered. There are 11 presidential candidates contesting these 2011 polls, none of whom has proven majority support across the country. However, with the new one-round system, a simple majority will declare the new President.

Three key issues surrounding this electoral process are security concerns, political contestation and electoral readiness.

Libya

While the seizure of Sirte and the death of Gaddafi on October 20 marked the end of Gaddafi's 42 years rule, the peace and security of Libya is far from certain. The first and most important issue for Libya is to ensure that law and order is established. Emotions are very high

with diverse forms of armed groups, in circumstances where there is no unified command and control. The challenge here is how to prevent the occurrence of blood vendettas, lootings and criminalities that arise in similar conditions. There is also risk of widening divisions and eruption of conflict between rebel groups from different regions. Related to this is the management of the transitional

issues ranging from prevention of human rights violations by security forces to the formation of an all-inclusive transitional government and the establishment of a process for a workable national reconciliation.

>>page 2

Livingstone Formula

'Civil Society Organizations may provide technical support to the African Union by undertaking early warning reporting, and situation analysis which feeds information into the decision-making process of the PSC' – PSC/PR/(CLX), 5 December 2008, Conclusions of a Retreat of the PSC on a mechanism of interaction between the Council and CSOs.

Somalia

The hope for a political solution to the Somali crisis looks dim at this point as there is no visible interest from the two major parties, the TFG and *Al Shabaab*, in starting talks anytime soon. Both parties are also in a state of weakness and division. The various transitional institutions, including the civil service, the police and the army are weak and

ineffective. The recent territorial gains by AMISOM and the TFG forces cannot guarantee security or effective control as demonstrated by the bomb attacks in Mogadishu last month. The military intervention of the Kenyan government is believed to further complicate the situation as it is strongly opposed by *Al Shabaab*, which has warned of retaliation, and some elements of the TFG, including the president. The Kenyan

intervention endorsed by IGAD (Intergovernmental Authority on Development) will also give a new dimension to the regional security dynamics of the Somali conflict.

PRE-ELECTION ANALYSIS

Democratic Republic of Congo

Crisis Escalation Potential

28 October 2011 marked the start of the official campaign period for presidential and legislative elections in the DRC that are slated for 28 November 2011. Preceding this, notable events related to the elections include the January constitutional amendments that now favour a one round vote with a simple majority win, the February operationalisation of the Independent National Electoral Commission (*Commission Electorale Nationale Indépendante, CENI*), the June adoption of an electoral law without the proposed contentious amendments and the August signing of a code of electoral conduct by political parties. Within the context of continued insecurity in parts of Eastern DRC and serious nationwide challenges in socio-economic and infrastructural development, this electoral process is set against the odds. With more than 19,000 candidates from over 428 registered political parties contesting only 500 seats in the National Assembly, it is clear that the stakes are high in this political contest. Most importantly, the upcoming elections will determine whether the DRC is on a sustainable path toward peace and democracy. The potential for crisis emanating from the elections can be pegged on two key factors; electoral conduct and logistical challenges.

Failure to respect established standards of electoral conduct will increase the risk of violence during and after the election period, thereby compromising

the credibility of the electoral process and endangering the stability of the country. In recent months, there have been skirmishes between supporters of the Union for Democracy and Social Progress (*Union pour la démocratie et le progrès social, UDPS*) and the ruling party, People's Party for Reconstruction and Development (*Parti du peuple pour la reconstruction et la Démocratie, PPRD*). Violent clashes between opposition demonstrators and the police resulted in injuries and several deaths. This pre-electoral violence occasioned a temporary ban on demonstrations in September and increased calls for the UDPS to sign the code of electoral conduct already signed by all other political parties. Such violence also reveals the deep political divisions in the country and the overall political instability and insecurity that the DRC continues to face.

Logistical challenges pose another threat to this process with definite implications on the credibility of the process. CENI has dismissed speculations on the possibility of a postponement of the elections or of the splitting of the presidential and legislative polls. CENI insists the polls will take place as scheduled, despite the fact that not all the electoral equipment has been received, the location of polling stations has not been released and the candidate bulletins for both polls are still in print. Directly impacting perceptions of transparency and fairness will be the logistical challenge of deploying sufficient political party monitors and election observers to about 62,000 polling stations (as yet unmapped) around the country. The transport and fiscal implications of deployment in the face of these delays will be exacerbated by the geographic and infrastructural challenges that exist in the DRC.

Key Issues and Internal Dynamics

On 28 November 2011, the presidential and legislative elections will be held and, with both, high stakes are involved. Over 32 million voters have been registered. There are 11 presidential candidates for these 2011 polls, none of whom has proven majority support across the country. However, with the new one-round system, a simple majority will declare the new President. Three key issues surrounding this electoral process are security concerns, political contestation and electoral readiness.

Security concerns

Persistent insecurity in parts of Eastern DRC questions the capacity of the Congolese army (*Forces armées de la République démocratique du Congo, FARDC*) and the United Nations Stabilisation Mission in the Democratic Republic of Congo (MONUSCO) to protect civilians during and after this electoral process. Despite laudable efforts to eliminate illegally armed groups and integrate locally armed groups into the national army, insecurity is still a serious threat to inhabitants of the Eastern provinces. Allegations that the integration of former rebels favoured those with perceived links to Rwanda, has created fresh security concerns in the East on two levels. First, there is fear and mistrust among residents in the East, with the fact that the integration process now puts alleged former perpetrators of violence as rebels, in key positions in FARDC, where they are now expected to provide civilian protection. Second, there is apprehension amongst residents on the possible insecurity backlash in the form of reprisals from the supposed key pro-Kabila

>>page 3

the incumbent will have exceeded his constitutional and presidential mandate, thereby creating a power vacuum that may then be filled unconstitutionally.

Scenario 2:

The elections take place as planned, but fail to meet the standards of being 'free and fair' leading to the rejection of the results. This will lead to contestation either through legal or illegal actions, thereby introducing a risk of violent conflict and insecurity.

Scenario 3:

Observers and monitors declare the elections 'free and fair,' but political parties still reject the results if unfavourable to them. With potentially no grounds or external support to contest results in this scenario, there is a greater likelihood of violent conflict as there would be increased insecurity.

Early Response Options

The following are the early response options that the PSC could consider:

Option 1:

The PSC could issue a communiqué commending preparations being made for holding the elections, urging their timely completion and calling on the Congolese authorities and political actors to respect the Electoral Code of Conduct and refrain from actions and statements that could have the effect of inciting violence.

Option 2:

The PSC could authorise the AU Commission to deploy an election observation mission to the DRC, to focus its observations particularly on those parts of the country where violence is likely to occur, including the capital Kinshasa and Eastern DRC.

