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***EVALUATING THE EXPLANATORY VALUE OF BRAHIMI AND AHMED'S SEVEN  
DEADLY SINS OF MEDIATION:  
THE CASE OF THE MALAGASY MEDIATION OF 2009-2014***

by

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## DECLARATION

I declare that this dissertation, which I hereby submit for the degree Master of Security Studies at the University of Pretoria, is my own work and has not been previously submitted by me for a degree at this or any other university.

.....

Nthati Masupha

April 2019



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## ABSTRACT

The pursuit of international peace and security continues to lead international actors to pacify conflicts that could potentially evolve into or have already employed violence. In line with this pursuit, international mediation practitioners, Lakhdar Brahimi and Salman Ahmed, have observed seven variables, which they refer to as *'The seven deadly sins of mediation'*, that contribute to ineffective mediation and consequentially jeopardise the quality of the resultant peace. Testifying that mediation is a difficult undertaking, the 2009-2014 mediation process in Madagascar experienced multiple challenges and the resultant peace has been described as fragile. Brahimi and Ahmed's work is applied in this study as an analytical framework to evaluate the mediation process in Madagascar during the period 2009-2014, and thus indicate the explanatory value of the framework itself. The research links challenges faced by the Malagasy mediation to six of the seven original sins in the framework, indicating that the framework has some explanatory value. The research further demonstrates that the identification of the sins in a mediation process forebodes a strong predisposition to ineffective mediation, yet each mediation case may present an additional sin or sins to append to Brahimi and Ahmed's original list. Through scrutinizing the events of the Malagasy mediation, the study identifies an additional problem; the lack of a clear mandate, to have been catalytic to the mediation's challenges and ineffectiveness, as well as the fragile resultant peace.

Key terms: International mediation, conflict management, Madagascar



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## LIST OF ABBREVIATIONS

AU	African Union
AUCA	Constitutive Act of the African Union
AUPSC	African Union Peace and Security Council
CAPSAT	<i>Corps d'armée du personnel et des services administrative et technique</i>
EAC	East African Community
ECOWAS	Economic Community of Western African States
HAT	<i>Haut Autorité de la Transition</i> (High Authority of the Transition)
ICG	International Crisis Group
ICG-M	International Contact Group on Madagascar
IGAD	Inter-Governmental Authority on Development
IOC	Indian Ocean Commission
IOF	International Organisation of the Francophonie
JMT-M	Joint Mediation Team on Madagascar
OAU	Organisation of African Unity
PSCP	African Union Peace and Security Council Protocol
REC	Regional Economic Community
SADC	Southern African Development Community
UCG	Unconstitutional change of government
UN	United Nations
UNGA	United Nations General Assembly





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## CHAPTER 1: INTRODUCTION

### 1.1. Research Theme

The pursuit of international peace and security continuously leads international actors to pacify conflicts that could potentially evolve into or have already employed violence. Actors including states and individuals, civil society groups and religious associations mediate conflicts inside and beyond their geographical borders, reflecting a global preference to end conflict and crisis at the negotiation table rather than on the battlefield (Sisk 2010:1). Pairing this preference for pacific conflict resolution with the unabating prevalence of intrastate conflicts since the end of the cold war, both academics and practitioners have committed effort and resources to refining international mediation for building effective and lasting peace on the African continent. Notwithstanding these efforts, the long-standing conflict issues that are steeped in a nation's social and political history render intrastate conflicts comparatively more complex and challenging to resolve.

Following the commitment to strengthen conflict mediation, renowned international mediators, Lakhdar Brahimi and Salman Ahmed (2008), have written an article admitting that:

*[Mediation] is an extremely difficult undertaking by any name, where success is difficult to achieve, but mistakes come easily. Some of these mistakes can have fatal consequences for the peace process ... and are referred to here as "the seven deadly sins". These are: ignorance; arrogance; partiality; impotence; haste; inflexibility; and false promises.*

This framework of seven sins outlines the most common errors that mediators commit towards ineffective mediation. Equipped with this knowledge, the mediator will have the foresight to avoid these sins or manage them to the advantage of "help[ing] the parties to a conflict resolve their fundamental political differences through dialogue and compromise" (2008:2). Brahimi and Ahmed explain that these sins become traps because once they are committed the magnitude of their effect is unknown, and at times, uncontrollable circumstances dictate the mediators' disposition to these sins. The brief retrospective evaluations of mediation efforts in the article justify the construction of the compendium by briefly highlighting the workings of these sins across a few cases of conflict mediation.

In 2014, the island state of Madagascar saw the end of an international mediation process for a political conflict crisis that began in 2009. The crisis stemmed from a conflict that started mounting in 2008 between then president of Madagascar, Marc Ravalomanana and Mayor of Antananarivo, Andry Rajoelina, who was also Ravalomanana's main political opponent. The conflict resulted in



civilian fatalities and led to a military-aided coup against Ravalomanana in Rajoelina's favour (Kotzé 2014:1, 11; Nathan 2013). Rajoelina and his de facto government, the *Haute Autorité de la Transition* (HAT), were condemned by the international community, and his legitimacy as leader of Madagascar was challenged. Madagascar came into a state of political and constitutional crisis due to this unconstitutional change of government (UCG).

In June 2009, former Mozambican president, Joaquim Chissano, was delegated as the chief mediator to lead the peace process in Madagascar (Cawthra 2010:15). Then by April 2010 in a Joint Mediation Team for Madagascar (JMT-M) and an International Contact Group on Madagascar (ICG-M) were established to mediate peace and return stability back to Madagascar. These teams were formed through the collaborative aegis of the Southern African Development Community (SADC), the African Union (AU), the United Nations (UN), the IOC (Indian Ocean Commission), the IOF (International Organisation of la Francophonie), and the EU (European Union). After five years, in 2014, the mediation process culminated in a national presidential election that marked a step towards a return to constitutional order in the country (SADC 2013b).

Various challenges hindered the mediators' efforts, making this case a suitable canvass to explore the explanatory value of Brahim and Ahmed's work. This will be done by identifying which sins were committed by the mediators, whether these account for the occurrence of key challenges experienced throughout the mediation, and their effect on the resultant peace. Furthermore, because UCGs are a recurrent phenomenon on the continent, applying this framework to the Malagasy case will inform future interventions in crises emerging from coups and other forms of UCG. Although the resultant peace in Madagascar has been described as fragile and cosmetic (ICG 2014), the international mediation was pivotal to the re-establishment of peace on the island state; this was a primary aim of the mediation project (AU 2010, SADC 2013b:3).

Subsequent sections of this chapter will provide an overview of the relevant literature with respect to the above introduced theme, followed by the research problem of the study. Then it will conclude by proposing a suitable research design and methodology, and provide comments on the study's anticipated ethical implications.

## **1.2. Literature Review**

The relevant literature for this research revealed four main themes that will be presented below and discussed in this literature review. The first theme addresses the institutional and contextual workings of international mediation on the African continent, and the second is dedicated explaining the mediator's role as a pivotal actor in international mediation. The third theme speaks to the general

and conceptual groundings of both the practice and study of mediation. Then the fourth theme focuses on the independent variables of mediation outcomes, from strategies and mediator roles, to time imperatives. Before presenting these themes however, this section will give an introductory discussion of Brahim and Ahmed's (2008) article. This section will close off with a review of literature on the Malagasy crisis and subsequent mediation.

### **1.2.1. Brahim and Ahmed's seven deadly sins of mediation**

Brahimi and Ahmed's article, titled 'In pursuit of sustainable peace: The seven deadly sins of mediation' (2008) presents the crucial elements of international mediation, listing seven vulnerabilities of international mediators that jeopardise effective mediation. The collection of seven sins is set in the context of a civilian mission accompanying a peace operation, yet it provides insight for peace processes that do not have a military element.

The article focuses on variables that lead to failure rather than those necessary for success, counselling mediators to identify and avoid factors that potentially compromise the quality of mediation and the resultant peace. Self-explanatory in its title, 'In pursuit of sustainable peace', the article places high value on the quality of a mediation process as well as the quality and durability of the resultant peace.

Without claiming that theirs is a complete tabulation, Brahim and Ahmed explain that the sins are "recurrent traps that materialise in many different situations" (2008:5). The mediator is both the creator and the victim of the traps, yet falling into these traps can be circumstantial, out of the mediator's control, and the product of various internal and external factors.

Nathan (2014:12) commends Brahim and Ahmed's article for its insight into the mistakes committed by UN and other mediators, and highlights the possibilities for further evaluation of mediation using complexity theory with the framework of seven sins as a base. For prospective mediation processes, Nathan's discussion guides towards a constant awareness of the margins of error with respect to mandates and tentative operational plans for mediation initiatives, considering the complexity of their interaction and effects on mediation success.

### **1.2.2. International mediation in Africa**

Given the recurrence of intrastate conflict in Africa, Article 4(e) of the African Union Constitutive Act (AUCA) directs member states to carry out the "Peaceful resolution of conflicts among Member States" (AU 2000). Complementarily, Article 3(b) of the African Union Peace and Security Council Protocol (PSCP) (PSC 2002:5) does draw a distinction between internal and external conflicts,

thereby extending a *de jure* mandate for the AU to mediate internal conflicts as well. Even with the possibility of contravening clauses (e), (f) and (g) of the Protocol's Article 4 by way of interventions pursuant to Article 4(j) of the same protocol, Murithi (2009:16) commends that the "AU is learning from the lessons of [its predecessor,] the OAU, and has adopted a much more interventionist stance through its legal frameworks and institutions". Nathan (2010:2) also acknowledges that African Regional Economic Communities (RECs) such as SADC, EAC (East African Community), IGAD (Inter-Governmental Authority on Development) and ECOWAS (Economic Community of Western African States), have designated conflict mediation to specific internal organs to fortify their mediation capabilities.

Additionally, the international mediation of African conflicts by African organisations and leaders is prompted by the African Union African Peace and Security Architecture (APSA) agenda, which edicts mediation an essential part of "peace-making, peace support operations, peace-building and post-conflict reconstruction and development" (AU 2013; see also Bah et al 2014). RECs carry out this mediation mandate within their respective subcontinental regions under the directive of the African Union Peace and Security Council (PSC). Piombo (2010) identifies two main directions of international mediation activities by the RECs, mediation as a response mechanism targeting either (a) the "micro-foundations as well as root causes of conflict", or (b) the resultant "complex crises" and their "immediate after-effects" (2010:1).

Nathan (2007, 2009, 2010) writes on the deficiencies of mediation on the African continent, arguing that African RECs do not have the capacity and skills to carry out their conflict response mandate (2007, 2010). Govender and Ngandu (2009) give an equally negative assay, pointing to the structural administration of mediation in Africa as the cause for the "fragile nexus" of disconcertion, "uncertainty and competition over which organisation should take the lead in a mediation endeavour" (2009:22). Nevertheless, Dursma's (2016) evaluation of international mediation statistics between 1960 and 2012 reveals that African third parties are more likely to resolve African conflicts than non-African third parties. Highlighting the notion of African solutions for African problems, he further adds that African mediation effectiveness increases in mixed third-party initiatives where African third parties take the lead. International organisations beyond the continent such as the UN and the EU, accompany mediation when the occasion arises, providing institutional and financial support to international mediation activities on the continent (Goulding 1997:161).

### **1.2.3. *The mediator's agency***

Oran Young's (1967) 'The intermediaries: Third parties in International Crises' sets the mediator and his or her attributes as the central determinant of failure or success in mediation efforts, because he or she is a "catalytic agent" (1976:36) of the mediated peace. Bercovitch (1989:296) justifies this perspective with the assertion that disputants left to their own devices "may engage in unacceptable and unconstructive behaviour". In this line of reasoning, investigations such as those by Bercovitch and Schneider (2000:146) use a "utility model of mediator selection", reflecting Kaufman and Duncan's (1992:692) application of "subjective expected utility" theory to probe the appropriateness of mediators and answer "why certain actors become more active in the mediation market".

