

**UNIVERSITY OF NAIROBI
INSTITUTE OF DIPLOMACY AND INTERNATIONAL STUDIES**

**MEDIATION BY REGIONAL ORGANIZATIONS: ANALYSING AU
INTERVENTION IN MADAGASCAR**

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DECLARATION

I, Dennis Gudahi Mugatsia, hereby declare that this research project is my original work and has not been presented for a degree in any other University.

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This research project has been submitted for examination with my approval as University Supervisor.

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DR. ROSEMARY ANYONA

DEDICATION

This research project is dedicated to GOD for his grace and sustenance during this period, secondly to my family and friends for motivation.

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I acknowledge the following;

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ABSTRACT

Mediation is counted successful when parties agree to end the conflict and implement the agreements. This study aims to contend that success in mediation is beyond signing the agreement but ensuring lasting peace. Regional organizations have been successful and also failed in mediating conflicts. This paper therefore broadly looked at how regional organizations mediate and then narrowed down at how AU mediated in the Madagascan conflict. The African Union played an important role in resolving the conflict in Madagascar however the aim of this study is to analyze if it achieved lasting peace in Madagascar. Madagascan political crisis was very complex because of the history of coups and political instability and therefore needed a well-planned and organized mediation process. The paper looked at the role regional organizations play in mediation processes; looking at how regional organizations have generally performed in conflict resolution. Secondly the paper examined how AU performed in Madagascan crisis; the study looked at the whole mediation process and how effective the AU performed. Lastly this paper looked at the challenges and possible opportunities for the AU mediation in Madagascar. This study has raised questions on why the process dragged amid confusion and also was this peace achieved in Madagascar lasting or cosmetic. The study has used a case study approach by focusing on Madagascar political crisis of 2009. The paper used Purposive sampling. Key informants who had required skills and knowledge for the study were sampled. It used qualitative approach to be able to get data from secondary and primary sources.

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ABBREVIATION

AU	-	The African Union
UN	-	The United Nations
ICG	-	The International Contact Group
UNSC	-	The United Nations Security Council
AUPSC	-	African Union Peace and Security Council
SADC	-	Southern Africa Development Community
ECOWAS	-	Economic Community of West African States
OAS	-	Organization of American States
OUA	-	Organization for African Unity
EU	-	European Union
EC	-	European Community
R2P	-	Responsibility to Protect
ASEAN	-	Association of Southeast Asian Nations
NATO	-	The North Atlantic Treaty Organization

CHAPTER ONE

INTRODUCTION

1.1 Background to the study

Mediation is ancient and the common method of conflict resolution. Managing conflicts is a priority on the global agenda because conflicts are expensive and have devastating effects. Conflicts are very expensive in the modernized world due to sophistication and destructive nature of weapons therefore necessitates mediated solutions to conflicts. Mediation then becomes a choice tool, useful in dealing with conflicts both internal and inter-state conflicts.¹

Mediation has been used to resolve many of Africa's conflicts. The African Union has a mandate to mediate and use other forms of peacemaking to resolve conflicts. This is further backed by Article 33 of the UN charter that provides ways for solving disputes to prevent them from turning into violent confrontations. Some of the peaceful methods of conflict resolution that the UN advocates for include; mediation, negotiation, inquiry, conciliation, judicial, arbitration, settlement, or request assistance from regional organizations to resolve the conflict or choose alternative route to peaceful settlement.²

The constitutive act of the AU, article 4 e, also highlights the need for peaceful resolutions of conflicts by its members. By October 2016, the AU had been involved in mediation activities it had sent; 20 envoys, mediators and representatives to help both in resolving conflict and assisting to implement resolutions towards peace in Africa.³ One of the advantages that Regional organizations such as the AU have in resolving conflicts in or amongst their member states is the fact that they are insiders.

It is assumed they have enough knowledge of the conflict at hand and their proximity to the conflict also makes it relatively easy to deploy to the countries in conflict. The UN has acknowledged the important role played by regional organizations in

¹ Jacob Bercovitch, International Mediation journal, University of Canterbury, https://www.jstor.org/stable/424189?read-now=1&googleloggedin=true&seq=1#page_scan_tab_contents
pg 1

² The UN Charter, Chapter 4 Article 33

³ The AU- Peace and Security structure; www.peaceau.org/en/page/107-au-mediation-support-unit

mediation as well as their usefulness in conflict resolution.⁴ The African Union metamorphosed from the OAU, thus enhancing the effectiveness of the African body in conflict resolution.⁵ This is because the OAU had the non-interference policy while on the other hand; the AU has a Right to protect policy (R2P). Every state has the mandate of protecting its citizens but in the event it fails, then the AU intervenes. The R2P goes beyond sovereignty of a state because in the event a state cannot guarantee security to its people then AU swings into action to protect. During the period OAU was the regional body for Africa, there were emerging dictatorships, coups, counter coups, leading to political instability in the region. It was in July 2000 when the AU adopted the constitutive act giving Africa a new lease of life; it renewed the hopes of the African continent since AU had taken the approach of intervening in conflicts from the non-intervention stance that the OAU had been known to have.⁶

Regional organizations are counted better placed to resolve conflicts among their membership because; most states love to localize their conflict rather than internationalize them by involving the United Nations. The reason why regional organizations become more successful is the fact that they are more knowledgeable on the conflict since it's in their locality, they possess better incentives to resolve the conflicts, and they can promptly react to a crisis caused by a conflict due to their proximity advantage and their ability to provide formal and informal discussions.⁷

In Madagascar, there were rising tensions between the Mayor Rajoelina and the President Ravalomanana (their camps were also involved). The Television owned by the Mayor who was a disk jockey aired an interview of the former President Ratsiraka who was in exile in France and this angered the President Ravalomanana and thus leading to the escalation of the conflict in 2008 when the President shut down the Viva Television. President Didier Ratsiraka, had moved to exile after a period of contested elections with Ravalomanana and was ousted from power by Ravalomanana. When the station was

⁴ United Nations (2012), The Language of peace, UNDPA: <https://peacemaker.un.org/mediation-support/partnerships/regional-and-subregional-organisations>

⁵ Juma, M, Compendium of Key Documents relating to peace and security in Africa; Pretoria University Law Press, 2006, pg: 45

⁶ AU constitutive article,200:23,2

⁷Black, Davidson "Regional Organizations in Peacekeeping Operations, Peacekeeping and International Relations" 1996 pg 7-9.

closed, Rajoelina convened a public demonstration and accused the President of corruption and authoritarianism. Rajoelina decided to make the country ungovernable by organizing demonstrations against the government and termed the government as corrupt and a dictatorial. The President stripped of the mayoral office from Rajoelina in February 3 2009 hence making him gain sympathy with the masses. This was after Rajoelina had named his cabinet and announced that he had taken over the government.⁸

This led to Rajoelina went to hide in the embassy of France for that period. The situation had become very tense and after a continual pressure Ravalomanana decided to give in and surrendered power to the military. The military was not impartial and little did anyone know they could hand over power to Rajoelina. After capturing the Presidential palace and the nerve center of finance, the central bank, on March 16, 2009, they later handed power to Rajoelina.⁹ In response the AU announced they will not support coups and suspended Madagascar's membership to the organization. Later the AU formed the International Contact Group to coordinate mediation process in Madagascar. The ICG was to work under the hospice of the AU as the chief mediator.

1.2 Statement of the research problem

Madagascar has experienced coups ever since it gained independence. This has been characterized with a period of political crisis. In 2009, Rajoelina planned and executed a coup against the government of President Ravalomanana.

The AU together with other mediators under the International Contact Group mediated this conflict. The mediation took too long to get a solution. This study looks at the ripe moment as a key ingredient to getting a solution. When there is a hurting stalemate and the parties cannot get a solution by continuing in this way, then the time is right to get a mediated solution.¹⁰ In the Madagascan case, the AU failed to capitalize on the ripe moment theory to resolve this crisis. The ripe moment seemed to have been before the coup, this is when the President Ravalomanana had run out of options since the country was ungovernable and Rajoelina on the other hand had gone into hiding in the French

⁸ Malagasy law gives authority to the President to dismiss elected officials who fail to fulfill their mandate.

⁹ BBC news; Madagascar President Forced Out, 17th March 2009

¹⁰ William Zartman; the timing of peace initiatives; hurting stalemates and the ripe momenta: 2001, https://peacemaker.un.org/sites/peacemaker.un.org/files/TimingofPeaceInitiatives_Zartman2001.pdf

embassy. The reason why I take this to be the ripe moment is because after the coup had happened the situation was dire since the Army was involved and rejected any other President in the transition rather than Rajoelina.¹¹

The AU seemed to reward the coup leader because by allowing him retain power during the transition period seemed to favor him over the ousted President Ravalomanana. That is why The Economist was quick to point out in one of their published articles that it seems coups pay.¹² This action that led to the coup leader serving as the President in the transition seemed to encourage other coup plotters that they could as well do a coup and get rewarded by AU to serve as Presidents.¹³ The AU has a policy of rejecting coups and punishing the coup makers, however in this instance AU overlooked. The policy demands that at all costs an illegitimate government will not be allowed to thrive. The AU also was weak in implementing the agreements. Even after the sanctions by AU some countries still worked with the government formed through the coup. The AU lacked enforcement power.

The mediation was in total disarray because the mediators working on behalf of AU could not agree in many instances. This made the process drag and took a longer period to resolve. The SADC for instance wanted the use of force and no negotiation angering Rajoelina's camp and when mediation time came Rajoelina one of the parties could not trust SADC leading to collapse of mediation at some point. SADC seemed to favor Ravalomanana on the other hand and wanted to restore him to power while France on the other hand silently wanted Rajoelina be retained because he was more inclined to them. AU failed to bring order in the whole process.¹⁴

¹¹ The Reuters; Madagascar's Rajoelina say's only he can lead the transition: 2009, <https://www.reuters.com/article/us-madagascar-politics/madascars-rajoelina-says-only-he-can-lead-transition-idUSTRE57E0TH20090815>

¹² The Economist, 'Coups can still pay'; <https://www.economist.com/middle-east-and-africa/2009/10/15/coups-can-still-pay>

¹³ David Zounmenou & Reine Loua, 'Confronting the complex political crises in West Africa': An analysis of ECOWAS responses in Niger and Côte d'Ivoire', ISS Paper 230, Institute for Security Studies, Pretoria, 2011

¹⁴ The East African; Madagascar caught in France's web of political control- <https://www.theeastafrican.co.ke/oped/comment/Madagascar-caught-in-France-web-of-political-control-/434750-4764896-wxo65e/index.html> 2018

1.3 Objectives of the study

The following are the study objectives;

- a) To examine the role of regional organizations in mediation processes.
- b) To examine effectiveness of the AU mediation in Madagascar.
- c) To assess the challenges and possible opportunities for AU mediation in Madagascar.

1.4 Research questions

- a) How effective are regional organization's in mediation processes?
- b) How effective was AU effective in the mediation of the conflict in Madagascar?
- c) What challenges and prospects does AU have in the mediation in Madagascar?

1.5 Literature review

The literature in this study will focus on four key areas; the first section will examine literature on Mediation, and the second will examine literature on Mediation by regional organizations. The next subsection will review literature on mediation by the AU while the last subsection will examine literature on mediation by the AU in Madagascar.

1.5.1 Mediation

Mediation is a process of conflict management, related to but distinct from the parties' own negotiations, where those in conflict seek the assistance of, or accept an offer of help from an outsider (an individual, an organization, or a group or state) to change their perceptions or behavior and so without resorting to physical force or invoking the authority of law.¹⁵ Mediation calls for parties to compromise in order to attain their goals.¹⁶ Mediation is ancient and has been employed in resolving conflicts for a very long period of time at all levels.¹⁷ Historically the use of mediation as a mechanism of conflict resolution also can be traced back to the first Macedonian war. In 209 B.C, the Greek city

¹⁵ Bercovitch, Jacob, Resolving International conflicts: The Theory and Practice of Mediation, Colorado: Lynne Rienner Publishers, 1996 pg130

¹⁶ Roberts, Mirian, Developing the Craft of Mediation 'Reflections on Theory and Practice' Jessica Kingsley Publishers, London, 2007 pg 69

¹⁷ Bercovitch, J. and Rubin J 'Mediation in International Relations – Multiple Approaches to Conflict Management' 1992 -St. Martin's Press, Inc. p. 1-2

states offered themselves as mediators between Aetolian League and Macedonia in order to get a resolution to the conflict.¹⁸

After the end of the cold war, mediation was used to resolve a lot of armed conflicts as well as crises of a global nature.¹⁹ The European Commission Justice directorate defines mediation as any process where an agreement is reached between two or more conflicting parties to appoint a third party to help resolve a dispute; this can be achieved by reaching an agreement without adjudication and regardless of how that process may be called or commonly referred to in each member State.²⁰ The International Mediator's Institute define mediation as; "a process where two or more parties appoint a third-party neutral ("Mediator") to help them in a non-binding dialog to resolve a dispute and/or to conclude the terms of an agreement."²¹ A mediator possessing credibility helps the disputing parties find a solution to their dispute that cannot find by themselves. A mediator brings solution to a conflict by facilitating talks among the disputants. The mediator has power to change the behavior of the parties by facilitating the mediation process. You will find that parties will start listening to each other and talk to each other hence making progress towards resolution of the conflict. The mediator can act as an eye opener by offering suggestions that both parties have not seen.²²

Mediators in a conflict can be states, international organizations, non-governmental organizations or individuals. They can be called to assist in resolving the conflict by the parties or they can offer themselves to mediate a conflict. Mediators use resources in the process of conflict resolution hence want to get something in return. They usually want to resolve a conflict, enrich their status, and impose their ideas in resolving the conflict. States or regional organizations most of the times intervene in a conflict due to their political interests. Some may intervene to safeguard their investments mostly in violent

¹⁸ You will not miss to find benefits of mediation, a good case of the Northern Irish 'Troubles' the Good Friday Accords and continuing with the work of NGOs in mediating interpersonal conflicts, the relative peace in Northern Ireland today is a testament to the power of a well-organized and sustained mediation effort

¹⁹ Michael Brecher and Jonathan Wilkenfeld, *A Study of Crisis*, Ann Arbor: University of Michigan Press, 2nd ed 2000 pg. 4 – 5

²⁰ European Code of Conduct, available at http://ec.europa.eu/civiljustice/adr/adr_ec_code_conduct_en.pdf.