Option 3:

Given the risk of electoral violence in the DRC, the PSC could act on the recommendations of the Panel of the Wise (PoW) contained in its report on Election Related Disputes and Political Violence, most notably to request the Panel of the Wise, in collaboration with the ICGLR, to facilitate dialogue between the Congolese political actors in order to defuse rising tensions and propose measures to pre-empt their escalation.

COUNTRY ANALYSIS

Libya

Previous PSC and AU Communiqués

Just before breaking news on the death of Colonel Muammar Gaddafi, the Peace and Security Council (PSC) held its 297th meeting, which, among other issues, discussed the situation in Libya. In its Communiqué, **PSC/PR/COMM/2. (CCXCVII)**, the PSC decided to 'authorize the current authorities in Libya to occupy the seat of Libya in the AU and its organs'. The PSC also decided that the AU Commission (AUC) Chairperson would take 'the required steps for the early establishment of an AU Liaison Office in Tripoli, to be headed by a Special Representative, to assist ... in the efforts aimed at stabilizing the situation in Libya, promoting national reconciliation and inclusivity and facilitating the transition process towards democratic institutions, building on the relevant provisions of the AU Roadmap.'

In a communiqué released on 21 October 2011, the AUC announced that it was taking steps for the early establishment of an AU Liaison

Office to Libya. The communiqué reiterated the AU's conviction 'regarding the imperative need for national reconciliation among all Libyans, in line with the stated commitment of the new Libyan authorities, for this is a prerequisite for stability and the establishment of viable, democratic and accountable institutions.'

The major challenges for the PSC are how to prevent the degeneration of the volatile security situation in post-Gaddafi Libya into civil war, to help the country achieve stable transition and to contain the effects of the proliferation of arms and fighters, both in Libya and countries of the Sahel region as well as other neighboring countries.

Crisis escalation potential

While the seizure of Sirte and the death of Gaddafi on 20 October marked the end of Gaddafi's 42 years of rule, the peace and security of Libya is far from certain. The first and most important issue for Libya is to ensure that law and order is established. Emotions are very high among diverse armed groups, in circumstances where there is no unified command and control. The challenge is how to prevent the occurrence of blood vendettas, lootings and criminal acts that have arisen elsewhere in similar

conditions. There is also a risk of widening divisions and eruption of conflict between rebel groups from different regions. Related to this possibility is the management of transitional issues ranging from prevention of human rights violations by security forces to the formation of an all-inclusive transitional government and the establishment of a process for a workable approach to national reconciliation.

The country is flooded with weapons and arms, and concerns have been expressed over surface-to-air missiles that went missing from the regime's weapons stockpile. While the level of proliferation of arms in Libya reportedly surpasses even that of stateless Somalia, its reach is not limited to Libya. For Libya, this raises questions about whether the National Transitional Council (NTC) is able to disarm, demobilize and reintegrate all the diverse groups that took up arms against Gaddafi. What makes this issue particularly critical is not only the fact that the armed groups that fought Gaddafi operated independently, but also that the NTC, the *de facto* authority in Libya, is not accepted as the main authority by all the rebel movements in that country. The proliferation of weapons beyond the borders of Libya has the added danger of creating opportunity for the emergence of armed rebel

>>page 5

groups threatening not only Libya, but also the countries of the Sahel. Apart from retrieving illegal arms that ended up in the wrong hands, securing Libya's weapons stockpiles and the excess of small arms and heavy weaponry in the hands of rebel fighters is crucially important for the future security of the country and the whole region.

Key issues and internal dynamics

During the month of October, there were only two major regions under the control of pro-Gaddafi fighters. These were Bani Walid and Sirte. With the expiry of the deadline for the peaceful surrender of the two cities, rebel forces launched an offensive against pro-Gaddafi forces in the two cities on 10 October. On 17 October, the NTC-affiliated forces broke the resistance of pro-Gaddafi forces in Bani Walid and took full control of the city. Three days later, on 20 October, rebel fighters crushed Gaddafi loyalists that mounted fierce resistance in Sirte.

On 20 October, as rebel forces captured Sirte, news broke about the death of Gaddafi. While Interim Prime Minister Mahmoud Jibril stated that Gaddafi had died in the course of the fighting around Sirte, Gaddafi was reportedly in the custody of rebel forces before his death. As videos of Gaddafi subsequently appeared on news channels amid conflicting accounts about the cause of his death, the United Nations and the United States (US) Government called for an independent investigation into the circumstances surrounding his death. On 22 October, Human Rights Watch (HRW) claimed, in a press statement calling for an independent investigation with international participation, that it had evidence indicating that Gaddafi might have been executed after being captured. On 24 October, Libya's interim leader, Mustafa Abdul Jalil, announced that the NTC had formed a committee to investigate Gaddafi's killing.

Although the war in Libya ended with the fall of Gaddafi's hometown of Sirte, Gaddafi loyalists were not totally dislodged from Libya. Gaddafi's son, Saif al-Islam, is still at large and on 23 October he broadcast a message over the Arrai television station vowing to continue the resistance, although it was subsequently reported that he was contacting the ICC to surrender

himself. Additionally, experts feared that pockets of resistance were present in the southern desert of Libya around Sebha, the Traghan oasis, the Wadi al-Ajal, Oubari, Ghat and perhaps elsewhere in Libya. Consequently, there remains a risk of insurgency emerging from these areas.

Another source of insecurity in post-Gaddafi Libya is the possibility of division within the armed rebel forces. There are fears of rivalry between the various armed rebel groups and within the NTC itself. With the main unifying goal of ousting Gaddafi having been achieved, this danger has become imminent. Given that the different factions in the NTC are armed (this was not the case in Egypt), the emergence of such rivalries risks the fall of the country into anarchy.

Related to the above concern, one major immediate challenge facing the new Libya is the establishment of law and order. This entails, among other concerns, ensuring that security forces are brought under unified control, security institutions are established within a unified administration, and the criminal justice system is made fully functional. Given the clear risks of human rights violations and arms proliferation that have emerged in the country, it is also imperative that mechanisms for accountability are established and that arms and weapons are accounted for and collected.

On 14 October, the head of the UN Human Rights Office, Mona Rishmawi, warned that there was a serious risk of human rights abuses particularly in Sirte and Bani Walid. Given the NTC's lack of control over rebel forces, perceived loyalists, detained Gaddafi fighters and African migrants could face persecution and reprisal attacks. On 12 October, Amnesty International (AI) released a new report, entitled 'Detention Abuses Straining the New Libya,' detailing human rights abuses that included torture in rebel-run detention centres. On 24 October, Human Rights Watch called for an investigation into the deaths of 53 people suspected of being killed by rebel forces. HRW also said that it had found the remains of at least 95 people who apparently died the day rebel forces captured Gaddafi.