One prominent debate regarding the suitability of a mediator or mediators revolves around the mediator's impartiality. On the one hand, William Smith (1985) and prominent critic of neutrality, Saadia Touval (1982, 1975), argue that biased mediators and mediation processes are more likely to resolve conflicts than neutral ones (see also Smith 1994, Rick 2009:41). An opposite disposition is advanced by amongst others, Chris Moore (1986:6), who identifies an "impartial, and neutral third party" as an inherent part of mediation's conceptual definition (see also Marcil and Thornton 2009, Young 1968:39). Siniver and Thomas (2012:12), with no conviction about either side of the debate, present an alternative tract by approaching bias and neutrality "as continuous rather than dichotomous factors", because "it is conceivable that on some issues the mediators' attitudes may change over time" (2012:21) and neither neutral nor biased dispositions guarantee success or failure.

Multiparty mediation is another subject of contemporary debate within the literature. On one side, Tobias Böhmelt (2011, 2012) praises its economic advantages with regards to the division of fiscal burden, pooled skills and leverage, as well as decreased political risk per mediating member. These make multiparty mediation more attractive and likely than an undertaking by an individual intervener (see also Iji and Fuchinoue 2009:137, Böhmelt 2011; 2012). Beber (2010) on the other side, as a sworn critic of multiparty mediation, contends that it undermines the necessary cohesion of a third-party intervention (2010:2). Böhmelt (2012, 2011) and others (Beber 2010, Moon 2009, Vuković 2013, Crocker Hampson and All's 1999, 2001, 2004) also recognise the administrative disadvantages of coalesced mediation, including the risk of mediator defection, dropping the ball and forum shopping, whose occurrences are common realities of multiparty mediation that negatively affect the progress of mediation projects.

#### ***1.2.4. Mediation dynamics***

Despite the number of parties mediating a conflict, there is a consensus in the literature on the definition of mediation. Taking from Chris Moore's (1986:6) definition of mediation as a form of



intervention that facilitates impasse negotiation in conflict situations, Kleiboer (1996:360) defines mediation as “a form of conflict management in which a third party assists two or more contending parties to find a solution without resorting to force”. Authors such as Park (2010), Daly, Higgins and Bolger (2010), Pinfari (2009), and Deane (2009:70) have adopted this as a definitional base as well. Further reflecting the general concurrence on a working definition of mediation within the literature, Touval and Zartman (1985:1) give a similar definition, describing mediation as “a form of third-party intervention on a conflict for the purpose of abating or resolving that conflict through negotiation”.

Regan (1996:339) counter-intuitively suggests that mediation is not always the primary resort for intervention, even though it is preferred for its pacific nature. Comparing it to more visible and intrusive efforts of conflict intervention, Regan’s (1996:339) discussion acknowledges that mediation “generally incurs the least costs, is usually not politically troublesome, and is often used in conjunction with other forms of intervention”. Pradt (2013:16) does not deny these utilities, but points to the possibility of mediation not being the only catalyst of resolution. He cautions that it should not be studied in a silo of its own because it is only one of many factors being injected into a conflict or crisis at any given time.

The literature also carries a debate on the elusive criteria for measuring and classifying mediation outcomes. Bercovitch (1996:19) discusses full, partial and limited success, wherein the three differ in the progressive improvement of the conflict’s intensity compared to before mediation was introduced. A scale that is both subjective and normative is presented by Susskind and Babbitt (1992:30-31), who include “good precedent in the eyes of the world community” as a form of success. Conversely, Touval and Zartman (1984:13-15) and Smith (1985) present an objective scale of effectiveness, whereby success is indicated by the achievement of the mediation’s initially set out objectives. Kleiboer (1996:13-14) goes further to consider success as a durable solution addressing the root causes of a conflict, accepted and supported by both disputants. She also adds that the line between failure and success is blurred and engages various aspects for evaluation; from time, space and expectations, to the actors from whose perspectives we view and evaluate success.

Failure, however, is rarely a case in point, but remains implied in discussions on success. Nathan (1998, 1998b, 1996, 2009) has dedicated considerable attention to mediation failure, with a focus on mediating African conflicts. He reasons that the lack of ownership nurtured by coercive diplomacy as one of many reasons for failure (1998:2). Brahim and Ahmed (2008) in a similar tract list mediator arrogance as a variable of failure. Amoo (1992) discusses the institutional policies of the Organisation of African Unity (OAU), arguing that the non-interference doctrine once incapacitated the organisation’s mediation initiatives and precluded their inefficiency.



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### **1.2.5. Mediation strategies**

Three main directions make the literature on mediation strategies: Firstly, operational approaches; secondly, norm-oriented strategies; then lastly and rarely, strategies based on the disputants' reception of the mediator and the mediation process.

Operational approaches describe different ways of conducting a mediation project. They range from being content or issue specific, to defining the mediator's role and depth of involvement. Catalogues of these approaches include Stein's (1985) distinction between incremental mediation strategies that prescribe dividing the conflict into smaller issues for sequential resolution, and comprehensive strategies that collectively deal with all aspects of the conflict simultaneously. Jacob Bercovitch's editorial in 'Mediation in International Relations' (Bercovitch and Rubin 1992:1) gives a taxonomy based on Sheppard's (1984) classification of the mediator's behaviour. The strategies range from minimalist communication-facilitation strategies to heavy involvement directive strategies, each reflecting a different degree of the mediator's procedural involvement (see also Touval and Zartman 1985:7-20).

Whilst operational approaches idealise systematic execution, norm-oriented strategies idealise international principles, regimes and norms. An example includes Russett's (1993) discussion of democratic peace as a principle of conflict aversion and resolution (see also Dixon 1994, Ramsbotham, Woodhouse and Miall 2011:126). Williams' (2007:256) discussion of norms guiding African international mediation presents that peaceful intervention in African conflict and crises, once guided by the principle of non-intervention, is now led by the non-indifference doctrine and the Responsibility to Protect (R2P) (see also Kuwali and Viljoen 2013). Discouraging this position, Ottaway (2007:603) argues that the uncompromising use of democracy for reform and peacebuilding is "coercive democratization" that undermines the concept of peaceful settlement.

Divergent from the focus on norms, Nathan's (1999) dichotomy of power-based mediation versus confidence building tactics considers the disputants' reception of a mediator's strategies. In strong advocacy of confidence-building strategies, Nathan (1996:60) is critical of the 'realist' derivations of power-based mediation and the entrenched rationale of an unavoidable zero-sum outcome.

Considering that strategies run on critical time observation and constraint, timing in mediation is an area of continuous deliberation as well. Zartman (2001:8; 1986), Haas (1988) and Stedman (1991) have contributed toward a theory of ripeness of conflict. Ripeness theory prescribes that there is a culmination of circumstances that present an ideal time for resolving a conflict in this regard. Ripeness is closely related to Pruitt's (2000) readiness theory, which stipulates that there is a single



critical moment for resolution during mediation. On the one hand, Pruitt (1997, 2005) argues that a mutually enticing opportunity (MEO) between the disputants is the most favourable circumstance to resolve their differences. On the other hand, Zartman (2001:8) advocates the mutually hurting stalemate (MHS), which is when the disputants' options are "blocked and the parties feel that they are in an uncomfortable and costly predicament", as the ideal indicator of ripeness. Striking a more fortified middle ground between the two positions, Zartman (2001:14) points out that it is the conflation rather than the exclusive occurrence of the MHS and the MEO that make circumstances ripe for resolution. Additionally, Nathan (2013b) identifies intelligence as the missing link to fully operationalizing any strategy or mastering the correlates of timing in mediation.

### ***1.2.6. The Malagasy crisis and peace process***

Commenting on the Malagasy crisis mediation and its lack of success, the ICG (2010:ii) critically evaluates the Malagasy peace process in terms of the vigilance of the external mediators, noting that they were blindsided by the "support of many opportunistic political parties [that] create[d] a misleading impression of inclusiveness about the transition process". Zounmenou (2010) gives a similar critique of the crisis and events of the mediation process, indicating that instead of helping the leadership develop a "comprehensive formula for the return to constitutional order in Madagascar, it seemed the political actors...[were] taking advantage of the process to promote partisan interests" (2010:74).

In a similar vein, Girardeau (2012) discusses how the mediation efforts of the UN, AU and SADC in Madagascar were undermined by divergent mandates and institutional norms. She goes on to recommend either a standard mediation mandate, standard procedure, and/or a standard set of considerations for addressing UGC political crises, in order for mediation in such cases to be effective. In line with Girardeau's work, Nathan's (2013) analysis reveals a clash of political and organisational norms between mediating international institutions. He conclusively recommends that the organisations "choose between prioritizing either peace and stability or the principle of democratic transfer of power" (2013:1).

Connolly (2013:2, 5) comments on the objectives of the mediation, that while all the parties, including the mediator, were eager to drive the crisis through elections, there was no guarantee that the timeline will be followed. The analysis further adds that elections will do little to address the root causes of the conflict.

With the 2013-2014 elections recognised as the cusp to the end of the crisis, the Institute of Security Studies' (ISS) (2014) post-electoral analysis presents that the Malagasy post electoral environment



remained unsettled by the nuances of the transition's lack of procedural justice, which included the exclusion of Ravalomanana, Rajoelina and several other key actors from electoral candidacy. In a similar voice, the ICG (2014) posits that the elections led to new and emerging rivalries that make the meagre post-electoral stability a "calm before the next inevitable storm" (2014:ii). It is no surprise that in 2018 a consensus government was formed after mass protests in Antananarivo called for President Rajaonarimampianina's ousting (AFP 2018).

### **1.3. Research question**

As a framework for mediation analysis, Brahim and Ahmed's (2008) work has neither been used applied to any cases, nor has it received any critical appraisal as an analytical and explanatory tool. Also, the Malagasy peace process remains an open field for further research on the workings of international mediation on the African continent. This is the gap that has been discovered in the literature: the lack of a comprehensive investigation into the explanatory value of Brahim and Ahmed's framework as well as further study of the lessons from the Malagasy peace mediation. To address this gap, an application of Brahim and Ahmed's observations to the Malagasy mediation case will explore the framework's explanatory value as a tool of analysis, and shed light on the process that took place in Madagascar. Should the framework prove useful, it will be a valuable contribution to demystifying ineffective mediation and improving prescriptive theories of mediation practice and analysis. In practical application it will be a valuable tool to train mediators, stakeholders in mediation initiatives such as civil society and technical partners.

This research proposes to use Brahim and Ahmed's composition of sins as a framework to investigate and explain the challenges of the Malagasy peace process. The sins may be able to explain the challenges of the mediation, how they came to be and why they blocked the mediators' progress. With achievements such as the elections in 2013 to 2014 (AU 2014b) and subsequently, the return to constitutional order, the mediation initiative in Madagascar achieved progress towards restoring peace and security. However, considering the initial and purposed plan put forward, we acknowledge there were considerable challenges to meeting the objectives of the initiative.

The aim of this research is to employ Brahim and Ahmed's seven deadly sins as an analytical framework to diagnose whether and how the mediators contributed to the challenges of the 2009-2014 mediation in Madagascar. Considering that the calm in Madagascar has been described as cosmetic (Crisis Group 2014) and the peace fragile (Rajaonarimampianina cited in Reuters 2014), this application will indicate the value of Brahim and Ahmed's work as an explanatory and analytical tool, and answer the research question: How well can Brahim and Ahmed's seven deadly sins explain



the challenges faced by international mediation; taking the case of the 2009-2014 mediation in Madagascar?

This leads to four subsidiary questions, namely: a) What were the key challenges of the mediation? b) Which of Brahim and Ahmed's seven deadly sins did the mediators commit in contributing to the above-mentioned challenges? c) If they were committed, were these errors critical to the occurrence of these challenges? And d) what were the merits of the Malagasy mediation?