²¹ Code of conduct for ADR, accessed from <https://www.adr-register.com/complaints/code-of-conduct-for-adr-practitioners/>

²² Ott, Marvin, 'Mediation as a Method of Conflict Resolution'; two cases, *International Organization* 1972, Vol. 26 pg. 595-618

conflicts. They may also mediate to fulfill obligations from their charters.²³ Bercovitch, advances the thought and say's that mediators (states, organizations or individuals) engage in mediation not only to resolve the conflict but also to promote their interests.²⁴ He adds that for a mediator to be effective, they must be viewed as reasonable, knowledgeable and acceptable by both parties. The mediator must have the capacity to influence cooperation from the parties as well as gain trust.²⁵

A mediator should enable the parties see the need to get a solution to the conflict and be committed to the mediation process. Secondly, the mediator must be able to identify when the conflict is ripe for mediation. The ripe moment can be the existence of a hurting stalemates for example military withdrawing, changes over power relations, or being unable to enforce a unilateral outcome. The third important factor becomes an appropriate mediator has to be available. Bercovitch posits that an appropriate mediator must be intelligent, tactful, know how to write proper proposals that are formal in nature and able to ease tension through humor and in addition must have enough knowledge about the conflict.²⁶

Resolution 65/283 of the UN developed field study guides important for mediators as they expense their mediation duties. This led to the formation of standards and procedures recognized internationally for mediators in the year 2012. These standards were summarized as; state of coherence and preparedness in mediation, consensus, neutrality, inclusivity, national ownership, international law and normative frameworks, coordination and complementarity and excellent peace treaties. This was envisioned to offer guidance to mediators which included; States and other actors supporting mediation efforts, parties in a conflict, civil society and also other stakeholders. These standards of

²³ Mwangiri and Makumi, 'The Water's edge', Institute of Diplomacy and International Studies, 2008 pg 31-32

²⁴ Bercovitch, Jacob 'Resolving International conflicts', The Theory and Practice of Mediation Lynne Reinner Publishers, 1996 pg 4

²⁵ Bercovitch Jacob, Theory and Practice of International Mediation, from Selected Essays 2011 pg 44

²⁶ Bercovitch, Jacob, 'Resolving International conflicts', The Theory and Practice of Mediation, Lynne Reinner Publishers, 1996 pg 146-147

the UN under UNGA Resolution 66/291, adopted in 2012, must be strictly adhered to by all actors.²⁷

The mediation process comprises three phases. The first one is the pre-mediation phase, the second is the phase of mediation and the third is post mediation phase. In pre-mediation, parties in the conflict are made to sit at the mediating table and they are expected to show willingness to negotiate. The mediator helps the conflict parties become familiar with the mediation process. In this phase the rules are set and parties are encouraged to have an open mind and work towards resolving the conflict.²⁸ In mediation stage the actual negotiations take place. The mediator outlines his role in the opening remarks. At this stage, the main focus of the conflict parties becomes benefits, positions and desires. To be able to facilitate the process effectively, the mediator must cultivate; good listening skills, inquest, summarizing, and restatement. The contentious issues are identified and then the disputants decide on the order they should follow in the quest to resolve. The conflict parties should at this stage help the mediator come up with the best solution for the conflict. The aim of this stage is arriving at mutual agreement.²⁹

The final stage of the mediation process is implementation stage; this stage is always referred as post mediation stage. At this stage it is extremely crucial to monitor the implementation. This is where the mediator has to do the following; evaluate performance, specific and general steps of implementation and methods for measuring and enforcing compliance.³⁰ Zartman identifies time as an important component in conflict resolution, also referred as the ripe moment factor. Time becomes essential because many argue that parties have control over when to resolve the conflict; at the right time they will resolve the conflict when they are ready to do so. When the parties are in a tight corner in the conflict and feel in an uncomfortable and costly predicament,

²⁷ UN website-Strengthening the role of mediation in the peaceful settlement of disputes, conflict prevention and resolution; www.un.org/en/ga/65/resolutions.shtml

²⁸ Moore Christopher, *The Mediation Process, Practical Strategies for Resolving Conflicts* Jossey-Bass Publishers, San Francisco 1996 pg. 15

²⁹ *Ibid* p. 209

³⁰ *Ibid*

this therefore becomes the ripe moment for them to take proposals at their disposal.³¹ The ripe moment attainment lies on the ability of the disputants to recognize an equally uncomfortable situation they find themselves in, it is rather related with an impending, previous or just avoided calamity.³² This concept then makes an assumption that in the event disputants get locked in a conflict and victory isn't attainable, a way out becomes an option for them.

1.5.2 Mediation by regional organizations

The regionalization of peace and conflict management is a universal trend that takes its legal departure from the charter framework of the UN. The highest numbers of regional conflict resolution efforts have been witnessed in the last two decades characterizing the twentieth century. These efforts have been assumed by regional inter-governmental organizations. The UN in Article 52 of the UN advises that efforts to resolve a conflict should be first be done at the regional level before referring it to UN making UNSC option in the event regional bodies fail.³³ The UNSC council also can use regional bodies to enforce and maintain peace and security as espoused in article 53.

The crucial role played by regional bodies has been stressed by the UN Secretary General, UNSC, and the UN general assembly.³⁴ The UN's commendation of these organizations' is founded on the UN's guidance to regional organizations to foster pacific disputes settlement by regional bodies since they aid in conflict resolution, and help shape trust through the platform of communication they create among states, they also help to foster united approach towards cross border security problems and thereby inspire their members to follow the international and regional norms on power and conflict deterrence.³⁵

³¹ Zartman, I William, 2000, 'Ripeness' The Hurting Stalemate and Beyond, found in Paul Stern and Daniel Druckman, ed. International Conflict Resolution after the Cold War, National Academy Press, Washington.

³² Zartman, I William and Berman, Maureen, 'The Practical Negotiator', Yale University Press, New Haven, pg. 66-78

³³ Thomas G. Weiss, David P. Forsythe and Roger A. Cote, The United Nations and Changing World Politics -1994 Westview press, Boulder pg38

³⁴ Laurie Nathan crisis states research Centre - Global and Regional Axes of Conflict -the peacemaking effectiveness of regional organizations, Working Paper no. 81

³⁵ United Nations, Boutros-Ghali, B. An Agenda for Peace, New York 1992

During the Cold War, the UNSC failed to guarantee peace and security and so the newly independent states felt the desire to cooperate along shared interests, states were looking for economic cooperation and this stimulated the creation of regional organizations; ranging from defense alliances such as NATO and the Warsaw Pact, or all-purpose cooperation organizations like the League of Arab States, OAU transformed to AU, and the OAS, or economic cooperation e.g. European communities (later transformed to EU).³⁶

Regional organizations are most suitable in resolving conflicts within their jurisdiction since they are insiders; they have knowledge about the conflict at hand.³⁷ It is worth noting that, regional organizations are very important both to their members who give resources to them and similarly by the UN and the donor-governments that supports these regional bodies in the South through donor funds.³⁸

Regional arrangements are becoming more useful in the international security formation in general, and in mediation to be specific. Regional organizations have been advised to form partnerships, improve in information sharing synchronize their activities and planning's in order to achieve; complementarity and consistency to help them to be more organized as they exchange information through dialogue, this was emphasized on Chapter VIII of the UN Charter (UNGA Resolution 68/303 of 2014). It was imperative that regional organizations boost their own capacity in mediation. A collection of Friends who value Mediation play a very significant role in enhancing the UN engagement in mediation normatively and in practice. The group of friends who value mediation was unveiled in 2010 by the foreign ministers of Turkey and Finland as mediation for peace enterprise. This group has grown immensely to 40 states, seven regional organizations and the UN. It has been successful leading to the replication by some of the regional organizations: in 2014 a conglomerate of Friends of Mediation was started in the EU

³⁶ Dr. Walid Abdulrahim, Professor of Law, Introduction to Regional Organizations; <https://sites.google.com/site/walidabdulrahim/home/my-studies-in-english/20-introduction-to-regional-organizations>

³⁷ Carl Skau, Jacob Bercovitch and Ole Elgstrom, Regional Organizations and International Mediation, The Effectiveness Of Insider, 25 Jun 2003, - <http://www.accord.org.za/ajcr-issues/regional-organisations-and-international-mediation/>

³⁸ Klingebiel S. et al, Donor Contributions to the Strengthening of the African Peace and Security Architecture. Bonn: German Development Institute, 2008

under the leadership of Finland and Spain while among the OSCE was under the leadership of Switzerland, Finland and Turkey.³⁹

After the cold world war, IR was no longer based on divisions between two super powers, this presented regional organization with an opportunity to forge forward and resolve conflicts. Regional organizations did this independently but also involved the UN.⁴⁰ The most notable cases were resolving of conflicts in Haiti and Nicaragua by OAS and also among El Salvador and Honduras by the same body. The OAU revamped to AU was instrumental in conflict resolution in; Kenya, Burundi, Somalia, Liberia, and Sierra Leone; the ASEAN in Cambodia; and NATO in former Tugoslavia. The ASEAN helped to facilitate negotiations as well as it acted as a mediator; on the other hand, OAS arbitrated and ensured member states upheld human rights as well as restoring democracy. ECOWAS on the other hand, assumed new tasks of averting and settling regional conflicts. A good example it's the role it played in Gambia election crisis Dec 2016, where it took a firm decision to bring forth order in Gambia and upheld democracy. Furthermore, the OAU, the NATO, the OAS and ECOWAS harmonized up with the United Nations in joint peace keeping, while NATO and the Western Europe acted on behalf of UN's mandate in Yugoslavia (1993-1996). For success in mediation by regional organizations, then they have to have; legitimacy⁴¹, enforcement power, resource capability, cooperation.⁴²

1.5.3 Mediation by the African Union (AU)

Since its inception, (OAU in 1963, later revamped to AU in 2002), many envoys and special representatives from the body have participated diligently in mediation activities mainly in an ad hoc manner.⁴³ However to ensure that mediation brings success;

³⁹ United Nations, Regional Organizations in Conflict Mediation, Lessons of Experience and Cooperation with The United Nations, Report of the 3rd and 4th Meetings of Regional, Sub regional and other International Organizations on Preventive Diplomacy and Mediation Cairo, hosted by the League of Arab States Brussels, 5-6 May 2015, hosted by the European Union , https://peacemaker.un.org/sites/peacemaker.un.org/files/OSCE_ThirdFourthMeetingRegOrgs_2016_0.pdf

⁴⁰ United Nations, Regional, Sub regional and other International Organizations on Preventive Diplomacy and Mediation, Cairo, 5-6February 2014

⁴¹ Hilaire McCoubrey and Justine Morris, Regional Peace Keeping, the Post-Cold War Era, Kluwer Law International, Boston pg.16-17

⁴² UN charter, Article 52-53

⁴³ The OAU was transformed into the AU at a summit in Durban, South Africa, On 9 July 2002

mediation facilitative processes needs to answer to specific forces at work, not neglecting the parties stands, desires and what outcome they need from the process; the broader society; and regional and international environments.⁴⁴ For mediation to yield fruit, it has to take deliberate and specialized approach. The AU has hence build upon its capacity and developed a more methodical mediation approaches, helping envoys or representatives and those who support their efforts to perform at the highest and effective levels possible.⁴⁵

AU adopted a plan of action later in 2009 in order to boost effective mediation. The action plan views mediation as a process that involves negotiation and dialogue - a third party facilitates two or more disputant parties, with their knowledge and agreement; in order to prevent, manage or reach a resolution of the conflicts with ought resorting to force. To implement this action plan and reinforce the AU's mediation capacity, several capacity building initiatives were undertaken, in collaboration with partners such as the United Nations, African Centre for the Constructive Resolution of Disputes, Crisis Management Initiative, and Centre for Humanitarian Dialogue, and Folke Bernadotte Academy. Within this context, ACCORD played a very important role by assisting the AU to implement the AU Mediation Support Capacity Project Phase II (2012–14), with the aim of strengthening the continental body's mediation support capacity.⁴⁶

AU participated in the implementation of the project; i.e. AU Conflict Management Division and CMI. The Ministry of Foreign Affairs of Finland sponsored this projects implementation. The ACCORD together with the AU CMD, worked on revision of the African Union Mediation Support Handbook of 2012; their main focus was on the AU mediation process. This handbook serves as a point of reference and helps mediators working under the AU as a field study guide that offers insight on mediation. Over the years AU together with other Regional Communities formed African Peace and Security Architecture which was to deal with deterrence, management of conflicts and finally resolving conflicts in Africa. The formation further rubber stamped the commitment of

⁴⁴ UN 2012a. UN Guidance for effective mediation.

⁴⁵ Nathan L, Plan of action to build the AU's mediation capacity. Unpublished report commissioned by the United Nations Mediation Support Unit and the African Union Conflict Management Division, 2009.

⁴⁶ Ibid

Africa in promoting a stable, peaceful and growth of Africa's economy. To achieve this, then the AU had to take the lead in ensuring peace and security on the African continent. Before Au came into being, OAU could not intervene in the conflicts of member states due to the principle of non-intervention, however the AU's came with a fresh mandate that saw it intervening in member countries if there was evidence of war crimes, genocide and crimes against humanity. The AU's charter has a provision for peaceful resolution of conflicts through means decided upon by the assembly. This is found under the Constitutive Act, in Article 4 (e). Looking further article six-the PSC protocol, peace-making may include; using good offices, mediating, conciliation and enquiry which a specific function falling directly under AUPSC.

1.5.4 The AU mediation in Madagascar

One of the biggest political setbacks in Africa is the plague of coups. McGowan, records about eighty successful coups, one hundred and eight failed coup attempts, and one hundred and thirty-nine reported coup conspiracies between 1956-2001.⁴⁷ The AU from the onset of the Madagascan political crisis was against the coup and suspended Madagascar from membership to the AU. Governments that gain power by means that are unlawful shall be suspended from the AU and will be followed by sanctions.⁴⁸ The AU Charter touching on Elections, Democracy, and Governance, bans cleansing of coups through elections. It further says that the coup leaders may not participate in elections that follow after the coup.

The African Union bars military overthrow of governments and this is useful in restraining the plotters of coups, without this order, coup-leaders can grab power, endure punishment (suspension, sanctions) for a short-term, and then organize elections win and be democratically elected hence becoming legit. This policy works against mediation that is non-coercive, because it advocates use of force where necessary.⁴⁹

The AU was concerned that demanding Rajoelina to step down could not work with the mediation process. During the mediation talks of 2009, Jean Ping, (the chairperson-AU)

⁴⁷ P. McGowan, 'African Military Coups d'État', Frequency, Trends, and Distribution, the Journal of Modern African Studies (1956–2001) 41, 2003: pg 339,70.

⁴⁸ The AU's Constitutive Act - 2000

⁴⁹ Ibid

informed the disputants that in the event they cooperate and agree then the AU could overlook the ban. The AU proposed all the former Presidents were allowed to participate in future election.⁵⁰ The AU was concerned in establishing peace in Madagascar hence they had to ignore the policy on legitimizing unlawful power grab. The Malagasy army had decided that they will not accept Ravalomanana back into office and they preferred Rajoelina; to avoid violence the AU decided not to allow Ravalomanana back to Madagascar. The AU decided to have a short term plan; to avert a slide into civil war, the long term was to organize elections Madagascar. This election was to return Madagascar back to constitutional order. The prohibition on coups would not work in this situation because it could create animosity and deter mediation.

The Madagascar political crisis has a variety of variations looking at the AU policy on unlawful change of government and the objective, reason, and the character of mediation. Mediation should always be a nonviolent process where mediators manage a conflict; the mediator helps the conflicting parties, with their knowledge, to reach a common ground of resolution.⁵¹ The purpose for mediation should be fair and never for empowering one of the disputants to win but, forge for a resolution that is agreeable to both parties. This should mean that mediation must be made pleasant to the adversaries, who must in turn cooperate with the mediator.⁵² This process entirety is voluntary; making the mediator work to win the trust of all the parties, assure them, and lead them to shift from hostility to collaborative problem solving. On the other side of the coin the policy that governs AU on illegal assenting to power is to reject and suspend. The coup maker has to hand over power immediately back to the ousted leader. When SADC pushed for this position, they created a hostile environment for Chissano since Rajoelina saw him as biased. Thus in such circumstances, the mediator installed by an organization that uses harsh terms will be fixed to secure the affected party's collaboration.

⁵⁰ Agence France-Presse, wrote; 'Former Madagascar Leader Quits Crisis Talks', May 24, 2009; www.google.com/hostednews/afp/article/ALeqM5hSfZgTll4XEyXWQVmlsFCk8X2BYg

⁵¹ R. Fisher, *Methods of Third Party Intervention*, Bergh of Research Centre for Constructive Conflict Management, Berlin 2001 pg 4

⁵² I. W. Zartman and S. Touval, *International Mediation unleashing the Dogs of War*, in C. Crocker et al, *Conflict Management in a Divided World*, pg 437–54

1.6 Justification of the study

Many scholars agree that mediation is very important tool in resolving conflicts. Mediators are also seen as important and facilitate the entire process. Mediators help in resolving conflicts but with them are interests they promote in the process. A conflict can be mediated by one individual as a mediator or multiple mediators. Multiple - mediation is very complex since they may need to consult each other time and time again dragging the whole process. In the event they do not agree they can stall the whole process. The mediation process in Madagascar was mediated by UN, AU, SADC, and International Organization of Francophone. This was a complex process since the interests were clashing.