In the course of the eight month long civil war, large amount of arms and weapons in different parts of the country ended up in 'civilian' hands.

As a result, the country is currently awash with weapons and arms taken from various Gaddafi army bases, thereby putting the security of the country in serious danger. Some reports indicate that the level of proliferation in Libya is far greater than in stateless Somalia. On the one hand, this situation necessitates the adoption of measures aimed at disarmament, demobilisation and reintegration of the diverse rebel forces, a difficult undertaking that has prompted NTC's Prime Minister Mahmoud Jibril to suggest the creation of local security companies to absorb fighters unwilling to disarm. On the other hand, the situation may require a process of accounting for and retrieving illicit arms from the wrong hands. These are among the priority tasks that the NTC (and the soon-to-be-established interim government) needs to successfully carry out in post-Gaddafi Libya for a successful transition to take place

Apart from establishing law and order, another immediate challenge for the NTC is the formation of an-inclusive government. On Monday, 3 October 2011, the NTC announced that it would name a new transitional government within one month after the declaration of the liberation of the country and would hold elections eight months after the end of fighting. The time for the formation of the transitional government came when, on Sunday 23 October 2011, the NTC declared the country to be fully liberated. On 24 October, NTC leader Abdul-Jalil announced that the NTC would form a new interim government within two weeks.

The first major challenge the NTC faces in its move to establish a transitional government is how to avoid excluding members and supporters of the former regime, including Libyan Tuareg tribesmen who fought on the side of Gaddafi. Unless adequate care is taken to ensure that the right balance is kept between accountability and justice on the one hand and, on the other, avoiding the total exclusion of members of the Gaddafi regime from the future politics of the country,, the possibility of achieving national cohesion and reconciliation will be fraught with serious danger. On 29 August 2011, the first signs of cracks revealing this danger emerged when protests erupted in Misrata against the NTC's decision to appoint Albarrani Shkal, a former

>>page 6

A further challenge that the NTC needs to overcome, in terms of establishing a legitimate transitional government, concerns the divisions within itself. The NTC is not a cohesive and unified entity. Rather, it is a coalition of various forces who are otherwise united by their opposition against and commitment to ousting Gaddafi. As the 28 July assassination of rebel commander Abdel Fattah Younes, while in custody of rebel forces, attested, there are multiple fault lines within the NTC. These fault lines run along tribal, geographical and historical lines and including the historical division between eastern and western Libya.

It is important to note that there are other relevant and longer-term divisions that post-Gaddafi Libya also needs to contend with. These include the tribal divisions and the divide between the western and eastern regions of the country. The rebellion as well as the fall of Gaddafi created the conditions for the emergence of divisions based on religious ideologies between Islamists and secularists. The jihadist groups, such as the Libyan Islamic Fighting Group and *al Qaeda* in the Islamic Maghreb may also attempt to take advantage of the prevailing political and security atmosphere of insecurity dawning in post-Gaddafi Libya.

This division between the eastern and western segments of the country is reflected in the level of acceptance that the NTC has enjoyed in these two parts of the country. Although it is the internationally recognized authority in Libya, the NTC lacks full legitimacy and a strong base in the west of the country. Misrata's rebel leadership in particular has tried to maintain its independence from the NTC. This situation has led some observers to contemplate the dangers of Libya splitting in two. There is a potential danger that the announcement by the NTC that it would undertake an investigation into the death of Gaddafi would further widen the rift between the NTC and Misrata's rebel leaders whose fighters captured Gaddafi.

Another longer-term challenge for post-Gaddafi Libya is the protracted task of transforming the state from its autocratic past to a future democracy based on the rule of law and human rights for all Libyans. The nature of the system of governance institutionalized and practiced by Gaddafi renders this task more onerous. Upon coming to power in 1969, he introduced his so called 'Third Universal Theory' which advanced the idea that people should directly run the activities of government and exercise its powers.. Accordingly, it limited government structure and authority to 'people's committees'. The result of this practice, over the years, has been the lack of regard to the development of state bureaucracy or any form of institutionalized structure. The justice and security sectors are also fragmented. The Absence of an established constitutional system also means that the country lacks a tradition of party politics, an independent media and press and organized civil society. This means that state institutions need to be built from the ground up and conditions must be created for enabling members of society to form institutions that will enable them to participate in public affairs and hold their leaders accountable.

priority during reconstruction. According to the NTC, the cost of reconstruction could reach USD 5 billion. Since Jahani made these estimates, the fighting in Bani Walid and Sirte resulted in further damage to the material and physical infrastructure of these cities. Indubitably, the resultant destruction of large parts of these two cities will add tremendously to the cost of rebuilding the country.

Pan-African and Regional dynamics

Niger's Justice Minister, Marou Adamou, told reporters that one of Gaddafi's sons, Saadi, entered Niger on 11 September 2011. According to Marou, Saadi was in a convoy of nine people who were intercepted while heading in the direction of the town of Agadez. During the previous week, two convoys of Gaddafi loyalists had crossed into Niger through this town. The three convoys together reportedly carried members of the Tuareg militia who had allegedly been hired to fight for Gaddafi, 32 reported Gaddafi loyalists (including Mansour Dao - the widely loathed head of Gaddafi's personal security retinue), two generals, Gaddafi's son Saadi, and possibly substantial quantities of gold bullion and cash.

Earlier, other members of the Gaddafi family had fled to Algeria. On 29 August, The Algerian foreign ministry said Gaddafi's wife Safiya, daughter Aisha, and sons Hannibal and Mohammed and their children, had entered Algeria.

There are concerns that pro-Gaddafi elements, including the Tuareg, may launch armed rebellion from neighbouring countries. In late September, military officials of the NTC reported that eight people were killed in cross-border attacks by pro-Gaddafi forces operating from Algeria. The NTC reportedly fears Gaddafi loyalists could mount attacks from across the border and then escape back into Algerian territory.