The primary hypothesis of this research is that the framework of sins can be used to explain key challenges of the mediation, by identifying their occurrence in the series of events that transpired throughout the mediation process. Three key assumption underlying this hypothesis are: Firstly, international mediators always seek to produce the highest possible level of peace for the conflict at hand, whether a minimalist peace to stop violent interactions, a deeper peace to address the root causes of the conflict, or anything between the two. Secondly, the effectiveness of international mediation can only be objectively judged against the mandate of the initiative. And thirdly, perfectly successful conflict mediation does not exist.

#### **1.4. Research design and methodology**

The study will use a single case study method employing qualitative critical analysis and explanation. Data for the research will be soft data, collected from primary sources including institutional documents and reports, speeches, communiqués and press releases of multilateral organisations, organs, persons and governments involved in the Malagasy peace process. Secondary sources will include scholarly articles, previous studies of the Malagasy crisis, as well as authoritative works on international mediation. Other secondary sources in the public domain such as periodical articles, critiques, historic renditions, video and other digital media and commentary will be used; albeit with cross reference and the highest scrutiny to avoid biased reportage and factual inaccuracies.

A specific time frame is examined by the study, starting from the 9<sup>th</sup> of February 2009, when a latent intervention mission was sent to Madagascar by SADC (AU 2014, ISS 2014), to 27<sup>th</sup> of January 2014, which marked the end of the impasse, signalled by the 415<sup>th</sup> meeting of the PSC that announced the end of the political crisis in Madagascar (AU 2014).

Chapter 1 has introduced the context for the proposed research and key themes. The chapter has also provided a literature review highlighting the state of research and knowledge on international mediation, followed by an indication of the structure and methodology of the research.

Chapter 2 gives attention to the conceptual groundings of Brahimi and Ahmed's seven deadly sins and expands these sins to establish their role as determinants of mediation ineffectiveness. The chapter will also present a theoretical expansion of mediation and a discussion about peace, violence and the ideological perspectives that run through these to inform international mediation.

Chapter 3 provides an outline of the Madagascar crisis, highlighting the actors, events, processes and agreements of the international mediation initiative to resolve the crisis.

Chapter 4 presents the application of the seven factors as elaborated in Chapter 2 to explain how and why the challenges were faced by the mediator. The exercise identifies the key challenges of the mediation effort and explores which elements in Brahimi and Ahmed's compendium (2008) were committed by the mediator, the context of their occurrence, and their causal effect to the challenges that faced the mediation initiative.

Chapter 5 summarizes the findings from the previous chapters and concludes the study by reflecting on the explanatory value of Brahimi and Ahmed's framework. The chapter then reflects on insights gained from the Malagasy mediation process, and areas for future research are identified.

#### ***1.4.1. Limitation of the study***

This study will be informed by a range of scholarship on international mediation, accounts of the 2009 Malagasy crisis and mediation, as well as a collection of primary sources in the form of policy documents, communiqués and many others. A key limitation this study is likely to experience is the inaccessibility of complete information due to the confidential nature of primary source documents related to the mediation. Due to the high sensitivity of issues discussed in mediation negotiations and summits, documents that would otherwise be insightful to the research are not released to the public domain. This has legated this research to infer from a patchwork of available primary sources. There may be crucial documents, which when consulted, could alter the findings of this research.



## CHAPTER 2: CONCEPTUAL FRAMEWORK

### 2.1. International mediation

This chapter expands on the roles of the seven factors in Brahim and Ahmed's framework, by expanding on their roles and effects of mediation, and how they constitute as sins of mediation that lead mediations towards ineffectiveness. To provide a contextual base, the chapter first discusses international mediation as an activity based on set considerations of conflict and peace, the classical realist and pluralist ideological divide that informs these considerations, and the role of mediation mandates as elementary references for determining the effectiveness or ineffectiveness of a mediation initiative.

Two complementary areas of knowledge underpin the study of international mediation, namely conflict and peace. Within the gambit of conflict and peace respectively, runs the classical realist-pluralist debate (Handelman 2011:39), which also influences perspectives on international mediation as a bridging activity between the two. On conflict in this regard, there are two main schools of thought. On one side, is a view of conflict informed by the realist inclined sociology of regulation, and on the other side a view underpinned by the pluralist sociology of radical change (Burrell and Morgan 1979:28-34; Kleiboer 1998:24). An inclination to either one eventually influences the objectives and delivery mechanisms of international mediation. The sociology of regulation is premised on the question of "why society tends to hold together rather than fall apart" (Burrell and Morgan 1979:17). This approach preserves the status quo, social order, solidarity and actuality. Conflict is viewed as problematic to order and international mediation as a remedial initiative amongst others is employed to contain incidents that destabilize the prevalent order and maintain the associated balance of power (Burrell and Morgan 1979:17).

Proponents of the pluralist radical change school on the other hand, view conflict as a "possibility of change", because it is through conflict and crises "that the emancipation of men from the social structures in which they live is seen as coming about" (Burrell and Morgan 1979:34). Adhering to the assumption that conflict in structural relationships eventually breeds social movement for radical change (Burrell and Morgan 1979:17), international mediation is seen as "facilitating dialogue for change" and is meant to bring about institutional reform through consensual social change (Kleiboer 1998:71). "When groups feel permanently left out, unrecognized or unrepresented, they will come to perceive prevailing [structural] relationships and institutions as illegitimate[,] and will be motivated to change them" (Kleiboer 1998:71).





The dualism in the perspectives of conflict is also reflected in perspectives of peace. On one side, there is realist orientation of peace as the absence of war or personal violence, also referred to as negative peace (Kenneth Boulding 1973:3; see also Galtung 1964, 1969). It is the lack of a direct, physical, intended violence against humans and property (Galtung 1969). In the practical application of remedial mediation initiatives in this perspective, the aim is to minimize or mitigate the disruptions a conflict situation induces on a prevalent order. Negative peace prevails in a social environment of structural violence, which constitutes injustice, disaccord and general dissatisfaction with and in the social order and its institutions (Galtung 1964, 1969). Despite non-war being a form of peace defined by the absence of personal violence, it is insufficient to serve as the capital norm of peace research and highest form of peace (Dedring 1981:5).

On the opposite side of the peace spectrum is positive peace. Positive peace is identified by the absence of both personal and structural violence (Johan Galtung 1964; 1969). International mediation informed by positive peace seeks to broker a deeper and richer peace (Kleiboer 1998:43). In its pluralist origins, positive peace prevails where “[social] justice, equity and respect for basic human rights are maximized and violence, [both personal and structural,] is minimized through the restructuring of social relationships and institutions that govern them” (Cabezudo and Haavelsrud 2007:296).

These theories of peace and conflict align into two variations of international mediation, realist conflict management and pluralist conflict resolution. Even though both are alternatives to war and surrender, the two are different in (a) the central issue, (b) the mechanisms or tools of international mediation, (c) the engendered post-conflict or post violence environment, and (d) the relationship between disputants (Maoz 2004:11-22).

Conflict management and its realist tenets principally focus on “terminating immediate crisis before it escalates or spreads” and settling the immediate issues under dispute, also known as trigger issues “and/or violent interactions between the parties” (Wilkenfeld et al. 2007:9). Often undertaken using Track One diplomatic mechanisms that aim to influence structures of political power (Mapendere 2006:67), conflict management as a form of prudent statecraft typically administered by international organisations, heads of state and diplomats (Kleiboer 1998:43). The engendered post violence environment is of bare stability through a settlement between disputants, which curbs the unpredictability of a conflict and the ambition for escalation and use of violence between disputants. Alternatively, pluralist conflict resolution additionally employs an inclusive mediation process through Track Two and Track One and a Half diplomatic mechanisms, which besides the primary disputants, official personnel and envoys, incorporates civil society groups, spoilers, and community



level consultations (Mapendere 2006:68, Stedman 1997:40). The central issue is addressing the deep rooted and underlying issues of the conflict (Kleiboer 1998:17) and building a post conflict society of stability, peace and justice with minimal possibilities and opportunities for reversion to the use of violence.

Although distinct, international mediation set in realist conflict management and pluralist conflict resolution are theoretically complementary. “In the short run, the most realistic goal is conflict settlement in the sense of reducing or containing the escalation of crisis and wars. Only when this has been achieved can we begin to work at a more fundamental solution to the conflict” (Kleiboer 1998:55). Such complementarity and the directive for its operationalization are identifiable in the mediation mandates carried out by both individual and coalesced organisations or states.

## **2.2. Gauges of effective mediation**

Mediation mandates are critical tools for analysing and evaluating mediation execution and outcomes. As common contributors to international mediation, international organisations, including the UN, AU and SADC, have broad mandates for mediation, namely in Article 4(e) of the UN Charter, the AU constitutive act, and the SADC Treaty, which decree the peaceful resolution of disputes (UN 1945; AU 2000; SADC 2001). Mission specific mandates are often carried out at the level of and by the immediate sub-regional organisation of the conflict locality through a relegation that is founded on the principle of subsidiarity in relation to conflict and crisis response (Motiar and Jaarsveld 2009:16).

Any examination of a mediation initiative’s failure or success must therefore be made “considering the mediator’s objectives when engaging in a mediation effort [because they are] the crucial benchmark for evaluation” (Kleiboer 1998:13, Touval and Zartman 1985:15; see also Svensson and Wallensteen 2010:15). Moreover, despite the appointment of a chief mediator, a ground team, and their discretion regarding the flexibility of an intervention (Crocker Hampson and Aall 2004:154), the “sending authorities ... have a final say in what the mandate[, and therefore the mediation] is all about” (Svensson and Wallensteen 2010:15). Where the aim of evaluation is to determine whether the changes instituted by the mediation initiative are working as intended, a mandate serves as the appropriate gauge because it “spells out the elements of a mediation ‘brief’ or terms of reference to guide its purposes, scope, and methods” (Crocker Hampson and Aall 2004:154; see also Lindgren, Wallensteen and Grusell 2010:12).

The interpretation and practical application of a mediation mandate by the mediator and his team may vary from the prescribed procedure and outcome. This variation will likely increase in the situation





of multiparty mediation because divergent interests, agendas and doctrines will inform processes and outputs of the mediation endeavour. In the case of non-governmental organisations and other Track Two actors, mandates are not elaborate if any exist at all. Even with a collective interest of instituting peace and security, the different strategic interests concerning the kind of peace that each organisation wants to be associated with and the actors they endorse, are likely to create a tug of war amongst the mediators in a multiparty mediation.

Considering the above and going forward into this study, the working definition of effective mediation is: when a mediation initiative fulfils its mandate to producing the intended output, whether inclined to conflict management, resolution, or even a combination of both. Even with a mandate, translating it into effective mediation has proved challenging to all forms of mediators (Brahimi and Ahmed 2008). And Brahimi and Ahmed (2008:5) have identified the “seven deadly sins of mediation” that are fatal to mediation. These sins; ignorance, arrogance, impartiality, impotence, haste, inflexibility and false promises, and their consequences are discussed below.

### **2.3. Brahimi and Ahmed’s constraints to effective mediation**

Brahimi and Ahmed verse the constraints to effective mediation as sins, implying that the error mainly emanates from mediator’s agency and that the seven sins only operate to affect the output of the mediation within the confines of the mediator’s agency, discretion, decision-making and approach. The list presents a basic causality, as exemplified in the statement: “[the mediator’s] mistakes can have fatal consequences for the peace process”. In this causal relationship, effective mediation is the dependent variable.

