

# TRENDS IN MEDIATING IN AFRICA COUPS, 2000-2015

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## Introduction

In 2000 the Organisation of African Unity (OAU) adopted the Lomé Declaration, replacing its long-standing tolerance of military seizure of power with a blanket rejection of coups.<sup>1</sup> Since then coups have continued to blight the continent and the African Union (AU) has strengthened the OAU position through a number of legal instruments, chiefly the AU Constitutive Act of 2000, the 2002 protocol establishing the AU Peace and Security Council (PSC) and the 2007 African Charter on Democracy, Elections and Governance (hereafter “African Charter”).<sup>2</sup> These instruments stipulate that the AU shall suspend governments that come to power by unconstitutional means and shall institute appropriate sanctions against the perpetrators of an unconstitutional change of government.<sup>3</sup> The African Charter also includes a ban on coup legitimisation, which bars the perpetrators of unconstitutional action from contesting elections held to restore democracy and from holding any position of responsibility in the political institutions of their state.<sup>4</sup>

There has been much commentary on this seismic reorientation of the continent’s normative framework on governance.<sup>5</sup> By contrast, little scholarly attention has been paid to the strategy of mediation that is invariably undertaken by African organizations when coups occur. This

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<sup>1</sup> Organisation of African Unity, “Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government,” Lomé, 2000.

<sup>2</sup> African Union, “Constitutive Act of the African Union,” 2000; African Union, “Protocol Relating to the Establishment of the Peace and Security Council of the African Union,” 2002; and African Union, “African Charter on Democracy, Elections and Governance,” 2007.

<sup>3</sup> African Union, “Constitutive Act,” art. 30; African Union, “Protocol,” art. 7(1)(g); and African Union, “African Charter,” arts. 23 and 25(7).

<sup>4</sup> African Union, “African Charter,” art. 25(4).

<sup>5</sup> For example, Paul Williams, “From Non-Intervention to Non-Indifference: The Origins and Development of the African Union’s Security Culture,” *African Affairs* 106, no. 423 (2007): 253–79; and Eki Omorogbe, “A Club of Incumbents? The African Union and Coups d’État,” *Vanderbilt Journal of Transnational Law* 44, no. 1 (2011): 123–54.

article aims to fill that lacuna. It presents a comprehensive survey of African mediation in response to coups, identifying major trends and patterns between 2000 and 2015. As defined by Powell and Thyne, a coup entails the illegal seizure of power by the military or other elites within the state followed by the holding of power for at least seven days.<sup>6</sup> Mediation is defined as “a process whereby a third party assists two or more parties, with their consent, to prevent, manage or resolve a conflict by helping them to develop mutually acceptable agreements.”<sup>7</sup>

The article is divided into two parts. The first provides the results of the survey, covering the location, dates and duration of the coups; comparative data from the 1990s; the frequency of mediation, sanctions and other external strategies intended to restore constitutional rule after a coup; the identity of the mediating bodies and lead mediators; the mediation outcomes; the relationship between mediation and the AU ban on coup legitimization; and the controversies surrounding many of the mediations. The most striking finding is that the mediator or mediating body made highly controversial decisions in over two-thirds of the mediated cases, often violating democratic principles and the ban on coup legitimization.

The second part of the article describes and analyses the mediation controversies. While each of them has specific causes, there also appear to be two general explanations. The first is that mediation is in many respects incompatible with the AU policy on unconstitutional change of government. Whereas mediation is a consensual and cooperative venture that seeks to facilitate an agreement acceptable to all the conflict parties, the AU policy requires the application of coercive measures to compel the junta to surrender power. Second, mediation may be incompatible with the dynamics of a coup. There is usually no domestic actor strong enough to challenge the junta and the mediator cannot simply order it to relinquish power. The mediator consequently ends up playing more of a bargaining than a mediating role, making controversial concessions to the junta in order to get it to step down.

As discussed in the Conclusion, the survey findings lead to mixed conclusions about the effectiveness of the AU policy and African mediation. Compared with the 1990s, in the period 2000-2015 there were fewer coups; a greater proportion of coups were resolved by

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<sup>6</sup> Jonathan Powell and Clayton Thyne, “Global Instances of Coups from 1950 to 2010: A New Dataset,” *Journal of Peace Research* 48, no. 2 (2011): 252.

<sup>7</sup> United Nations, “United Nations Guidance for Effective Mediation,” 2012, 4, New York.

democratic means; the coups were ended more quickly; and the ban on coup legitimization prevented junta leaders from retaining power by contesting and winning elections. There were also several negative trends: coups continued to take place, at a rate of roughly one per annum; many of the controversial decisions made by the mediators and mediating bodies compromised democracy and complicated the process of crisis management and resolution; and the coup perpetrators usually achieved their primary objective, with the AU and other international actors accepting that the ousted president and government would not be reinstated.

### **Survey of African Mediation in Response to Coups, 2000-2015**

Table 1 below presents an overview of African coups from 2000 to 2015. With one exception, the identification and classification of these coups was unproblematic since the events in question unambiguously entailed the seizure of power by or with the support of military officers. The exception was the overthrow of President Bozizé in the Central African Republic (CAR) in March 2013. This took the form of a rebellion, driven by the rebel coalition known as Séléka. At that time, however, Séléka was part of a transitional coalition government and the rebel leader, Michel Djotodia, was the minister of defense in that government. Consequently, the ousting of Bozizé has been widely described as a coup.<sup>8</sup>

The most significant trend identified in Table 1 is that African coups are not merely a historical phenomenon, confined to the era of the OAU, but have continued to occur on a regular basis since the Lomé Convention was adopted in 2000. Fifteen coups took place in the period under review, an average of 0.94 per annum. The notion that coups are “anachronistic,” as the Lomé Convention puts it,<sup>9</sup> may be true normatively but it is not true empirically.

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<sup>8</sup> For example, International Crisis Group, “Central African Republic: Priorities of the Transition,” *Africa Report* 203, 11 June 2013; Martin Welz, “Briefing: Crisis in the Central African Republic and the International Response,” *African Affairs* 113, no. 453 (2014): 604.

<sup>9</sup> OAU, “Declaration on the Framework for an OAU Response,” 1.

**Table 1: Overview of African Coups, 2000–15**

Country	Region	Anglophone/ Francophone/ Lusophone	Date of Coup	Presidential Election	Duration of Constitutional Crisis
CAR	Central Africa	Francophone	March 2003	May 2005	27 months
São Tomé & Príncipe	Central Africa	Lusophone	July 2003	----- <sup>a</sup>	1 week
Guinea- Bissau	West Africa	Lusophone	Sept 2003	July 2005	23 months
Togo	West Africa	Francophone	Feb 2005	April 2005	3 months
Mauritania	North Africa	Francophone	August 2005	March 2007	20 months
Mauritania	North Africa	Francophone	August 2008	July 2009	12 months
Guinea	West Africa	Francophone	Dec 2008	Nov 2010	24 months
Madagascar	East Africa	Francophone	March 2009	Dec 2013	58 months
Niger	West Africa	Francophone	Feb 2010	March 2011	14 months
Mali	West Africa	Francophone	March 2012	August 2013	18 months
Guinea- Bissau	West Africa	Lusophone	April 2012	May 2014	26 months
CAR	Central Africa	Francophone	March 2013	Feb 2016 <sup>c</sup>	36 months
Egypt	North Africa	Anglophone	July 2013	May 2014	11 months
Burkina Faso	West Africa	Francophone	Oct 2014	Nov 2015	14 months
Burkina Faso	West Africa	Francophone	Sept 2015	----- <sup>b</sup>	1 week
<sup>a</sup> The coup in São Tomé and Príncipe ended through the reinstatement of the ousted president rather than through presidential elections. <sup>b</sup> The 2015 coup in Burkina Faso ended through the reinstatement of the ousted interim president. <sup>c</sup> The CAR election was scheduled for mid-February 2016 but had not taken place at the time of writing.					