Apart from their reported involvement in the Libyan civil war on the side of Gaddafi, their marginal political status in the five countries of the Sahel (Niger, Mali, Burkina Faso, Algeria and Libya) identifies the Tuareg as potential recruits for any

PSC Report Programme, Institute for Security Studies, Addis Ababa. T: +251-11-372-11-54; F: +251-11-372-59-54; addisababa@issafrica.org; www.issafrica.org

Other neighbouring countries that are affected include Sudan, Egypt and Chad. According to Sudan's UN ambassador, the Darfur rebel group, Justice and Equality Movement, has received as many as 100 truckloads of weapons within the last two weeks. On 13 October,

On 21 October, Russian Ambassador Vitaly Churkin proposed that the UN Security Council lift the no-fly zone over Libya. Although the French and British ambassadors suggested more consultations with Libyan officials to ensure a smooth transfer before lifting the no-fly zone, the Council adopted Resolution 2016/2011 on 27 October lifting the imposition of the no-fly zone and ending the mandate on protection of civilians. The Resolution also expressed the concern of the members of the Security Council at the proliferation of arms in Libya and its potential impact on regional peace and security. Reports indicated that Russia had circulated a draft resolution to the members of the Security Council, highlighting the problem of proliferation of weapons including missiles unaccounted for.

The fall of the last strongholds of Gaddafi and his subsequent demise meant that NATO would imminently cease its air campaign. Although NATO had earlier reported that it would only decide when it would stop its military campaign after consultation with the UN and NTC, on 21 October the NATO Secretary-General, Anders Fogh Rasmussen, declared that alliance members had reached a “preliminary decision” to end Libyan operations on 31 October. On 28 October, following Security Council Resolution 2016,

7

Many anticipate that post-Gaddafi Libya will witness substantial changes in its foreign relations. There are questions about the ability of the current authorities to pursue a policy that ensures respect for the territorial integrity and sovereignty of Libya. In this regard, the role of some of the countries that supported the military campaign against Gaddafi came into question. Early in October 2011, the Guardian newspaper, reported that unnamed Western diplomats had raised concerns over Qatar's involvement in post-conflict Libya. One source questioned 'whether (Qatar was) being helpful and respectful of Libyan sovereignty.' Instead of backing the transitional government as a whole, officials suspect that Qatar was providing support to specific figures in Libya.

Given the above analysis the following could take place:

Despite the declaration of Libyan liberation, post-Gaddafi Libya faces further risks of conflict. An insurgency may break out in the regions with pockets of resistance. Additionally, with the various factions within the NTC vying for dominance and influence and the NTC failing to achieve full control over the various armed groups, the coalition could fracture resulting in armed confrontation and further chaos.

The NTC will establish the transitional government, accepted by all the major political actors and sections of society. This paves the way for the new authorities, with the support of the AU and UN, to consolidate peace and establish law and order.

The arms circulating in Libya and most importantly in the neighbouring countries of the Sahel could result in the proliferation of armed rebel groups affecting and drawing into conflict the countries of the region.

The following are among the early response options that the PSC could consider:

The PSC could call on the UN to expand UNSMIL into a full-fledged peacekeeping operation mandated to support the transitional process in the country. This will be critical to help the country overcome the various security challenges it is currently facing.

The PSC could establish a taskforce led by the Chairperson's Special Representative to Libya to coordinate the activities of Libya and the countries of the region to end the proliferation of arms and the risks of further regional violence and terrorism.

The PSC could call on the NTC to ensure that armed rebel groups desist from perpetrating reprisal attacks against detained Gaddafi forces, people from the regions supporting Gaddafi, African migrant workers and black Libyans and that independent investigations are undertaken into the alleged perpetration of human rights violations including the circumstances surrounding the death of Gaddafi and others reported to have been summarily executed by rebel fighters.

PSC/PR/COMM/2.(CCXCVII) (20 October 2011) Communiqué on the Situation in Libya

PSC/AHG/3(CCXCI) (26 August 2011) Report of the Chairperson of the Commission on the situation in Libya and on the efforts of the African Union for a political solution to the Libyan crisis

PSC/AHG/COMM.(CCXCI) (26 August 2011) Communiqué on the situation in Libya

AU Commission (25 MARCH 2011) Consultative Meeting on the Situation in Libya Addis Ababa

PSC/PR/BR.1(CCLXVIII) (19 March 2011) Press statement on the Situation in Libya

AU Commission (19 MARCH 2011) Meeting of the African Union ad hoc High-Level Committee on Libya Nouakchott

Press Release (17 March 201) the African Union ad hoc High-Level Committee on Libya Meets in Nouakchott on 19 March 2011 Addis Ababa

PSC/PR/COMM.2(CCLXV) (10
MARCH 2011) Communiqué on
the situation in Libya

S/RES/2009 UN Security Council
Resolution 2016 (27 October
2011) On the Situation in Libya

S/RES/2009 UN Security Council Resolution 2009 (16 September 2011) On the Situation in Libya

S/RES/1973 UN Security Council
Resolution 1973 (March 17 2011)
On the Situation in Libya

S/RES/1970 UN Security Council
Resolution 1970 (26 February) On
the Situation in Libya

Somalia

Previous AU/PSC Communiqués and Recommendations:

In a press release dated 4 October, 2011 the chairperson of the AU Commission, Jean Ping, strongly condemned the suicide bomb attack in Mogadishu, which killed more than 70 and injured many others. The attack on 4 October targeted students who were applying for scholarships to study in Turkey. The Chairperson, who described the act as barbaric, said that the attack came when the country was making remarkable progress towards peace and stability. Ping further reaffirmed the AU's commitment to continue supporting the 'Somali Government and the people in implementing the Transitional Roadmap agreed in early September'.

At its 293rd meeting on 13 September 2011, the PSC received the Report of the Chairperson of the Commission on the situation in Somalia [PSC/PR/2(CCXCIII)], as well as the statements made by the representatives of the Transitional Federal Government (TFG) of Somalia, the United Nations, and Ethiopia, in its capacity as Chair of the Inter-Governmental Authority on Development (IGAD). In a communiqué PSC/PR/COMM(CCXCIII) that followed the meeting, the Council commended the recent gains made on the ground by the forces of the AU Mission in Somalia (AMISOM) and the TFG and welcomed the signing of the Kampala Accord of 9 June 2011, which extended the mandate of the TFG until 20 August 2012.

The Council also praised the Roadmap adopted by the consultative meeting held in Mogadishu from 4 to 6 September 2011. The meeting further stated that the recent political and security developments had created a unique opportunity to further consolidate peace and reconciliation in Somalia. The communiqué requested the UN Security Council to reaffirm its commitment to authorize the deployment of a United Nations operation to take over AMISOM and support the long term reconstruction and stabilisation of Somalia.

Somalia also featured on the agenda of the PSC at its 289th meeting held on 16 August 2011, where the Council was briefed on the situation in Somalia by the Commissioner for Peace and Security and the Special Representative of the Chairperson of the Commission for Somalia. The Council also noted communications by the Special Representative of the United Nations for Somalia and the IGAD Facilitator for Somalia's Peace and National Reconciliation. In a subsequent communiqué PSC/PR/2(CCLXXXIX), the PSC welcomed the extension of the mandate of the Transitional Federal Government (TFG) and AMISOM forces over control of areas formerly occupied by *Al Shabaab* in Mogadishu. The Council further encouraged the transitional government to take all necessary steps for the speedy implementation of the Djibouti Agreement of 19 August 2008, the Kampala Accord of 9 June 2011, and the national reconciliation process, before the end of its renewed mandate. The Council also called on Member States and partners to support AMISOM in reaching its UN authorized strength of 12,000 troops.

