

Mandate impossible: mediation and the return to constitutional order in Madagascar (2009-2013)

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ABSTRACT

Mandate impossible: Mediation and the return to constitutional order in Madagascar (2009–2013)

Abstract

This article explores former President Joaquim Chissano's mediation in Madagascar after the 2009 political crisis that led to the ouster of President Marc Ravalomanana. It shows that there are inherent tensions in mediating the reestablishment of constitutional order in the context of the African Union's anti-coup policy. While espousing the ideal of mediation as an inclusive and locally owned process, Chissano's mandate contradicted both the realities on the ground and the prescriptions of the AU's anti-coup policy. The article analyzes the norms and principles inscribed in this mandate and their ambiguous translation into practice. The analysis offers inroads into understanding the normative and practical dilemmas of mediation in the context of unconstitutional changes of government.

Introduction

On June 20, 2009, the Summit of the Southern African Development Community (SADC) appointed Mozambique's former president Joaquim Chissano as chief mediator for a political crisis that had erupted in Madagascar. Three months previously, the Malagasy President Marc Ravalomanana had been ousted from power after months of public protest in the island's capital, Antananarivo. A military committee had then installed Andry Rajoelina, the former mayor of Antananarivo, as "President of the Transition."¹ As Ravalomanana fled into exile, Rajoelina promised fundamental reforms and new elections. SADC and numerous other regional and international organizations, including the African Union (AU), called for the rapid restoration of constitutional order. This was in line with the AU's anti-coup policy, promulgated in the Lomé Declaration, which prohibits

governments that come to power unconstitutionally from participating in the organization and mandates the AU to ensure that constitutional order is restored.²

In order to achieve this in Madagascar, the SADC Summit mandated Chissano to “create a conducive environment for a productive and successful dialogue” between Malagasy “stakeholders” and to “ensure that the Malagasy people take full ownership of the process.”³ The mediator was expected to finalize the work upon “the completion of the inclusive dialogue and holding of the general elections in Madagascar.”⁴ Yet reestablishing constitutional order in Madagascar took almost five years. It involved several rounds of negotiations, agreements that were signed and reneged on, sanctions applied against individuals, and legislative and presidential elections that in early 2014 finally marked the restoration of constitutional order.

That this process took much longer than initially expected is often attributed to the lack of coherence between the numerous international actors that came to “assist” Madagascar’s return to constitutional order. Madagascar, so the argument goes, reflected the “crowded field” of international mediation.⁵ While this observation is apt, I seek to show that it does not explain adequately why mediation turned out to be so difficult. I use Chissano’s mandate as my analytical focus in order to show that there are inherent tensions in the idea of *mediating* the restoration of constitutional order in the context of the AU’s anti-coup policy.

Chissano’s mandate expressed the ideals of mediation understood as a voluntary, consensual, and inclusive process owned by the parties themselves, which the impartial mediator assists.⁶ This mandate contradicted both the realities on the ground and the AU’s anti-coup policy. The SADC summit thus created a mandate that was impossible to realize. Firstly, the mediation had no invitation from the Malagasy parties. The mediators were thus forced to find “stakeholders” who they could assist and who were willing to compromise, which contradicts the idea that the mediation team was a facilitator and the process was locally owned. Secondly, the ultimate aim of the process (elections), the path (negotiations), and the time frame (as short as possible) were predetermined before the mediation started, contradicting the ideal of an open process owned by the parties themselves. As I show, this meant that the mediators acted rather as negotiators and sometimes even resorted to coercive measures in order to ensure the rapid restoration of constitutional order. This closed the space for actual mediation and the search for political solutions to the crisis beyond elections. It also exposed the mediation to criticism because it failed to implement its own ideals.

This argument is based on primary documents and interviews that I conducted in 2014 during a five-month research visit to Antananarivo, Gaborone,

Pretoria, and Johannesburg and during earlier research at the AU headquarters in Addis Ababa.

The following section summarizes the international efforts to reestablish constitutional order in Madagascar. The third section describes the multiple sources of Chissano's mandate. The fourth section scrutinizes the two contradictions that made "mediating" the return to constitutional order in Madagascar difficult: the fact that the mediation team had no mandate from the "stakeholders" it was meant to assist; and the contradiction within Chissano's mandate between a policy on unconstitutional changes of government on one hand and the claim that the mediator would help Malagasy "stakeholders" find their own solution to the crisis on the other.