The regional breakdown reflected in Table 1 is based on the AU's division of the continent into five geographic regions: north, west, east, central and southern Africa.<sup>10</sup> The Table shows that the coups have not been evenly dispersed throughout the continent. Eight of the fifteen coups occurred in West Africa, compared with three in Central Africa, three in the northern region, one in East Africa and none in Southern Africa. More noteworthy than this geographic distribution is the distinction between Anglophone, Lusophone and Francophone countries, based on their colonial histories. The majority of coups took place in Francophone

<sup>10</sup> This regional breakdown does not always coincide with a country's membership of a regional organization (e.g., Madagascar, a member of SADC, is classified as an East African state).

Africa (73 percent), with only three coups (20 percent) in Lusophone Africa and one in Anglophone Africa.<sup>11</sup> An analysis of this breakdown, which is presumably related to the causes of the coups, falls outside the scope of this article.

The causes of the coups can be divided into structural and proximate factors. The former include weak states, historically unstable civil-military relations and ethnicized polities and armed forces. The proximate factors that provoked the coups included authoritarianism and bad governance (CAR 2003, Guinea-Bissau 2003, Mauritania 2005, Madagascar 2009 and CAR 2013); the extension of presidential term limits (Niger 2010 and Burkina Faso 2014); and the coup perpetrators' concerns over military related issues (Guinea-Bissau 2012, Mali 2012 and Burkina Faso 2015). Aside from these brief observations, this article focuses on the resolution of coups and not on their causes.

While the AU has defined an unconstitutional change of government, it has not specified what constitutes a return to constitutional order. The African Charter simply states that the PSC shall lift sanctions once the situation that led to the suspension is resolved.<sup>12</sup> In practice, a country suspended after a coup is usually readmitted when presidential elections have taken place (see Table 5 below). Table 1 uses the criterion of presidential elections as the benchmark for determining the end of the constitutional crisis posed by a coup.

Of the coups that occurred between 2000 and 2015, 100 percent ended by democratic means, either through a presidential election (87 per cent) or, in the cases of São Tomé and Príncipe (2003) and Burkina Faso (2015), through the reinstatement of the ousted president. Seventy three percent of the coups ended within two years, and the average duration of the crises was 19 months. Table 2 below compares these figures with the incidence and duration of African coups in the 1990s.

#### *Comparison of Coups in the 1990s and 2000s*

Table 2 below compares the incidence and duration of coups in the periods 1990–99 and 2000–15. Improvements are evident in the three designated categories: the incidence of coups

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<sup>11</sup> This is different from the historical pattern. Anglophone Africa has not been exempt from coups, with four in Uganda, five in Ghana and six in Nigeria since the early 1950s. See the list of coups in Issaka Souaré, "The African Union as a Norm Entrepreneur on Military Coups d'État in Africa (1952–2012): An Empirical Assessment," *Journal of Modern African Studies* 52, no. 1 (2014): 75.

<sup>12</sup> AU, "African Charter on Democracy," art. 26.

per annum, which declined by 37 percent; the average duration of the constitutional crisis posed by the coup, which declined by 20 percent; and the percentage of coups resolved within two years, which increased by 6 percent.

Souaré offers a more positive assessment of progress over the past decade. He calculates that the average duration of coups from January 1990 to July 2000 was 20.4 months, which declined to 11.4 months in the period July 2000 to December 2012.<sup>13</sup> He ascribes this substantial decline principally to the AU policy on unconstitutional change of government.

Souaré's approach is problematic in that he considers a coup to have ended if a transitional government was formed prior to the advent of elections.<sup>14</sup> This fails to recognize that the transitional government might have been unconstitutional or at the mercy of the army. For example, Souaré regards the Mali coup in 2012 as having ended within a month of its occurrence when the junta leader, Captain Sanogo, formally stood down and agreed to the appointment of the speaker of parliament as the interim president.<sup>15</sup> Yet Sanogo thereafter continued to wield considerable power, his troops arrested politicians and anti-coup officers and nine months after the coup they arrested the interim prime minister, leading to his resignation.<sup>16</sup> In a number of cases, moreover, the transitional government was a mixture of soldiers and civilians (see below). It therefore seems preferable to determine the end of the unconstitutional period on the basis of presidential elections rather than the formation of an unelected interim regime.

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<sup>13</sup> Souaré, "The African Union as a Norm Entrepreneur," 86.

<sup>14</sup> *Ibid.*, 84.

<sup>15</sup> *Ibid.*, 86.

<sup>16</sup> International Crisis Group, "Mali: Avoiding Escalation," *Africa Report* 189, July 18, 2012; and International Crisis Group, "Mali: Security, Dialogue and Meaningful Reform," *Africa Report* 201, April 11, 2013.

**Table 2: Comparison of the Incidence and Duration of African Coups, 1990–99 and 2000–15**

	1990–99	2000–15	Improve- ment	Percentage improve- ment
<b>Average number of coups per annum</b>	1.5 (15 coups) <sup>a</sup>	0.94 (15 coups)	Yes	37 percent
<b>Average duration of constitutional crisis posed by coup<sup>b</sup></b>	23.7 months	19 months (16.2 months, excluding Madagascar)	Yes	20 percent
<b>Percentage of coups resolved within two years</b>	67%	73%	Yes	6 percent
<u>Notes</u> <sup>a</sup> These coups occurred in Mali (1991), Lesotho (1991), Nigeria (1993), Sierra Leone (1992, 1996, and 1997), Burundi (1993 and 1996), Gambia (1994), Comoros (1995 and 1999), Niger (1996 and 1999), Guinea-Bissau (1999), and Côte d'Ivoire (1999). <sup>b</sup> With three exceptions, the constitutional crises were resolved through presidential elections. The exceptions were Sierra Leone (1997), São Tomé and Príncipe (2003) and Burkina Faso (2015), where the crises were resolved through the reinstatement of the ousted president.				

*External Strategies in Response to Coups*

Table 3 below provides an overview of the strategies employed by external actors to restore constitutional order after the occurrence of African coups in the period 2000–15. It shows that the AU and the sub-regional bodies known as regional economic communities (RECs) have developed a fairly consistent response, comprising mediation, sanctions and suspension of the country's membership of the African organizations.

Mediation by an African body was undertaken in 87 percent of the coups. In only two cases there was no external mediation: Mauritania (2005), where the coup enjoyed popular support and the transition to democracy proceeded smoothly; and Egypt (2013), where the junta appeared impervious to mediation. The intensity, duration and form of the mediation differed from one case to another. For example, in Niger (2010) there was very little mediation because the junta moved decisively to restore constitutional rule; in Madagascar (2009) the mediation was protracted and entailed many rounds of negotiations; in Mali (2012) and Burkina Faso (2015) the process was not so much one of mediation among the domestic parties as one of negotiation between the mediator and the junta; and in CAR (2013) the mediators imposed a transitional agreement on the domestic stakeholders rather than facilitated negotiations among them (see further below).