Earlier, in a press statement, PSC/PR/BR.2(CCLXXXIII), adopted at its 273rd meeting held on 21 April 2011, the PSC expressed its concern over continuing serious differences between the Transitional Federal Government (TFG) and the Transitional Federal Parliament (TFP) over the end of the transitional period and post transition arrangements. The PSC urged the contending groups and institutions in the transitional government to harmonize their views on these issues and further urged the TFG to take advantage of the gains made by the African Union Mission in Somalia (AMISOM) to map out a clear political strategy. The Council also noted with deep concern the dire humanitarian situation in Somalia and appealed to the international community to provide the required humanitarian support.

Crisis Escalation Potential:

Weeks after the complete withdrawal or removal of *Al Shabaab* from Mogadishu, on 4 October 2011, a truck bomb targeting the education ministry killed at least 70 people. Most of the victims were young students applying for scholarships to study in Turkey. *Al Shabaab*, which has reportedly weakened in recent months, claimed responsibility for the attack.

Kenya recently witnessed a series of kidnappings of foreign tourists and aid workers in its eastern region. The Kenyan government blamed *Al-Shabaab* militants for the attacks. A cancer-stricken quadriplegic Frenchwoman and an Englishwoman have been seized in the past six weeks; the Englishwoman's husband was killed by the kidnappers and on October 12 the French government announced that the Frenchwoman, who required constant medication, had died in the hands of her kidnappers in Somalia. On 13 October, gunmen kidnapped two Spanish women working for Medecins Sans Frontieres (MSF) at Kenya's Dadaab refugee camp, located about 100 km for the Somali border. It is now the world's biggest refugee camp with more than 400,000 residents. The events have escalated tensions along the Kenyan Somali border. Kenyan authorities stated recently that the attacks were seriously affecting Kenya's peace and security and its vital tourism sector

Despite fears by some Kenyans that their country could become a target for more *Al Shabaab* attacks if it sends its troops into Somalia, on 17 October 2011 Kenya announced that it had started an operation inside Somalia to pursue militants suspected of carrying out a spate of kidnappings. Government spokesman, Alfred Mutua, said troops were pursuing *Al Shabaab* militants across the border. Kenyan troops crossed the border supported by helicopters and jet fighters. According to some sources, warplanes attacked two *Al Shabaab* bases in southern Somalia, but the sources could not confirm if the jets were Kenyan. Kenya's foreign minister, Moses Masika Wetangula, said Kenya was defending itself in the wake of the suspected *Al Shabaab* kidnappings. The unprecedented move by the Kenyan armed forces has forced *Al Shabaab* to take desperate measures. Residents in the town of Qoqani said militants were going into people's homes and forcibly recruiting new fighters.

Al-Shabaab has reacted to Kenya's move with anger and warned Kenya to withdraw its troops from Somalia or face a bloody war. The group's spokesman, Ali Mohamud Rage, said that fighters would attack Nairobi. He warned that *Al Shabaab* fighters would defend themselves and threatened that 'the tall buildings in Nairobi will be destroyed'. Subsequently, on 18 October 2011,

>>page 10

a car bomb exploded outside the former foreign ministry in Mogadishu, killing five people. The attack came as Kenya's defence minister and foreign minister were holding talks with the Somali government to reach an agreement on Kenya's mission to fight Al Shabaab in south western Somalia. Senior officials of the transitional government, including its Ambassador in Nairobi, have publicly backed Kenya's move, acknowledging its right to defend itself.

On 24 October an early-morning grenade attack on a nightclub in the centre of the Kenyan capital, Nairobi, injured 13 people. Police have not said who was behind the attack, but some commentators have blamed Al Shabaab. Another blast went off at a bus stop in Nairobi, killing at least one person. On 21 October Al Shabaab rebels displayed over 70 bodies outside Mogadishu, which they claimed were African Union peacekeepers killed in battle. However AMISOM subsequently denied the claim as a fabrication. On 27 October gunmen ambushed a vehicle in Kenya near the border with Somalia with a rocket-propelled grenade, killing four people including a school teacher and a government official. All three incidents are believed to be Al Shabaab's response to Kenya's offensive inside Somalia.

The situation became more complicated following a statement by the Somali president opposing Kenya's military assault. While Al Shabaab had already threatened revenge attacks, the public opposition of Somali President Sharif Sheikh Ahmed further raised the stakes over the controversial cross-border incursion by Kenyan forces. Sheikh Sherif said that 'Somalia's government and its people (would) not allow forces entering its soil without prior agreement,' creating confusion on the perceived accord between Nairobi and Mogadishu on the matter. He said that the only agreement he was aware of with the Kenyan forces, was their offer to train the national army of Somalia. Sharif's statement appeared to contradict the agreement signed in mid-October by the Kenyan and Somali defence ministers to 'co-operate in undertaking security and military operations.' The agreement signed in Mogadishu, limits Kenyan operations to Somalia's Lower Juba region.

The hope for a political solution to the Somali crisis looks dim at this point as there is no visible interest from the two major parties, the TFG and Al Shabaab, in starting talks

anytime soon. Both parties are also in a state of weakness and division. The various transitional institutions, including the civil service, the police and the army are weak and ineffective. The recent territorial gains by AMISOM and the TFG forces cannot guarantee security or effective control as demonstrated by the bomb attacks in Mogadishu last month. The military intervention of the Kenyan government is believed to further complicate the situation as it is strongly opposed by Al Shabaab, which has warned of retaliation, and some elements of the TFG, including the president. The Kenyan intervention endorsed by IGAD (Intergovernmental Authority on Development) will also give a new dimension to the regional security dynamics of the Somali conflict.

Key Issues and Internal Dynamics:

On 10 October 2011, AMISOM announced that it had full control of the capital, Mogadishu, for the first time since its deployment in 2009. The commander of the force, General Fred Mugisha, said that the mission would be extending its operation to the central and southern areas, including the city of Kismayo. The General further stated that the recent terror attacks by Al Shabaab had revealed how 'weak and desperate' the group had become.