The mechanisms of interaction between the sins and effective mediation depends on the context in which the occur (Brahimi and Ahmed 2008:2). In the context of mediation processes that are accompanied by a peace operation, focus on the importance of the political role and political process management weakens when “attention shifts to the deployment of military, police and civilian personnel and the individual tasks they are expected to support, such as the restoration of security and basic services; disarmament, demobilization and reintegration of soldiers” (Brahimi and Ahmed 2008:2). Despite the gravity of their effect on effective mediation, all the sins are neither necessary nor enough to derail a mediation initiative. There is no single causal mechanism that leads these sins to hinder effective mediation. Yet we may deduce that the sins predispose mediation to inefficiency and that their effect is dependent on the context in which the mediator commits them (see Mandil 2004:17).



### **2.3.1. Ignorance**

Mediation as a form of third party intervention aims to redirect the course of a conflict away from violent hostility and towards a peaceful outcome. This re-direction imperative heavily relies on firstly, an elaborate information and knowledge base of the conflict situation, and secondly, capacity and will for active response to the conflict. Brahimi and Ahmed (2008:5) describe this integrated knowledge web for navigating and managing the conflict as the mediator's political map. While a comprehensive political map takes time to construct and even longer to internalise, at the least, the mediator needs to be aware of the critical and nodal elements of the conflict.

At the institutional level, mediators have access to information generated through intelligence mechanisms such as SADC's Early Warning System (EWS) and its subsidiary branches at the national levels, which gather information and make strategic analysis of emerging conflicts and crisis in Southern Africa (SADC 2012). In the broader continental context, the AU's Continental Early Warning system performs a similar function (AU 2006), as does the UN's early warning and assessment capacity, which is made up of seven bodies, amongst them being the Office of the Special Adviser of the Secretary-General on the Prevention of Genocide, the Global Impact and Vulnerability Alert System, the Office for the Coordination of Humanitarian Affairs, and the Department of Peacekeeping Operations (Zenko and Friedman 2011:23).

Given the availability of information at the institutional level, mediations often fall victim to culpable ignorance, which is a gap in knowledge and understanding resulting from failure to infer from available information. Culpable ignorance results from either, and or a combination of deficient investigation, prevention of subsequent discovery and deficient inference (Smith 1983:544). Acting in ignorance, mediators end up "making misinformed and misguided choices early on, only to then spend much of the remainder of their tenure trying to recover from them" Brahimi and Ahmed (2008:6). The mediator's attention is subsequently given to fixing the immediate problems caused by ignorance rather than the ensuing conflict crisis. Mitigating ignorance therefore requires strong information management systems of the mediator, his team, and the supporting organisations.

### **2.3.2. Arrogance**

A good knowledge base requires the mediator to interact with a range of sources to enhance the depth and accuracy of information (Nathan 2014:224). By refusing to acknowledge, "I do not know enough" and being reluctant to remedy such ignorance (Brahimi and Ahmed 2008:7), the mediator commits the sin of arrogance. The mediator's arrogance as perceived by the disputants determines



the attitude for the disputants' reception of the mediator, his proposals, and his services, and further impacts on the prospects of peace. Arrogance can manifest in demonstrating superiority through speech, directive or attitude, and the exclusion or marginalization of sections of the population.

Mediation mechanisms such as Track I diplomacy that attempt to influence power structures often limit participation in negotiations to official politicians, international organisation envoys and government officers. This is regarded by grassroots peacemakers and non-official civil society organisations as arrogant and “fundamentally disrespectful” (Anderson, Brown and Jean 2012:28; Mapendere 2006:66). Notwithstanding the capacity of Track I diplomacy to muster resources for higher flexibility and leverage in negotiations, (Mapendere 2006:66) its focus on top level politics overlooks the issues of weaker parties. Such exclusionist processes deny “popular ownership” of the peace process (Nathan 2006) and in turn undermine the sustainability of the emergent peace agreement (Mapendere et al. 2006:66). Apart from exclusivity, arrogance is also perceived in the politics of knowledge in international mediation, wherein mediators value thematic expertise over local ideas. Most critically, this approach hinders the establishment of an internal and popular capacity for conflict resolution and peacemaking in the crisis country. Through arrogance the mediator loses popularity and credibility with the disputants, local peacemakers and the larger local public. Also, under the habit of doing what was done before, mediators become “experts who employ a scientific approach to extricate people from crises[,]...promote development” and trample on the locals' toes (Autesserre 2014:98).

Certain peacemaking strategies, especially power based rather than confidence building strategies, are inherently arrogant. This is the case in coercive diplomacy and diplomatic peace enforcement, whereby negative conditionality and threat are used to compel disputants to change their opinion against their will (Herrberg 2008:14; George 2000:15). “[I]t entails an a priori determination of the solution (by others), and a relegation of the preference of those affected to second-tier importance” (Mafumandi 2010:629). The arrogance of coercive diplomacy rests in the mediator's brinkmanship in using threat. This reliance on threat and its dictatorial prescripts, however, leads disputants into further resistance or pushes them further into violence, especially when they have very little or nothing to lose (Nathan 1998:1; 1999:8; George 2000:15). For the mediators eventually, “rather than providing an answer to the problem at hand, their tough posture is at best ineffective and at worst counter-productive” (Mafumandi 2010:621). Where arrogance is perceived as forced acquiescence, even when the disputants and the local population agree with the peace agenda, “[r]esentment is likely to be manifest in obstructionism, which will impede the progress of reform and may lead to the renewal of violence” (Talentino 2007:153).



### 2.3.3. *Partiality*

Partiality like arrogance is a sin of perception as much as it is also demonstrable. The mediator's partiality is construed or misconstrued before they begin their mediation. Disputants can gauge the mediator's partiality based on their identity, profession and history. This partiality is also measured relative to the issues under negotiation in the conflict. Partiality weighs heavily on the acceptance and credibility of the mediation process (Brahimi and Ahmed 2008:8). For this reason, mediators ought to neutralise all presumptions of bias because parties are more likely to respect the mediator, his process and proposals when the mediator is perceived as unbiased (Brahimi and Ahmed 2008:8).

Two forms of bias may manifest in a mediation initiative, bias of source and bias of content (Svensson 2009:447). Bias of source occurs when a mediator enjoys a favourable relationship with either of the parties, while bias of content concerns the mediator's interest to mediate a given, often predetermined peace or outcome. Source biased mediators will mediate outcomes and settlements favourable to their protégées, proving a mutually strengthening relationship between the two forms of bias. Where source bias is perceived, mediators risk the disfavoured disputants leaving the peace process, and further risk being qualified and discredited as inappropriate mediators (Mail and Guardian online 2009).

In ideal situations, content bias is independent from source bias in international mediation. This because mediators appointed by international organisations seldom intervene to pursue or secure their own interests outlying the immediate dispute without high risks of exposure and scandalisation. The interests that are pursued by these organisations are institutional, systemic and strategic. On the ground however, the ulterior motives of the leading mediator - where their role is in state leadership - may include but are not limited to the security of their borders, plunder, prestige and natural or other resources (Furley and May 2001:1-12). By involving these interests in the mediation's political process, the mediator becomes part of the conflict as one negotiating an advantage from the crisis, and is likely to lose focus on the international mediation mandate of objectively steering the conflict towards peace. Furthermore, the likelihood of forum shopping increases when the disputants are aware of the mediator's content bias, especially for disputants who have the influence to secure these self-serving interests. In this situation, the mediator may develop a source bias to secure these ulterior interests.

Depending on the sending organisation's policies on peace, security and political crisis management, a mediator's mandate holds pre-set principles governing the intervention. Exemplary is SADC and the AU's principle of rejection of Unconstitutional Changes of Government (UCG), which condemns the coup perpetrator's action, calls for the reinstatement of the deposed, and by the latter commands



a return to constitutional order. Mediators from SADC are thereby presumed to be government-biased, which firstly, precludes the insurgent's trust of the mediator and the process he or she heads and secondly, incites the former's scepticism of the mediator's proposals towards peace throughout the peace process.

By maintaining procedural impartiality, arguably, the mediator cloaks prejudices and preferences. Disputants are thereby assured procedural justice. Consequently, where the mediator encourages either or both disputants to make concessions, the mediator is perceived to be pursuing nothing but peace (Carnevale and Arad 1996:41). If mediators overtly express favouritism through their rhetoric, action or appearance, the disputants, especially the disfavoured party, will be less likely to "heed the mediator's suggestions for settlement, less likely to divulge information about underlying interests, and less likely to accept the mediator as a mediator in the first place – all of which might otherwise contribute to the successful resolution of conflict" (Carnevale and Arad 1996:41; Rock 2005:347).

#### ***2.3.4. Impotence***

Despite the impartial pursuit of peace, the mediator's effectiveness lies in striking a balance between making concessions attractive to the disputants and aligning the mediated peace to the legitimate interests and concerns of the corporations, nations and intergovernmental organisations supporting the intervention (Brahimi and Ahmed 2008:9), as well as the disputants. The sin of impotence is committed when a mediator cannot accomplish either or both aspects of the political role. Impotence is therefore the cardinal sin of the mediator's dual-responsiveness (Druckman 1977:640), on one hand to the disputants and on the other to the mediator's own constituents

A mediator's responsiveness to the disputants and their positions is demonstrated in how he or she makes compromise appear as the more appealing option using both positive and negative leverage, also known as carrots and sticks respectively. Both sticks and carrots are useful as adjuncts to nudge disputants towards concession depends on strategic – negative and positive – application because "withholding a carrot constitutes a stick, and removal of a stick constitutes a carrot", (Zartman and de Soto 2010:29).

Negative leverage entails the use of threat of punishment and negative conditionality. Disputants are therefore persuaded that concession is a more attractive option than the losses and pain that accompany punishment. Where mediators cannot make "threats of sufficient credibility and sufficient potency to persuade an adversary to cease or desist from an objectionable course of action" (George 2000:16), their peacemaking capacity is questionable as is the international support for their cause and mission. Disputants therefore want to see "a tangible connection between the recommendations



the mediator makes and the decisions and actions ... members of the international community take” (Brahimi and Ahmed 2008:8).

Likewise, disputants need such assurance in the mediator’s use of positive leverage. Positive leverage entails the mediator positively incentivizing the disputants towards making concessions. Offers for military support, territorial sharing agreements, security and amnesty guarantees, especially in asymmetric conflicts, require an assurance of fulfilment for the parties (Svensson 2009:448; Beardsley 2013:21). For mediators who do not have the disputants’ confidence, the latter may be reluctant to make unpopular concessions in fear of ‘political backlash’, which the mediator’s leverage would otherwise recompense or avert. Moreover, where a mediator’s leverage fails and he or she is seen to be making artificial incentives for concession, the parties will not only mistrust the mediator (Beardsley 2013:21), they will also use his or her impotence as leverage against the mediator (Stedman 1991:28).

Beyond the need to incentivise disputant concessions, the peace process and the conflict outcome need to be aligned to the interests of the external community, especially the mediator’s constituents, who are never either disinterested parties or mere philanthropists (Vines 2013:100; Herrberg 2008:14; Wall 1981:169). Working against or jeopardizing the constituents’ interests, a mediator stands to face recall, withdrawals and cut-offs in political, financial, technical and personnel support, or a phasing out altogether (Maundi et al. 2006:120). Over and above pursuing universal values such as peace and justice, international mediation as a diplomatic and political activity is undertaken to secure the interests of the supporting entities, whether not explicitly expressed to the public. The mediator is thereby delegated as the final functionary of these interests, to pursue and or protect them in the most effective manner.

### **2.3.5. *Haste***

A need for timely response cannot be overstated in crisis situations, because rapid and efficient action is likely to decrease death tolls, prevent further destruction, and mitigate escalation of violence. Brahimi and Ahmed (2008:9) nevertheless caution against formulating mediation decisions, processes and solutions in haste because it jeopardizes the sustainability of the resultant peace.