**Table 3: External Strategies for Restoring Constitutional Order after African Coups, 2000–15**

Coup	Mediation by African Body	Suspension from African Organization	African Sanctions	External Threat of Force	Use of Force	International Sanctions <sup>a</sup>
CAR, 2003	Yes	No <sup>b</sup>	No	No	No	Yes (incl. US & EU)
São Tomé & Príncipe, 2003	Yes	No	No	Yes (Angola)	No	Yes (WB)
Guinea-Bissau, 2003	Yes	No	No	No	No	Yes (incl. US & EU)
Togo, 2005	Yes	Yes (AU & ECOWAS)	Yes (AU & ECOWAS)	Yes (AU)	No	Yes (IOF) <sup>c</sup>
Mauritania, 2005	No	Yes (AU)	No	No	No	Yes (EU)
Mauritania, 2008	Yes	Yes (AU)	Yes (AU)	No	No	Yes (incl. US & EU)
Guinea, 2008	Yes	Yes (AU & ECOWAS)	Yes (AU & ECOWAS)	No	No	Yes (incl. US & EU)
Madagascar, 2009	Yes	Yes (AU & SADC)	Yes (AU)	Yes (SADC)	No	Yes (incl. US & EU)
Niger, 2010	Yes	Yes (AU & ECOWAS) <sup>d</sup>	Yes (AU & ECOWAS) <sup>d</sup>	No	No	Yes <sup>d</sup>
Mali, 2012	Yes	Yes (AU & ECOWAS)	Yes (AU & ECOWAS)	Yes (ECOWAS)	No	Yes (incl. US & EU)
Guinea-Bissau, 2012	Yes	Yes (AU & ECOWAS)	Yes (AU & ECOWAS)	No	No	Yes (incl. UN & EU)
CAR, 2013	Yes	Yes (AU) No (ECCAS)	Yes (AU) No (ECCAS)	No	No	Yes (incl. UN)
Egypt, 2013	No	Yes (AU)	No	No	No	Yes (US)
Burkina Faso, 2014	Yes	No (AU & ECOWAS)	No	No	No	No
Burkina Faso, 2015	Yes	Yes (AU) No (ECOWAS)	No	No	No	Yes (France)

**Notes**  
<sup>a</sup> International sanctions include the suspension of aid.  
<sup>b</sup> After the coup, the AU recommended suspension of CAR but did not actually suspend it.  
<sup>c</sup> The European Community suspended development cooperation with Togo prior to the coup as a result of President Eyadéma’s manipulation of the elections.  
<sup>d</sup> ECOWAS suspended Niger and imposed sanctions prior to the coup in response to President Tandja’s unconstitutional bid to serve a third term in office. The AU endorsed the ECOWAS sanctions but only suspended Niger after the coup. International aid was suspended before the coup.

**Abbreviations:** ECCAS (Economic Community of Central African States); ECOWAS (Economic Community of West African States); EU (European Union); IOF (International Organization of the Francophonie); SADC (Southern African Development Community); UN (United Nations); US (United States); and WB (World Bank).

After the PSC Protocol came into effect in 2003, suspension from the AU occurred in 92 percent of the coups and suspension from a REC occurred at the lower rate of 50 percent. The lower rate of suspension from a REC was partly due to the fact that in three cases—Mauritania (2005 and 2008) and Egypt (2013)—the country concerned was not a member of

a REC. After 2003 the AU imposed sanctions in 67 percent of the coups. International actors imposed sanctions or suspended international aid in 92 percent of these cases. The threat and use of force has not been a consistent part of the reaction to coups. Force was threatened by RECs on two occasions, by the AU once and by a state once. It was never actually used against a junta.

### *Identity of Mediating Bodies and Mediators*

Table 4 below records the identity of the lead mediating organizations and mediators in African coups from 2000 to 2015. It reveals two strong trends. First, in 85% of the mediated cases the lead mediating body was the REC of which the country in crisis was a member. The AU was the lead mediator only in Mauritania (2005 and 2008), which was not a member of a REC. Aside from a short period in the early stages of the Madagascar coup, the UN was not the main mediating body either. As a general rule, subsidiarity has been the operative principle in mediating an end to coups.

**Table 4: Identity of Lead Mediating Bodies and Lead Mediators in African Coups, 2000–15**

<b>Coup</b>	<b>Lead Mediating Body</b>	<b>Lead Mediator</b>
CAR, 2003	Gabon	President Bongo of Gabon
São Tomé & Príncipe, 2003	ECCAS	Delegation of officials led by Minister Adada of Republic of Congo
Guinea-Bissau, 2003	ECOWAS	Delegation of presidents led by President Kufuor of Ghana
Togo, 2005	ECOWAS	Delegation of presidents led by President Tandja of Niger
Mauritania, 2008	AU	President Gaddafi of Libya, replaced by President Wade of Senegal
Guinea, 2008	ECOWAS	President Compaoré of Burkina Faso
Madagascar, 2009	SADC	Former President Chissano of Mozambique, replaced by Minister Fransman of South Africa
Niger, 2010	ECOWAS	Former President Abubaker of Nigeria and President Wade of Senegal
Mali, 2012	ECOWAS	President Compaoré of Burkina Faso
Guinea-Bissau, 2012	ECOWAS	President Jonathan of Nigeria
CAR, 2013	ECCAS	Delegation of presidents led by President Sassou-Nguesso of Republic of Congo
Burkina Faso, 2014	ECOWAS	Delegation of presidents led by President Sall of Senegal
Burkina Faso, 2015	ECOWAS	President Sall of Senegal and President Boni of Benin

The second trend evident in Table 4 is that the lead mediators were usually serving or retired presidents (92 percent of the mediated coups), and in the remaining cases they were ministers, reflecting the state-centric orientation of the regional organizations that appointed them. None of the lead mediators was drawn from the AU's Panel of the Wise or the similar structures set up by the RECs to engage in peacemaking.

There are two further mediation trends that are not captured in Table 4, the first of which is the peacemaking efforts of external actors other than the lead mediating body. In many of the coups under consideration, the REC mediators were supported by UN and AU envoys.<sup>17</sup> Second, in most cases an "international contact group" was formed to ensure a harmonized approach among external actors. These groups typically included the UN, the AU and the relevant REC, as well as foreign powers, donors and multilateral organizations.

#### *Outcomes of Mediation and External Pressure*

Table 5 below presents the outcomes of mediation combined with pressure in response to African coups in 2000–15. It indicates a number of trends. First, in 69 percent of the cases mediation led to the formation of an interim government. In general, the aims were to replace the junta with a consensus transitional regime, stabilize the crisis and prepare for a return to constitutional rule via free and fair elections. In practice, the interim governments were diverse in their orientation and composition, with a number of them comprising a mix of civilians and military officers—e.g., Guinea (2008), Niger (2010), Guinea Bissau (2012) and Burkina Faso (2014).<sup>18</sup>

Second, in 85 percent of the cases resolved through mediation, constitutional rule was established through presidential elections. Only in São Tomé and Príncipe (2003) and Burkina Faso (2015) was constitutionality restored through the reinstatement of the ousted

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<sup>17</sup> For an account of the role of UN envoys in Mauritania, Guinea and Madagascar, see Charles Call, "UN Mediation and the Politics of Transition after Constitutional Crises," International Peace Institute, New York, 2012.

<sup>18</sup> On Guinea, see Alexis Arieff, "Guinea's New Transitional Government: Emerging Issues for US Policy," *CRS Report for Congress*, US Congressional Research Service, April 23, 2010; on Niger, see "Junta Announces Transition Cabinet," *Radio France Internationale*, 2 March 2010, <http://www.english.rfi.fr/africa/20100302-junta-announces-transition-cabinet>; on Guinea Bissau, see International Crisis Group, "Beyond Turf Wars: Managing the Post-Coup Transition in Guinea-Bissau," *Africa Report* 190, 2012, 4; on Burkina Faso, see "Burkina Military Retains Powerful Posts in New Cabinet," *Mail Online*, 24 November 2014, <http://www.dailymail.co.uk/wires/afp/article-2845884/Burkina-government-set-named-delay.html>.

president. In 69 percent of the mediated cases, the coup perpetrators succeeded in removing the president from power permanently.<sup>19</sup> In addition to São Tomé and Príncipe (2003) and Burkina Faso (2015), the exceptions were Togo (2005) and Guinea (2008) where the coups were precipitated by the death of serving presidents.