Restoring constitutional order in Madagascar

In March 2009 the AU, SADC, and other international actors immediately condemned the ousting of Ravalomanana as an unconstitutional change of government and demanded the rapid restoration of constitutional order.⁷ Within days, four special envoys representing various organizations arrived in Antananarivo: Tiébilé Dramé (UN), Ablassé Ouédraogo (AU), Edem Kodjo (Organisation internationale de la Francophonie, OIF), and Themba Absalom Dlamini (SADC). On April 30, 2009, the International Contact Group on Madagascar (ICG-M) was set up to facilitate coordination between the international actors. However, these actors strongly disagreed on how they interpreted the situation and what exactly to demand from the Malagasy parties. While all requested a return to constitutional order, it was unclear what exactly this entailed.

SADC sided with Ravalomanana, demanded his reinstatement, and even threatened to consider "other options to restore constitutional normalcy."⁸ The Common Market for Eastern and Southern Africa (COMESA) demanded the examination of "all options, including the possibility of military intervention."⁹ In Madagascar, both decisions were perceived as a threat to use military force to reinstall Ravalomanana. The AU Peace and Security Council (PSC) demanded that the Chairperson of the AU Commission "work closely with SADC and AU partners... to contribute to the rapid restoration of constitutional order."¹⁰ The AU preferred a mediated solution but was bound by its policy framework on unconstitutional changes of government. The UN was more flexible, yet also insisted on a mediated solution.¹¹ The US, despite having been a crucial supporter of Ravalomanana, endorsed the idea of transitional elections. In contrast, the French Minister of Foreign Affairs, Bernard Kouchner, called the situation a popular coup d'état.¹² The French government nevertheless considered the dissolution of the parliament unconstitutional and demanded that Rajoelina organize elections as soon as possible.¹³ This dissonance also manifested itself among the four special envoys who were sent to Antananarivo. They promoted different formats for the negotiations and

apparently sent different signals to the leaders of the Malagasy negotiation parties.¹⁴

Despite these disagreements, however, the various international efforts to reestablish constitutional order soon converged on the idea that a negotiated power-sharing deal and elections were required to resolve the crisis. To break the confrontational atmosphere between the pro-Ravalomanana and pro-Rajoelina camps, the mediators decided that negotiations should include the so-called four *mouvances* (*quatre mouvances*) representing Ravalomanana, Rajoelina, and the two former presidents, Didier Ratsiraka and Albert Zafy. Several rounds of negotiation were held in Antananarivo, without tangible result.

In June 2009, SADC appointed Chissano as lead mediator to create a “conducive environment for a productive and successful dialogue.”¹⁵ On August 8, 2009, Chissano facilitated the signing of the Maputo Accords in which the *mouvances* agreed to establish a government of national unity and organize elections within 15 months. But the accords left open—or deliberately vague—questions relating to the division of cabinet posts, the role of Rajoelina during the transition, and eligibility to stand for elections.¹⁶ Two more rounds of negotiations were organized, one in Maputo and the other in Addis Ababa. However, despite the *mouvances*’ stated commitment to a “neutral, inclusive, civil, and consensual” transition, consensus remained elusive. As summarized by Ratsiraka, “Nous nous chamaillions comme des gosses,” or, “We were quarreling like kids.”¹⁷ The envisaged power-sharing deal soon broke down.

In mid-December 2009 Rajoelina announced that the time to negotiate was over and that Madagascar’s transition had to take place without further lengthy debates. In reaction, the AU PSC decided to apply targeted sanctions against 109 members of the coup regime, known as the HAT (*Haute autorité de transition*).¹⁸ The international demand for a “consensual and inclusive transitional period” and an “inclusive, transparent and credible dialogue” was nevertheless reiterated, as was Chissano’s mandate to facilitate the process.¹⁹

After a series of failed negotiations under the auspices of the AU, South Africa, and France, on September 17, 2011, Chissano and his mediation team facilitated the signing of the SADC Roadmap for Ending the Crisis. The Roadmap confirmed Rajoelina as president of the transition, established *inter alia* a government of national unity and two legislative organs, and defined preconditions for the holding of transitional elections.²⁰ The signatories to this agreement were eight political parties and the *mouvances* of Zafy and Ravalomanana.