Multiple mediation is useful and very important but I would like to answer the question where do we draw the line to have multiple mediators and when not to. In this Madagascan case, multiple - mediation further complicated the entire process therefore making it lag and not addressing the deep issues in the conflict but working to resolve the surface issues.

This research is aimed at helping scholars undertaking studies in the area of conflict mediation and conflict management. My research will look at how the AU policy affected the mediation process and in looking at this aspect I will also want to understand how the multiple mediators worked against AU's capacity to quickly resolve the impasse.

1.7 Theoretical framework

This study is based on the ripe moment theory. The theory assumes that conflicting parties will positively think about resolving the conflict when the conditions for ripeness are visible. Ripeness refers to the right timing of mediation. The right time is when a position of mutually hurting stalemate shows up and parties want a way out. A mutually hurting stalemate means parties cannot achieve victory. Stalemate can also be referred to as a state of being deadlocked.⁵³ Ripe moment is highly likely to lead to successful

⁵³ Podzun Lucie „The Theory of Ripeness: Does Development Aid Affect Conflict Ripeness?“ (2011) pp.81-108

mediation.⁵⁴ Zartman says that a conflict can only be resolved when parties are ready. The ripe moment theory identifies the elements essential to start negotiations.⁵⁵

The hurting stalemate can be analyzed through the cost-benefit analysis; will the benefit outweigh the cost? This is an important question to ask in a stalemate.⁵⁶ The parties now become aware that continuance of the conflict has further devastating effects and the best thing to do is to get a solution. In my own observation, the best time for mediating Madagascar conflict, was before Ravalomanana was ousted. The ripe moment appeared when Madagascar had become ungovernable and Rajoelina had sought refuge in the French embassy.⁵⁷ When pain increases in the conflict, then the parties become ready to enter into mediation. The conflict parties are seen to have paid a relatively high cost in the conflict and achieved nothing. The mediators must be ready to do the right thing at the right time for them to get a favorable solution. When a conflict will be ripe is non-predictive, but on the other hand mediators can be able to identify the conflict is ripe by looking at specific elements. This is done by following analytical predictions obtained through social science research. This research ought to show numbers that can be analyzed to identify ripeness.⁵⁸

It is therefore very important mediators identify the ripe moment to ensure the desired outcome is achieved. Ripe moment can also be created by the mediators in the process of conflict management. One of the ways that African Union could have used to create a ripe moment was identifying valid spokespersons in this conflict and calculating a formula to catapult for a solution.⁵⁹ The second option to create a ripe moment, the

⁵⁴ Greig J. Michael, Moments of Opportunity; Recognizing Conditions of Ripeness for International Mediation between Enduring Rivals, *The Journal of Conflict Resolution* Dec, 2001, Vol.4, pg 691-718

⁵⁵ Zartman William, The Timing of Peace Initiatives, Hurting Stalemates and Ripe Moments, *The Global Review of Ethno politics* September, 2001, Vol.1, pg.8-18

⁵⁶ Arrow & Kenneth, *Social Choice and Individual Values*, Yale University Press 1963.

⁵⁷ The East African; article by Prof Martin Rupiya, accessed from <https://www.theeastafrican.co.ke/oped/comment/Madagascar-caught-in-France-web-of-political-control-/434750-4764896-wxo65e/index.html>

⁵⁸ Ibid

⁵⁹ Salla, M.E. Creating the Ripe Moment in the East Timor conflict. 1997, a journal for peace research, pg:449-466

mediators can choose to increase the cost and pain on a rival; making the rival to cooperate and accept to mediate.⁶⁰

1.8 Hypothesis

- a. African Union failed to ensure lasting peace in Madagascar due to political and economic interests brought in by France and other powers.
- b. The mediation in Madagascar took longer than expected and did not achieve lasting peace because conflicts among mediating group (multiple mediators).
- c. The prolonging of this conflict emanated from the fact that African union did not identify the ripe moment in this conflict.

1.9 Methodology

1.9.1 Data collection

This study will depend on primary and secondary sources in data collection.

Use of primary sources

These are sources that provide firsthand information which are fresh and original in nature. The study will employ the use of questionnaires and telephone interview. Data will be collected from the AU offices of Nairobi and the Madagascar consulate. The sample size is 10 respondents. The respondents are expected to fill in the questionnaires and return them to the researcher. The study will also involve use of telephone interview from one of the respondent. The use of questionnaires come with advantages, one of them being they have a low cost, they are free from bias, respondents have adequate time to give well thought answers.⁶¹The respondents will answer the questions on their own before returning.

1.9.1.1 Use of secondary data

Secondary data is one that has already been collected and analyzed by other people. This will involve looking for the data from different sources. Secondary data can be published

⁶⁰ Zartman I William, Conflict and Resolution: Cost and Change. Resolving Regional Conflicts: International Perspectives 1991, pg 11-22

⁶¹ C.R. Kothari, Research methodology, methods and techniques, 2004, pg 95

or unpublished from various publications of the central government and local governments of Madagascar, various publications of other Governments or of international bodies and other similar organisations, technical and trade reports and publications of various associations connected with business and industry, newspapers, Journals, books, magazines and banks, stock exchanges, reports prepared by economists, research scholars, universities, in different fields; and public records and statistics, historical documents, and other sources of published information. My unpublished data will rely on private.

1.10 Data analysis

This study will use Content-analysis in doing an analysis to the collected data. The researcher will analyse data from different sources books, journals, news articles and other electronic sources. Since 1950's content-analysis is typically qualitative in nature regarding the general import or message of the existing documents.⁶² Bernard Berelson's is often linked to the latter type of content analysis. "Content-analysis involves measurement through proportion.... Content analysis measures generality and that is sometimes an index of the strength of the force." An assessment of research in any area contains the analysis of the research articles that have already been published. The scrutiny may be at a rather simple level. It is at a simple level when we track it on the basis of certain features of the document or verbal materials that can be identified and counted.

1.11 Chapter outline

This study will consist of five chapters. The first chapter will consist of the; background, the statement of the research problem, the objective of the study, literature review, the Justification of the study, the theoretical framework, hypothesis and the methodology.

Chapter two will cover the role of regional organizations in mediation. It will consist; an introduction, the motives of mediation, regional organizations in mediation, the conditions for effective participation of regional organizations in mediation and finally the role of regional organizations in mediation.

⁶² Carter V. Good & Douglas E. Scates, *Methods of Research*, pg 670.

Chapter three will cover the role of AU in creating lasting peace in Madagascar. This will consist; an introduction, How AU entered to mediate, the role of AU mediation in Madagascar, Multiple mediators, and the outcome of the mediation.

Chapter four will cover the possible opportunities for AU mediation in Madagascar. This will consist; an introduction, challenges and opportunities for AU, deadlock in the mediation process, financial constraints, The AU policy and its impact on the mediation process, impact of multiple mediators towards resolving the conflict, effectiveness of the AU in mediating the Madagascan political Crisis.

Finally, Chapter five will cover conclusion and recommendation.

CHAPTER TWO

MEDIATION BY REGIONAL ORGANIZATIONS

2.1 Introduction

After the cold war, there has been an upsurge on the number of conflicts resolved through mediation and regional organizations have been at the center of mediation activities. Regional organizations have managed conflicts since the 19th century, but after the World War II their importance in conflict resolution was emphasized. They participate in the capacity of mediators; they offer technical assistance as well as send envoys to facilitate the process. Regional organizations have also played a key role in democratic transformation and fostering cooperation between countries.⁶³ The degree of how effective one regional organization is in mediation varies from one to another. The common denominator of regional organizations however is that they are made up of states who have come up together for a common goal. The common goal ranges from; security, economic and political integration. On the other hand, regional organizations operate differently. This may range from; their capacity to manage a conflict, mandate of the organizations and scope of engagement, the philosophy governing the organization, resource allocation and organizational culture, their institutional framework deployment mechanisms.⁶⁴

Regional organizations have different charters that govern them, depending on the membership, their resources and financial capability varies. A regional organization will be stronger and better in resolving conflicts depending on the members, for example regional organization composed of super powers like USA are stronger and have more resources than those with small states.

The League of Nations recognized regional organizations as key players in conflict resolution. It gave recognition of the regional arrangements and the important role in the global security set up. It further stated that the covenant shall not contradict the

⁶³ Regional organizations in conflict mediation, the lessons of experience and cooperation with the United Nations, accessed from: <https://www.osce.org/secretariat/230526?download=true> pg8 Cairo, 5-6 Feb 2014

⁶⁴ ASEAN and Peace Mediation accessed from: https://reliefweb.int/sites/reliefweb.int/files/resources/asean%20report_web.pdf

soundness of international actions, for example Monroe Doctrine for safeguarding the keeping of peace. The League of Nations failed to prevent the slide to world war two and this came with serious lessons that defined how inadequate the LN was. Debates about regional arrangements emerged at the global sphere at the San Francisco conference.⁶⁵ This debate further escalated to State Department in Washington. More emphasis however on the debate came from the San Francisco, leading to Inter-American treaty system – 2nd September, 1947,⁶⁶ these opened discussions between North and South American delegates on the role played by regional organizations in mediation.

The secretary of state Sumner Welles proposed the regional principle; this might have arisen from issues affecting them i.e. Latin American affairs. Cordell Hull however was apprehensive of the whole idea though he did not deny that regional organizations could exist. On the other hand, he advocated for globalization and having a central command and control. To him the existence of regional organizations had to be controlled by a centralized organization, and at the same time should be working under a central organization. This view by Secretary of state necessitated the drafting of Chapter VIII of the United Nations Charter.⁶⁷

The guiding principle that defines how UN relates with regional organizations is found in Chapter VIII under articles, 51, 52-54. This describes duties and freedoms of regional organizations, and article 51 when to do a collective self-defense. Article 52, broadly states that nothing will prevent regional organizations from taking action that touch on global peace and security, suitable for regional action, if such arrangements are consistent with the principle determinant under the UN.⁶⁸ The UN emboldens regional organizations that they should ensure pacific resolutions of conflicts amongst their members. Before referring such conflicts to UN Security Council, the regional arrangements have to take up the action of pacific settlement. The regional organization gets their mandate from the UN charter. In chapter 6 of the same charter it recognizes the important role regional organizations play in restoring peace. The UN thus in article 33 stresses on the need for

⁶⁵ UN commission on the international organization

⁶⁶ The Inter American Treaty of Reciprocal Assistance, pg 62

⁶⁷ Artices, The UN and regional organizations: King-Links of a global chain, accessed from: <https://scholarship.law.duke.edu/cgi/viewcontent.cgi?article=1374&context=djcil> Pg 38

⁶⁸ 10. U.N. CHARTER art. 52

conciliatory approach in settling disputes. To ensure pacific settlement of disputes parties embroiled in a dispute may resort to regional arrangements to resolve the conflict.⁶⁹

The regional groupings were intended to ensure sustainable economic growth. However, in Africa for instance regional organizations have taken up more the role of security issues that involve conflict and peace management. This is not only limited to Africa but to the entire globe. This is because the 20th Century has witnessed a lot of security concerns,⁷⁰ making the impact of regional organization in resolving and preventing conflicts recognized by the international community. In theory we can justify the existence and involvement of regional organizations in peace and security.

Regional bodies become extremely important in resolving regional conflicts because of several factors. The first one is geographical proximity to the conflict leads regional organization to develop a profound conferred interest in restriction of the crises and managing the conflict. Regional organizations know that if they can't resolve and contain a conflict it can have a ripple effect on the region and disturb stability of the region. Secondly it is argued that they are knowledgeable about the region and the conflict at hand making them have the best solutions for the crisis. Other factors that make the regional organizations a choice in conflict resolution is their experience and efficiency in swift deployment of resources and personnel required when there is emergency.⁷¹

The United Nations reach on mediation and peace keeping and creation is fast moving away from its grasp. The UN is limited in resources and personnel making it impossible to mediate in every conflict.⁷² In the plan for peace, the S G Boutros Ghali, said that in part the financial problems faced by the UN can be resolved by how it interacts with the Regional Organizations.⁷³

⁶⁹ The UN charter Chapter 6, Art 33.

⁷⁰ Buzan, et all, Regions and powers: The structure of international security, Cambridge University Press, 2000

⁷¹ Alagappa Muthiah, Regional institutions, the United Nations & international security: a framework for analysis (1997) accessed from: <https://www.tandfonline.com/doi/abs/10.1080/01436599714795>

⁷² Paul Lewis, UN is Finding Its Plate Increasingly Full but Its Cupboard is Bare N.Y. Times, Sept. 27, 1993

⁷³ UN Doc, gathering a body of global agreements, An Agenda for peace (1992) accessed from: <http://www.un-documents.net/a47-277.htm>

2.2 Motives for mediation

Mediators often have an interest that drives them to mediate. Traditionally the mediator and the conflicting parties shared the same motive that is longing to manage a conflict. This interest normally interlinks with other less unselfish motivations. When mediation is initiated by an individual, the motivations are; to resolve the conflict so as not to escalate, to create an access to major political leaders and the mediator might want to apply their vast gained knowledge in mediation, and finally after they manage to resolve the conflict the reward is recognition at the international arena.⁷⁴ An example can be former US President Carter, in North Korea crisis of 1994.

A representative of a government or an organization may be motivated to mediate because; of the charter of their organization for example the charter of Arab League, the AU and the OAS, the other factor will be political interest; for example USA mediated often in disputes touching Turkey and Greece because they are both in NATO, political goodwill, enhancing the influence of the mediating bodies by ensuring they become central to the conflicting parties.⁷⁵

2.3 Regional organizations and mediation

Regional organizations have used mediation in the past to resolve conflicts. Throughout the 1800s -1900s, a number of self-regulating commissions were established to mediate in conflicts. Some of these commissions were the Central Rhine Commission of 1816, the US-Canada commission established in 1909, the international joint commission of 1889 and U.S-Mexico International Boundary Commission. On the other hand, there was establishment of the central Commission of Navigation on the Rhine established in 1815, by the Congress of Vienna in order to manage conflicts and negotiate trade matters and use of the Rhine; this can be termed as one of the oldest and most enduring regional organization and was instrumental in establishing the waterways regime.⁷⁶

⁷⁴Jacob Bercovitch, University of Canterbury, Relevance of mediation to peace building accessed from: <https://nsuworks.nova.edu/pcs/vol9/iss2/2/> pg 27

⁷⁵ Ibid pg28

⁷⁶ Miller, David and Hunter, American Journal of International Law on the international regime of ports, waterways and railways. Cambridge University Press, UK pg 669-86 accessed from: <https://www.jstor.org/stable/pdf/2187551.pdf>

Regional organizations are mandated to contain conflicts before they escalate and become complex.⁷⁷ Sometimes regional organizations are seen to be undetached from the conflict and due to this factor may be seen to be impartial.⁷⁸ In contrast, regional organizations can be more active at mediating a conflict because their member states share almost the same interests making their actions more timely and operational. Wehr and Lederach looked at the issue differently, they say the mediators who are close to the conflict help to forge a trust-based mediation which avails much and ensures binding agreements. Nye,⁷⁹ Meyer⁸⁰ and Haas⁸¹ question this analogy and its application and thus say that regional organizations have success in resolving the issues behind disagreements.

Even so, regional organizations still play a vital role in conflict mediation and resolution of conflicts; ⁸²arguably regional organizations have proved increased success in their mediation operations.⁸³ The Association of Southeast Asian Nations did not include conflict management in its charter. This is because the members of the organization chose not to, but in Bali Summit of 1976, the members agreed to include mediation to the organization.