**Table 5: Outcomes in Mediated African Coups, 2000–15**

Coup	Interim Outcome of Mediation and Pressure	Final Outcome of Mediation and Pressure	Ousted President Returned to Power	AU Readmits Country
CAR, 2003	Agreement on eligibility of presidential candidates	Elections	No	Country not suspended
São Tomé & Príncipe, 2003	----	Ousted president reinstalled	Yes	Country not suspended
Guinea-Bissau, 2003	Interim govt.	Elections	No	Country not suspended
Togo, 2005	Roadmap for elections	Elections	No <sup>a</sup>	Yes (after presidential election)
Mauritania, 2008	Interim govt.	Elections	No	Yes (before presidential election)
Guinea, 2008	Interim govt.	Elections	No <sup>a</sup>	Yes (after presidential election)
Madagascar, 2009	Interim govt.	Elections	No	Yes (after presidential election)
Niger, 2010	Interim govt.	Elections	No	Yes (after presidential election)
Mali, 2012	Interim govt.	Elections	No	Yes (before presidential election)
Guinea-Bissau, 2012	Interim govt.	Elections	No <sup>b</sup>	Yes (after presidential election)
CAR, 2013	Interim govt. (but on-going civil war)	Elections	No	Yes (after presidential election)
Burkina Faso, 2014	Interim govt	Elections	No	Country not suspended
Burkina Faso, 2015	-----	Ousted interim president reinstalled	Yes	Yes (after reinstatement of interim president)

<sup>19</sup> This statistic includes the case of Guinea-Bissau (2012), where the president died of natural causes prior to the coup and the military ousted the acting president and the prime minister.

Third, in 54 percent of the mediated cases the AU readmitted the country after presidential elections; in 31 percent of these cases the country was readmitted prior to elections; and in 15 percent of the cases the country was not suspended.

The outcomes of the two non-mediated cases – Mauritania (2005) and Egypt (2013) – were largely consistent with the trends identified above: an interim regime was formed, presidential elections were held, the country was thereafter readmitted to the AU and the ousted president did not resume office. Including the two non-mediated coups, the junta removed the president from power permanently in 73 percent of the coups between 2000 and 2015.

### *Mediation and the Ban on Coup Legitimation*

Table 6 focuses on mediation in relation to the AU ban on coup legitimation. It records whether the ban was asserted by African organizations, adhered to by the mediator and complied with by the newly elected government in the country concerned. Four trends are evident in the Table. The first is the consistent assertion of the ban by the AU and the RECs since 2007. The PSC's decisions in relation to the 2008 Mauritania coup and subsequent coups invoked the ban directly, cited the African Charter or referred to the AU Assembly's 2010 decision on unconstitutional change of government, which affirms the ban.<sup>20</sup>

Second, the ban was transgressed in 67 percent of the mediated cases between 2007 and 2015, through either the appointment of the coup leader to a senior position in the transitional regime or the appointment of members of the junta to the new government. The PSC turned a blind eye to these transgressions and readmitted the countries that had violated the ban (see Table 5 above).

Third, although the ban was frequently breached, it was largely observed in relation to the sensitive political question of whether the junta leader could contest elections. Prior to the adoption of the ban in 2007, the coup leader was elected as president in 50 percent of the

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<sup>20</sup> African Union, "Decision on the Prevention of Unconstitutional Changes of Government and Strengthening the Capacity of the African Union to Manage Such Situations," Assembly/AU/Dec.269(XIV) Rev. 1, adopted by the 14<sup>th</sup> Ordinary Session of the AU Assembly of Heads of State and Government, Addis Ababa, January 31–February 2, 2010, para 6(i)(b)(a).

mediated cases (CAR 2003 and Togo 2005). After 2007 this fell to 11 percent of the mediated cases.

**Table 6: Mediation and the AU Ban on Coup Legitimation, 2007–15**

Coup	African Organizations Assert Ban	Mediator Adheres to Ban	Government Complies with Ban
Mauritania, 2008	AU: yes	Wade (AU): no	No (coup leader elected president) <sup>21</sup>
Guinea, 2008	AU: yes ECOWAS: yes	Compaoré (ECOWAS): no, later yes	No (members of junta appointed to new govt.) <sup>22</sup>
Madagascar, 2009	AU: yes SADC: no <sup>a</sup>	Ouedraogo (AU): no Chissano (SADC): no	No (member of interim govt. elected president and other members appointed to new govt.) <sup>23</sup>
Niger, 2010	AU: yes	Not relevant <sup>b</sup>	Yes
Mali, 2012	AU: yes ECOWAS: yes	Compaoré (ECOWAS): no	No (members of junta appointed to new govt.) <sup>24</sup>
Guinea-Bissau, 2012	AU: yes ECOWAS: yes	Not relevant <sup>c</sup>	Yes
CAR, 2013	AU: yes ECCAS: yes	ECCAS heads of state: no	No (coup leader elected as interim president) <sup>25</sup> cabinet
Burkina Faso, 2014	AU: yes ECOWAS: yes	Sall et al. (ECOWAS): no	No (coup leader appointed as interim prime minister; <sup>26</sup> other members of junta appointed to new govt. <sup>27</sup> )
Burkina Faso, 2015	AU: yes ECOWAS: yes	Sall & Boni : yes	Yes
<b>Notes</b>			
<sup>a</sup> In its initial response to the Madagascar coup, SADC demanded the unconditional reinstatement of the ousted president, rendering moot the question of coup legitimation through elections. <sup>28</sup>			
<sup>b</sup> In the Niger coup the junta decreed that its members could not stand for election. <sup>29</sup>			
<sup>c</sup> In the Guinea-Bissau coup the army did not seek to retain power. The aim of the coup was to remove the Angolan military mission, known as MISSANG, from the country. <sup>30</sup>			

<sup>21</sup> ‘All is Rather Easily Forgiven: A Coup-Maker Becomes a Civilian President’, *The Economist*, 23 July 2009, <http://www.economist.com/node/14105592>.

<sup>22</sup> International Crisis Group, “Guinea: Putting the Transition Back on Track,” *Africa Report* 178, 2011, 8–12.

<sup>23</sup> International Crisis Group, “A Cosmetic End to Madagascar’s Crisis?,” *Africa Report* 218, 2014, 5 and 11.

<sup>24</sup> “Mali’s New President Names First Post-Rebellion Cabinet,” *Reuters*, 8 September 2013, <http://uk.reuters.com/article/2013/09/08/uk-mali-government-idUKBRE9870DH20130908>.

<sup>25</sup> Scott Sayare, “Mystery Shrouds Rise and Aims of Rebel at Helm of Central African Republic”, *New York Times*, 13 April 2013, [http://www.nytimes.com/2013/04/14/world/africa/michel-djotodia-leader-of-coup-in-central-african-republic-holds-on-to-power.html?\\_r=0](http://www.nytimes.com/2013/04/14/world/africa/michel-djotodia-leader-of-coup-in-central-african-republic-holds-on-to-power.html?_r=0).

<sup>26</sup> Institute for Security Studies, “Burkina Faso: Where Does It Leave the AU Norm on Unconstitutional Changes of Government?,” *ISS Peace and Security Council Report*, 1 December 2014, 4.

<sup>27</sup> ‘Burkina Faso: New PM appoints 29-member cabinet’, *StarAfrica.com*, 13 January 2016, <http://en.starafrika.com/news/burkina-faso-new-pm-appoints-29-member-cabinet.html>.

<sup>28</sup> SADC, “Communiqué,” Extraordinary Summit of SADC Heads of State and Government, 30 March 2009.

<sup>29</sup> ‘Junta bans members from standing in elections’, *Radio France Internationale*, 12 March 2010, <http://www.english.rfi.fr/africa/20100312-junta-bans-members-standing-elections>.