Various reports show that Al Shabaab, which is estimated to have 7,000 to 9,000 fighters, is in crisis. The group is faced with severe famine that is far worse in areas under its control than other parts of the country, leading to reports of splits in the leadership of the Al Qaeda-linked group. There has been a great exodus of residents from the Al Shabaab controlled areas to the capital and refugee camps in recent months. Some estimates put the number as high as half a million. The loss of Mogadishu will be a huge financial blow to Al Shabaab, as it can no longer extort money from businesses in the city's commercial hub, the Bakara market. According to some reports, Al Shabaab was collecting taxes from about 4,000 shops, ranging from 50 USD per month from the small trader to thousands of dollars from big businesses such as the telecom companies.

The Al Shabaab leadership is reportedly deeply divided over the food crisis. According to some

sources, the group's leaders from the south, including Muktar Ali Robow who is originally from the famine-hit Lower Shabelle, and Sheikh Hassan Dahir Aweys, are in favour of accepting Western food aid. However, Ahmed Abdi Godane, who is the leader of the group, is against the idea. Ahmed, who led the partnership with Al Qaeda, is suspicious of the UN and Muktar Ali Robow is now accusing Ahmed Abdi Godane, who is originally from the autonomous region of Somaliland, of letting people starve.

The initial popularity of Al Shabaab as a group fighting against foreign intervention in Somalia and a provider of relative law, order and services, is fading away quickly, mainly because of its brutality in meting out punishments that include amputations, stonings, and beheadings of Somali citizens. Al Shabaab's recruitment of children, its cold-blooded use of civilians as human shields, and its harsh taxation schemes have also not endeared it to Somalis. The group is in a situation where it can neither wage an effective offensive nor face the better armed AMISOM troops. Its only resort, currently, is to occasional suicide bombings and a continuing terrorist campaign. An in-depth study by the University of Uppsala, published in March 2011, showed that the financial support for Al Shabaab by the Somali Diaspora has declined dramatically in recent years. The research further shows that Al Shabaab has replaced its lost external support with more efficient internal revenue generation in Somalia. Taxes, port fees and protection rackets have been systematically and reliably implemented.

Nonetheless, the group cannot be written off entirely, as it still controls a huge section of south western Somalia and other major towns, such as Kismayo. Charcoal exports through Kismayo are estimated to be worth \$15m a year in direct revenue for Al Shabaab; an enterprise that also shows scant regard for the environment. The unpopularity of the transitional government also means that the grassroots support for the group will not disappear entirely.

The state of the Transitional Federal Government (TFG) is not very much different, and it is unlikely to take advantage of the limitations of Al Shabaab. The international support for the TFG is at an all-time low

>>page 11

The TFG started implementing a new roadmap to a new constitution and subsequent elections by August 2012, following a recent high-level consultative meeting in Mogadishu on 6 September 2011. The Prime Minister, Dr Abdiweli Mohamed Ali, said the implementation process of the roadmap would be inclusive of all Transitional Federal Institutions, regional administrations, Ahlu

The military operation waged by the Kenyan government to 'wipe out' Al Shabaab has created a new dimension to the Somali conflict. Kenya's President Mwai Kibaki has defended sending troops into Somalia and stated: 'The security of our country is paramount. We will defend our territorial integrity through all measures necessary to ensure peace and stability.' The operation 'Linda Nchi' Swahili for "Protect the Nation" includes more than two battalions of Kenyan troops backed by air power. A loss of Kismayo would be a major blow to the al Qaeda-linked rebels for whom the city is an important operations base that serves as a major source of revenue from illegally trafficked goods. Kenyan officials have stated that they were forced to intervene in Somalia to secure Kenya's border with Somalia and protect the Kenyan tourism industry, the third largest source of foreign exchange, earning the country 74 billion shillings (\$740 million) last year. The finance

Kenya has also announced that it will launch a major security operation in

its capital to wipe out Al Shabaab sympathisers. The government said it would launch an operation to clean out Eastleigh, a neighborhood in Nairobi inhabited by people from neighboring Somalia, Ethiopia and Sudan. However, fears are high that the crackdown may victimise innocent people, especially Kenyans of Somali origin. Nairobi is already on a high security alert following the two recent bomb attacks that killed one person and wounded more than a dozen others.

UN Dynamics:

On 30 September the UN Security Council voted unanimously to renew the mandate of the African Union Mission in Somalia (AMISOM) as well as its support package for the mission. Resolution 2010 allowed AMISOM to take 'all necessary measures' to carry out its mandate. The Resolution requested the African Union (AU) to urgently increase its force strength to its mandated level of 12,000 uniformed personnel, 'thereby enhancing its ability to carry out its mandate' and '(urged) the establishment of a more permanent and increasing presence by the United Nations to Somalia, particularly in Mogadishu, consistent with the security conditions.' The resolution has given approval to the AU's plan to develop a police component for AMISOM in order to help build up security in Mogadishu, and encouraged the UN and AU to develop a guard force to provide support and protection to personnel from the international community in the country.

The UN Special Representative in Somalia, Augustine Mahiga, said that the present situation in Somalia provides a moment of opportunity in the Somali peace process, which must be seized upon. He said that the security situation on the ground was improving. Mahiga also said: 'the humanitarian situation is depressing, but has brought renewed international attention to Somalia as much as it has weakened the jihadists.' The UN Representative said that this combination of opportunities and challenges must be met with creativity and resolve to energize the peace process in Somalia.

On 7 September 2011, the UN Secretary General Ban Ki-moon called on the international community to provide additional resources for Somalia's transitional leaders following their adoption of

the new road map. The Secretary General also welcomed the signing of the ceasefire accord between the Puntland and Galmudug administrations, which are semi-autonomous divisions within Somalia.

On 24 October 2011 the Security Council called for tougher anti-piracy measures in Somalia and the wider region, urging all countries to adopt laws and cooperate with international organizations to accelerate the prosecution and punishment of the crime of piracy. In a unanimously adopted resolution, the UNSC urged countries that have not already done so to criminalize piracy under their domestic laws and to implement prosecution methods in accordance with international human rights law.

Wider International Community Dynamics

The International Contact Group on Somalia (ICG), a UN-backed group of countries and regional organizations supporting peace and reconciliation in Somalia, held a two-day meeting in Copenhagen, Denmark, on 30 September 2011. The group called on the international community to continue contributing to life-saving and sustainable livelihood activities that would reduce the impact of future droughts and disasters in Somalia. The ICG also welcomed a consultative meeting of transitional leaders in Mogadishu in early in September which culminated in the adoption of a new road map for completing the current transitional period, spelling out priority security measures to be implemented by next August, and agreement on writing a constitution, reconciliation and good governance.

On 13 October, 2011 the Italian foreign Minister, Alfredo Mantica, said that Italy, the former colonial ruler of Somalia, would open its embassy in Mogadishu by the end of 2011. The Minister said the move would be done in coordination with the European Union, which still had to appoint a special representative for the Horn of Africa. The Embassy will be located in a protected district, inside the AMISOM headquarters.