Regional organization are effective when they are detached from the influence of member states, possess enough resources to accomplish their mediation goals and their organizations charter have more strict approaches of conflict resolution through mediation. Looking at all this factor, lack of centralized authority makes regional organizations to fail or achieve minimal success. Meyers argues that OAU failures were due to lack of centralized authority. The OAU lack of independence, made it depend on member states to willingly comply with covenants, and due to this OAU was only

⁷⁷ Knopf et al, Fractionating conflict. In International conflict and behavioral science: The Craigsville papers, edited by Roger Fisher. NY, 1964.

⁷⁸ Moore, Christopher W. The mediation process: Practical strategies for resolving conflict. San Francisco: Jossey-Bass Inc. publication, 1987

⁷⁹ Nye, Joseph, Peace in parts: Integration and conflict in regional organization. 1971, Little Brown, Boston

⁸⁰ Meyers, B. David, Interregional conflict management by the Organization of African Unity, pg 345-73.

⁸¹ Haas, Ernst B, Regime decay: Conflict management and international organizations, International Organization 1945-1981 pg 189-256.

⁸² Pinder John, The European Community's contribution to ethnonational peace in Europe, Preventing conflict in the post-Communist world: Mobilizing international and regional organizations. Washington, DC: Brookings Institution pg 147-96

⁸³ Chigas, et al, Preventive diplomacy and the Organization for Security and Cooperation in 1996, pg 25-95. Washington, DC: Brookings Institution

effective when it involved member states and when the leader's positions were not endangered by the rulings of the OAU.⁸⁴

Regional organizations assets in mediation may include quantifiable (money or stand by force), information (knowledge or a central administration), ideational (legality and neutrality).⁸⁵ Regional organizations most of the time lack enough material resources but they are rich in information because this conflicts mostly happen in their locality. Peck in his argument, posits that regional organization have enough information due to their closeness to the conflict and the conflict parties. He therefore argues that regional organizations are able to competently measure possible conflicts and direct their limited organizational assets to more effectively avert and facilitate a conflict resolution. Regional organizations can increase adherence to the settlements if they can monitor, analyze disputant's behavior and offer guidance to disputants.⁸⁶

For regional organization to be effective in their mediation, their charters need to have binding approaches to mediation like negotiation.⁸⁷ More active the role that mediators take in dispute resolution ensures or gives a high chance of success. A regional organization may offer good offices and act as a medium for state leaders and give a helping hand in resolving regional disagreements in that matter but fail in creating and enforcing agreements.⁸⁸

2.4 Conditions for effective regional organization participation in mediation

For regional organizations to be successful in mediation processes, some factors must be considered. There are four key conditions that boost effectiveness of regional organizations this are: the first one is legitimacy, the second condition is enforcement power, the third condition is resources and finally the last condition is cooperation.

⁸⁴ Meyers, B. David, *Interregional conflict management by the Organization of African Unity*; International Organization 1974, pg. 345-73.

⁸⁵ Ibid

⁸⁶ Peck, Connie; *Sustainable peace: The role of the UN and regional organizations*. 1998, USA Institute of Peace Press, Washington, DC

⁸⁷ Mitchell, et all, *USA Journal of Political Science*, International institutions, compliance with agreements. 2007, pg 721-737

⁸⁸ Bercovitch, et all, *Journal of Peace Research -Who mediates? (The political economy of international conflict management-2000)*; pg 145-65.

Legitimacy boosts how effective a regional organization will be in mediating; we ask ourselves this question, is this mediation recognized by the international community, it also has to be in line with the laid down UN procedures. In the event the mediation does not abide by the UN standard practice and procedures, it will fail. The best way to win legitimacy is when the UN Security Council confers or gives authority for a regional organization to mediate.⁸⁹Regional Organization must work to ensure its mediation process has the blessing of the broader International community.

The other factor is enforcement power. Regional organization can mediate well and even reach a resolution but the greatest challenge will be to enforce the resolution. The regional organization must have the capacity to impose the decision on the conflict parties. Implementation of agreements is needed during the entire progression to be able to push the conflict parties to concession and collaborate in the early stages and also to follow agreements to implementation. This can be through sanctions and military power. The enforcement power helps to push the disputants to agree to mediate, agree to a solution and finally agree to implement the agreement.

Resources also matter a lot in ensuring success in the mediation process. A regional organization must have the capacity to sponsor the peace process or most of it if not all. Once a political settlement has been achieved, it is very important to follow the process like; facilitating elections, disarmament, sometimes also training the police.⁹⁰The process may drag and take a longer period; therefore the regional organizations should have enough muscle to finance the process. Having enough resources reduces the chances of bias; regional organizations may get biased to support the stand of their financiers even though they might not agree to this.

Regional organizations need work hand in hand with the UN and major powers to ensure success. From the cold war experience, we get to learn that in the absence of super power support, regional establishments play only a small role in conflict resolution. Regional organizations find their hands tied due to constraints caused by the small size of their

⁸⁹ Thi Hai Yen Nguyen, beyond good offices? The role of regional organizations in conflict resolution, accessed:

https://www.jstor.org/stable/24358180?readnow=1&refreqid=excelsior%3Ac215d5e562f7c4699f4561bf85437766&seq=1#page_scan_tab_contents pg 466

⁹⁰ Ibid pg 467

membership, their nature of non-inclusive on member ship and their limited coverage.⁹¹ Cooperating with UN expands their available resources and legitimizes their mandates. Cooperation is also important due to information sharing and also capacity building.

2.5 The Role of regional organizations in mediation

Regional organizations have been successful and also failed in some instances to broker a peace agreement. The clarion call to all regional organization therefore becomes a call to mediate in order to bring fighting parties to negotiate to achieve a mediated peace agreement. The UN for instance called for mediation to diffuse the conflict in the Central Africa Republic to help settle the hostility among the Muslims and Christina factions back in 2014. Syria went through two mediation stages; both were being overseen by the UN and the League of Arab nations. There seems to be global shift from armed intervention to mediation, as Monica argues; that most stable war termination strategy is victory,⁹² despite findings showing that civil wars that are resolved through political settlement are prone to erupt.

Responsibility to protect (R2P) grew in prominence in 2005 at the world summit where 191 countries were in attendance. These countries endorsed R2P as a choices tool to protect life and intervene where a state has not protected its citizens. The summit was in agreement in the event a state fails in its duty to protect its citizens, from acts of extreme human rights violations; genocide and ethnic cleansing war crimes, the international community has rights to come in and protect the citizens of that country.

The Rwandan genocide acted as a rebuke to the International community and generally Africa. Everybody watched as Rwanda slid into the genocide; Tutsis and Hutus butchered each other. The conflict was out of proportion in just 100 days, this is because some eight hundred thousand people had been killed by tribal Hutu radicals who were aiming at the minority Tutsi's as well as other political adversaries regardless of their ethnic origin, all this happened in 1994.⁹³ It was estimated that 85% of the Rwandan population were Hutu's but the Tutsi's minority were domineering the Countries political landscape. In

⁹¹ Ibid pg 40-42

⁹² Toft, Monica, Ending Civil Wars, A Case for Rebel Victory, International Security 1999, pg 7-36.

⁹³ <https://www.bbc.com/news/world-africa-26875506> BBC news

1959 after the Hutu's overthrew the Tutsi's monarchy the Tutsi's fled in their thousands and in exile started a militia called RPF that attacked Rwanda in 1990 leading to a conflict that ran to 1993 when a peace restored. In 1994 however things went south when a plane carrying then President Juvenal Habyarimana and Cyprien Ntaryamira - Burundi both Hutu's was shot by a missile. The Tutsi's were accused of this and violence broke out culminating to the genocide. The regional organizations and the International community failed.

The European Community played an important role towards containing the apocalypse during the Balkan war (1991-1992).⁹⁴ The first people to respond to Serbia and Slovenia conflict of 1991 were the twelve members of the community and later mediated between Serbia and Croatia in July - August the same year. The Luxembourg summit comprising the 12 members of EC, had an agenda intended to concentrate on economic and political integration, but they detoured and put attention to the Balkan. This happened in June 29, 1991 and they unanimously decided to dispatch a peace mission with special envoys who were foreign ministers of Italy, Netherlands and the Luxembourg, to war torn region.⁹⁵ Yugoslavia was not a member of EC therefore; it represented the CSCE, a superior regional organization to which both European Community and Yugoslavia belonged.

One of the key problems encountered by the European Community or the CSCE, both had no capacity to deal with the issue at hand. The European Union had the financial muscle but lacked clear control over internal conflicts. The EU together with the CSCE jointly addressed this conflict since E.C did not have the necessary influence to address this issue since Yugoslavia and breakaway republics were nonmembers to E.C. The CSCE delivered the jurisdictional context while the E.C had strength in deploying economic sanctions. To be precise the E.C. leaders made it clear that they will freeze all economic ties totaling to almost 1B U.S. Dollars and this was to affect any Yugoslav republic that failed to implement the cease fire.⁹⁶ The community leaders thought that this

⁹⁴ Marc Weller, Current Development, The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia, 1992 86 pg 570- 581

⁹⁵ William Drozdiak, W Europe sends envoys, Debate Yugoslav Crisis, Washington post, June 29, 1991, at A18.

⁹⁶ Ibid pg 576.

will push to resolution of this conflict.⁹⁷ This agreement failed after the next 48 hours as the parties went back to fighting. It became evident that the CSCE conflict management machinery was unprepared to address this conflict.

The European community proceeded to mediate and in order to get agreement amongst the revelries. The Croatian chairman, of Yugoslavia's multiparty presidency, (Stipe Mesic) asked for help from the E.C. community to end the war. This happened in July 28, 1991.⁹⁸ Trust is so much important in mediation. The outlook of the E.C. seemed biased and divided. Germans had historic ties with Croatia hence the Serbs could not see them as a neutral party. Serbia was seen to have strong ties with Britain and France that began from both world wars; its two allies were seen to be pushing for status quo; federal Yugoslavia.⁹⁹ These biases became an issue rather than balancing out, this led to policy confusion within the community. The Balkan's did not trust the mediation process.

The E.C. faced a setback in 1991 when the UN refused to participate in resolving the conflict. The foreign ministers of Germany, Belgium, and Austria suggested that UN get involved, the Secretary General Perez de Cuellar declined and said that the action will seem to interfere with E.C. efforts. In August 12, 1991, the President of E.C Hans Van den Broek, together with the council of ministers declared that the interior problems between the Soviet Union and China would stop the debate on Yugoslav at the UN Security Council. The EU therefore considered organizing a peace conference in Yugoslavia.¹⁰⁰

Mediation had stalled and the E.C. thought the only way to mount pressure was by increasing sanctions on the region or alternatively ensuring independence for Croatia and Slovenia, which he argued would be an equivalent of an atomic bomb and if they put economic sanctions on Serbia, they wouldn't be able to survive. The Germans on the other hand thought that the best way was to internationalize the conflict and allow a

⁹⁷ Ibid

⁹⁸ Croat Leader Asks Europe to Help Ethnic Fighting, USA today, July 29, 1991

⁹⁹ Stjepan G. Mesmovic et, The road from paradise, prospects for democracy in eastern Europe 32 1993

¹⁰⁰ Yugoslavia: EC Proposes International Conference, INTER PRESS SERVICE, Aug. 12 1991

military intervention; this could be achieved by recognizing Croatia and Slovenia. The E.C could call on article 53, enforcement action.¹⁰¹

The Community made numerous propositions towards creating peace. Most republics signed but the Serbs refused to append their signature and continued the war killing thousands.¹⁰²The E.C ensured that Croatia, Slovenia, Bosnia-Herzegovina gained independence and with certain hesitations the previous Yugoslav Republic of Macedonia.¹⁰³Before being recognized they had to pass a stringent test or pledged by the applicants before granting recognition.

The OAS also intervened in the Haiti conflict. President Jean-Bertrand Aristide went into exile and the OAS conferred suspension of economic, financial and commercial ties with Haiti and technical cooperation unless provided in strict humanitarian grounds. The OAS also declared diplomatic isolation for the coup leaders. This had a severe impact on Haiti.¹⁰⁴ It contradicted article 18 that prohibits involvement in another state; either armed force or against the character of the state against its economic, political, and cultural elements.¹⁰⁵

Based on resolution 1080 a mission was sent to Haiti and began the process that led to the reinstatement of President Aristides in 1994. The mediators of this conflict were delegation headed by President Jimmy Carter of United States, they were from UN and OAS and a peace agreement was reached at after the process. The team placed some suggestion; number one that various military leaders had to go on early retirement, to end embargo and parliamentary elections had to be held. The USA led an intervention of a 20,000 strong force that pushed the resignation of General Cedras together with the chief of staff and they left Haiti.¹⁰⁶ In 1995, the UN and OAS oversaw elections in Haiti where

¹⁰¹ Marc Weller, Current Development: The International Response to the Dissolution of the Socialist Federal Republic of Yugoslavia, 1992 pg 570- 581

¹⁰² In September, the 12 foreign ministers circulated a communique that read, in part, ‘The Community and its member states’ understanding that no military intervention is contemplated.

¹⁰³ Ibid

¹⁰⁴ Howard W. French, Jobs Are at Risk in Haiti Sanctions, N.Y. Times, Oct. 31, 1991

¹⁰⁵ OAS Charter

¹⁰⁶ Haiti Background; <https://peacekeeping.un.org/mission/past/unmihbackgr1.html>

the coalition associated with Aristide won the elections. The multinational force helped in ensuring security in Haiti created and trained the national police service.¹⁰⁷

On 1 Dec 2016, the Presidential elections were held in Gambia. The incumbent president Yahya Jammeh was very confident of a win for a fifth term in office. The final tally stood at Barrow 227,708, Jammeh 208,487 while Mamma Kandeh 89,768 votes.¹⁰⁸ President Jammeh contested the result and could not relinquish power.

On the 10 Dec 2016, the UN, AU and ECOWAS gave a joint statement where they rebuked the Government of Gambia urging the government to honor the constitution and international obligations. They advised the outgoing President to accept the verdict of the ballot and also ensure security of President elect as well as the citizens. They advised the Gambian Defense Forces together with other security apparatus to live up to their republics duty.¹⁰⁹

Gambia took the lead the next day (11, DEC 2016) to respond to the crisis. ECOWAS adopted a more aggressive and more uncompromising posture towards President Jammeh. Liberian President in her capacity as the Chairperson (Ellen Johnson Sirleaf) described that the stand of President Jammeh was totally unacceptable and him not accepting the result was a threat to peace in all West Africa.¹¹⁰ Mediation officially started on the 12 Dec in a series of mediation missions, ECOWAS announced that the Presidents of Liberia, Nigeria, Sierra Leone, Ghana, and UNSG special representative for West Africa would travel to the Gambia to attempt resolve the impasse. The team warned Jammeh that if he doesn't step down he will face sanctions and tough measures.¹¹¹

On the other side AU PSC met in Addis Ababa to discuss the situation. It adopted the AU constitutive act and also the AU charter on Democracy, which prohibits unconstitutional changes in government. Meanwhile President Jammeh appeared defiant. Troops from the

¹⁰⁷ Ibid

¹⁰⁸ Muhammed Jay, The Total final Elections result, Independent election commission of the Gambia(5 Dec 2016) <http://iec.gm/the-total-of-final-election-results/>

¹⁰⁹ ECOWAS, AU and the UN –political development in Gambia; www.ecowas.int/ecowas-african-union-and-un-statement-on-the-political-developments-in-the-gambia

¹¹⁰ ECOWAS, Current political situation in Gambia; www.ecowas.int/the-chairperson-of-ecowas-speaks-on-the-current-political-situation-in-the-gambia/ (11 DEC 2016)

¹¹¹ Collin freeman, West African leaders convince Yahyah Jammeh to step down, www.telegraph.co.uk/news/2016/12/13/westafrican-leaders-arrive-gambia-convince-yahyah-jammeh-step/.