<sup>30</sup> International Crisis Group, “Beyond Turf Wars”.

Fourth, in 67 percent of mediated cases between 2007 and 2015 the lead mediator ignored or expressly contravened the ban on coup legitimization. This anomalous trend is noteworthy given the PSC’s repeated assertion of the ban and the importance the AU attaches to it. The anomaly is discussed and analysed below.

### *Mediation Controversies*

In as much as 69 percent of the mediated coups between 2000 and 2015, the mediation was wracked by controversy as result of decisions made by the mediator or mediating organization. As summarized in Table 7, many of these decisions contravened democratic principles or the AU ban on coup legitimization. There were only four cases in which no major controversies occurred: São Tomé and Príncipe (2003), where the coup lasted just a week, and CAR (2003), Guinea-Bissau (2003) and Niger (2010), where little mediation was required because the juntas moved decisively to restore constitutional rule. The controversies in the remaining nine cases are described and analyzed below.

**Table 7: Controversies Regarding Mediation in African Coups, 2000–15**

<b>Coup</b>	<b>Mediation Controversy</b>
CAR, 2003	-----
São Tomé & Príncipe, 2003	-----
Guinea-Bissau, 2003	-----
Togo, 2005	Mediating body endorsed unconstitutional transitional arrangement (ECOWAS) Mediating body endorsed flawed election (ECOWAS)
Mauritania, 2008	Mediator opposed AU sanctions (Gaddafi) Mediator accused of bias in favor of junta (Gaddafi) Mediator tolerated coup legitimization (Wade)
Guinea, 2008	Mediator defied ban on coup legitimization (Compaoré)
Madagascar, 2009	Mediator and mediating body accused of bias (Chissano, SADC) Mediated agreement legitimized ousting of democratically elected president (Chissano, SADC, AU) Mediated agreement permitted violation of ban on coup legitimization (Chissano, SADC, AU)
Niger, 2010	-----
Mali, 2012	Mediation not inclusive of domestic stakeholders, excluded ousted president (Compaoré) Mediated agreement legitimized ousting of democratically elected president (Compaoré) Mediator deviated from AU position and made too many concessions to junta (Compaoré) Mediator perceived to be pursuing own interests (Compaoré)
Guinea-Bissau, 2012	Mediating body cancelled free and fair election and prevented leading candidate from contesting new elections (ECOWAS) Mediating body negotiated transitional agreement prejudicial to ruling party (ECOWAS)
CAR, 2013	Mediators imposed a peace agreement on parties (Sassou-Nguesso et al.) Mediating body recognized coup leader contrary to AU policy on unconstitutional change of government and PSC resolution (ECCAS)

Burkina Faso, 2014	Mediating bodies decided prematurely and incorrectly that junta had complied with PSC's demands (AU and ECOWAS) Mediators and mediating bodies accepted appointment of coup leader as interim prime minister (Sall et al.; AU and ECOWAS).
Burkina Faso, 2015	Agreement proposed by mediators and endorsed by mediating body deviated from the AU position and made substantial concessions to coup makers (Sall and Boni, and ECOWAS).

## Explaining the Mediation Controversies

This part of the article first provides a brief explanation of each of the mediation controversies and then presents an overarching analysis.

*Togo.* The Togo constitution states that the speaker of the national assembly will become the acting president if the incumbent president dies in office. In the wake of the coup after the death of President Eyadéma, the army prevented the speaker, Fambare Natchaba, from re-entering the country following a trip abroad.<sup>31</sup> Instead, the deputy speaker, regarded as more compliant than Natchaba, was appointed as acting president. ECOWAS condoned this unconstitutional arrangement and, unlike the AU, lifted the sanctions on Togo.<sup>32</sup> ECOWAS also ignored the egregious irregularities in the run-up to the presidential election in April 2005 and endorsed the flawed victory of Faure Gnassingbé, who had headed the junta; opposition parties accused ECOWAS of tacitly supporting Gnassingbé's candidature.<sup>33</sup>

*Mauritania.* In response to the coup in 2009, President Gaddafi of Libya initiated mediation in his capacity as chairperson of the AU Assembly. He openly opposed the AU sanctions that had been imposed and dismissed the AU's call for the unconditional reinstatement of the deposed president.<sup>34</sup> His stance gave rise to much unhappiness within the AU and caused the opposition parties in Mauritania to reject him as the mediator.<sup>35</sup> He was replaced by President Wade of Senegal. Wade defied the ban on coup legitimation when he brokered an agreement between the junta and political parties, permitting the coup leader, General Mohamed Ould

<sup>31</sup> AU, "Brief on the Evolving Situation in Togo," 25<sup>th</sup> Meeting of the PSC, 25 February 2005, paras 1-2.

<sup>32</sup> ECOWAS, "Faure Gnassingbe Steps Down—ECOWAS Lifts Sanctions," press release no. 15/2005, 26 February 2005.

<sup>33</sup> Paul Simon Handy, "The Dynastic Succession in Togo: Continental and Regional Implications," *African Security Review* 14, no. 3 (2005): 47–51.

<sup>34</sup> "Abdallahi 'Must Accept Deal,'" *News 24*, 15 March 2009, <http://www.news24.com/Africa/News/Abdallahi-must-accept-deal-20090315>.

<sup>35</sup> "Gaddafi: Mauritanian Presidential Elections Will Take Place on Time," *Top News*, 13 March 2009, <http://www.topnews.in/gaddafi-mauritanian-presidential-elections-will-take-place-time-2138722>.

Aziz, to contest the presidential election.<sup>36</sup> Aziz won the poll in a victory described by opposition leaders as an “electoral coup d’état.”<sup>37</sup>

*Guinea.* The ban on coup legitimization was a major bone of contention in the Guinea crisis. It was asserted by the AU, ECOWAS, the UN Security Council and the International Contact Group on Guinea.<sup>38</sup> The coup leader, Captain Camara, initially consented but later reneged on his promise to comply with the ban. Thereafter the ECOWAS mediator, President Compaoré of Burkina Faso, circulated a draft plan for the transition, allowing members of the junta to contest elections; as a result, the opposition alliance rejected the plan.<sup>39</sup> The contravention of the ban created a “public relations fiasco” for the mediation.<sup>40</sup> The next version of Compaoré’s roadmap again defied the domestic, continental and international objections to coup legitimization.<sup>41</sup> The breakthrough came when Camara went into exile after an attempted assassination and was replaced by General Konaté, who did not seek to remain in power. Compaoré was then able to facilitate an agreement that included the ban.

*Madagascar.* In May 2009 the AU special envoy to Madagascar, Ablassé Ouedraogo, facilitated talks among Malagasy leaders. Contrary to the ban on coup legitimization, he produced a draft accord that envisaged elections in which the coup leader, Andry Rajoelina, could run.<sup>42</sup> In June SADC took over the mediation and appointed former President Chissano of Mozambique as the lead mediator. The junta viewed SADC as a biased mediator because the regional body had threatened to use force to end the coup.<sup>43</sup> Chissano’s roadmap for the restoration of constitutional rule reversed the bias, enabling the coup perpetrators to contest

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<sup>36</sup> Issaka Souaré, “Mauritania: Auto-Legitimising Another Coup-Maker in Africa?,” *ISS Today*, 14 August 2009, <http://www.issafrica.org/iss-today/mauritania-auto-legitimising-another-coup-maker-in-africa>.

<sup>37</sup> “All Is Rather Easily Forgiven,” *The Economist*.

<sup>38</sup> For example, ECOWAS, “Final Communiqué,” 36<sup>th</sup> Ordinary Session of the Authority of Heads of State and Government, 22 June 2009, para 33; AU, “Communiqué,” 204<sup>th</sup> Meeting of the Peace and Security Council, 17 September 2009; and UN Security Council, “Statement by the President of the Security Council,” UN document S/PRST/2009/27, 28 October 2009.