Following a turbulent transition, presidential and legislative elections were finally held in October and December 2013. The presidential election was won by Hery Rajaonarimampianina, who had run as Rajoelina’s candidate. Despite a contentious electoral process and an initial call by the Ravalomanana camp not to accept the results, Rajaonarimampianina’s victory was soon recognized

by his rivals and internationally. Thus, for the AU and SADC, constitutional order was successfully reestablished.

The mandates to mediate

The multiplicity of competing international mediators and interests involved in the crisis in Madagascar has rightly been interpreted as an illustration of a new complexity in international mediation.²¹ However, what made the mediation difficult was not only the diverging interests of and institutional competition between international actors but that the ideals and principles set out in the mediator's mandate—that he would facilitate an open and inclusive process owned by the Malagasies themselves—were at odds with both the realities on the ground and the prescriptions of the AU's anti-coup policy. This also widened the gap between the official rhetoric and the actual practices and caused the mediation to be contested. A closer look at Chissano's multiple mandates sheds light on the norms and principles on which his efforts were based and shows the extent to which, and with what consequences, these norms and principles became obstacles in practice.²²

Chissano's appointment was made in the context of SADC's 2001 Protocol on Politics, Defence and Security Cooperation. The constitutional mandate thus stemmed from the protocol's Article 11(2), which stipulates that in cases of "a military coup or other threat to the legitimate authority of a State" the SADC Organ on Politics, Defence and Security may seek to resolve the conflict.²³ This constitutional mandate was the basis on which the SADC Summit appointed Chissano as mediator.

Chissano's mediation was also approved by the PSC, which welcomed his work as chief mediator, although it claimed that the mediation would take place "under the auspices of the African Union."²⁴ Even though Chissano had been appointed by SADC, the AU sought to retain its role as the guardian of continental peace, security, and democracy. The PSC continued to monitor the situation, Chissano was invited to brief the PSC and the AU Assembly, and the mandate of the AU special envoy was not renewed. When the mediation stalled, AU Chairperson Jean Ping and AU Commissioner Ramtane Lamamra traveled to Madagascar to convey the decisions taken by the PSC and the ICG-M. For the AU, the constitutional mandate also derived from the AU's anti-coup policy, which had been introduced in the Lomé Declaration of 2000 and was later affirmed in the AU's Constitutive Act and the Protocol Relating to the Establishment of the Peace and Security Council.²⁵ As mentioned, this policy condemns the unconstitutional takeover of power as an "anachronistic act" and mandates the AU to "facilitate the restoration of constitutional order" as quickly as possible.²⁶

The normative mandate underpinning the mediation efforts in Madagascar derived from a variety of SADC and AU policies. The Lomé Declaration does not offer details on what the restoration of constitutional order means in

practice but refers in general terms to the promotion of democracy, the rule of law, and the people's right to choose their government.²⁷ The 2007 African Charter on Democracy, Elections and Governance extends the Lomé Declaration by prohibiting the "perpetrators of unconstitutional changes of government" from participating in transitional elections, thus setting procedural standards for the reestablishment of constitutional order.²⁸ The SADC protocol in turn is not explicit about how the "threat to the legitimate authority of a State"²⁹ should be addressed but lists as SADC objectives the promotion of human rights and democratic institutions and practices.³⁰

Chissano's political mandate came in the first instance from the SADC Summit.³¹ The mandate was to "lead and coordinate the all-party dialogue in Madagascar."³² More specifically, Chissano's terms of reference requested him to create a "conducive environment for a productive and successful dialogue" and to "encourage the Malagasy stakeholders to take the lead of the inclusive dialogue and work to ensure that the Malagasy people take full ownership of the process."³³ Moreover, it was stated that the "work of the SADC Facilitator should be finalized upon completion of the inclusive dialogue and holding of the general elections in Madagascar."³⁴ In 2010, after Rajoelina and the HAT reneged on the Maputo and Addis Ababa agreements, the SADC Summit once again requested Chissano to "continue with efforts towards restoration of constitutional order in Madagascar, through an inclusive, transparent and credible dialogue."³⁵ The AU PSC and the ICG-M backed the political mandate by monitoring the situation, keeping up political pressure, delineating red lines, and garnering support for SADC and Chissano.³⁶ While in some regards the PSC, the ICG-M, and the SADC Summit held different positions, they all converged in supporting Chissano's efforts to forge a consensual and inclusive solution to the crisis.³⁷