Gambia's miniscule army were deployed along Banjul and security forces took control of the independent elections commissions. As the stalemate continued it started taking a toll thousands of Gambians fled to Senegal fearing the possibility of violence. In Dec 17, the 15th conference of the ECOWAS heads of state adopted a final communication that outlined the organizations policy towards the crisis in Gambia. The document sided with President Elect, ECOWAS agreed to uphold the results of the election, assured the President elect of safety and protection, the Head of states pledged to attend the induction of the President elect Adama Barrow and has to be sworn in by 19 Jan 2017 with strict adherence to the Gambian constitution, ECOWAS also requested to be endorsed by the AU and UN and offer them technical support and the ECOWAS promised to take the essential measures to exactingly enforce the results of Dec 2016 elections.¹¹² Shortly the UNSC also added its voice and said it supports the efforts of the ECOWAS and AU and thereby recognizes Adama Barrow as President elect of Gambia.¹¹³

Marcel de Souza the ECOWAS chairperson announced that Senegal will lead an operation aimed at restoring the constitutional order in Gambia and stand by force was on alert if need for military intervention was required. As ECOWAS troops moved to the Gambian border, President Muhammed Buhari and outgoing Ghanaian President John Mahama, ECOWAS designated mediators, travelled to Banjul on 13 Jan 2017 to engage in another round of negotiations with President Yahya Jammeh.¹¹⁴

The AU PSC adopted another decision that reaffirmed its unwavering support to the effort put in by ECOWAS and that it cannot legitimize a coup and illegal change of government in Africa. The AU further said that come 19 Jan 2017, it will not recognize Adama Barrow as President. The Council further warned Barrow of severer consequences should his actions lead to crisis or loss of lives. It gave its full support to ECOWAS.¹¹⁵

¹¹²ECOWAS, accessed from:www.ecowas.int/wpcontent/uploads/2016/12/communique-final-50th-summit-abuja-dec-2016-eng.pdf

¹¹³ UNSC Presidential statement (21 Dec 2016) UN Doc S/PRST/2016/19

¹¹⁴ UNSC Verbatim Record 13 Jan 2017 UN DOC

¹¹⁵ AU peace and security council, The 647th meeting; www.peaceau.org/en/article/the-647th-meeting-of-the-au-peace-and-security-council-on-the-post-election-situation-in-the-islamic-republic-of-the-gambia

As the deadline approached a lot happened very fast, the Senegalese army announced ECOWAS army is ready to intervene. In Gambia the ministers of foreign affairs, finance, trade, and environment resigned. The Chief of defense Ousman Badjie announced therefore that Gambian forces will not fight back in the event ECOWAS troops intervened.¹¹⁶ The deadline elapsed and President Elect Adama Barrow took the oath of office at the Gambia embassy located in Senegal. The next thing that followed was the ECOWAS army crossing over to enforce the oath. They codenamed it operation restore democracy. President Alpha Conde of Guinea launched a renewed attempt to resolve the impasses, as the negotiation progressed the deadline was extended and finally after asking for an extension of the deadline to relinquish power, Yahyah Jammeh agreed to relinquish power and left for Equatorial Guinea on 21 January 2017.¹¹⁷

In summing up, regional organizations are key players in helping to mediate conflicts before they go out of hand. There is a growing participation of regional establishments in both peace keeping and peace implementation roles and mediation has been announced as a new dynamic conflict management tool. Africa Union has involved itself in various peacekeeping missions to Burundi, Sudan, the Central Africa republic and Somalia. The other continents also have their own arrangements to resolve conflicts. Latin America has institutionalized its conflict resolution.¹¹⁸ It has strong organizations and multilateral agreements that act as guides on how to resolve different conflicts. The ASEAN takes the cultural way of non-confrontational approach to resolving conflicts.¹¹⁹ In Europe regional conflict management institutions and its aspirations have worked well even though the subsequent capacity falls short of the elaborate planning.

¹¹⁶ BBC ,Gambia Crisis;; www.bbc.com/news/world-africa-38682184

¹¹⁷ Yayah Jammeh decides to leave power, the Guardian; www.theguardian.com/world/2017/jan/21/anxious-gambians-await-former-president-yahyah-jammeh-departure

¹¹⁸ Herz, Monica, Institutional Mechanisms for Conflict Management in South Africa, 2011 Washington, U.S. Institute of Peace Press, DC

¹¹⁹ Bitzinger, et all, 'Southeast Asia and its Evolving Security Architecture' 2011. D.C

Mediation and its influence as well as the growth of regional organizations paints a contradicting situation. Alex Bellamy and Paul Williams posit that regional organizations play the part of gate keepers in the UN Security council and nationwide debates that explain how regional organizations engage to resolve regional conflicts.¹²⁰ this conclusion is drawn from the role played by Arab league up to the international engagement in Libya and ECOWAS role in Cote D' Ivoire. This example also comes out strongly through the events of Arabs League's dynamic position over the Syria Civil war and in a more hushed example that happened in the ASEAN by the ASEAN countries trying to bring balancing forces (India and the United states) to China's regional heft.

A gatekeeper role is does not take a uniform pattern in all regions. In their argument (Crocker et. al.), argue that if regional establishments can bring foreigners and impart legitimacy to an international engagement, they can also work to keep off elements (some international actors) that they seem are not favorable to the peace finding missions. A good example was that AU was very vocal to reject NATO's involvement in Libya in 2011. In this case in the end it had little impact to this conflict. In some instances, regional organizations become missing in action when duty calls to resolve serious conflicts in their neighborhood. A good case to explain this was the conflict in Colombia and the FARC, the OAS and USASUR stayed away from this conflict and only Venezuela, Chile and Cuba were active in mediating this conflict. In other occasions regional organizations are locked out of mediating in a conflict. These are caused by internal ¹²¹member's wrangles and splits. A good example is the OSCE in Georgia 2009. In the other times regional organizations have found themselves target of the conflict as it happened in the OSCE during the Ukrainian crisis.¹²²

Now the question that arises from this is that, whether all mediation processes will be vital to have the presence of regional organizations in order to be legit. In the event regional organization is to approve, will it be sufficient for one regional organization to approve or a majority of regional organizations? What happens if regional organizations

¹²⁰ Bellamy, et all *The New Politics of Prevention: Cote D'Ivoire, Libya and the R2P International Affairs* 2011, pg 87: 4, 825 – 850.

¹²¹ Robinson, Matt, *UN Monitors Leave Georgia, 2009*; <http://www.reuters.com/article/2009/06/30/us-georgia-monitors-idUSTRE55T3OR20090630>,

¹²² Bell, Bethany, *Ukraine Crisis*: www.bbc.com/news/world-europe-26753947, 2014

disagree? (Libyan case). It is as clear as the water that engagement of regional organization brings both advantages and disadvantages. It adds both legitimacy to the process as well as adding another layer of decision making that is very complex and leads to potential discord to the mediation.¹²³

¹²³Chester A. Crocker, Fen Osler Hampson, and Pamela et al, *The Shifting Sands of Peacemaking*; <http://antigo.bricspolicycenter.org/homolog/arquivos/Crocker.pdf> pg 13

CHAPTER THREE

**THE ROLE OF AFRICAN UNION IN CREATING LASTING PEACE IN
MADAGASCAR**

3.1 Introduction

After the protracted political crisis of 2009, there was great need for resolution of this conflict. Madagascar had gained independence from France in the 1960 and since then it has had a bumpy political lifeline known to Coups. From independence the country was ruled by Socialist leaning regimes and thereby suffering periodic political instability. There have been violent protests, periods of military rule, flawed elections and pervasive informal system of government based on neo-patrimonial networks.¹²⁴ With the declining influence of the Soviet Union, demands for democratization mounted, a democratic transition happened in 1989 but there were significant unrests during this transition. A new government was formed and new constitution drafted after 1992 through the referendum and Presidential elections. The new government faced a myriad of challenges amid trying to stabilize the economy; strikes, extreme poverty, student's strikes and the President (Albert Zafy) was impeached in 1996. Ratsiraka took over in 1996, on the outward he portrayed himself as a lover of democracy but later backed constitutional reforms and weakened the power of the other arms of government to centralize it on himself.¹²⁵

In 2001, Madagascar was faced with a highly contested election that had a spillover effect of crisis into 2002. Many people of Madagascar rallied behind the reform message of Ravalomanana and his party Tiako I Madagasikara (TIM, meaning- I love Madagascar). These elections led to a tense period between the two opponents, Ravalomanana cited irregularities and refused to go for a run off organized later in the year 2002. The High Constitutional Court in Madagascar sanctioned the elections and Ravalomanana was sworn into office in May 2002. Ratsiraka's supporters started destroying communication facilities, roads, bridges hence escalated problems due to loss

¹²⁴ Marcus, R., Political change in Madagascar, https://www.researchgate.net/publication/295075940_A_Clash_of_Norms_and_Strategies_in_Madagascar_Mediation_and_the_AU_Policy_on_Unconstitutional_Change_of_Government

¹²⁵ Lauren Ploch, Madagascar's 2009 Political Crisis (Congressional Research Service pg5)

of jobs, dilapidated economy and increased levels of poverty. In June 2002, USA was first to recognize the government of Ravalomanana followed by France, China and U.K, leading to the President's exile to France.¹²⁶

In 2009, Madagascar entered into a political predicament when Andry Rajoelina, ousted President Marc Ravalomanana by way that was unlawful, this was seen a coup. The coup was condemned by AU, SADC, the EU and other international actors. The Peace and Security Council defined the takeover of government by Rajoelina as unconstitutional and suspended Madagascar from AU.¹²⁷

The AU has a guiding principal to ensure Africa is United and a strong continent.¹²⁸ The introduction of the constitutive act brings forth comprehensive pointers allowing the development of continental law which promotes and shields the Human Rights, establishment of strong independent institutions that ensure good governance and rule of law. The AU has the objective of defending sovereignty, regional integrity and liberation of its member states and commitment to political and economic integration.¹²⁹

In 1998, OAU secretary general Salim Ahmed Salim, said that there is need to talk about governments being accountable to their national and international responsibilities, this will help redefining sovereignty. Nelson Mandela, in 1998 OAU summit held in Ouagadougou, Burkina Faso, reiterated that Africa has a noble duty to mediate to root out tyranny, he added that all must accept that we can't abuse the idea of national authority to deny the rest of the continent the right to do duty of intervening, even when people are being slaughtered within the sovereign boundaries.¹³⁰ The AUPSC is very important in making decisions towards deterrence, management and resolution of conflicts.¹³¹ The PSC was included as an organ of AU under the protocol on adjustments to the Constitutive act AU adopted in 2003 after being approved by two thirds of AU member states.¹³²

¹²⁶ Ibid

¹²⁸ AU, Preamble - Constitutive Act (2000/2001).

¹²⁹ Article 3, AU charter.

¹³⁰ Africa's Responsibility to Protect (2007, Cape Town Centre for Conflict Resolution) at 15.

¹³¹ Article 9 of Protocol on Amendments to the Constitutive Act of the African Union

¹³² Article 9 of Protocol on Amendments to the Constitutive Act of the African Union

The AU Charter that defines Democracy, elections and governance under Article 25, 4 condemns the offenders of illegal change of government and says they shall not be permitted to partake in elections held to reestablish democratic order after mediation has brokered a truce. This as intended to discourage acts of coup and coup leaders from advancing unconstitutional change of government.¹³³

3.2 How did the AU enter to mediate?

Political tensions in Madagascar had gone too high, President Marc Ravalomanana and Andy Rajoelina could not agree and this had escalated in early 2009. In the weeks that proceeded, it is reported that more than 135 people had died in the demonstrations. Due to the immense pressure, the President was forced to hand over power to the military on the seventeenth day of March 2009. The military henceforth transferred power to his adversary (Andry Rajoelina).¹³⁴

Mediation started off by the UN acting as the mediator. President Ravalomanana had written to the UN Secretariat requesting them to provide good offices to resolve the impasse. The Secretary General sent two senior UN officials to mediate. The process of mediation started very well but later the conflict went out of proportion on the seventh day of February 2009. The UN and Council of Christian churches were given a condition by Rajoelina that for mediation to precede the President has to resign. This led to failing of the mediation process leading to the coup.

After the coup, the AU suspended Madagascar from being its member and quickly sanctioned Madagascar. The AU further formed the ICG that included UN, the EU, SADC, the Organization of Internationale de la Francophonie and other external actors to help bring order and create one voice among the mediators. The AU replaced UN as the key mediator in the conflict since AU argued the problem was African and needed

¹³³ The AU charter.

¹³⁴ “Madagascar on the Verge of Civil War, U.S. Ambassador Warns,” The Guardian (London), 12 March 2009

African solution. As a matter of general policy the UN agreed and even endorsed the AU.¹³⁵

3.3 The Role of AU mediation in Madagascar.

The Addis charter covers both unconstitutional capture of power as well as unconstitutional retention of power. In defining the illegal change of government, the charter identifies, replacement of a constitutionally elected government through a coup, intervention by rebels or mercenaries, a sit in government refusing to surrender power to the winning party through elections and also amendment of the constitution that jeopardizes the values that govern the democratic transfer of power.¹³⁶ The charter forbids cleansing coups by way of elections and further stipulates that perpetrators of such actions that are unconstitutional may not vie in elections held in order to restore democracy or occupy any position in the political institutions in their states.¹³⁷

On the 16th March 2009, one of the palaces of President Ravalomanana was captured by soldiers of Malagasy army (Ambohitsorohitra palace). The African Union condemned and termed this action a bid to oust Ravalomanana through coup d'état. Rajoelina, the organizer, refuted the claims, to him this was the will of the people and could not be termed otherwise.¹³⁸ The AU suspended Madagascar as a result. AU was adhering to its policy on unconstitutional change of government. SADC also suspended Madagascar after AU had taken a bold resolve. SADC believed in military intervention in order to restore Ravalomanana.

The AU set up International contact group that included the UN, the EU, SADC, the Organization Internationale de la Francophonie and other external actors to help in resolving the deadlock. This aimed at boosting mutual cooperation, the mediators had been divided and there was need for them to speak one voice to make mediation work. At the first meeting of the ICG, the AU replaced the UN as the lead mediating body. Despite the objections on the ground, the UN consented to this because it did not regard the

¹³⁵ www.researchgate.net/publication/295075940_A_Clash_of_Norms_and_Strategies_in_Madagascar_Mediation_and_the_AU_Policy_on_Unconstitutional_Change_of_Government

¹³⁶ Charter on Democracy, Elections and Governance, 2007

¹³⁷ Art 25(4)

¹³⁸ <http://news.bbc.co.uk/2/hi/africa/7947381.stm>.

Malagasy crisis as an issue of priority or as an issue of general policy. The UN endorsed the AU's responsibility for African peacemaking.¹³⁹ This was also a good place for AU to gain experience and build capacity in mediation though it had participated in other successful processes. In May 2009 the AU facilitated the second round of Inter-party talks in Antananarivo. The main divisive issue was the safe return of Ravalomanana to Madagascar and Rajoelina role during transition.

The initiative of AU in creating the International contact group helped to restore order since there was competition between UN, AU and SADC on who should lead the talks. These disagreements were from normative and strategic disagreements between these organizations.¹⁴⁰ This had jeopardized the value, soundness and trustworthiness of external peacemaking in Madagascar. The entire process had started under the leadership of the UN in April 2009. The UN had organized negotiations between four parties headed by Rajoelina, Ravalomanana and Two former Malagasy Presidents; Didier Ratsiraka and Albert Zafy. The talks failed and the parties could not willingly conclude agreements and the International bodies were divided. While the UN and AU pushed for inclusive negotiations, SADC insisted Ravalomanana reinstatement and warned that it might use force to ensure this is achieved. France backed UN but it was pushing to ensure Rajoelina's political survival. This is because Rajoelina was pro France and therefore could advance their interests in Malagasy.