<sup>39</sup> “Guinea’s Opposition Rejects Mediator’s Proposals,” *Agence France-Presse*, 20 November 2009, <http://reliefweb.int/report/guinea/guineas-opposition-rejects-mediators-proposals>.

<sup>40</sup> US Embassy, “Guinea – A Negotiating Debacle in Ouagadougou,” embassy cable, 21 November 2009, <http://cables.mrkva.eu/cable.php?id=236016>.

<sup>41</sup> US Embassy, “Guinea—U.S./French Meeting with President Compaore,” embassy cable, 14 December 2009, <http://www.cabledrum.net/cables/09OUAGADOUGOU1158>.

<sup>42</sup> “Madagascar ‘Deal’ Could See Rivals in New Poll,” *Mail and Guardian*, 23 May 2009, <http://mg.co.za/article/2009-05-23-madagascar-deal-could-see-rivals-in-new-poll>.

<sup>43</sup> Gavin Cawthra, “The Role of SADC in Managing Political Crisis and Conflict: The Cases of Madagascar and Zimbabwe,” *Peace and Security Series*, Friedrich Ebert Stiftung, Maputo, 2010.

elections and denying this opportunity to the ousted president, Marc Ravalomanana.<sup>44</sup> According to the roadmap, the exiled Ravalomanana would be barred from returning to Madagascar until the newly elected government determined that a favorable political and security climate existed.<sup>45</sup> The perception among local diplomats was that Chissano had capitulated to the regime.<sup>46</sup> SADC dropped him as the mediator but endorsed the violation of the ban on coup legitimation, as did the AU.<sup>47</sup> SADC insisted that Ravalomanana be allowed to contest the poll but was unable to win the compliance of the junta. Consequently, in 2012 SADC adopted the “ni-ni” solution, under which neither Ravalomanana nor Rajoelina would run for president.<sup>48</sup> The two politicians eventually agreed to this.

*Mali.* President Compaoré’s mediation was controversial and lacked legitimacy in Mali because it excluded political parties and the ousted president.<sup>49</sup> Instead, it entailed a series of negotiations between the mediators and the junta leader, Captain Sanogo. Their agreements on the transition to constitutional order made significant concessions to the junta: the elected president would resign, the junta members would receive amnesty, their role and status during the transition was left open, and Sanogo was granted the status of a retired head of state. This was at odds with the AU PSC’s decision that the junta members were liable for prosecution and that the army must return to the barracks.<sup>50</sup> The agreements also ignored the ban on coup legitimation and created an unrepresentative interim government whose composition reflected the preferences of Sanogo and Compaoré rather than a consensus among Mali’s political forces. Unhappy with Compaoré’s approach, ECOWAS revoked Sanogo’s status as former president and decided that President Jonathan of Nigeria would join the mediation in a kind of oversight capacity.<sup>51</sup>

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<sup>44</sup> SADC Mediation Team, “*Feuille de Route pour la Sortie de Crise à Madagascar*,” 20 January 2011, para 9.

<sup>45</sup> SADC Mediation Team, “*Feuille de Route*,” 14.

<sup>46</sup> Charlotte Larbuisson, “Madagascar: From Crisis to Transition,” 16 May 2011, note 15, <http://www.crisisgroup.org/en/regions/africa/southern-africa/madagascar/op-eds/madagascar-from-crisis-to-transition.aspx>.

<sup>47</sup> SADC, “Communiqué,” Extraordinary Summit of Heads of State and Government, 11-12 June 2011; AU, “Press Statement,” 283<sup>rd</sup> Meeting of the Peace and Security Council, 6 and 12 July 2011.

<sup>48</sup> SADC, “Communiqué,” Extraordinary Summit of Heads of State and Government, 8 December 2012, para 8.4.

<sup>49</sup> See International Crisis Group, “Mali: Avoiding Escalation,” 24–25.

<sup>50</sup> AU, “Communiqué,” 315<sup>th</sup> meeting of the Peace and Security Council, 23 March 2012; and AU, “Communiqué,” 316<sup>th</sup> meeting of the Peace and Security Council, 3 April 2012.

<sup>51</sup> International Crisis Group, “Mali: Avoiding Escalation,” 24.

*Guinea-Bissau*. In 2012 President Sanhá died of natural causes and Raimundo Pereira was appointed as the interim president. The first round of the ensuing presidential election was won by Prime Minister Gomes Júnior, representing the ruling party. The international community declared the election free and fair but the other candidates rejected the result. In the midst of this dispute, the military seized power and arrested Pereira and Gomes Júnior. The ECOWAS roadmap cancelled the election, dismantled the government and accepted that Pereira and Gomes Júnior would be replaced.<sup>52</sup> The ruling party was outraged, insisting that the election should be allowed to continue and accusing ECOWAS of legitimizing the coup.<sup>53</sup> The ECOWAS position also diverged radically from that of the UN and the AU, which demanded the resumption of the election.<sup>54</sup> This provoked intense friction between ECOWAS and the other external actors involved in peacemaking.

*CAR*. In late 2012 the Séléka rebels tried to overthrow President Bozizé. ECCAS intervened and ran a deeply flawed mediation that took just three days, with the mediators drafting an accord for the signature of the parties rather than facilitating negotiations between them.<sup>55</sup> Analysts concluded that the “peace talks without talks” were bound to fail.<sup>56</sup> The failure was manifest in the coup of March 2013. The coup leader, Michel Djotodia, set up a transitional council that elected him as interim president. ECCAS banned Djotodia and the other council members from contesting elections but it was willing to recognize him as the “head of state of the transition”.<sup>57</sup> Displeased AU officials viewed this recognition as contrary to the Union’s policy on unconstitutional change of government and the PSC’s call for the “complete isolation” of the perpetrators of the coup.<sup>58</sup> In defiance of this call and the travel ban imposed by the PSC,<sup>59</sup> Djotodia was welcomed in the capitals of ECCAS member states.<sup>60</sup>

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<sup>52</sup> International Crisis Group, “Beyond Turf Wars,” 1–5; and ECOWAS, “Final Communiqué,” Extraordinary Summit of ECOWAS Heads of State and Government, 3 May 2012.

<sup>53</sup> PAIGC, “PAIGC Communiqué on ECOWAS Coup in Guinea-Bissau,” 11 May 2012, <https://groups.yahoo.com/neo/groups/theafricanobserver/conversations/topics/12366>.

<sup>54</sup> International Crisis Group, “Beyond Turf Wars,” 11–12.

<sup>55</sup> Kennedy Tumutegereize and Nicolas Tillon, “Central African Republic: Peace Talks without Talks. A New Model of Perpetuating Violent Conflicts?,” Conciliation Resources, March 2013, <http://www.c-r.org/comment/central-african-republic-libreville-talks-kennedy-tumutegereize-nicolas-tillon>.

<sup>56</sup> *Ibid.*

<sup>57</sup> AU, “Report of the Chairperson of the Commission on the Situation in the Central African Republic,” 17 June 2013, para 9, <http://www.peaceau.org/uploads/psc-380-report-car-17-06-2013-rev-1-.pdf>; and “Regional Leaders Recognise C. African Rebel Chief,” *Reuters*, 18 April 2013, <http://www.reuters.com/article/2013/04/18/centralafrican-chad-idUSL5N0D54S320130418>.

<sup>58</sup> Welz, “Briefing: Crisis in the Central African Republic,” 606.

<sup>59</sup> AU, “Communiqué,” 363<sup>rd</sup> Meeting of the Peace and Security Council, 25 March 2013, para 9.