Chissano's political mandate thus clearly expressed both the general ideal of mediation as an inclusive, consensual, and locally owned process and the broader norms of the AU and SADC for addressing unconstitutional changes of government. In doing so, however, it contained two obvious contradictions. First, despite the instruction to Chissano to "lead and coordinate the all-party dialogue in Madagascar,"³⁸ there was no mandate from the parties themselves. So what had instigated Chissano's mediation was not a request from the "stakeholders" themselves but rather the constitutional provisions and policies of the African organizations.³⁹

Second, in line with the AU's anti-coup policy, the political mandate defined the ultimate goal of the mediation as the restoration of constitutional order through the organization of elections and determined that this should be achieved as quickly as possible. This contradicted the stated aim of Malagasy ownership of the course and content of the process. That both the ultimate end and the time frame were already set is reflected not only in Chissano's official terms of reference but also in the various SADC, AU, and ICG-M resolutions and statements. In December 2009 the PSC reiterated its demand for a "rapid restoration of constitutional order"⁴⁰ and stated that the aim of the international

efforts would be “to meet the conditions for the successful holding of legislative and presidential elections, which will mark the end of the crisis.”⁴¹ The ICG-M decided that to reestablish constitutional order, Malagasy political actors should work for a transition “as short as possible,” which “should enable the organization, in a consensual and inclusive manner, of elections that are free, credible, and transparent.”⁴²

Consequently, the political mandate contained a certain ambiguity regarding the extent to which Malagasies were actually meant to own the process. This was reflected in the wording of the SADC Summit decisions and Chissano’s terms of reference. On the one hand, these documents refer to ownership and dialogue as key principles for resolving the crisis. They say that “the ownership of the political dialogue in Madagascar must lie with the Malagasy people themselves.”⁴³ On the other hand, they also place leadership of the dialogue in the hands of the mediator, who ultimately has to “ensure that it is a success, in line with his mandate.”⁴⁴ The problems resulting from this self-initiated and prescriptive mediation are discussed in the following section.

Tensions in “mediating” the return to constitutional order

When Chissano arrived in Antananarivo for the first time, he was certainly not “undermandated.” Rather, the directive to rapidly restore constitutional order through elections and a “consensual, inclusive and transparent dialogue”⁴⁵ owned by Malagasies themselves set the bar high for what “mediation” should achieve. This section discusses the two tensions implicitly contained in this mandate as well as their consequences that became evident when the mandate was translated into practice.

Mediation without invitation

The first tension in Chissano’s mandate stemmed from the fact that while it spoke about “stakeholders” who ought to be assisted by the mediator, these “stakeholders” did not instigate and invite the mediation in the first place. They were not the ones who had requested mediation, but they became the “stakeholders” because of the international demand to organize an inclusive dialogue. Yet rather than agreeing on a transitional power-sharing arrangement, the four mouvances used the negotiations to promote their individual claims to power. This rendered both “mediation” and agreement at the table futile.

The rationale for inviting the four mouvances to the negotiations was that this would give the process more legitimacy and credibility. Moreover, the Ratsiraka and Zafy mouvances were expected to break the stalemate between the main protagonists, Rajoelina and Ravalomanana, and serve as facilitators between them.⁴⁶ This choice reflected Chissano’s mandate to create an inclusive and comprehensive process owned by Malagasies themselves. The

result, however, was the creation of negotiation parties that were neither able nor willing to carry out the required role of organizers of an inclusive and neutral transition process.