The visit by the Turkish Prime Minister, Recep Tayyip Erdogan, to Mogadishu in mid-August 2011, was one of the most significant visits to Somalia in past months. Erdogan, who became the first head of government from outside Africa to visit Somalia for nearly

two decades, visited refugee camps and hospitals in Somalia. Erdogan, who was accompanied on the visit by his family and four ministers, promised to help build a major hospital, six field hospitals and a road from the airport to Mogadishu. With the growing international and Middle East visibility and prominence Turkey could become a crucial stakeholder in the Somali conflict. On 20 October, Somalia's President Sharif Sheikh Ahmed also visited Turkey and held discussions with President Abdullah Gül. Turkey provides a significant amount of humanitarian and development aid to Somalia in addition to scholarships for hundreds of Somali students.

On 25 October 2011, France announced that it would give logistical support to Kenyan forces pursuing Islamist militants across the border in Somalia. Colonel Thierry Burkhard, a French military spokesman, said that French planes would transport military equipment to Kenyan soldiers near the Somali border. However the French denied claims that a French warship had shelled a Somali town on 22 October.

Scenario Planning:

The situation in Somalia could follow a number of courses based on the actions taken by the various parties to the crisis in the coming months. These are the possible scenarios:

Scenario 1:

As both the TFG and Al Shabaab weaken, a security vacuum might be created. Various militias, including some led by the warlords, may regain influence in parts of the country.

Scenario 2:

The TFG with support from AMISOM could capitalize on Al Shabaab's withdrawal from Mogadishu and push further to extend its military gains. Al Shabaab which is fighting on two fronts at the moment will find itself in a difficult situation that compels it to start talks with the TFG.

Scenario 3:

The incursion by Kenyan forces may create new alliances and new

>>page 13

major actors within Somalia and in the Horn of Africa, thereby further complicating the crisis.

Early Response Options:

Given the above scenarios the following options could be considered:

Option 1:

The PSC could in tandem with IGAD work to initiate talks between the major parties to the conflict by reaching out to the moderate elements of *Al Shabaab*.

Option 2:

The PSC could urge and support the TFG to resolve its differences and build capacity to implement the new road map and previous agreements.

Option 3:

The PSC could emphasise the urgent need to provide predictable, timely and reliable funding to AMISOM,

including increasing the allowance of AMISOM personnel to the equivalent level of UN personnel. The Council could also continue working with regional mechanisms and brigades to enhance the capacity of AMISOM.

Option 4:

The PSC could discuss Kenyan military intervention in South Western Somalia and take an institutional perspective of the move.

Documentation:

Relevant AU Documents:

Press Release (4 October, 2011) The Chairperson of the Commission of the African Union Strongly condemns today's terrorist attack in Mogadishu

PSC/PR/COMM(CCXCIII) (13 September 2011) Communiqué on the situation in Somalia

PSC/PR/2(CCXCIII) (13 September 2011) Report of the Chairperson of the Commission on the situation in Somalia

PSC/PR/2(CCLXXXIX) (16 August 2011) Communiqué on the situation in Somalia

RECs Documents:

Communiqué of the 41st Extra Ordinary Session of the IGAD Council of Ministers

PSC Retrospective: Review of AU's norms on unconstitutional Changes of Government and their implications for the North African Popular uprisings

Under Article 4 (p) of the Constitutive Act of the AU, prohibition of unconstitutional changes of government is established as one of the principles on which the AU is founded. In underscoring the particular importance attached to this norm, the prohibition of unconstitutional changes of government is the only commitment under the Constitutive Act for which a sanction is specifically prescribed in the event of a breach. Accordingly, Article 30 of the Constitutive Act provides: Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.

The Constitutive Act does not however elaborate what constitutes unconstitutional changes of government. In its Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government, otherwise known as the Lomé Declaration adopted in 2000, the Assembly agreed on the following definition of situations that could be considered to be unconstitutional changes of government:

i) Military coup d'état against a democratically elected government; ii) intervention by mercenaries to replace a democratically elected government;

iii) replacement of democratically elected government by armed dissidents groups and rebel movements; and iv) the refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.

This elaboration of the content of unconstitutional changes of government is incorporated in a binding document under the Charter on Election, Democracy and Good Governance of 2007. This Charter added another element to the list provided under the Lomé Declaration. More specifically, Article 23(5) of the Charter refers to: 'Any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government'.

The Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union to Manage Such Situations, **Doc. Assembly/AU/4(XVI)**, adopted by the 14th Ordinary Session of the AU Assembly on 30 January 2010, further strengthened the norm by expanding the operation of the sanctions in the event of a breach. Accordingly, apart from the suspension of the country concerned, it was decided under this instrument to apply the following measures:

- non-participation of the perpetrators of the unconstitutional change in the elections held to restore constitutional order;
- implementation of sanctions against any Member State that is proved to have instigated or supported an unconstitutional change in another State; and
- implementation by the Assembly of other sanctions, including punitive economic sanctions.

Additional principles that guide AU measures against unconstitutional changes of government were enunciated by the Peace and Security Council of the AU in the so-called Ezulwini Framework for the enhancement of AU Sanctions in Situations of Unconstitutional Changes of Government. These include the following:

- Coups d'état are illegal and totally unacceptable;
- Perpetrators of coups d'état shall be liable for prosecution before the African Court of Justice and Human Rights;
- Perpetrators of coups d'état shall not stand for elections conducted for return to constitutional order;

>>page 14

PSC Retrospective: Review of AU's norms on unconstitutional Changes of Government and their implications for the North African Popular uprisings (continued)

- Perpetrators of coups d'état shall not constitute obstacles by negatively influencing the conduct of a transition toward the return to constitutional order;
- Constitutions shall not be manipulated in order to hold on to power against the will of the people;
- Constitutional-making or review processes shall not be driven by personal interests and efforts aimed at undermining popular aspirations; and
- Non-interference of military/security forces in the transition towards the return to constitutional order.

In the context of the North African popular uprisings and particularly with respect to the situation in Libya, the AU was faced with the challenge of determining whether the events that led to the overthrow of the regime in Libya were contrary to its well-established norm of unconstitutional changes of government. Part of the reason for this dilemma lies in the fact that unlike the uprisings in Tunisia and Egypt, the Libyan case involved armed rebellion that culminated in the ousting of Gaddafi's regime. The reluctance of the AU to extend recognition to the National Transitional Council (NTC) is partly attributable to this dilemma.