*Burkina Faso 2014.* In an unusual move, the PSC did not suspend Burkina Faso after the 2014 coup. Instead, it demanded that the army step aside and hand power to a civilian authority within two weeks, failing which suspension and sanctions would come into effect.<sup>61</sup> A team of ECOWAS presidents led by Macky Sall of Senegal conducted a mediation that resulted in the adoption of a charter for a civilian-led transition and the selection of Michel Kafando, a retired diplomat, as interim president. The PSC decided that its demands had been met and that suspension and sanctions would not apply.<sup>62</sup> Immediately thereafter Kafando appointed one of the coup leaders, Lt Col Isaac Yacouba Zida, as interim prime minister, and he in turn appointed other army officers as cabinet ministers.<sup>63</sup> Contrary to the PSC's assessment, the military had not transferred power to a civilian authority; rather, it had done a power-sharing deal with civilians.<sup>64</sup> According to informed sources, the ECOWAS presidents supported this arrangement in the interests of stabilizing civil-military relations and the broader political arena.<sup>65</sup>

*Burkina Faso 2015.* In September 2015 the presidential guard known as the RSP mounted a coup against the interim government in Burkina Faso. Shortly thereafter President Sall of Senegal and President Boni of Benin led an ECOWAS mediation that produced a draft agreement on the withdrawal of the junta and reinstatement of Interim President Kafando. The agreement contained several highly controversial provisions: it overturned a Constitutional Council ruling that barred certain candidates from contesting the forthcoming election; it postponed any reform of the RSP until after the election; and, despite the killing of protesters by the RSP, it granted amnesty to the coup participants.<sup>66</sup> The deal was rejected by Kafando and denounced by political parties and civil society.<sup>67</sup> It deviated substantially

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<sup>60</sup> Solomon Dersso, "The Best Option to Settle the CAR Crisis?," *Al Jazeera*, 5 December 2013, <http://www.aljazeera.com/indepth/opinion/2013/12/best-option-settle-car-crisis-20131246152625650.html>.

<sup>61</sup> AU, "Communiqué," 465<sup>th</sup> Meeting of the Peace and Security Council, 3 November 2014.

<sup>62</sup> AU, "Communiqué," 468<sup>th</sup> Meeting of the Peace and Security Council, 18 November 2014.

<sup>63</sup> Institute for Security Studies, "Burkina Faso", 4.

<sup>64</sup> *Ibid.*

<sup>65</sup> Author's interviews with AU and ECOWAS officials, Addis Ababa, January 2015.

<sup>66</sup> "Growing Opposition in Burkina Faso to Regional Peace Deal", Agence France-Presse, 21 September 2015, available at <http://news.yahoo.com/growing-opposition-burkina-faso-regional-peace-deal-133455672.html>.

<sup>67</sup> *Ibid.*; and "Burkina President Voices Reservations about Proposed Post-Coup Deal", AFP, 21 September 2015, available at <https://www.enca.com/africa/burkina-president-voices-reservations-about-proposed-post-coup-deal>.

from the AU position, which called for the restoration of the status quo ante, stressed that the coup actions amounted to terrorism and insisted that those responsible be held accountable.<sup>68</sup> The ECOWAS summit, on the other hand, endorsed the draft agreement and claimed precedence over the AU on the basis of the principle of subsidiarity.<sup>69</sup>

### *Analysis*

In addition to the specific reasons for each of the controversies described above, there appear to be two general explanations for the prevalence of controversial decisions made by mediators and mediating bodies: in many respects mediation is incompatible with the AU policy on unconstitutional change of government; and the dynamics of a coup require the mediator to engage in bargaining with the junta.

International mediation is a form of conflict resolution in which a third party helps the disputants, with their consent, to negotiate agreements to their collective satisfaction.<sup>70</sup> The purpose is not to enable one of the disputants to win but rather to forge a settlement endorsed by all sides; to this end, mediation must be made acceptable to the adversaries, who must in turn cooperate with the mediator.<sup>71</sup> The AU policy on unconstitutional change of government is inimical to mediation so defined, and this gives rise to a range of contradictions and tensions. Whereas mediation aims to broker an accord that satisfies all the protagonists, the AU policy envisages a win-lose outcome with the junta giving up power. Whereas mediation is a consensual venture, the AU policy entails coercion and seeks compliance under duress. Whereas mediators must build cooperative relations with all the conflict parties, the AU policy induces an adversarial relationship between the mediating body and the coup leaders. And whereas mediators must be flexible and responsive to different situations, the AU policy is peremptory and not meant to be adapted from case to case. These tensions and

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<sup>68</sup> AU, “Communiqué,” 544<sup>th</sup> meeting of the Peace and Security Council, 18 September 2015.

<sup>69</sup> ECOWAS, “Final Communiqué: Extraordinary Session of the Authority of Heads of State and Government on the Political Crisis in Burkina Faso”, 22 September 2015.

<sup>70</sup> See, for example, Jacob Bercovitch, “Mediation and Conflict Resolution,” in Jacob Bercovitch, Victor Kremenyuk and I. William Zartman (eds.), *The SAGE Handbook of Conflict Resolution* (London: SAGE, 2009), 343–46; Ronald J. Fisher, “Methods of Third Party Intervention,” *Berghof Handbook for Conflict Transformation*, 2001, 4, [http://edoc.vifapol.de/opus/volltexte/2011/2579/pdf/fisher\\_hb.pdf](http://edoc.vifapol.de/opus/volltexte/2011/2579/pdf/fisher_hb.pdf); and UN, *Guidance*, 4.

<sup>71</sup> I. William Zartman and Saadia Touval, “International Mediation,” in Chester Crocker, Fen Hampson and Pamela Aall (eds.), *Leashing the Dogs of War: Conflict Management in a Divided World* (Washington, DC: US Institute for Peace, 2007), 437–38.

contradictions have no simple solutions and it is therefore perhaps inevitable that African mediators addressing coups will often make controversial decisions.

In the context of a coup, moreover, there is a sharp difference of emphasis between the goal of the policy on unconstitutional change of government, which is to restore constitutional order and democracy, and the immediate imperatives of mediation, which are to stabilize the situation and win the cooperation of the junta as prerequisites for the restoration of constitutional and democratic rule. To meet these imperatives, mediators have often struck deals with juntas, compromising democracy in the short-term in the interests of establishing democracy in the long-term.

The mediator's imperative of stabilization is captured starkly in the justification offered by President Sall for the compromises included in the agreement he brokered with the Burkinabe presidential guard after it seized power in 2015. Addressing the ECOWAS heads of state and seeking to counter criticism of the compromises, Sall argued that 'our role is to put an end to the escalation of things in order to prevent the country from descending into violence'.<sup>72</sup> Postponing reform of the presidential guard was due to 'concerns for the stability of the transition regime', and amnesty was required for national reconciliation, without which 'cohabitation would remain impossible within one indivisible Nation'.<sup>73</sup> The bottom line, said Sall, was that a descent into violence would shift the conversation from elections and the number of voting polls and ballots to weapons and the number of dead and injured persons.

Furthermore, a coup has a distinctive dynamic that sets it apart from other kinds of conflict, such as civil wars and major electoral disputes. In these conflicts there are typically two or more disputant parties of comparable political or military strength. Even if there is asymmetry, none of the disputants is able to inflict an outright defeat on the others. In these circumstances a third party peacemaker can play the classic mediation role of facilitating negotiations between the protagonists. In a coup, by contrast, there is usually no domestic party that has the capacity to challenge the army. The countervailing powers are chiefly the AU, the REC and the UN, which insisted that the junta must step down. The mediator is unable to force the junta to do this and so he ends up bargaining with it. The mediator in a

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<sup>72</sup> ECOWAS, "Final Communiqué: Extraordinary Session of the Authority of Heads of State and Government on the Political Crisis in Burkina Faso."