The four *mouvances* were in fact inventions of the mediation process. None of them had existed as such before. While the *mouvances* of the three former presidents—Ravalomanana, Ratsiraka, and Zafy—were founded on their leaders' respective party structures, they also drew opportunists into their ranks. For all of them, it was unclear who actually belonged to the *mouvance* and how the *mouvance* related to the existing political parties. This ultimately meant that the *mouvances* turned into arenas of internal competition for power and prestige. As one interviewee said, within the *mouvance* Zafy “tout le monde veut être calife à la place du calife” (“everyone wants to take the leader's place”), pointing to members' competition and intrigues in order to access or secure power.⁴⁷

As a result, the *mouvances* were fairly volatile internally. This was most obviously the case with the one led by Rajoelina, which reflected the spontaneous and heterogeneous “coalition of circumstances” that had characterized the anti-Ravalomanana movement.⁴⁸ One participant in the Maputo negotiations described this tendency as follows:

The problem was Mr. Rajoelina, who was under the influence of the members of his *mouvance*. When we met among the four of us, he accepted, but when we reunited in plenary he renounced from the concessions he had made. This is how he differed from Mr. Ratsiraka or Mr. Ravalomanana: when they decided, the other members of their *mouvances* followed. For him [Rajoelina] it was the opposite. He was under the influence of the members of his *mouvance*.⁴⁹

The internal incoherence and uncertainty forced Rajoelina on several occasions to make sudden reversals, complicating the negotiations. Zafy's minutes from the early rounds of the negotiations held in Antananarivo paint a similar picture. Here, for instance, Rajoelina's delegation was divided on how to determine the scope and substance of an amnesty arrangement. This was one of the reasons for postponing the negotiations.⁵⁰ Internal incoherence was also a problem within Ravalomanana's *mouvance*. Ravalomanana was in exile in South Africa, so the question of who actually represented his *mouvance* in Antananarivo regularly caused confusion for both the *mouvance* and the mediator.⁵¹

The four *mouvances* also lacked the material and non-material resources required to fulfill the externally expected role of negotiating Madagascar's political future. Apart from the former presidents, only a few members of the *mouvances* had experience in diplomacy and international negotiation. On the one hand, this often meant that agreements were reneged on, and an overall high degree of uncertainty prevailed during the negotiations.⁵² On the other, it

cemented internal hierarchies and placed extraordinary importance on the leaders of each mouvance.

The concentration on the *chefs de file* (party leaders) was also reflected in the mouvances' respective positions at the negotiation table. All four were distinguished more by their leaders' rivalries and alliances than by broader political visions. This is not to say that the mouvances did not have particular themes that shaped their respective contributions. However, it emphasizes how limited the *scope* of the negotiations actually was. Zafy focused on promoting his long-elaborated ideas on national reconciliation.⁵³ Ratsiraka stressed the importance of revising the constitution, decentralization, and amnesty provisions, this last being an issue that mattered for him personally.⁵⁴ Ravalomanana's mouvance focused on his return to Madagascar, compensation for the destruction of his personal fortune during the protests in early 2009, amnesty, and the release of those imprisoned since 2009.⁵⁵ Rajoelina focused mainly on being recognized as president of the transition and on preventing Ravalomanana's return, which he portrayed as conditions for realizing the once promised political renewal.⁵⁶

These examples show that the issues and priorities that the mouvances brought to the negotiations reflected the individual strategies and interests of their respective leaders rather than tangible programs for the political, social, or economic (re)organization of Madagascar. The mouvances thus diverged from the ideal of coherent, committed, and legitimate negotiation parties with clear interests in formulating a transitional program and organizing elections. The international demand for an inclusive, transparent, and credible dialogue had, contrary to the intentions of the AU and SADC, resulted in negotiations that the "stakeholders" used to advance personal interests in a zero-sum game. This caused new tensions within and between the four parties and called into question whether this was actually a dialogue owned by the Malagasy parties. In the eyes of many Malagasies, the tensions compromised the legitimacy of not only the parties but also the whole mediation process, which seemed to perpetuate rather than diminish intra-elite conflict and exacerbate the political crisis.⁵⁷

Incongruity within the mandate

The second tension in Chissano's mandate stemmed from the contradiction between the ideal of a locally owned dialogue and the predetermined goal and path that the restoration of constitutional order was supposed to take. The prescription to restore constitutional order as quickly as possible and to do so by organizing elections contradicted the claim that the Malagasies would find their own path to resolve the political crisis through open dialogue.