Brahimi and Ahmed’s sin of haste is conceptualised around quickening the pace of the mediation at the cost of excluding the wider public in consultations and negotiations. The elementary error according to their conceptualization of haste is expediting the process at the cost of inclusiveness. This approach to haste reflects what is also outlined in the sin of arrogance, whereby the mediator consults an elite few and disregards the fact that “the people of the country concern the educated and



the illiterate, the governors and the governed, the suspected perpetrators of the violence and the victims, the men and the women, alike understand their own country far better than the foreign mediators who have just arrived on the scene” (2008:6).

At the inception of a mediation, a rapid response to preventing further escalation creates the “best chance of bringing the dispute to a quicker end than it would have otherwise” (Regan and Stam 2000:241; see also Northedge and Donelan 1971:309). Haste plays a positive role towards effective mediation during this stage because the conflict will continue to accrue collateral damage if engagement with the mediator is delayed. The mediator should acknowledge, however, that excessive pressure on disputants to accept mediation may cause internal splintering disputant camps, especially relatively early in the conflict when positions are not fixed (Kleiboer 1996:363; see also Gewart 2010:280). This internal splintering makes conflicts more intractable by increasing the number of disputants and issues for consideration once the mediation and the mediator are eventually accepted. When the disputants have been engaged, it remains intuitive for decision makers to “act very quickly because of the perception (sometimes correct) that if they do not do so, then some disastrous result will ensue” (Nicholson 1970:110). Yet haste becomes detrimental if it is pursued at the cost of other elements that are essential to the resolution of the conflict and the resultant peace is compromised.

The concept of conflict ripeness, pioneered by Zartman (1989), explains that mediation is effective if it is initiated at the right time. The theory prescribes that by firstly, observing the “escalation of and critical shifts in the intensity of a crisis” (Zartman 1989:10), secondly, identifying and exploiting a mutually hurting stalemate (MHS), the mediator must, lastly, show the disputants the prospects of a way out through negotiation in mediation. These constitute the three elements of ripeness. The MHS occurs “when each party’s efforts to achieve a unilaterally satisfactory result are blocked and the parties feel trapped in an uncomfortable and costly predicament” (Zartman and de Soto 2010:5). Without the disputants’ recognition and acknowledgement of the MHS, ripeness has not yet occurred even though the MHS is evident to other observers. The mediator may use persuasive resources, tactics and leverage to induce the perception of an MHS (Zartman 1989:9). The effectiveness of ripeness driven mediation initiatives hinges on the assumption that mediation may be launched only when the conflict is ripe (Zartman and de Soto 2010:5). Where this is not the case, the mediator should engage the disputants towards building a perception of an MHS.

Ripeness theory is strong in its capacity to retrospectively explain why some mediators have succeeded in gaining access into conflicts while others did not. It remains weak, however, firstly, in its capacity to prescribe and explain the success of the negotiation or post-negotiation phases of a mediation project (Kleiboer 1994:116). Secondly, because it does not accommodate a pre-mediation



projection of the ripe moment, timelines and schedules or the peace process may be difficult to determine (See Smith and Stam 2000:240). Furthermore, disputants that overcome the pressure of an induced MHS become more averse to negotiation and mediation, fix their positions, and render their conflict more intractable (Stedman 1991:25-26).

To manage the duration of the mediation endeavour, the strategy of deadline diplomacy is used to drive disputants towards concessions and settlements using trade-offs against set dates (Pinfari 2013:2). Conceptually, deadline diplomacy combines time pressure and the use of leverage on the disputants. To the disputants time, is also a resource, of which if they have more, they may use to realize their interests and objectives through violence, or hope to get better terms in later on in a negotiation (Fox 1970:9). The mediator may therefore apply rewards and penalties to determine how long disputants may consider the issues under negotiation.

Deadline diplomacy relies on the potency and credibility of the conditions that follow adherence or defiance of the deadline. The repeated a lack of follow-through from the mediator when using deadline diplomacy will flounder a potentially fruitful negotiation into failure and intransigence, as well as compromise the resultant peace (Nathan 2006:3; Pinfari 2013:1). The use of deadline diplomacy in the Darfur peace process (See Nathan 2006b:3) illustrates that when a deadline is disregarded, it nurtures a culture of disregarding deadlines and thereby renders deadline diplomacy a redundant tool for the further duration of the peace process.

As a strategic option to ending conflict, mediators may choose to use protracted peacemaking. In this form of mediation, mediators “postpone rather than hasten the day when terms of settlement will be offered, which the enem[ies] might reasonably be expected to accept” (Fox 1970:7). This strategy reflects a conflict resolution mandate in its objectives to address the deep-set issues underlying a conflict and in giving the disputants ample time to reach settlement over each issue. Contrary to the urgency evoked using time pressure, protracted mediations lack stringent time limits. Instead, they prioritize resolution of the crisis towards the highest possible quality of positive peace and are characterized by “a number of small agreements[, which]are reached through negotiations over a long period of time” (Schrodt 2000:9; Brahimi and Ahmed 2008:9). It is erroneous and arrogant for mediators to assume that conflicts are mediated into peace using quick fixes (Nathan 2005:7) The mediator should therefore have enough patience, resources and political support to sustain the depth and duration of the process. In employing protracted mediation, the mediator should be wary of mistaking patient strategic delay for “[e]ndless negotiations going nowhere” as in the Cyprus negotiations and the Israeli Palestinian mediations before Oslo (Schrodt 2000:11).





### 2.3.6. *Inflexibility*

Mediators working towards peace select whether to take flexible or staunch positions on the issues under negotiation. Flexibility or the lack thereof is described as how mediators and their constituencies alter their intended actions and statements “by changing their goals, aspirations, and bottom lines, by abandoning bargaining positions, coercive strategies, or set patterns of activity” (Druckman 1995b:213). Flexibility is observable relative to initial positions and is measured by the direction and speed of shifts from this initial position. Flexibility and inflexibility are not irreconcilable, because a mediator may show flexibility on certain issues and procedures or withhold it on others.

It is generally agreed although unstated that flexibility is desired and effective to peace and inflexibility is a hindrance (Druckman and Mitchel 1995b:218), yet both may equally strengthen or weaken effective mediation. Both the procedural and issue aspects for mediators are guided by a reverence for universal principles such as “popular choice and decision-making through open and fair referenda and elections, popular participation in governance and respect for human rights and fundamental freedoms” (Amoo 1992:27). These principles however, despite their universality, are controversial and contentious when applied in active conflict situations.

#### *Issue inflexibility*

The issues under contestation between disputants in political conflicts are characteristically steeped in social, political and historical detail. While the prioritization of these issues between disputants may not be similar, the mediator’s mandate often dictates the primary issues to be negotiated. To dislodge the positioning between the disputants, the mediator may resort to “introducing, deleting, or postponing issues in the negotiation process to provide for a mutually satisfying outcome” (Jensen 1995:118). The mediator risks making hardliners of the disputants themselves regarding the subject issue if he or she maintains a hard-line status on issues. Equally important, the mediator should recognize disputants who will cajole his or her flexibility by debating points and raising reservations as well as new concerns to reposition their demands (Baker 1999:194).

#### *Procedural inflexibility*

The mediator’s responsiveness to his or her constituents is critical to the possibility of procedural alterations (Druckman 1977:640). Procedural inflexibility, which is the mediator’s inability to alter the terms of how mediations with the disputants can be conducted (Touval 1995:207), is primarily a function of the “intermediary's constituency and the limitations such an entity might impose on ...



how it can be done” (Botes and Mitchel 1995:170). Procedures should be tailored and flexible enough to help disputants' communication and understanding. between each other (Touval 1995:204), yet the mediator seldom has this allowance. Mediating the Somali conflict in Operation Restore Hope with the United Nations, Mohammed Sahnoun conducted a flexible process that seemed to bring the disputants towards some form of peace. However, the mediation faced reproach from the top tier UN leaders for vying outside the parameters of the mandated procedural prescriptions. This later led to Sahnoun’s resignation as SRSG, because he felt he had no procedural flexibility to carry out his mandate, making the mediation a self-defeating endeavour (Oakley and Hirsch 1995:30-31).

In multiparty international mediation, the mediator’s issue and procedural flexibility are constrained by the divergent interests between the sending states and organisations, the cumbersome decision-making processes and the difficulty to reverse decisions and resolutions once they are made (Touval 1995:212). The mediator may need to negotiate flexibility with his or her constituents to gain more leeway to redirect the procedure, resources and issues on the table at liberty and with discretion (Wall 1981:169).

Applying flexibility and inflexibility requires a strategic and delicate balance act of the mediator. The effect of both variables depends on the extremity of application, the issue or procedure at hand, and the specific time or phase of the conflict. On the one hand, excessive flexibility may cause the disputants to lose confidence in the mediator’s commitment. On the other hand, extreme inflexibility reduces the strength of the mediator’s role as a facilitator of concessions and the means to achieve them.

### **2.3.7. *False promises***

The triumph of liberal democracy in the cold war has set an unwavering trust in the democratic peace as the first port of call for reinstating peace and security. A mediator nevertheless commits the sin of false promises by raising expectations for “a peaceful and prosperous democracy [that] will emerge relatively quickly from the ashes of war”, especially where such a peace did not exist previously (Brahimi and Ahmed 2008:11). The mediator also commits this sin by failing to dissuade these unrealistic misconceptions amongst conflict actors including disputants, the population of the conflict locality, and the mediator’s constituents. Of all false promises, the mediator should debunk the “misleading idea that outsiders can build peace while still controlling for externalities” (Spears 2012:302). This acknowledgement will also help avert the mediator’s own arrogance and ignorance.

Democratic, free and fair elections are commonly used as mechanism to correct and normalise conditions in political crises. This is based on a belief in liberal democratic order, peace and security



as the remedies for social disquiet, and as the means and ends of political social order. The war to peace transitions theory put forward by Jarstad and Sisk (2008) posits that efforts to promote democracy are not always congruent with the pursuit of peace and vice-versa. In instances of such incongruence, the promise of security that is associated with democratic order automatically falls away. Constructed through dialogues in peacebuilding, conflict theory and democratisation, the war to peace transitions theory identifies the fallacy of liberal democratic institutionalisation in this paradox: while democracy as a political system is associated with peaceful conflict management, the road to democracy itself is often conflict ridden” (2008:19). The fundamental promises of democracy peace and security are broken because the instruments and mechanisms of liberal democratic institutionalism may have the “perverse-effect of undermining the very same peace that they were meant to buttress” (Paris 1997:56).

No less important however, are the promises that the mediator carries by being an envoy of a given constituent; whether a state or an organisation, even without explicit verbal statements. These promises are implicit firstly, in the objectives and principles underpinning the constitutive documents and charters of the mediator’s constituent, and secondly, in previous mediation initiatives by the same constituent, even though the mediator was different. These ‘promises in principle’ are often compromised when a) the mediator needs to make a trade-off between principles to make way for peace, and b) where in multiparty and inter-organisational mediations, the different constituents hold varying and different priority rankings for these principles. An example is the trade off during the Sudan mediation process which saw the self-determination of South Sudan prioritized over territorial integrity of the Republic of Sudan. The AU prioritized the principle of self-determination listed in the UN Charter (UN 1945), to which the AU ascribes through the pledge of “taking due account of the Charter of the United Nations” (AU 2000:3(e)), over the AU’s *uti possidetis* principle, which carries the principled promise of “respect of borders existing on achievement of independence” (4(b); Dersso 2012:1).

## **Conclusion**

Brahimi and Ahmed (2008) show how the exercise of effective international mediation is difficult to achieve because the mediator is prone to making mistakes that negatively affect the resultant peace. These seven mistakes are versed as the seven deadly sins of mediation and the extent of their detriment to the mediation process depends on the context in which they occur.

International mediation differs from other mediation efforts in the resources the mediating actors have at their disposal to facilitate negotiations between the disputants. Lead mediators apply the resources



in a manner directed by the organisations and nations they represent. The directives they are given are in turn influenced by their constituents' perception of peace and conflict as well as the form of peace they are interested in producing from the conflict. To determine the extent to which the mediator has effectively executed a mediation, we gauge the activities of the process against the mandate of the mediation project. The more the activities and agreements of the mediation deviate from the mandate, the less effective the mediation is judged to be.