<sup>73</sup> Ibid.

coup is thus a hybrid of a mediator and a negotiator, making concessions to the junta in order to get it to transfer power to a civilian authority.

The Guinea-Bissau coup in 2012 provides a vivid illustration of this tendency. The main cause of the coup was the army's antagonism toward the security sector reform program of Prime Minister Gomes Júnior and the presence in the country of MISSANG, an Angolan military mission that had served as a stabilizing and protection force following a mutiny by Guinea-Bissau soldiers in 2010. When the coup occurred the junta demanded the withdrawal of MISSANG. ECOWAS was willing to accommodate this demand because some of its member states resented Angola's military influence in their region.<sup>74</sup> The mediators therefore struck a deal with the junta, the essence of which was that ECOWAS would take the place of the Angolan mission, the army would stand down, Gomes Júnior would not return to power and fresh elections would be held. In the other controversial cases discussed above, a process of bargaining led similarly to deals that were acceptable to both the mediating body and the junta.

## **Conclusion**

This final section presents conclusions about the effectiveness of the AU's policy on UCG and the African strategy of mediation in response to coups. It also indicates where firm conclusions would not be justified and where further research is required. I assess effectiveness in terms of the objectives of the AU policy, namely to prevent coups and, when they occur, to stabilize the situation and restore constitutional order and democracy.

The objective of prevention has clearly not been fully attained: between 2000, when the AU policy was introduced, and 2015, there were 15 coups. Nevertheless, this figure indicates progress, reflecting a decrease of 37 percent compared with the incidence of coups in the 1990s. It is likely that this decline is due, to some extent, to the AU policy. A more definite conclusion cannot be reached because the incidence of coups depends on the prevalence and severity of their causes, which have not been studied here.

The 2007 ban on coup legitimization is meant to serve as a deterrent, contributing to prevention. It has been effective in stopping the coup leader from becoming the elected

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<sup>74</sup> International Crisis Group, "Beyond Turf Wars," 12–13.

president. The coup leader was elected as president in 50 percent of the cases before 2007 and this fell to 11 percent after 2007. Coups are no longer a means to maintaining a long-term hold on the presidency. However, in 56 percent of the cases since 2007, members of the junta other than the president were appointed to serve in the new government. The AU ignored this trend.

The objective of restoring constitutional rule has been met consistently. In 2000-2015, 100 percent of coups ended by democratic means, the average duration of the coups was 19 months (compared with 23.7 months in the 1990s) and 73 percent ended within two years (compared with 67 percent in the 1990s). These outcomes were probably due in fair measure to a combination of the AU policy, mediation and the wider international pressure on juntas.

It is not possible to gauge precisely to what extent the AU policy and African mediation contributed to the ending of coups. This is because the duration and outcome of a coup depend not only on the strategies of external actors but also on the coup-makers' goals and, in particular, on whether the junta wants to hold power in the long run. For example, the leaders of the Niger coup had no such desire: they ousted the president because of his unconstitutional actions, they decreed that members of the junta could not run for election, they arranged an expeditious return to civilian rule and there was consequently little need for external pressure and mediation.<sup>75</sup> The Madagascar coup, by contrast, dragged on for five years because the coup leader was loath to relinquish the presidency.<sup>76</sup> The mediation in the Guinea coup stalled when the junta leader reneged on his promise to refrain from running for president but was successful after he went into exile and was replaced by a general who did not seek to remain in power.<sup>77</sup> Also relevant to the outcome and duration of coups are the moves of domestic actors. For example, the 2015 coup in Burkina Faso, mounted by the

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<sup>75</sup> "Junta Bans Members;" AU, "Press Statement," 248<sup>th</sup> Meeting of the Peace and Security Council, 13 November 2010.

<sup>76</sup> Laurie Nathan, "A Clash of Norms and Strategies in Madagascar: Mediation and the AU Policy on Unconstitutional Change of Government," *Mediation Arguments* 4, Centre for Mediation in Africa, 2013.

<sup>77</sup> Gilles Yabi, "The Role of ECOWAS in Managing Political Crisis and Conflict: The Cases of Guinea and Guinea-Bissau," *Peace and Security Series*, Friedrich Ebert Stiftung, Abuja, 2010, 48.

presidential guard, lasted just a week. When the regular army made clear its intention to confront and disarm the presidential guard, the latter surrendered power.<sup>78</sup>

A more specific focus on mediation leads to a mixed conclusion. On the one hand, in 87 percent of the cases constitutional order was restored through a combination of mediation and bargaining. On the other hand, in 69 percent of the mediated cases the efficacy of the process of crisis management and resolution was impaired by controversial decisions made by the mediator or mediating body. Many of these decisions compromised democracy and the AU policy and gave rise to severe tensions between various international actors.

Eighty five percent of the mediations were undertaken by RECs, indicating that subsidiarity is the prevailing norm. Subsidiarity might offer a number of benefits derived from proximity, such as good knowledge of the history and circumstances of the country in crisis, but it also carries the risk that peacemaking will be unduly influenced by the partisan interests of the regional body and its member states.<sup>79</sup> This negative tendency was evident in the mediations led by ECOWAS in Togo in 2005;<sup>80</sup> ECOWAS in Guinea-Bissau in 2012;<sup>81</sup> Compaoré in Mali in 2012;<sup>82</sup> and ECCAS in CAR in 2003 and 2013.<sup>83</sup> It is also questionable whether heads of state were the best choice as mediators. They might have had stature and gravitas but the credibility of some of them, including Compaoré, Gaddafi, Sassou-Nguesso and Tandja, was undermined by the fact that they themselves had come to power through a coup.

In addition to mediation, three other strategies were commonly employed after coups took place: the formation of an international contact group intended to coordinate the efforts and harmonise the positions of external actors; the establishment of a transitional government in

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<sup>78</sup> ‘Burkina Faso’s Army Enters Capital to Disarm Coup Leaders in Lead-Up to Poll’, Reuters, 22 September 2015, available at <http://www.theguardian.com/world/2015/sep/22/burkina-faso-army-enters-capital-to-disarm-coup-leaders-in-lead-up-to-poll>.

<sup>79</sup> See Laurie Nathan, “Will the Lowest Be First? Subsidiarity in Peace-making in Africa,” in Pamela Aall and Chester Crocker (eds.), *Minding the Gap: African Conflict Management in a Time of Change* (Waterloo: Centre for International Governance Innovation, 2016, forthcoming).

<sup>80</sup> Handy, “The Dynastic Succession in Togo”.

<sup>81</sup> International Crisis Group, “Beyond Turf Wars,” 12–13.

<sup>82</sup> International Crisis Group, “Mali: Avoiding Escalation,” 24.

<sup>83</sup> These coups were themselves manifestations of regional bias and manipulation, taking place with the consent, if not active support, of the ECCAS heads of state, who subsequently played mediating roles. See International Crisis Group, “Central African Republic: Anatomy of a Phantom State,” *Africa Report* 136, 2007, 13–17; and International Crisis Group, “Central African Republic: Priorities of the Transition,” 8–12.

order to stabilize the situation and prepare for free and fair elections; and the imposition of sanctions against the coup perpetrators. It appears from the material cited in this article that the effectiveness of these strategies varied among the cases but none of the strategies has been subject to systematic research.

Overall, the AU policy can be said to have made a significant contribution to the prevention and resolution of coups. But this positive conclusion must be tempered by the sobering observation that the coup perpetrators almost always achieved their primary objective of overthrowing permanently the president and government. In only two of the 15 coups was the ousted president reinstated. In the majority of coups the mediators and mediating organizations treated the overthrow of the president and government as a *fait accompli*, either from the outset or when they failed to overcome the junta's intransigence on this matter.