The uncertainties facing the AU on the application of its norm on unconstitutional changes of government became explicit when the AU High-Level Ad Hoc Committee on Libya adopted a communiqué on 14 September 2011, following its meeting held in Pretoria, South Africa. In this communiqué, the Committee suggested that the PSC consider authorizing representatives of an all-inclusive government of Libya to occupy, upon its establishment, Libya's seat in the AU. Based on a report from the Chairperson of the AU Commission, the Committee stated that such a decision should be 'without prejudice to the relevant instruments of the AU, particularly those on unconstitutional changes of Government.'

This formulation suggests that the norms on unconstitutional changes of government were applicable to the events in Libya. This is problematic at various levels. As may be gathered from the review of instruments on unconstitutional changes of government, the popular uprisings in North Africa including the revolt in Libya do not fall into any of the cases defined as constituting unconstitutional changes of government. It is true as a matter of principle that effecting regime change through rebellion is not acceptable within the framework

of the AU norm on unconstitutional change of government. In the case of Libya, the armed rebellion was preceded by, and constituted, an extension of the popular uprising, but it was also an act of self-defense. It was a response to the violence that the incumbent regime unleashed against peaceful protesters. As Ambassador Lamamra, in his Key Note address at the 284th meeting of the PSC, pointed out, 'these uprisings could not be treated as cases of unconstitutional changes of government ... Essentially, the uprisings carried a message of popular demand for an alternative, better political, social and economic dispensation that responds to the aspirations of the people'.

The fact that armed struggle was critical for toppling Gaddafi's regime, although relevant, is not sufficiently decisive in concluding that the resultant political change was unconstitutional. As the AU PSC repeatedly stated in many of its communiqués on Libya, what is decisive is the aspiration of the people for democracy and a just system of government. While the norm on unconstitutional change of government aims at peaceful and orderly transition, the main object of this norm is promoting a constitutional order based on and reflective of the will of the people. In the context of Libya, the application of the norms on unconstitutional changes of government is also problematic for other reasons. First, as the Chairperson of the AU, in his report to the PSC, noted: '[f]or too long, the political system in Libya (under Gaddafi) has been at variance with the relevant instruments of our Union.' There was no constitutional process to speak of. Second, as the popular uprising in the country attested, before its descent into civil war, the regime remained in power against the will of the people, which was in itself contrary to the norms on unconstitutional changes of government. Third, circumstances in the country were such that people did not have any legal means for bringing about change in government except through popular revolt and eventual armed rebellion. Finally, applying the norms on unconstitutional changes of government would also lead to the absurd conclusion that those who led the armed struggle that culminated in the ousting of Gaddafi should be excluded from participating in the formation of a new system of government in Libya.

From the above, it can be gathered that there is a need to have clarity on the application of the AU's norm on unconstitutional changes of government particularly in relation to situations similar to the popular uprisings in North Africa. For dealing with events similar to the popular uprisings in North Africa, as Commissioner Lamamara

suggested in his address to the 284th meeting of the PSC, the AU needs to put in place appropriate response mechanisms other than the norm on unconstitutional changes of government. This would be best achieved through identifying AU norms on democracy, human rights and good governance and developing guidelines or considerations for determining the legitimacy of such uprisings, should they occur in future.

These guidelines may include the following four considerations:

- The first consideration relates to the existence of what the CADSP refers to as 'situations that prevent and undermine the promotion of democratic institutions and structures, including the absence of the rule of law, equitable social order, population participation and electoral processes.' In other words, the uprisings would be perceived as last resort measures of popular self-defence against major breaches of democratic and human rights principles;
- The second consideration is the organization and nature of the mobilization of protestors. The test here is the issue of whether the uprising involves an attempt on the part of a particular political grouping or section of society to impose its political agenda on others. In other words, is this a popular national uprising, or is it a sub-national group attempting to seize power without the will of the majority of the people;
- The third consideration is the popularity of the uprisings. Numerical strength, although important, is not the major decisive factor. Accordingly, the main test in measuring popularity is whether or not the participation in the uprisings transcend prevailing ideological, religious, ethno-cultural, and other sectoral cleavages in society; and
- The fourth consideration can be the involvement of external actors. Where external actors are deeply involved in instigating or actively supporting uprisings, the right of the people in that society to self-determination becomes compromised with the consequence of rendering the country amenable to manipulation by outside forces.

Important Forthcoming Dates

- 1-3 November: IFPRI-AU-UNECA meeting on Increasing Agricultural Productivity and enhancing Food Security in Africa: New Challenges and Opportunities, Addis Ababa, Ethiopia
- 3-4 November: G20 Summit, Cannes, France
- 6-8 November: IFPRI and CASS International Conference on Climate Change and Food Security, Beijing, China
- 16 November: UN International Day of Tolerance
- 20 November: UN Africa Industrialisation Day
- 21-25 November: AU and CAADP Ministerial Conference on Rural Infrastructure for improved market access in Africa's agricultural sector, Kigali, Rwanda
- 27 Nov – 9 Dec: UN Framework Convention on Climate Change (UNFCCC) Conference of the Parties (COP 17) Durban, South Africa

Country	Election	Date
Morocco	Parliamentary	25 November
The Gambia	Presidential	24 November
DRC	Presidential and National Assembly	27 November
Egypt	Parliamentary	28 November
Gabon	National Assembly	December
Côte d'Ivoire	Legislative	11 December
Guinea	Legislative	29 December

Contributors to this Volume:

ISS PSC Report Programme, Addis Ababa: Dr. Duke Kent-Brown, Dr. Solomon Ayele Dersso, Mr. Hallelujah Lulie and Mr Abebe Aynete.

ISS ACPN-Nairobi: Ms Nyambura Githaiga

Donors:

This Report is published through the support of the Ministry of Foreign Affairs of the Federal Republic of Germany and the Humanity United Foundation. In addition, the Institute for Security Studies receives core support from the Governments of the Netherlands, Norway, Sweden and Denmark.

As a leading African human security research institution, the Institute for Security Studies (ISS) works towards a stable and peaceful Africa characterised by sustainable development, human rights, the rule of law, democracy and collaborative security and gender mainstreaming.

© 2011, Institute for Security Studies

Copyright in the volume as a whole is vested in the Institute for Security Studies, and no part may be reproduced in whole or in part without the express permission, in writing, of the Institute. The opinions expressed do not necessarily reflect those of the Institute, its trustees, members of the Advisory Council or donors.

Contact

Programme Head
Peace and Security Council Report Programme
Institute for Security Studies
P.O. Box 2329
Addis Ababa, Ethiopia

Tel: +251-11-372-11-54
Fax: +251-11-372-59-54
Email: addisababa@issafrica.org

website: www.issafrica.org