The UN defines mediation as "a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements."⁵⁸ A mediator is thus

ideally an impartial third party who helps the conflict parties find a joint solution.⁵⁹ This process is supposed to be voluntary, consensual, and non-binding.⁶⁰ However, since the AU and SADC had decided in advance *how* constitutional order should be reestablished, this image of an impartial third party and its role of assisting negotiations was at odds with the mediator's role in practice. Rather than facilitating dialogue between the Malagasy parties, the prescriptions of the Lomé Declaration forced the AU and SADC to find Malagasy partners who were willing and able to realize the required "credible, inclusive, consensual and neutral" transition.

The role of the mediator also gradually shifted toward that of a negotiator. Or, put differently, rather than mediating between the Malagasy parties, Chissano and his team were forced to mediate between the international actors who demanded that constitutional order be restored as quickly as possible, and the various Malagasy parties who resisted following suit. Two examples serve to illustrate how this incongruity within the mandate played out in practice.

First, over the course of time, international efforts were increasingly reduced to formulating a transitional roadmap and organizing elections as soon as possible rather than facilitating dialogue between the Malagasies. In August 2010, Chissano noted that it was unclear "how those who unlawfully maintain power under the leadership of Mr. Rajoelina will be involved in the process of negotiations, so that they can ensure the implementation of the signed agreements."⁶¹ The negotiations were stalled, and getting Rajoelina to compromise seemed particularly elusive. Chissano thus concluded that it was necessary to broaden participation "to include other stakeholders beyond the Mouvements" and make a "strategic adjustment in the mediation approach."⁶² The mediators thus looked for other partners willing to implement the required inclusive transition.

In the course of preparing the 2011 SADC Roadmap, Chissano's envoy Leonardo Simão consequently consulted a much larger number of "stakeholders"—leaders of old or recently established political parties—in order to assemble a broad group willing to sign and implement the transitional roadmap. In a letter to the movements, Simão noted that the mediation was "compelled to accept ... new political actors."⁶³ He nevertheless confirmed that

the *Chefs de File de Mouvements* do have a role to play... . For the time being, the mediation prefers a negotiation process mostly based on informal exchanges with members of the delegations of the Mouvements, political parties and groups, as well as other political stakeholders.⁶⁴

Although this meant a more inclusive process, the mediation had dwindled to mere consultations. Dialogue among the parties was mostly absent. As stipulated by Chissano, the aim was to find partners to sign and implement a transitional agreement, not to engage in more dialogue.

Despite regular consultations every time the mediation team visited Antananarivo, none of these led to substantial changes in the draft Roadmap.⁶⁵ This particularly reflects the experiences of the mouvances, whom the mediation team still wanted to keep in the process. Ravalomanana, for instance, complained to the SADC Summit that his meeting with Chissano in early March 2011 had not truly been meant to consider any of his proposals:

Contrary to what Mouvance Ravalomanana leaders in Madagascar were told by Minister Simao, President Chissano was not prepared to receive any further representations from Mouvance Ravalomanana. He advised President Ravalomanana that the process was closed and that if he did not initial the Roadmap that had been agreed to by other Malagasy Political Actors on 9 March 2011, Mouvance Ravalomanana would be excluded from the Transitional government.⁶⁶

Even those parties that were favorably disposed toward the proposed Roadmap observed that consultations played a role but rarely led to substantial change.⁶⁷ As one participant observed:

Every time when he [the mediator] arrived, he consulted everyone. But there were never direct dialogues between the parties. Never. But you enter [the room], they collect your ideas. The 11 entities [the parties meant to sign the Roadmap] enter one after the other. He collects their ideas. After this: they formulate theirs. And they say: “Voila, the results of the consultations.” All the consultations were just a façade. It had already been written.⁶⁸