What this chapter acknowledges is that each of the sins carries factors that attribute a dualist effect on international mediation. Under each 'sin', as phrased by Brahim and Ahmed (2008), are aspects that can render mediation either more effective or less so. For example, there is no guaranteed prescription of how haste will strengthen a mediation or flounder it. Similarly, inflexibility proves useful and commands a moral high ground in condemning human rights violations. Yet it can equally make hardliners of the disputants as well (see Nathan 2009b:75-77). Considering them as factors rather than sins or errors, Therefore, with prudent management and attention, the mediator strives to identify opportunities to use the occurrence of these factors to bring the disputants to concede on their positions.



## CHAPTER 3: THE MALAGASY CRISIS AND MEDIATION TIMELINE

The political crisis that began in 2009 in Madagascar was not a new occurrence in Malagasy politics. Since gaining independence in 1959 through the referendums for self-governance within the French Union, during the reign of Charles de Gaulle, the island republic has experienced several political upheavals rising from conflicts over political leadership of the country. This chapter narrates the series of events that marked the Malagasy political conflict and the peace mediation that brought constitutional normalcy to the island state in 2014.

### **2008 – 2009: Foundations of the conflict**

In 2008, Madagascar was experiencing the economic downturn resulting from the global financial crisis as with the rest of the world. Madagascar's president at the time, Marc Ravalomanana, who was also a prominent dairy businessman in the country, was accused of using his powers of office to further his business interests. This caused significant popular dissatisfaction, which increased when the public heard of Ravalomanana's purchase of a US\$ 600 million presidential jet allegedly using corruptly justified public funds. Ravalomanana's popularity with the public further declined over a land lease agreement by the government letting 1.3 million hectares of arable land to the South Korean company Daewoo for export-oriented farming. He came under fire for signing over arable land during a time where Madagascar was experiencing food insecurity. Andry Rajoelina, who was the mayor of the capital city Antananarivo and the chief opposition leader of the time, took advantage of Ravalomanana's popular demise and spoke out against his administration. In December 2008 Rajoelina's TV Vivo station aired an interview with exiled former president Didier Ratsiraka, in which the former leader edged the public to openly revolt against Ravalomanana's administration and incumbency (Ploch and Cook 2012:9-10; ICG 2010:2).

Ravalomanana responded to Rajoelina and Ratsiraka's criticism by closing the television station's broadcasts. Rajoelina's followers in turn responded by taking to the streets in mass demonstrations against Ravalomanana's authoritarian actions well into January 2009. On the 26th January, security forces opened fire on the demonstrators, leaving 40 fatalities and many more injured. The turmoil escalated on 31st January, when Rajoelina firstly, publicly demanded Ravalomanana's resignation, and secondly, announced that he would be assuming leadership of the country. Rajoelina took advantage of the public momentum against Ravalomanana and assumed the role of lead challenger to Ravalomanana and a prime victim of his authoritarianism. This gained Rajoelina enough political capital and he recruited ministers for a de facto government from smaller opposition parties. Ravalomanana reacted to this statement by firing Rajoelina from the office of mayor. On February



7th, an additional 20 demonstrators were killed when the presidential guard opened fire at a public protest (Randrianja 2012:16; Africaintelligence.com 2009)

### **March 2009: Ravalomanana ousted**

The Malagasy military, the People's Armed Forces (PAF), was divided on how to react to the mounting unrest. Overall, they were reluctant to thwart the on-going protests, and because of this their allegiance was judged to lie with Rajoelina. The division within the military corps was between the *legalistes* who supported Ravalomanana and the *légitimistes* who supported Rajoelina. The military's role in the crisis turned catalytic when mutinous *légitimiste* soldiers, the *Corps d'armée du personnel et des services administrative et technique* (CAPSAT), led by General Noël Rakotonandrasana, deposed both the defence minister. They also begun coercively taking control of various ministries and administrative operations in Antananarivo. On 16th March, following a demand by Rajoelina for Ravalomanana's arrest over his presidential infractions, the CAPSAT marched to and occupied the presidential palace. Ravalomanana responded by immediately relegating the powers of state to a *legaliste* military directorate, charging Vice-Admiral Hyppolite Ramaroson with the powers to restore order and stability. On 17th March Ravalomanana announced his resignation and fled into exile (Ploch and Cook 2012:11-12, ICG 2010:4-6, Le Parisien 2009).

The *légitimiste* cause overpowered Ravalomanana's presidential ordinance and the *legaliste* military directorate relegated the powers of state to Rajoelina. This constituted a political void for Rajoelina to fill by forming a government. Madagascar's High Constitutional Court endorsed the transfer of power and on March 19th, Rajoelina was sworn in as head of state. The PAF's role in securing Rajoelina's tenure allowed them to put direct pressure on Rajoelina throughout the crisis. At one point the PAF gave Rajoelina an ultimatum, that he should reach an agreement with mediators by April 2010 or be removed from office. As the crisis continued, dissent steeped within the PAF over Rajoelina's slow progress at maintaining stability (ICG 2010:6; Africaintelligence.com 2009).

### **March 2009: De-facto reign of the HAT**

Rajoelina's transitional government, The *Haute Autorité de la Transition* – HAT (translated as High Authority of the Transition), faced a legitimacy deficit from the international community. The AU and SADC condemned the UCG that brought Rajoelina to power (Nathan 2013:4) and Madagascar's membership to both forums was suspended. Other corners of the international community including the EU and the United States indefinitely withheld budgetary aid and placed targeted sanctions on the island state. Despite international reproach, Rajoelina initially refused international help and





suggestions to resolving the crisis, insisting that his regime would find an internal solution towards stability (ICG 2010:2, Main and Johnston 2009). Ultimately, international reactions to the political transition deepened the crisis beyond the presidential power struggle. Cuts in budgetary aid from the EU and targeted sanctions from the United Nations choked Madagascar's approximately 60% aid constituent fiscus, service delivery and the quality of life deteriorated, and the influx of humanitarian food aid indicated an imminent humanitarian crisis (ICG 2010:13).

### **March 2009: International response**

A SADC fact finding mission was commissioned to Madagascar in February 2009 (Girardeau 2012:63; SADC 2009d). Although the mission in its consultations was non-intrusive in that it did not directly engage the crisis actors and conflict issues, it was a prelude to a mediation mandate and delegation. Following Rajoelina's installation as head of state, SADC condemned the UCG, Rajoelina's incumbency and his de facto government (SADC 2009d). SADC staunchly called firstly, for Rajoelina to step down and secondly, for Ravalomanana's immediate restoration as the democratically elected head of state (SADC 2009e). Appropriately, with SADC as the immediate regional security body to which Madagascar holds membership, this hard-liner stance was the most apparent (Nathan 2013:4).

The regional body also quietly considered threat of the use of force if Rajoelina did not heed the calls for a return to constitutional normalcy (Nathan 2013:2). SADC's historical experience of military intervention in the region had been evaluated as troubled. The 1998 intervention in Lesotho was described as "a political and military disaster" (Girardeau 2012:65) and intervention in the Democratic Republic of Congo as an "imbroglio" (Nathan 2013:11). This militaristic route was not unanimously appreciated from within SADC. On one hand, members including Zimbabwe and Swaziland advocated for a militaristic stance, and on the other hand, others including Botswana, were adamant on a pacific approach to addressing the crisis (Nathan 2013:2; Girardeau 2012:68).

SADC's combative stance was "ineffective and its radical approach undermined any attempt at a peaceful resolution of the crisis" (Zounmenou 2009:73; Nathan 2013:4). This combat was mainly against Rajoelina's resistance and strong insistence to maintain and further his rule. SADC's call versus Rajoelina's unlikely responsiveness to them was the first obstacle to progress in the way of dialogue. The Malagasy conflict and crisis were an opportunity for the regional body to present itself firstly, as a regional peacemaker, and secondly, a principled body with respect for democratic governance and a strong disdain for UCGs (Zounmenou 2009:75). Such an approach ultimately warranted a shift towards a mediatory and moderate approach like the accommodative refrain of the

UN, which recognised the UCG that occurred in Madagascar without condemning it (Girardeau 2012:71).

Amidst SADC's reproach, the UN in April 2009 was the first to engage Rajoelina and Ravalomanana in negotiations through the leadership of UN Special Envoy Tiébilé Dramé. Two major movements led and represented by former presidents Albert Zafy and Didier Ratsiraka were also allocated places at the negotiation table (Nathan 2013; Cawthra 2010:19). These talks failed, mainly due to a lack of political will from the primary disputants, observed by the UN and the AU (Zounmenou 2009:73). Soon after, the UN withdrew from the forefront of the negotiations and retreated to a position of technical and consultative support. This led the way for the AU to lead the Malagasy mediation with respect to its responsibility for African peacemaking (Nathan 2013:4; Call 2012:20).

### **April 2009: The JMT-M**

A Joint Mediation Team on Madagascar (JMT-M) was established with an objective to identify “points of agreement and disagreement and to explore ways to cope with the obstacles remaining to restore normalcy in Madagascar” (JMT-M 2009:1). Membership of the JMT-M included SADC, the AU, the UN and the Organisation International de la Francophonie (OIF). JMTs provide a forum for multilateral actors involved in peacemaking processes to coordinate their initiatives, but they also struggle to “clearly and quickly select a lead organisation or individual” (Ancas 2011:140). The JMT-M “served to provide a collaborative mediation effort by the main mediators of the organisations involved” under the leadership of a lead mediator (Girardeau 2012:74). With the AU taking the lead, the AU Special Envoy Ablassé Ouedraogo headed the negotiations with the support of the JMT-M.

SADC insisted on leading the mediation, and the seniority and experience of SADC’s nominated Chief Mediator, Joaquim Chissano, compared to others in the JMT-M mediator pool warranted SADC's leadership. Eventually having diffused its hard-line stance, SADC took over the talks even with the AU's reluctance (Nathan 2013:4). Mediation efforts under Chissano and SADC saw the signing of the Maputo Agreements, the first agreements since the beginning of the crisis in 2009. The agreements prescribed the formation of a transitional government through two key documents; the Charter of the Transition, and the Maputo Political Accord (hereafter referred to as the Political Accord). Annexures to the Political Accord included the Maputo Accord on the Repeal of Charges Relating to the Events of 2002 in Madagascar (Accord N°1), the Maputo Accord on the Case of President Marc Ravalomanana (Accord N°2), and lastly the Maputo Accord on the Repeal of prosecutions and Convictions Passed Against Political, Civil and Military Persons During the





Ravalomanana Regime (Accord N°3). These agreements were the first indicator for hope that the crisis would end.

Attempts at gaining conflict disputants' attention in the form of their consent to accept mediation in internal conflicts are not always guaranteed success (Maundi et al 2006:1). Therefore, the accomplishment of a signed agreement is commendable for any mediator, even when it does not ensure the disputants' commitment to implementation. The Maputo Accords of 8 – 9 August were one such accomplishment for the Malagasy crisis mediators. Furthermore, the establishment of the transnational government through the Charter of the Transition effectively nullified the authority of the de facto HAT as a national governing body, and thus ended the state of Madagascar being governed by a self-proclaimed government. Nevertheless, without assured implementation of the agreements and adherence to the charter, it still left Madagascar governance in suspension.