The SADC summit of 2009, wanted SADC to oversee the mediation talks and appointed former President Joaquim Chissano of Mozambique, aided by a team of mediators to lead the mediation discourse in Madagascar.¹⁴¹ The AU however opposed this idea but because of the status of Chissano; who was senior most of the envoys working on the conflict,¹⁴² Chissano was to lead under the auspices of AU. The parties (mouvances) agreed on an amnesty and to share power in order to bring back the constitutional normalcy. The Maputo accord helped soften the stand of SADC who wanted Rajoelina and the High

¹³⁹ <https://news.un.org/en/story/2012/05/411972-interview-peacekeeping-and-partnerships,2012>

¹⁴⁰ Gavigan, P, *The 2009 Madagascar crisis and international mediation*, Conflict Prevention and Peace Forum, Social Science Research Council, New York, 2010

¹⁴¹ SADC, *Madagascar: An Extraordinary Summit of Heads of State and Government of the Southern African Development Community*, Sandton, 20 June, 2009b

¹⁴² www.sabc.co.za/news/f1/745474004c41e2bfb829ffecb51a2d14/Interview-with-Nkosazana-Dlamini-Zuma-the-newly-appointed-AU-chair--20120807 (accessed 7 October 2012).

Transition Authority to relinquish power immediately, to that of an interim inclusive government and other inclusive institutions that would oversee a 15 Month transitional period a constitution referendum and elections. The posts were to be divided among the disputants; more details were to be fixed in the later round of negotiations.

In October, the AU convened follow up talks in Antananarivo. Later after the talks AU reported that the parties agreed that Rajoelina would remain President during the transitional period. The economist (2009) was quick to note in their article “coups, it seems, can still pay”¹⁴³ Ravalomanana on the other hand was in exile in South Africa rejected the deal saying that this was imposing Rajoelina against the will of the parties. He accused the AU mediators of this imposition. In the one month that followed, there were a lot of wrangles over positions and in November, the mouvance leaders met in Addis Ababa, AU headquarters and signed the additional act of Addis Ababa. In this meeting, it was agreed to the appointment of a consensus Prime Minister and that Rajoelina should continue as President during transition but serving with co-presidents. The co-presidents were to be selected by Ravalomanana and Zafy. The other interim positions numbering 450, were distributed among the parties however, the mediators forgot to allocate four ministries. The AU therefore concluded that the mediation team had completed its task and the next stage was monitoring the implementation.¹⁴⁴

On arriving in Madagascar, the peace agreement broke down. The outstanding Ministerial position could not be resolved. Chissano made a grave mistake of going against AU and convening talks in Maputo in December. Rajoelina refused to attend and Chissano made a mistake again of going on with the talks without him. This made Rajoelina extremely unhappy and renounced Maputo and Addis Accords and said that High Transition authority would organize an election in 2010. Rajoelina avoided AU and SADC mediators for most part of 2010. The AU responded with sanctions on him and other members of High Transition Authority.¹⁴⁵

¹⁴³ <https://www.economist.com/middle-east-and-africa/2009/10/15/coups-can-still-pay> (2009)

¹⁴⁴ AU. Report of the Chairperson of the Commission on the situation in Madagascar, 216th meeting of the Peace and Security Council, 2010a 19 February.

¹⁴⁵ AU, Communiqué, 221st meeting of the Peace and Security Council, PSC/PR/COMM. (CCXXI), 2010b.17 March.

Rajoelina feeling the isolation, announced that he will not stand in the presidential election hoping normalcy will return. He however remained opposed to Ravalomanana's return to Madagascar. In the year 2010 August, the former president was tried and convicted in absentia of murder of demonstrators by the Presidential guard in February 2009.

Rajoelina accepted to engage SADC mediators under AU mandate since the isolation internationally was great on his regime. The domestic transition process he (Rajoelina) had earlier developed lacked credibility and could not solve the conflict. Chissano mediation team in January 2011 identified a roadmap which was represented to the parties in order to end the crisis. The roadmap envisioned that an election will be done strictly under UN supervision and Rajoelina was to remain the transitional President. Rajoelina was also to appoint a consensual Prime minister. Ravalomanana was barred from moving into Madagascar until the post-election government ensured his security. The roadmap promised that the international community will recognize Rajoelina's High Transitional Authority on the condition the High Transitional Authority stayed true and committed to the Roadmap. The recognition will come with goodies: Supply financial as well as technical aid for the transition.¹⁴⁶ Rajoelina accepted Chissano's Roadmap and He established a government of National Unity. Rajoelina further decided that he will stand in the upcoming election.¹⁴⁷ The roadmap was criticized and rejected by the opposition as well as the civil society and religious and traditional leaders. The Roadmap was highly criticized since it gave Rajoelina a lot of power during the transition period.¹⁴⁸ The roadmap was later rejected and a vote of no confidence was passed against Chissano. This was after wide consultation between Malagasy parties. Chissano was replaced by Troika of the SADC organ in politics, defense and Security cooperation.¹⁴⁹ The Troika mediators further held talks in Antananarivo and on the 17 September 2011 revised Roadmap was signed.¹⁵⁰ While the AU ignored ban on coup legitimization, in her view

¹⁴⁶ SADC (Southern African Development Community), 2011a. Communiqué: Extraordinary Summit of Heads of State and Government of the Southern Africa Development Community, Windhoek, 20 May

¹⁴⁷ Ibid

¹⁴⁸ Christie, S. SADC in a bind over Madagascar road map. Mail & Guardian, May 2011

¹⁴⁹ ibid

¹⁵⁰ SADC (Southern African Development Community), 2011d. Press statement of the Organ Troika, Antananarivo, 17 September.

(Madagascan Journalist); *By Ignoring the ban on coup legitimization, the AU allowed the crisis to prolong.*¹⁵¹ *She further states that; I think the AU ignoring the ban on coup legitimization made the crisis worse. It emboldened the Malagasy army and the transitional leader Andry Rajoelina.*

After the roadmap had been signed, a lot of progress was done towards implementation. An electoral timetable was adopted, a consensus prime minister was also appointed and transitional institutions formed. The only unresolved issue was the homecoming of Ravalomanana. The Troika was unable to break the impasse. In the diplomatic sphere there was a widespread support for “neither nor” solution, both leaders were to agree that none of them will be in the presidential race.¹⁵²

At the end of 2012, one on one talks between Rajoelina and Ravalomanana did not bear fruit hence President Jakaya Kikwete of Tanzania was mandated to resolve the impasse. Both Ravalomanana and Rajoelina agreed to neither nor decision. They agreed not to stand as candidates in the coming elections. The PSC, upon receiving a report from SADC report on the roadmap, it applauded the progress.¹⁵³

The AU further lifted the suspension of Madagascar from membership and also lifted the sanctions and invited the government of national unity to represent the country at AU. The reason behind AU’s change of heart on coup legitimization was necessitated by the primary reason of giving priority to peace and stability and the best way to attain this was by compromise. The Madagascar military had already said they will not accept anyone to be transitional president but Rajoelina. The army said that they would resist any attempts aimed at replacing him, this could be fatal. Therefore, it was a matter of choosing a greater good in resolving the conflict.¹⁵⁴

The PSC also took precaution on the return of Ravalomanana since this was seen as a way that could spark violence in Malagasy. The main strategies used by AU to ensure success it put pressure on Rajoelina and the High Transition Authority, sanctioned

¹⁵¹ Questionnaire 1, filled in by a Madagascan journalist living in Kenya.

¹⁵² Ploch, L and Cook, N, Madagascar’s political crisis, Congressional Research Service, 2012 Washington, DC.

¹⁵³ AU. Communiqué, 303rd meeting of the Peace and Security Council, 8 December, 2011

¹⁵⁴ Ibid

Madagascar. The AU wanted to see credible elections rather than removing Rajoelina. Peace is very expensive, that is why the AU had to “ignore” the Addis Charter on the unconstitution change of power.¹⁵⁵ January 2014, the PSC welcomed Madagascar back into the AU membership after suspension. This was after successful elections held in the late 2013 where Henry Rajaonarimampianina became the winner and President elect.¹⁵⁶

3.4 Multiple mediators; the International Contact Group

This is a multi-party approach where we have more than one mediator. The Madagascan conflict employed this approach. The AU formed the International Contact Group that encompassed several mediators working under AU as the chair or convener. There has been upsurge in the number of institutions that are involved in mediation after the cold war era. In current conflicts as Bercovitch notes, small states, large states, International organizations, regional organizations, NGO’s and prominent individuals mediate.¹⁵⁷ Multi mediation happens when two or more mediators cooperate or sometimes on order to resolve a compete in helping to resolve the impasse. For example, the AU competed with UN over who will lead the team of mediators from AU, SADC, UN, and Organizations of French speaking countries among other mediators. This form of mediation defines very well the characteristics of triple talk, the mediators step out into conflicts in an attempt to forge trust and promote negotiations.¹⁵⁸ In the questionnaire filled in by a journalist born in Madagascar, she says; *there were too many mediators in resolving the crisis thus created different views.*¹⁵⁹

Another questionnaire;

*While too many mediators got involved in restoring peace, they created more problems for the country because the mediators had their own interest.*¹⁶⁰

Multi-party mediation transmits both risks and rewards as conflict management strategy. On the positive side, several third parties that cooperate can increase the chances of

¹⁵⁵ Ibid

¹⁵⁶ <https://issafrica.org/pscreport/situation-analysis/madagascar-still-not-out-of-the-woods>

¹⁵⁷ Bercovitch, Jacob and Gerald Schneider; Journal of Peace Research: Who Mediates: The Political Economy of International Conflict Management. 2000, pg 145-165.

¹⁵⁸ ibid

¹⁵⁹ Questionnaire 1, filled in by a Madagascan journalist living in Kenya.

¹⁶⁰ Questionnaire 2, filled in by a Madagascan Honorary consul living in Kenya.

drafting agreement, it is said two is better than one and that unity is strength. The multiple mediators can mount pressure on disputants to resolve a conflict and because of the number make the disputants yield to the pressure, the other plus is that their resources combined help implement the negotiated agreement. It can also lead to opening of new dialogue avenues; an example is when Norway held the informal talks that led to the Oslo Accords in 1993.¹⁶¹

Different mediators are essential since they bring unique assets, skills and competences to the negotiating table.¹⁶² Together the mediators can be able to multiply resources of leverage and increase influence over the parties while bringing further external inducement on the table. The risk of mediation can be spread on the mediators and also on the parties. The multiple mediators are important because depending on the relationship they have with the disputants they can help isolate spoilers by creating friend's groups. When properly structured, these groups can be extremely useful in to strengthen third party processes.

Some mediators are preferred over others and the presence of some makes the disputants feel comfortable. For example, some disputants may prefer the Presence of UN more to others. The mediators in a multi-party set up bring varied resources and skills to triadic negotiating situations. Different mediators carry different resources for example; power or expert knowledge and procedural negotiation skills.¹⁶³

One of the greatest challenges is harnessing the different skills and capabilities and making them greater than individual parts. More mediators are not better if the mediators concern is one of forum shopping and start playing different mediators against one another. This can be done by pulling on different directions and missing to organize and structure the mediation process. The other tragedy if the mediators fight for the attention of the disputing parties. Competition from the multiple mediators can lead to prolonging of the mediation process and conflict leading to difficult compromises and negotiated

¹⁶¹ <http://antigo.bricspolicycenter.org/homolog/arquivos/Crocker.pdf> pg8

¹⁶² Fisher, Ronald J. *Journal of Peace Research*; Assessing the Contingency Model of Third-Party Intervention in Successful Cases of Pre-negotiation, 2007 pg 44:3, 311-329.

¹⁶³ Rubin, Jeffrey Z., ed. (1981). *The Dynamics of Third-Party Intervention: Kissinger in the Middle East*. USA, NY: Praeger Publishers.

concessions.¹⁶⁴ It is very easy for mediators to drop the ball and cause confusion in the mediation process, this happens when mediators follow each other in sequence and they are not careful to follow through. When things go wrong it becomes very easy for blame game to take center stage.

3.5 Outcome of the mediation

From the onset, the ICG were pushing for an election to be conducted to restore law and constitutional order in Madagascar. The AU has a commitment to uphold and commit to democracy. The parties agreed to form a transitional government and also hold elections after 12 months. This was after they signed a Roadmap towards resolving the crisis. In the roadmap, the transitional President was to be Rajoelina and he was to oversee transitional institutions. A consensus Prime minister was also appointed during this period and an elections timetable adopted.¹⁶⁵ It was also agreed that neither Rajoelina nor Ravalomanana will stand in the upcoming elections. Madagascar then held elections in October 2013; the top 2 candidates then went for a runoff on December 2013. Rajaonarimampianina emerged the winner after the runoff and was sworn in on January 25 2014. This marked the end of the crisis.¹⁶⁶ In her view pulled out from a questionnaire filled in by a journalist from Madagascar;

I think the approach taken by Regional Organizations(AU), did not take into account the key players position in the crisis. They merely came up with cosmetic end to calm things down.¹⁶⁷ She further notes, the military stance on maintaining Andry Rajoelina as transitional President made mediation choose a short-term solution to avoid civil war.

In his comments a liaison officer notes in questionnaire; *Yes, the military involvement ended up in supporting the regime that came up through the coup therefore leading the mediation process to be a single sided affair.¹⁶⁸*

¹⁶⁴ Boehmelt, Tobias (2011). "Disaggregating Mediation: The Impact of Multiparty Mediation," in British Journal of Political Science., 41,4: 859-884

¹⁶⁵https://peacemaker.un.org/sites/peacemaker.un.org/files/MG_110913_Roadmap%20for%20ending%20the%20crisis%20in%20Madagascar.pdf pg1

¹⁶⁶ <https://sites.tufts.edu/wpf/files/2017/07/Madagascar-brief.pdf>

¹⁶⁷ Questionnaire 1, filled in by a Madagascan journalist living in Kenya.

¹⁶⁸ Questionnaire 1, filled in by a Madagascan Liasonliving in Kenya.

In summary, the conflict was resolved though it lagged. One of my respondents recommends that *AU and other regional organizations should take a firm and clear decision to effectively address the role of mediation in resolving conflicts. They need not take sides but be neutral and understand the political history of the country; they also need to in harmony and should not bring contradictory positions while mediating conflicts.*¹⁶⁹

The head of consul – Madagascar, stated that while regional organizations are involved by restoring peace they should study the case and understand the political history of that country. They should also be neutral and should harmonize the mediation to avoid conflict of contradicting positions.

¹⁶⁹ Questionnaire 1, filled in by a Madagascan journalist living in Kenya.

CHAPTER FOUR
THE CHALLENGES AND POSSIBLE OPPORTUNITIES FOR AU MEDIATION
IN MADAGASCAR

4.1 Introduction

The AU has established conflict management instruments, these are; sanctions, regimes, and mediation initiatives, minimizing conflicts through peace keeping processes, peaceful talks and consensual interventions and keeping of peace.¹⁷⁰ This moved away from the normal workings of the OAU which held to the principle of non-interference. The AU came in and launched missions to Democratic republic of Congo, Comoros, Cote d'Ivoire and Somali., Burundi-2003-2004, Sudan, Darfur-2004-2007.