Many of the parties felt pressured to sign the Roadmap if they did not want to be left out of the transition.⁶⁹ The focus on securing signatures rather than mediating also meant that those not willing to follow suit were increasingly marginalized and even publicly delegitimated. This was particularly true of the encounters with Ratsiraka, Zafy, and Ravalomanana, as reflected in Ravalomanana’s complaint, who were now forced to either adapt to the new circumstances or accept being left out. In a meeting with the three former presidents, Simão advised them to accept “the practical formula: that is elections for the Malagasies and for the international community” and suggested that they should “be practical.”⁷⁰ To increase the political and moral pressure, SADC and the AU also regularly denounced attempts to undermine the Roadmap as endangering the interests of the nation.⁷¹

The second example illustrating the incongruity within the mandate is that the mediators resorted to coercive measures in order to “ensure that it is a success.”⁷² One such measure was the concerted international effort to prevent Rajoelina from standing for presidential elections. After the signing of the 2011 Roadmap, the unresolved issues were the circumstances under which Ravalomanana would be allowed to return to Madagascar and the question of who was eligible to run in presidential elections. The mediators were faced with a dilemma: letting Rajoelina contest the elections would violate the prescriptions of the African Charter on Elections, Democracy and

Governance, yet the rapid restoration of constitutional order was only possible with Rajoelina's support, and this in turn was based on the precondition that Ravalomanana would not return to Madagascar.

In late 2012, Rajoelina and Ravalomanana agreed to the so-called "ni-ni" solution, which meant that neither leader would run in the presidential elections. Yet in May 2013 Rajoelina filed his candidacy, which he justified by pointing out that Ravalomanana's wife Lalao had also filed her candidacy, as had former President Ratsiraka. The candidatures of all three caused a diplomatic outrage. The AU PSC, the SADC Summit, and the ICG-M condemned Rajoelina's renegeing on the "ni-ni" principle and pointed out that Lalao Ravalomanana and Ratsiraka were infringing the condition of residency enshrined in the electoral law. All three were denounced as "illegitimate candidacies."⁷³ The ICG-M threatened that the "international community would not recognize the Malagasy authorities elected in violation of the relevant decisions of both the AU and SADC."⁷⁴ The group also recommended that Madagascar's international partners who had "made contributions or pledges to the electoral process" should "make the necessary arrangements temporarily to freeze such support" and encouraged the international community "to consider applying robust, targeted sanctions against all Malagasy stakeholders undermining the smooth running of the electoral process and the full implementation of the Roadmap."⁷⁵

AU Commissioner for Peace and Security Ramtane Lamamra traveled to Antananarivo to present the so-called 7-Point-Plan that the ICG-M had adopted. The plan foresaw that Rajoelina should dismantle the special electoral court (*cour électorale spéciale*, CES) that had accepted the three candidatures, while a newly composed court should present a new list.⁷⁶ This was incentivized by the promise that "the restoration of constitutional order would enable Madagascar to benefit from an increased support through international cooperation."⁷⁷ A lack of both money and international recognition for transitional elections, combined with the growing pressure to expand the list for targeted sanctions against members of the HAT, finally turned the course of the transition: Rajoelina bowed to the international pressure and dismantled the CES. A new list, without the three names, was announced. The external intervention sparked fierce criticism in Madagascar. The 7-Point-Plan was called "the seven commandments"⁷⁸ that prevented Malagasy ownership of the process.

The preceding discussion shows that the possibility of actual mediation was impeded by the incongruity between the required inclusive dialogue owned by Malagasies on one hand and the predetermined goal of rapidly reestablishing constitutional order through elections on the other. The individual consultations (as opposed to setting up a forum for direct negotiations), the focus on signatures and "conclusion" rather than dialogue, and the resort to coercive measures all curtailed the content of what was negotiated and consequently narrowed down the negotiation of post-coup order in Madagascar to the

question of by whom and how quickly transitional elections could be organized.

This was especially evident to nongovernmental organizations, the Malagasy churches, and others who tried in vain to suggest alternatives or warn the international mediators that after such a half-hearted transition the conditions for organizing free and fair elections were not yet in place.⁷⁹ Their efforts to address questions of reconciliation, constitutional reform, and voter education, for instance, were rejected by the AU and SADC as illegitimate and against the national will.⁸⁰ The incongruity in the mandate thus meant that the predefined goal and the time pressure to succeed severely limited the amount of inclusivity and dialogue the mediation was actually able to support.