A transitional government that included members from all the mouvances at the negotiating table was formed, but the positions of president and prime minister of the transition remained key points of contestation. Rajoelina unilaterally declared himself as president of the transitional government but neither the international community nor the other parties at the negotiation table accepted his self-proclamation (Girardeau 2012:76). Realizing that leaving the executive positions to the decision of the disputants alone would slow the mediation's progress, the JMT-M organised a second round of talks, dubbed Maputo II, on 25th to 28th August 2009. These talks also failed to bring consensus on assignments to the highly contested positions of president, vice-president and prime minister of the transition. The JMT-M regretted to “inform the Malagasy public and international community that despite all efforts and all propositions made in the way of a compromise, the leaders of the mouvances have remained unable to arrive at a consensus on the key posts of the transition” (JMT-M 2009b). Once again, Rajoelina declared himself as president and therefore leader of the Transition. He also single-handedly appointed a prime minister and a 31-member government of unity (Girardeau 2012:76). No different from his first self-declaration, this attempted takeover was condemned for going against the “neutral, inclusive, pacific, pacific and consensual” of the Maputo Agreements (AU 2009, JMT-M 2009:1, Girardeau 2012:75)

Notwithstanding SADC and the AU's condemnation of Rajoelina's rule, he received an invitation to address the 64th session of the UN General Assembly. This presented the HAT with an opportunity to canvass its legitimacy to the international community. SADC and the AU protested that such an invitation undermined their negotiation efforts and the ensuing peace process. Eventually, a motion was passed barring Rajoelina from addressing the General Assembly, because he was not recognised as a president and a constitutional order was yet to be established in Madagascar (Girardeau 2012:76).



This strengthened the core tenet underlying the mediation; that the international community refused to recognize an illegitimate leader.

### **July 2009: The ICG-M**

SADC led negotiations through the JMT-M while the AU's contribution was mainly embodied in its establishment of and leadership in the International Contact Group on Madagascar (ICG-M). The ICG-M was formed as a consultative support platform for the JMT-M in its negotiations (ICG 2010:3), providing oversight of the peacemaking process under the direction with the AU Special Envoy Ablassé Ouedraogo (Ancas 2011:144). The ICG-M had broad based membership that included Indian Ocean Association (IOA), the Common Market for Eastern and Southern Africa (COMESA), representatives of both the African UNSC non-permanent states of Uganda, Burkina Faso and Libya, and the UNSC P5, in addition to the JMT-M members. Members of the IGC-M were divided on the negotiations approach to resolving the crisis. On one hand, SADC, the US and the EU partners except France held a staunch regard of the HAT's illegality and the immediate need for snap elections to reinstitute constitutional normalcy. On the other hand, the French delegation, representatives of the IOF, the IOC, and the AU Special envoy Ouedraogo had a more flexible approach to the illegality of the HAT (US Government 2009a).

Seeking to dislodge the intransigence that followed Maputo II, the IGC-M invited representatives of the four mouvances for an interactive dialogue at its 3rd meeting on 6th October. Rajoelina's appointed prime minister, Monja Roindefo represented mouvance Rajoelina at the talks, but he was denied the platform on account of being an illegally appointed prime minister. The IGC-M used this opportunity to reprise Rajoelina's unilateral actions in the peace process, where allowing Roindefo to participate in the dialogue would represent a pardon and acceptance of Rajoelina's unilateral violations of the peace talks. Ravalomanana's party raised acceptance of Rajoelina's incumbency as president of the Transition as a key issue. The reason behind the objection was that allowing Rajoelina presidential tenure in the Transition would amount to a legitimisation of his cause to topple the government.

Ravalomanana's party was willing to have any other person from the Rajoelina camp fill the position and they would only accept Rajoelina's tenure if he refrained from running in the upcoming elections organised by the Transitional Government (US Government 2009b). Ravalomanana's bargaining demand indicated a technical contradiction in the peace process should Rajoelina be allowed both transitional tenure and an elections candidature. Firstly, the 2007 AU African Charter on Democracy, Elections, and Governance prohibits coup instigators from running in elections for restoring



democracy. Secondly, SADC's later stated rejection of "attempt[s] to use democratic means, institutions and processes to legitimize Governments that came to power through unconstitutional means" (SADC 2010), stands against the use of being the heads of transitional governance institutions. Thirdly, the Political Accord disavowed members of the transition government from running in elections, yet in the French governance system that Madagascar followed, the president is not part of the government. This technicality effectively qualified Rajoelina to run in the elections, thereby stealing traction from Ravalomanana's bargain proposal, and posing a challenge for the mediator.

From the 3rd to 7th November, the IGC-M convened with the mouvances in Addis Ababa to address appointments to the key executive positions in the agreement titled the Addis Ababa Additional Act of the Charter of the Malagasy Transition (hereafter referred to as the Additional Act). Deliberations with the mouvances ended in the appointment of Rajoelina as president of the transition, Ravalomanana and Zaffy as his co-presidents, with mouvance Ravalomanana's Eugène Mangalaza as the consensus prime minister of the transitional government, and an arbitrary allocation for the majority of the 450 interim posts (Nathan 2013:5; Kotzé 2013:11). The agreement was considered an extension of to the Maputo Agreements, especially the Charter of the Transition, which aimed to maintain continuity between all agreements of the peace process.

The Additional Act substantially reduced Rajoelina's presidential powers by installing two co-presidents and a prime minister from the rival mouvances. Internally, however, Rajoelina was facing pressure from his local constituents who to resist and desist from any more agreements that give his opponents more ground (US Government 2009c). Rajoelina opposed the presidential partnership positions. He suggested annulling the Maputo and Addis agreements altogether and organising legislative elections in March 2010 to correct the situation in the country. Realizing the volatility of the situation, Chissano called for a Maputo III Summit on the 7th to the 8th December, which Rajoelina refused to attend in person, but informed that he would participate via video conference. At the Maputo III summit, the three mouvances other than Rajoelina's stated their willingness and readiness to continue with the Maputo and Addis Agreements without Rajoelina's participation (US Government 2009e). Chissano bent the rules on consensus and the negotiations were conducted without Rajoelina (Giradeau 2010:78, IGC 2010:1). The Maputo III resolutions only reiterated the Additional Act, especially the co-presidency that Rajoelina rejected.



## December 2009: Disengagement with the mediator

At the end of 2009, prospects of a government of national unity established through international mediation were bleak. On the 18th December, Rajoelina dismissed Mangalaza from the Government of National Unity and withdrew his signature to the Maputo and Addis agreements. He went on to appoint Colonel Camille Vital as his prime minister and announced that the HAT would govern while they planned for elections for 20th March 2010 (Nathan 2013:5; Kotzé 2014:5). In response, Rajoelina's unilateralism was condemned and accompanied by threat of sanctions beyond membership suspensions on the HAT. Rajoelina and other members of the HAT stood to face travel bans and asset freezes (US Government 2009c; ICG-M 2010). As Rajoelina's popularity with the international community fell, he turned his lobbying efforts to the Malagasy nation. He ostracised the international mediators by excluding them from his efforts to find an internal solution through popular mediation facilitated by Malagasy civil society groups. He asked the international community "not get too involved in Madagascar's problems" (US Embassy cable 2009d; Nathan 2013:5).

In Early January 2010, Chairperson of the AU Commission, Jean Ping, personally attempted to persuade Rajoelina to re-enter negotiations and implementation in line with the Maputo and Addis Agreements. Jean Ping strongly encouraged and endorsed SADC, the JMT-M and Chissano to reassume leadership of the mediation. He also endorsed the reinstatement of Mangalaza as consensus prime minister, a constitutional referendum as stipulated by the Charter of the Transition and a simultaneous presidential and legislative election no later than October 2010. Ping further advised the mediators that a compromise allowing Rajoelina independent actions without requiring approval signatures from his co-presidents could lure Rajoelina back to the talks. Rajoelina was unyielding to Ping's advocacy and refused to re-engage in the multiparty talks of the Maputo and Addis Agreements. Ping admitted that his role was limited to encouraging Rajoelina to re-engage in the peace process, and that mediation was beyond his mandate. Ping gave Rajoelina fifteen days to consider these suggestions and Rajoelina rejected the propositions (US Government 2010a).

In April 2010 Chissano convened with the four mouvances to revive the Maputo and Addis Agreements and strongly expressed the unacceptability of unilateral decisions from any of them. Rajoelina did not take to Chissano's call for reconnection. To compensate for the international legitimacy deficit, however, Rajoelina formulated a *Malgache-Malgacho* (translates to Malagasy for Madagascar) dialogue which co-opted consultative input and participation from Malagasy civil society and political actors. This dialogue included "Rajoelina-aligned groups" drafting a new constitution and the referendum, excluding the mouvances signatory to the Maputo and Addis



Agreements (Kotzé 2013:13). The international community rejected the referendum; as did the three excluded movements. The mediators and the international community maintained a position that “the Maputo Agreements and the Additional Act of Addis Ababa, negotiated and signed by all the parties constitute, despite challenges faced in the implementation, a decisive gain in the process to end the crisis and an essential foundation for leading an inclusive, consensual transition, in the shortest time possible” (Republic of South Africa 2010).

In August 2010 the HAT government tried and convicted Ravalomanana in absentia for murder in relation to the deaths of unarmed demonstrators in the February 2009 protests. The implication was that upon re-entry into the country, Ravalomanana would serve life in prison for these charges. This was another strategic bar from the HAT government against Ravalomanana’s return to Madagascar (ICG 2010:22).

South Africa and France engaged in simultaneous but separate mediatory interventions with the disputants in April 2010 at a summit dubbed the ‘Pretoria Summit’ (David Lanz and Rachel Gasser 2013:13), which was attended by the Rajoelina and Ravalomanana movements and France, hosted by President Jacob Zuma of South Africa. France prepared a crisis exit roadmap that South Africa later agreed to support. France intended for the rivals to convene and sign the prepared document as it was, but South Africa assumed the disputants were there to deliberate using the drafted document as a starting point for further negotiations (ICG 2010:17). Another challenge arose between the mediators when on one hand, France was adamant that Zuma stand as the face of the roadmap because of Rajoelina having rejected SADC mediations under the leadership of Chissano. South Africa on the other hand, despite hosting the Pretoria summit, maintained that SADC should retain the reins and have Chissano continue as the lead mediator (Girardeau 2012:83). Invariably, the French roadmap was rejected by movement Ravalomanana and Rajoelina refused to re-engage with the international mediators any further beyond the Pretoria Summit talks. The mediation based on the Maputo and Addis Agreements remained at a standstill (Nathan 2013:6) until December 2010.

### **December 2010: Re-engagement with the mediator**

Rajoelina acknowledged the need to remain engaged with the international community, even without ceding to their concession demands. To gain this balance, he announced that he would not run in the elections that would be organised by the HAT. These elections, however, were not accepted by the international community. Rajoelina’s unilateralist actions had brought Madagascar into international isolation and in 2010, Rajoelina reengaged with the SADC mediator, Chissano (Nathan 2013:6). In January 2011, Chissano presented Rajoelina with a new crisis exit roadmap, which stipulated



Rajoelina as sole president of the Malagasy transition and gave him of the powers of the head of state. SADC did not approve of this roadmap, mainly because it contravened SADC's position on the crisis in two regards. Firstly, the roadmap afforded Rajoelina an opportunity to legitimacy through adherence to the roadmap, but where SADC is concerned Rajoelina held no legitimacy as national leader. Secondly, Ravalomanana as the legitimate leader of the country remained barred from returning to the country and was still denied any restoration to being president of the republic (Kotzé 2014:13; Nathan 2013:6; Nibishaka 2012:3). Rajoelina accepted Chissano's roadmap, firstly, because it did not explicitly mention the reformation of the transitional government and could thereby be interpreted to endorse the HAT installed government. Secondly, it gave leeway for power to remain concentrated with mouvance Rajoelina during the roadmap implementation. Thirdly, it effectively excluded Ravalomanana from any participation in the transition by stipulating that he can only come back once a government and parliament of the transition were established. Lastly, it allowed the president and members of the transitional government to contest the elections if they resigned from office 60 days before the said election (Kotzé 2014:16).