The AUPSC employs mediation as its main instrument in the resolution of conflicts in Africa; in Madagascar former President Chissano of Mozambique took the leadership role. The mediation in Madagascar was successful but it had numerous challenges. Looking at the outlook of Madagascar, it is first of all poor, shattered democracy that has suffered a pattern of crisis to crisis. This crisis of 2009 proved itself to be really intense since it damaged Madagascar reputation; politically, diplomatically and economically.¹⁷¹

A unified global community signaled that only elections done in adherence to the constitution would take Madagascar back to constitutional normalcy. As the crisis began in Madagascar, AU took the leadership role to restore Madagascar back to Constitutional order. The AU showed an increased worry on the matter which was highlighted in the 12th and 13th ordinary sessions of the AU in 2009.¹⁷² Looking back, the 2006 elections were undermined by events of electoral violence and unrest that plunged Madagascar into a state of instability.¹⁷³ Ravalomana was reelected with 54.97% of the votes but there was evidence of oppressive leadership and democratic retreat were increasing with public discontent levels with the government going high.¹⁷⁴ The period between 2006 and 2008

¹⁷⁰ Williams, P. D, The African Union's conflict management capabilities (Working Paper). International Institution and Global Governance Program, New York. 2011

¹⁷¹ Crisis Group interview, Malagasy journalist, Antananarivo, 22 June 2012

¹⁷² AU 2009a

¹⁷³ www.iss.co.za/pgcontent.php?UID=8577, (19 September, 2010).

¹⁷⁴ API 2009, www.africapi.org/pgcontent.php?UID=521, (8 September, 2010), 8

showed increased dissatisfaction and should have served as early warning signs to Ravalomanana and the international community. A series of mediation efforts were launched to restore constitutional order in Madagascar in 2009.

There seems to be deep sited issues that needed to be addressed rather than just ensuring the cosmetic peace in Madagascar. There were deeper underlying issues that caused the Coup of 2009 that were left unaddressed. At a keen look at the history of Madagascar I tend to see a similarity between how Ravalomanana and Rajoelina took over power. It seems both rode over popular uprising to take over power. Rajoelina seems to have learnt from his predecessor Ravalomanana. I believe that a permanent solution is yet to be found in resolving and bringing lasting peace in Madagascar. Recent developments in Madagascar, both Rajoelina and Ravalomanana factions in parliament passed a motion to impeach the President who took over after the crisis, President Rajaonarimampianina. This impeachment vote was later thrown out by the constitutional court and AU was quick to reinforce the court's decision.

4.2 Challenges and opportunities for the AU

The AU encountered challenges in the entire process of Mediation in Madagascar. The hindering blocks were deadlock faced by the mediating team and also lack of political will by the political actors also contributed to the failure of AU in rendering a quicker solution to the crisis. However opportunities always arise from the peace and security architecture which has to have a good coordination with mutual political will.

4.3 Deadlock in the mediation process

The major challenge experienced by the AU was the lack of good will leading to a deadlock situation. This was attributed to the political culture rooted into the fabric of the Madagascan political landscape, which made the HAT resistant to power sharing. Mediation was viewed as a weak method of addressing the Coup. Maunganidze points the failures of the mediation progression to the two protagonists and lack of coordination not only between the parties but also from the mediators in regards to the way

forward.¹⁷⁵ Some SADC members hinted to a military intervention to reinstate Ravalomanana hence bringing forth the lack of coordination and confusion. This had a negative connotation on the sanctions imposed on Madagascar by AU; the initiative to isolate Madagascar by AU was ignored by some players in the international community thus discrediting AU and the mediation process.

4.4 Financial constraints

The AUPSC depends on the APSA, however during this period of the crisis it was undergoing through severe financial challenges.¹⁷⁶ The contributions from member states were not substantial to meet the budget. A fifth to a quarter of its members was unable to meet their obligations. This made the organization depend on donor aid. To achieve its mediation obligations the AU had to depend on donors and mainly UN for financial aid. Most of the members constituting the AU are very poor hence the financial capacity of AU is limited. The organization's autonomy was compromised because it depended on donors 'he who pays the piper plays the tune'.

4.5 AU policy and its impact on the mediation process

The Madagascar mediation process highlights key inconsistencies between the AU policy on unlawful change of government and the goal, reason and appeal of mediation. The AU on the other hand has a policy that is against unconstitutional change of government and requires that such a government should not be accepted and constitutional order must be restored. The Policy is good at restraining unruly and coup leaders but at the same time, it cannot go hand in hand with mediation. Mediators ought to be facilitators and cannot impose their decision on the disputants. A good example is when Chissano's roadmap was rejected because it favored one party and had not been formed out of consultation.

Article 30 further states that governments that shall ascend into power unconstitutionally shall face suspension from AU and shall be barred from participating in the activities of

¹⁷⁵ www.isn.ethz.ch/isn/DigitalLibrary/Publications/Detail/?ots591=0c54e3b3-1e9c-be1e-2c24-a6a8c7060233&lng=en&id=108757.

¹⁷⁶ Engels, U, Unconstitutional Changes of Government accessed from [;www.unileipzig.de/ral/gchuman/documents/working_paper_series/RAL_WP_9_Engel_web_101207.pdf](http://www.unileipzig.de/ral/gchuman/documents/working_paper_series/RAL_WP_9_Engel_web_101207.pdf).

the AU thereof.¹⁷⁷ The objective of mediation is to assist conflicting parties prevent, manage or resolve a conflict by the help of a mediator, parties develop mutually acceptable agreements. The process ought to be voluntary, dependent on the agreement reached by the parties. The mediator on the other hand must work hard to ensure that the conflicting parties trust and offer cooperation, build their self-assurance in the negotiations and shift their engagement from hostility to collaboration and problem solving.¹⁷⁸ Chissano on the other end could not gain trust of Rajoelina and the HAT because he seemed to favor Ravalomanana at the beginning because for him he followed on the policy and wanted restoration of Ravalomanana to office since the Coup leaders had no place. This made the process drag since Chissano seemed an impediment and the mediation talk at some point terminated.

The AU policy on unconstitutional change of government has an objective to restrain coup plotters. The policy does not allow negotiation with coup plotters but calls for coercion and sanctions to relinquish power. The mediator finds themselves at a difficult position trying to secure cooperation from the targeted party (the offender). The UN guides that the mediator has to be impartial at all times during the mediation process so as to gain confidence of the protagonists.¹⁷⁹ Scholars are divided on the question of mediator bias, and some scholars insist that bias is beneficial while others insist impartiality.¹⁸⁰ The Madagascar mediation points out to evidence of harmful effects of bias in mediation. Chissano the former President of Mozambique was biased and this caused public hostility towards him and talks could not continue at some point. The HAT withheld cooperation with him due to this fact of bias.¹⁸¹

Rajoelina was appointed the President during the transition according to the roadmap. It helped restore peace in Madagascar, though the ban on coup legitimization was ignored. The Malagasy army had shown their resolve not to accept any other person as the

¹⁷⁷ Article 30, AU charter.

¹⁷⁸ UN, 2012a. Guidance for Effective Mediation page 4-9
www.un.org/wcm/webdav/site/undpa/shared/undpa/pdf/UN%20Guidance%20for%20Effective%20Mediation.pdf

¹⁷⁹ UN 2012a. page 10

¹⁸⁰ Kleiboer, M, Understanding success and failure of international mediation. *Journal of Conflict Resolution*, 1996, pg 40 (2), 360–89

¹⁸¹ *ibid*

transitional President other than Rajoelina. Intervening militarily seemed not a choice at this point. A good Mediator should be knowledgeable of the conflict at hand and effects of their decisions. The short term solutions were therefore to restore peace by way of election.

Intra-state conflict principles of inclusivity (including all parties) and national ownership are very vital to ensure legitimacy of the mediation process. This further helps in implementing the negotiated agreement and makes it last. Inclusivity therefore becomes very important and mediators should allow broad participation and do away with a lot of preconditions.¹⁸² AU achieved inclusivity in the Madagascan case however it did this by overlooking the policy that ban coups.¹⁸³ AU therefore pushed for both inclusive and exclusive strategies simultaneously as seen in the Madagascan mediation process. This is because being so indulgent may bring in many more parties and hence causing confusion in the mediation process.

The mediation process and resultant agreements must be shaped by domestic actors since they are the implementers and abide by them.¹⁸⁴ The heads of states drew a roadmap and imposed a solution to the people of Malagasy. There is an inconsistency when it comes to policy that is consensual, cooperative, and inclusive to one that is authoritarian, forced and exclusionary. Mediation and refusing to legitimize a coup appear deliberately and normatively disagreeing. They are both good but cannot be applied at the same time; it is like playing the role of judge, is seen to be bad cop enforcer, and good cop becomes the mediator at the same time.¹⁸⁵

4.6 Impact of Multiple Mediators towards resolving the conflict

The multiplicity of mediators in itself is not bad; on the other side it can be very helpful. In ideal condition, the multiple mediators bring on board proportional advantages that help in resolving the conflict; there is a wide range of knowledge, skills and tact in conflict resolution. Smith and Smoke identify that mediator's detailed skills or expertise

¹⁸² UN 2012a, 11–13

¹⁸³ AU 2010, a

¹⁸⁴ Nathan, L, 2006. No ownership, no peace: The Darfur Peace Agreement. Working Paper2 (5), Crisis States Research Centre, London School of Economics.

¹⁸⁵ Laurie Nathan, Mediating in Madagascar: Bypassing the AU Ban on Coup Legitimization; <https://www.law.upenn.edu/live/files/5171-kujenga-amani--mediating-in-Madagascar-bypassing>

makes it possible for mediators to deal with certain issues of dialogs. When they cooperate they can isolate spoilers, increase influence, distribute problems, divide responsibilities, create impetus and provide credible agreements.¹⁸⁶

However not all multiple mediation has been fruitful. In some cases, mediators launched inconsistent similar processes or even contested with each other. Some scholars therefore have pointed out that there must be vibrant leadership and coordination for success for multi-party mediation.¹⁸⁷ Among mediation practitioners, Coordination is very important. Crocker, says that in multiple mediation process, entails the drafting of a intelligible political plan that all mediators adhere to. This view is shared with other scholars; McCartney identifies that coordination is most essential component of third party involvement in the process;¹⁸⁸ Nan and Strimling also highlight the important role of mediator coordination, the process referred to as Track 2.¹⁸⁹

The first problem identified by UNSG in his 2009 report, multiple mediators compete for leadership role, engage forum shopping as mediators are played off against each another. For example, a disjointed international response leads to fragmentation in the conflict and obscures resolution.¹⁹⁰ Griffins and Whitfield, agree that mediators know the benefit of strong leadership but most of the time they have not used this powerful tool of organized mediation process but live to regret due to competition, “poaching” and “forum-shopping”. Parties shop for mediators who favor them. This undermines the control of lead mediator in the process and worse of it therefore makes mediation to lose meaning and parties lack commitment but move between positions.¹⁹¹

Competition among mediators prevents unified regional and international approach in peacemaking. Crowded mediation can bring a lot of problem because when mediators cannot organize themselves and have a structured engagement but talk from every

¹⁸⁶ Managing a Mediation Process; www.berghofpeacesupport.org/publications/MED_Insider_Mediators_Kenya.pdf pg 29

¹⁸⁷ Bercovitch, J (ed.), *Resolving International Conflicts*. Lynne Rienner, Boulder, CO, pg 219–34.

¹⁸⁸ McCartney, C, *Dilemmas of third-party involvement in peace processes*. Conciliation Resources, London 2006.

¹⁸⁹ Nan, SA & Strimling A, 2004. Track I – Track II cooperation. www.beyondintractability.org/bi-essay/track-1-2-cooperation

¹⁹⁰ UN Secretary General report 2009, 6

¹⁹¹ Whitfield, T, 2007. *Friends Indeed? UN, Groups of Friends, and the Resolution of Conflict*. USIP Press, Washington, DC, pg 11

mediator's view point. The conflicting parties therefore become unsure of the expectations of international community. There mediation process therefore lacks a clear incentive structure that can help in pushing parties in the direction of peace.¹⁹²

Although AU was in charge of the mediation, there were other players who brought in their mediators: UN, SADC and Organization of Francophone. For a period of three years after the crisis, a number of global and internal mediation initiatives were launched.¹⁹³

Churches play a large part in the life and existence of Malagasy. From the onset, the UN engrossed on mediation as a means to manage the crisis. In the beginning the UN believed solution will come from the internal mediation from the citizens, it therefore primarily supported the Malagasy council of Christian churches to mediate. The problem comes in the ability of local people to be impartial. The Malagasy Council of Christian Churches which incorporates the Protestants, Catholics, Anglicans and Lutherans were split in 2009 halting mediation. The UN official further said that they however supported the process of mediation by the local churches. The mediation however did not proceed because there was conflict of interests and division among the members of Malagasy Council of Christian churches.¹⁹⁴ The talks collapsed due to this divisions and UN took over. The church could not be seen as impartial since they worked closely with Ravalomanana an executive in the council.

There was open competition between the UN, the AU and SADC over who was to lead the peace process. This disagreement was harmful on the quality, coherence and credibility of the process. The UN started the International mediation in April 2009, it convened talks in Antananarivo. At the beginning, the UN involved the Rajoelina and Ravalomanana and two other former presidents. The talks failed to bear fruit and thereby failed miserably. The Parties could not agree and the mediators were divided to the core. The AU and UN pushed for inclusive negotiations without preconditions while SADC insisted Ravalomanana reinstatement and warned use of force to achieve this. This was

¹⁹² Crocker (2007, 6)

¹⁹³ Gavigan, P, 2010. The 2009 Madagascar crisis and international mediation, Conflict Prevention and Peace

www.researchgate.net/publication/295075940_A_Clash_of_Norms_and_Strategies_in_Madagascar_Mediation_and_the_AU_Policy_on_Unconstitutional_Change_of_Government

¹⁹⁴ UN, www.up.ac.za/media/shared/Legacy/sitefiles/file/46/1322/17295/mediationargumentsno02.pdfpg

against the spirit of Mediation and worked against the mediator sent by SADC since he was seen as impartial. France on the other end favored Rajoelina and was pushing behind the scenes for his retention as President.¹⁹⁵ Rajoelina hid at the embassy for France when the political situation was hostile and he was viewed a friend to France.

The main failure was the occurrence of overlapping mandates; both UN, AU and SADC could mediate creating confusion. The UN as a guard of the universal system of joint security, the AU as the regional body and SADC rode on the principle of subsidiarity. The main problem failure of the organizations in dividing the responsibilities. In the beginning the divisions were not so visible, but it resulted to the wide-ranging negotiations that delayed the process. The mediating parties dragged because they had to consult in many things to get a common ground. Former President of Mozambique Chissano was appointed 3 months into the crisis. The International Contact Group working under the AU agreed to somewhat difficult plan that everybody was involved in the process. The former Presidents, Rajoelina and Ravalomanana were to participate in the mediation. I think the reason to allow all was to ensure an all-inclusive mediation process. Maybe the AU thought that this was an issue touching Malagasy and former Presidents definitely have a following and for this mediation to be a success then everybody must be on board. There was no agreement made on the division of labor among the mediators. These divisions were pronounced after the Addis Ababa supplementary act of November 2009. This weakened the process and Rajoelina did not get enough pressure to follow through on his commitments.

Lauren Nathan notes that the mediators were controlled by the internal and external balance of power. Internally the HAT's had become a thorn in the flesh due to its stubborn nature reinforced by the armed forces and by the diplomatic support given by France (one of the mediators) the mediators therefore were struggling to maintain a united front.¹⁹⁶ The UN, considered use of force and condemnatory approach to be a wrong move by SADC. A member of the UN mediation team observed that SADC's threat of armed intervention and demand for reinstatement of Ravalomanana was

¹⁹⁵ *ibid.* pg 16–17

¹⁹⁶ Laurie Nathan, *mediating in Madagascar: Bypassing the AU Ban on Coup Legitimization*; <https://www.law.upenn.edu/live/files/5171-kujenga-amani--mediating-in-Madagascar-bypassing> pg4

working against the process of mediation. This created a sense of bias among Rajoelina supporters; the UN called for mediation in order to return Madagascar back to law and order a process-centered method which aided to keep the organizations integrity as a mediator.¹⁹⁷ This was also the stand taken by AU.