Conclusion

Mandates are crucial in professionalizing mediation. A mandate is supposed to state a mission's aims and hence render it transparent. It is meant to endow the mediator with authority and legitimacy and thus increase the chances of success. A clear mandate should also make it easier to assess whether a mediation has succeeded in realizing what it was set up to achieve.⁸¹

The Madagascar case demonstrates how a mandate can, on the other hand, be a hindrance. It shows that a mandate that is impossible to translate into practice can obstruct a mediation. The difficulty in realizing the mandate in this case was not just because of multiple and competing mediators, diverging international interests, or the mediator's erroneous decisions or flawed strategies. It was also due to *inherent* contradictions in trying to mediate a return to constitutional order in the context of the AU's anti-coup policy. First, contrary to the ideals of mediation, this mandate came not from the parties but from the AU and SADC constitutional acts and policy frameworks. And second, also contrary to the ideals of mediation, the goals and the path of the mediation were predetermined, with the reestablishment of constitutional order being equated with organizing elections as quickly as possible.

The problem with the mandate was hence not that it was badly or only partially implemented but that it was impossible to realize because its principles and underlying assumptions were in contradiction with one another and with the realities on the ground. This made the effort to reestablish constitutional order a long and cumbersome process because the mediators had to find "stakeholders" willing to implement the internationally demanded inclusive and neutral transition. It also meant that the actual practices increasingly diverged from the proclaimed locally owned dialogue in search of a solution to the crisis. As one interviewee put it:

It has to be said that they [the mediators] did not have an objective. For them the objective was to get to elections. It was that. It was an obsession... . As if elections would suddenly resolve all problems... . Everyone wanted to get to

elections. But how to get there? Which steps to take? Which preconditions need to be fulfilled? And what would elections lead to?⁸²

The gap between officially upheld ideals and actual practice endangered the legitimacy of the mediation and exposed it to contestation. It encouraged deception and caused frustration on the part of those who were not party to the transitional plan and on the part of those who tried to promote alternatives. In May 2013, the Malagasy churches ended their own national dialogue with a simple yet powerful conclusion: that another transition was necessary in order to address all those questions that the international mediation had so far glossed over.⁸³ But the drive to restore constitutional order through transitional elections as quickly as possible proved stronger. That this was not quite a process in which “the Malagasy people” took “full ownership” was more than evident. Against this background it is not surprising that 18.7 percent of the respondents in the 2015 Afrobarometer survey said that SADC had done nothing to help Madagascar, and 29.3 percent that it had helped only a little.⁸⁴ For the AU the figures were similar: 15.9 percent said the AU had done nothing to help Madagascar, and 28.4 percent said that it had helped only a little. Only 15 percent and 17 percent, respectively, said that SADC and the AU had helped a lot.

Mandates are thus an important lens for analyzing the politics of the AU’s anti-coup policy. In this sense, the Madagascar case revealed the tensions between the claim to mediate based on local ownership and dialogue and the AU’s policy on unconstitutional changes of government. Analyzing the way that ideal mandates are translated into practice can help us understand the normative and practical dilemmas involved in “mediating” the reestablishment of constitutional order. This article has considered only one case, but recent experiences in Burkina Faso and Mali, for instance, suggest similar dynamics to those described here. What the mediators and “stakeholders” in those cases made of the political mandates would be worth exploring.

In the academic literature, international mediation has been described in much less ideal terms. It has been noted that mediators are interested actors, that they use power and sometimes coercion, that they negotiate rather than merely facilitate, and that they have a mandate to promote predetermined norms and principles that may run counter to those held by the parties.⁸⁵ James Ker-Lindsay has argued that in the international sphere, “traditional mediation practices” have given way to “a new, more active form of arbitral peacemaking” that he labels “meditation.”⁸⁶ The way the AU and other African regional organizations “mediate” unconstitutional changes of government seems to support this claim. Yet when formulating mandates and issuing communiqués, the AU and SADC still largely invoke an ideal of mediation that disregards these realities of international mediation. What may be needed is more transparency about the organizations’ own norms and principles and more honesty about the normative and practical dilemmas of attempting to actually *mediate* in the context of the AU’s anti-coup policy. The

organizations might then be perceived as more credible and legitimate mediators and more room might be created for real mediation and dialogue.

Notes

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