SADC on the other hand maintained a hard stance, this damaged UN and AU mediation endeavors. This stance gave false hope to Ravalomanana and thus discouraged Ravalomanana from mediation with Rajoelina. It also caused Rajoelina to rebel and enhanced his stubbornness and enabled him strengthen his domestic status by mobilizing popular support against external intervention, this impeded the global community's efforts to tackle the crisis in a more unified way.

The former President of Mozambique Chissano leading the mediation under the AU but appointed by SADC, failed to in combining mediation and forceful eviction of Rajoelina from power. This created hostility from Rajoelina and HAT towards Chissano. In June 2011, SADC learned that this method was counterproductive. SADC drew a Roadmap for ending the crisis in Madagascar, and in the roadmap, it was suggested that a transition government be formed as Madagascar transitions to elections. In 2012, SADC also approved the ni-ni solution or neither nor, that Rajoelina and Ravalomanana could not enter the coming presidential race.

France favored Rajoelina over Ravalomanana. This was because Ravalomanana had moved his country from French domain of influence. France remained the most influential foreign country in Madagascar but there was friction as Ravalomanana challenged the interests of French businesspersons in Madagascar, wanted to introduce English in schools as official language and in 2008 he had expelled a French ambassador. The French government stand was vague but it appeared to favor Rajoelina for example Rajoelina was hosted at the French embassy in early 2009. As far as the peace process was concerned French government did not want Chissano to mediate and by extension SADC because this could undermine their ally Rajoelina. A number of SADC states were close to Ravalomanana since it was during his tenure that Madagascar joined SADC as a

¹⁹⁷ P. Gavin the 2009 Madagascar Crisis and international mediation (New York, Social Science Research Council, 2010) pg 11

member. He also had close ties with Swaziland who was his close advocate. Ravalomanana also was welcomed by South Africa after the Coup and he stayed there in exile.

4.7 Effectiveness of African Union in Mediating Madagascan Political Crisis.

Since its independence from France but to be particular in the 1970s, Madagascar has gone through a series of political unsteadiness and violence.¹⁹⁸ The country's unsteadiness is principally as a result of economic crisis, poverty, disputed legitimate order, partisan politics and ethnic strains.¹⁹⁹

The African Union policy on unconstitutional change of government, which includes a ban on coups, is a very radicle departure from the norms of the continent of historical adherence to ideologies of esteem for dominion and non-interference in domestic affairs. This policy is very tough and very incompatible with mediation. This policy always clashes with mediation because for instance in the Madagascan crisis, it was expected the return of Ravalomanana into Presidency by all means, however it could not work since it goes against the spirit of Mediation.

In 2000, the Organization of African Unity adopted the Lomé Declaration that replaced the organizations long standing tolerance of military capture of state power categorically rejecting coups.²⁰⁰ The AU further reinforced this declaration through a Constitutive act of the AU, 2000. The 2002 Protocol helped to establish the AUPSC and later the 2007 African Charter on Democracy, Elections and Governance. The AU envisaged that this policy and declaration will act as a restrainer of coups but it seems it failed although to some extend it was successful.

These legal instruments provide that the AU shall suspend any government that comes to power by unconstitutional means and appropriate sanctions shall be instituted against the culpable party. Madagascar was suspended from the AU fold; this was a greater step towards putting pressure on the disputants to get a solution. In 2012, shortly after Nkosazana Dlamini-Zuma assumed office of the chair of Africa Union, she was asked

¹⁹⁸ Randrianja, S. and Ellis, S. 2009, Madagascar: A Short History, London: Hurst Publishers. Pg 187

¹⁹⁹ API 2009, www.africapi.org/pgcontent.php?UID=521, (8 September, 2010), pg 6

²⁰⁰ Lomé, 2000,

whether the organization had a backbone to deal with wayward members when they do wrong.²⁰¹ Her response was that AU does not tolerate coups and had introduced measures to sanction and deter coup-makers. Since the tragedy in Somalia 1994, Western Countries have refused to intervene to end conflicts in Africa; this calls for African countries to find ways of intervening.

The AU ought to be commended as the regional arrangements that openly identify the right to intervene in a member state on humanitarian grounds R2P. Madagascar can be viewed as an exercise of this R2P. According to Evans et al, Autonomous states have a duty of protecting their people from danger – from acts of genocide and rape, from starvation – when they fail to do so, that responsibility falls directly to the broader community of states. In assuming this responsibility, AU has done little to address the human violations reported in Madagascar.

Testing the hypothesis

This study has tested three hypotheses; African Union failed to ensure lasting peace in Madagascar due to political and economic interests brought in by France and other powers. This is true because in the back ground France pushed for Rajoelina to stay during the transition period. This is because Ravalomanana was seen hostile to France and he had done some radicle things like deporting of a French ambassador as well us wanted to introduce English and opened Madagascar for other investors from USA and Korea hence removing the dominance of France.

The mediation in Madagascar took longer than expected and did not achieve lasting peace because conflicts among mediating group (multiple mediators). It took too long for the mediators to agree and the formation of ICG. The different organizations pulled in different directions sometimes almost causing confusion. This led to the mediation process being ineffective and lacked sense of direction. The prolonging of this conflict emanated from the fact that African union set aside some of its policies to get a desired solution. The African union played too soft and lacked the power to hold the disputants to agreements and implementation took longer. The AU failed because in the threat by the

²⁰¹ ibid

Madagascan army not to accept any other person as President rather than Rajoelina, the AU may have been influenced by this. The AU was weak in mobilizing support for sanctions and tough measures on Madagascar.

The ripe moment was crucial in resolving this conflict. The process dragged because the AU failed to capture the right moment in mediating this conflict. The right time came when the Rajoelina made the country ungovernable and Ravalomanana had run out of ideas to solving the issue. The AU could have come in before the military got involved making the situation difficult to resolve. This period characterized a ripe moment to sit down Rajoelina and Ravalomanana to mediate.

In summary the peace process in Madagascar dragged a lot due to several factors. First of all the AU mediation in Madagascar lacked the power to push disputants into a faster resolution. The peace process dragged due to the comfort enjoyed by Rajoelina through the military self-affirmation and protection from external influence. Rajoelina and Ravalomanana were impediment to the process since they refused to agree to meet and draft a way forward. The mediators failed to agree and move in one direction and there were push and pull at most of the times.

CHAPTER FIVE

CONCLUSION AND RECOMMENDATIONS

5.1 Conclusion

This study looked at the general role played by regional organizations in mediation and also critically analyzed the role AU played in the conflict in Madagascar after the Coup of 2009. This study looked at the actual coup in Madagascar and put forth a background to the conflict. this study looked at the literature around mediation; defined and looked in-depth on mediation, looked at the regional organizations and example of places they have mediated and examples of regional organization, this study also looked at Mediation by African Union; briefly looked at the charter and mediation, finally under the literature review this study focused on the real issue which is AU's mediation in Madagascar. This study utilized the ripe moment theory.

This study also looked on the role played by the regional organizations in mediation and the history of regional organization in mediation. This study further looked at where the regional organizations get their mandate to mediate. This study also looked at the motives that drive mediators to mediate. Regional organizations offset the burden that UN faces in resolving conflicts through mediation. The UN could never mediate in all conflicts but with the entry of regional organizations in this field, regional organizations take care of their local conflicts. Regional organization also becomes effective in deploying mediators and peace keepers in their local conflicts. For regional organizations to increase their success in mediation, they need to work closely with the UN and other bodies, regional organization should possess legitimacy, enforcement power, must have resources.

This study also examined the role of AU in creation of peace in Madagascar. To begin this subtopic, the study looked at the crisis itself; what caused the crisis. It focused on how the AU came in to try and bring order among the mediators by establishing the ICG which was a body of mediators (UN, AU, SADC and organization of the Francophone) working under AU. It examined how the AU entered to mediate the conflict. This study further looked at AU constitutive act and also AU policy that is against coup. This policy led to the suspension of Madagascar from being a member of AU and later was followed

with sanctions towards Madagascar. One of the greatest threats to mediation was the demand that Rajoelina relinquishes power permanently and Ravalomanana reinstated. Another threat was the Malagasy army which demanded that they will not allow any other person other than Rajoelina to lead the country through transitional period. The policy on coup legitimization was very incompatible with mediation. This study also looked at how effective AU was in mediating this conflict and the impact of multiple mediators in this entire mediation process. Former President Chissano seemed biased at some point towards Rajoelina since he was of the view that Rajoelina had to permanently surrender power back to the President in exile Ravalomanana. This caused a standoff between him and the HAT. This study also looked at the outcome of the mediation; the return to the constitutional order.

Finally, this study looked at possible opportunities and the challenges encountered by AU in fulfilling its role as a mediator in Madagascar. One of the greatest challenges this study found was lack of goodwill and Rajoelina and HAT did not want to share power with Ravalomanana, they felt threatened by his return and bared him. The multiple mediators did not work for AU because there were competing roles. The AU faced financial constraints, poor leadership, the AU policy also worked against the spirit of mediation. Though finally peace was restored and the major aim of return to constitution achieved, the process took very long. The AU lacked the enforcement power and that is why the parties sometimes went against their agreement.

5.2 Recommendations

5.2.1 AU needs to beef up its early warning signs

This conflict ought to have been dealt with at the point when it was still in the early stages. The moment the President and the mayor were disagreeing could be a good early warning to the AU and the international society in general. This is because the History of Madagascar is one plagued with coups and the most interesting bit is that they always start almost the same (through the popular uprising). The ripe moment to intervene and mediate according to this research could be before the conflict went full blown. The AU needs to read the signs before it are too late to cut the horns of the conflict before it becomes full blown. With the military in the conflict, the conflict became complicated.

5.2.2 Need for stronger enforcement ability by the AU

The mediation lagged because the AU lacked the capacity to push the disputants to agree. Most of the agreements were shoved aside by mostly the coup leader thus dragging the whole process. The AU seems to depend mostly on mediation and not military intervention as the case of UNSC. Coups are gross since they deny people of their constitutional rights. The AU needs to consider coups as very gross violation and draw a red line in order to serve as a great warning to those planning coups. Other plotters of Coups in Africa can still execute coups because the AU After all will mediate and still put them in power in the transition government and cleanse their acts.

5.2.3 Need for capacity building-firm towards its policies

The AU was really concerned on returning Madagascar into the constitutional order while not looking at this impact on other coups that may come after. The AU has a policy that rejects coups and cannot recognize coup leaders and they need to give up power immediately. Rajoelina the coup leader in the mediated pact was to be the leader of the transitional government, this made the economist note; that coups pay after all.²⁰² The AU needs to build up its capacity in resolving conflicts more so involving coups. The AU could have used the UN and other powers to help enforce this policy. Coups in Madagascar have a history of repeating itself therefore the AU should have gone beyond just ensuring another election.

5.2.4 Need for AU to build good working relationship with the RECS; SADC

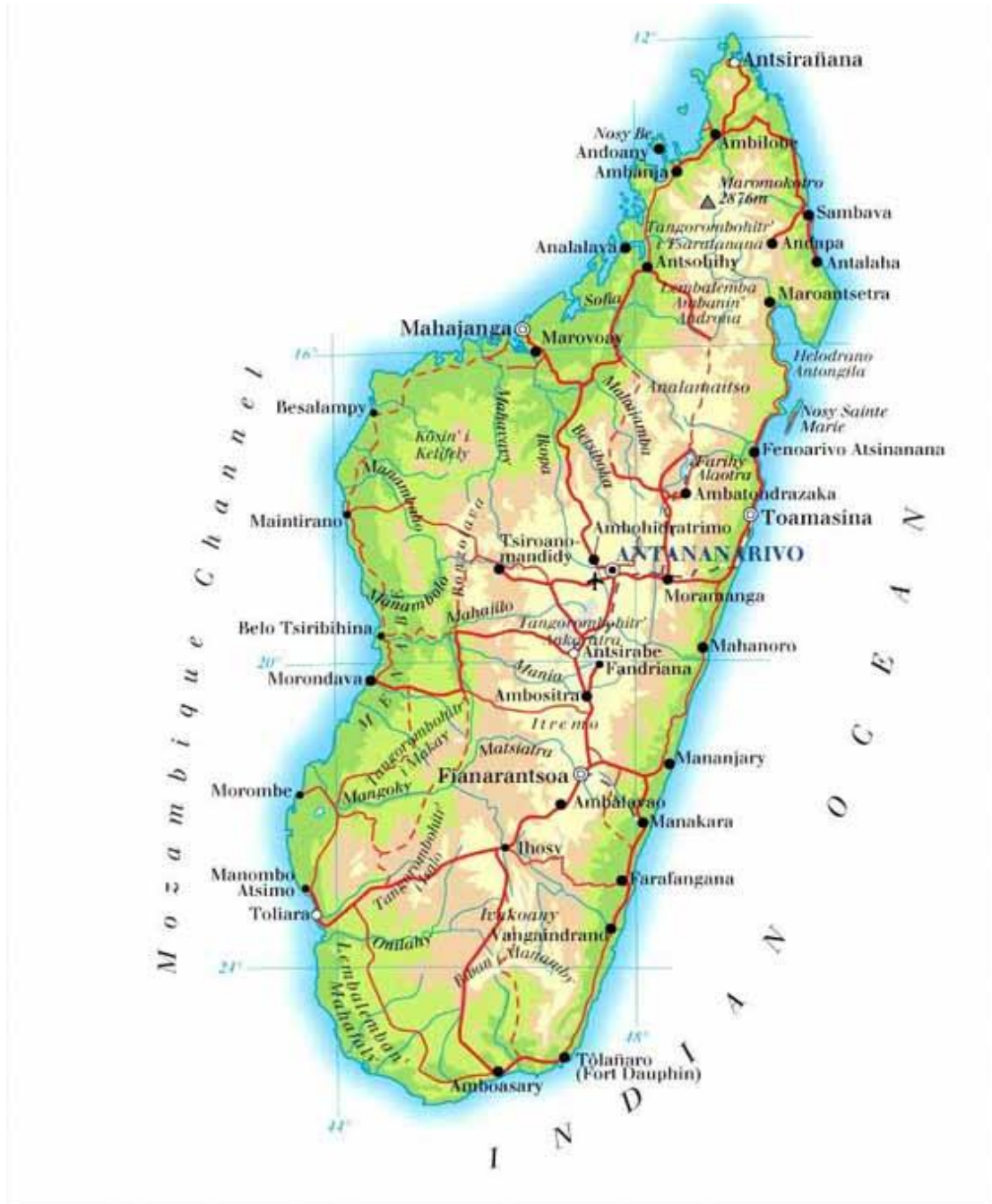
The African union should find a better way to work with RECs. There was competition between AU and SADC. At some point it was evident they were trying to pull in opposite directions. While AU had embarked on mediation SADC threatened to use force to reinstate Ravalomanana to his position as the constitutionally elected President. The AU needs to create a forum where it has to meet and forge a way forward in terms of working together in conflict situation.

²⁰² <https://www.economist.com/baobab/2011/03/18/a-coup-maker-turns-president>

5.2.5 AU should beef up resources for mediation activities

The AU needs to move away from over reliance on donors in mediation. There is need for AU to allocate enough resources to its security structure. Mediation is expensive and therefore the AU to ensure success, it has to invest resources towards AUPSC.

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²⁰³ Madagascar map, <http://www.orangesmile.com/travelguide/madagascar/country-maps.htm>

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