### **September 2011: The SADC Roadmap**

Chissano's Roadmap took a position opposite to SADC's because it allowed the coup instigator power over the transition while barring the legitimate ruler's return to the country. SADC was unhappy with Chissano's work and removed him as lead mediator. The SADC heads of state convened to amend the roadmap and installed Article 20, which called for Ravalomanana's immediate and unconditional return to Madagascar. Following the amendment, responsibility for the mediation was transferred to the Troika of the SADC Organ on Politics, Defence and Security Cooperation (Nathan 2013:6), but Chissano remained the face of the mediation (IGC-M 2014). Eventually, the Roadmap for Ending the Crisis in Madagascar, dubbed the SADC Roadmap, was signed in September 2011 by ten of eleven major political parties, as well as nine additional smaller parties. Within a month, an accompanying Framework for the Implementation of the Roadmap was established and detailed with an implementation timeline on the appointment of a consensus prime minister, members of the transnational government, and parliament (Girardeau 2012:84; Kotzé 2014:17). Notable of the SADC Roadmap was firstly, its lack of reference to and reverence of the 'Spirit of Maputo', which was SADC's hinging verse throughout the mediation. Secondly, instituting Rajoelina as president of the transition while Ravalomanana remained in exile was still averse to SADC's standpoint as well as the AU and the international community's previously expressed rejection for legitimising coup instigators. SADC had evidently, made concessions on its principles to dislodge the intransigence of the Malagasy crisis (Nathan 2013:9).





The SADC roadmap was commendable for and reinforced by the broader inclusiveness it held in comparison to previous agreements. Smaller Malagasy political groups that were once shadowed by the *mouvances* were now self-represented as signatories to the agreement. For most of 2012, the conditions for electoral candidature became yet again a point of contestation and regress between the parties, especially with concern to Ravalomanana and Rajoelina's candidacies. Facing criminal and tax evasion charges, Ravalomanana did not qualify to participate in the elections. Also, due to the condition that one should reside in Madagascar for six months prior to elections in order to qualify for candidature, Ravalomanana's longstanding exile disqualified him even further (Connolly 2013:2; AU 2013:4). Allowing Rajoelina's participation and affirming Ravalomanana's irrevocable disqualification would make the results contentious and provoke social upheaval. SADC brokered what was dubbed the *ni-ni* (translated to neither nor from French) deal, whereby neither Rajoelina nor Ravalomanana would contest the elections. By December 2012, Ravalomanana announced that he would not run in the upcoming elections, and in January 2013 Rajoelina announced that he would not contest either (Klaas and Pigou 2013; Kotzé 2013:19).

### **December 2013/January 2014: Crisis exit elections**

With Ravalomanana known to be unmovable on his objections and Rajoelina infamous for unilateral decisions and renegeing on commitments, both their vows not to contest the elections were no guarantee peaceful elections (Nathan 2013:7; Nathan 2013b). To mitigate both defaulting on their agreements, the SADC Roadmap established a Transitional Independent National Electoral Commission (CENI-T) (Connolly 2013:3). *Mouvance* Ravalomanana remained unrelenting to compensate for their leader's ineligibility and considered registering a proxy candidate in the person of Ravalomanana's wife, Lalao Ravalomanana. Rajoelina viewed this to be in bad faith and in true notoriety defaulted on his pledge to refrain from running in the upcoming elections. He failed to submit his candidate registration in time and was inexcusably disqualified for a late submission (Nathan 2013b). *Mouvance* Ravalomanana also lost its plans because Lalao did not qualify to be a candidate. She did not fulfil the six months provisional stay in Madagascar because she had been with her in exiled husband in South Africa (ICG 2014, ICG-M 2013).

The *mouvances* co-opted and announced proxy candidates from smaller parties that had completed their registration successfully. *Mouvance* Ravalomanana announced Dr Jean-Louis Robinson, a former sports and health minister and World Health Organisation (WHO) official, and *Mouvance* Rajoelina announced professional accountant and transitional minister of finance and budget, Henry Rajaonarimampianina, as its proxy (ICG 2014:5). On 25th October 2013, the first round of elections



was overseen by a contingent of local, SADC and EU observers. Robinson emerged in first place with a 21.1% win, while Rajaonarimampianina came second with 15.9% of the votes. In the second and last round however, Rajaonarimampianina won 53.3% of the vote. His victory was contended over the issue that the overall voter turnout of a meagre 50.7% was partly due to flawed registration processes which left millions of citizens off the voters' roll. There were also reports of inappropriate activities such as vote buying in the Rajoelina-Rajaonarimampianina camp (ICG 2014:3-5). Finally, and despite these contestations, Rajaonarimampianina was declared victor by the Special Electoral Court (SEC) on the 17th January 2014 and he was inaugurated as President of Madagascar on the 25th of January 2014. In an interest of monitoring and nurturing the peace in Madagascar, as well as cultivating national ownership of the achieved peace, the ICG-M was transformed into the International Support Group for Madagascar (ISG-M). The ISGM maintained a branch in Antananarivo, intended to convene biannually, and retaining all the members of the ICG-M (ICG-M 2014).

## **Conclusion**

The Malagasy political crisis stemmed from a UCG crisis and continued because of differences over the make-up and procedures of the transitional government as well as who could occupy the executive seats in this government. The contention continued mainly between Ravalomanana and Rajoelina with underhanded inputs from the PAF. Mediation was selected as the most appropriate response because it was proportional to the crisis in contrast to military intervention. The mediator persevered through various agreements. Landmark agreements of the mediation initiative include the Maputo and Addis Agreements. Yet it was the SADC Roadmap signed in 2011 that decisively led Madagascar into the 2013 elections. In the end, the main contenders, Marc Ravalomanana and Andry Rajoelina, were eliminated from the national elections over technical failures to comply with candidature conditions. Despite their exclusion, they participated by co-opting allies through Henry Rajaonarimampianina for Rajoelina and Dr Jean-Louis Robinson for Ravalomanana to run as their proxies. The mediating structure remained in Madagascar to safeguard the peace that was established and to solidify popular ownership of the stability that was produced by the elections.

The next chapter will be an investigation into the challenges of the Malagasy mediation, to find out why they occurred. It will use Brahimi and Ahmed's seven deadly sins as an explanatory framework of the challenges, by analysing the course of events to identify if and which of the sins were committed by the mediator to effectuating the challenges.



## **CHAPTER 4: THE SEVEN DEADLY SINS IN MADAGASCAR**

The international mediation process in Madagascar was a response to a constitutional governance crisis that stemmed from a political rivalry, which culminated in a UCG. Through the mediation process that began in 2009 and ended in 2014, a government headed by neither of the primary disputants in the conflict, but established through the popular election in 2013-2014, governed Madagascar. The journey to these elections through international mediation experienced various challenges, namely Rajoelina's intransigence and a high rate of unmet deadlines, as well as deviations from the agreements of the process.

This chapter applies Brahim and Ahmed's seven factors to the Malagasy international mediation case to identify if the sins contributed to the challenges of the mediation, and how so if they did. Ahead of this application and the analysis of its results, the incidents of challenges faced by the mediation are outlined, as well as the event sequence of their evolution to identify if any of the sins occurred.

Brahimi and Ahmed do not specify one sin to be greater or minor to others in their effect on the failure of mediation. The following evaluation list does not reflect an order of importance amongst the sins either. For practical application and evaluation, the sins are considered as sin brackets as explored in Chapter 2 of this research, which accommodate a wider spectrum of activities and factors associated with each sin. For example, the sin bracket of false promises includes explicit statements of intentional deceit as well as commitments unmet due to uncontrollable circumstance.

### **4.1. Rajoelina's intransigence**

The first challenge that the mediation faced was Rajoelina's intransigence. Mouvanse Rajoelina was the source of major abrogation on agreements, of unilateral decision making, as well as refusals to attend negotiation summits. This caused a start-stop process with no certain direction for the mediation. Due to Rajoelina's principal role in the conflict and the crisis, the mediator could not afford to exclude him from the peace process. Instead, every agreement that Rajoelina reneged on and declined compelled the mediator to return for negotiations and new terms of agreement. Furthermore, the JMT-M, the ICG-M and SADC repeatedly asserted that the peace process should be inclusive and consensual, obliging the mediator to withstand Rajoelina's caprices. Below are the sins committed that have been identified to have given rise to Rajoelina's intransigence.



#### ***4.1.1. Impartiality***

At the onset of the Malagasy mediation process, Rajoelina accused the mediator of being impartial and biased against him (ICG 2010:3). His perception of impartiality was based on the mediator's call for Ravalomanan's reinstatement and an end to Rajoelina's incumbency, which directly opposed the latter's objectives of establishing legitimacy. With both the mediator and Rajoelina staunch on these divergent positions, Rajoelina constantly reneged on agreements that denied him legitimacy as the sole head of state of Madagascar. This staunch position against Rajoelina's cause for legitimacy displayed both content bias and source bias in the mediator's agenda. The sin of impartiality or the lack thereof is a derivative of vested interest (Gent and Shannon 2011:127) in one of the disputant parties or a given outcome from the conflict. An analysis of when and how both forms of impartiality manifested in the peace process and the interests that informed this impartiality are considered below.

##### ***Content bias***

Throughout the process, the mediator struggled to maintain Rajoelina's commitment. Rajoelina refused to willingly engage with the mediator on any agreements that challenged his legitimacy. All the while the mediator reiterated the need for a return to constitutional order and Ravalomanan's reinstatement, offering Rajoelina a zero-sum outcome that disfavoured his cause. The mediator delegitimized Rajoelina's actions and incumbency through rhetoric, citing clauses in regional agreements that disfavour UCGs. Rajoelina's intransigence was a direct consequence of the mediator's content bias for a return to constitutional order and the reinstatement of Ravalomanana, in the hope that the mediator will shift on this position.

The mediator's strong content bias for a return to constitutional order and a strong censure of the UGC was determined by the aggregated normative frameworks of SADC, the AU and the UN (Girardeau 2012:70). On SADC's part, its Mutual Defence Pact (SADC 2003) expresses activities that change "constitutional order of a State Party through unconstitutional means" as threats to peace and security. The boldest posture on UCGs is held by the AU, whereby Article 4(p) of the Constitutive Act of the AU rejects UCGs and Article 30 states that "Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union" (AU 2000).

The mediator's unwavering refusal to legitimize Rajoelina's incumbency may be mistaken to reflect the sin of inflexibility. Yet inflexibility in this case was a secondary sin that led to this challenge, because the mediator's content bias is part of the mediator's identity and remains primary to the



political role. Even if the mediator approached Rajoelina with a more sympathetic tact, eventually inference would be made of the principles in the constitutive and directive documents of the mediating organizations to direct the mandate and actions of the mediation, and the content bias for constitutional order would be highlighted. In line with the sociology of regulation's perspective where conflict is seen as disruptive and international mediation is an implement to reinstate order, the mediator's response sought the reinstatement of a national and regional international order that functions on and is maintained by constitutional governance within its constituent units.

### *Source bias*

As the UCG instigator, Rajoelina was automatically disfavoured by the mediator. In the first instance, the mediator's demands for the immediate and unconditional reinstatement of Ravalomanana demonstrated a source bias against Rajoelina's de facto incumbency. This source bias from the mediator is directly linked to the content bias indicated above because of the conflict being between a coup instigator and an ousted leader, and whereby the policy orientations of SADC and the AU favour the ousted leader regardless of the conditions that led to the ousting. In the second instance, by suspending Rajoelina's HAT government from activities in SADC and the AU, both organisations further expressed disfavour for the HAT and its members. An explicit expression of source bias against authors of coups d'état is found in the AU's (2007) African Charter on Democracy, Elections, and Governance (AU-CDEG). The clause prohibits Rajoelina as the coup instigator from running in the elections for restoring constitutional normalcy following the attempt to topple government. Such partiality is not based on the merits or demerits of Ravalomanana's governance capacity, but on his inviolable constitutional and thereby legal status as head of state and president of Madagascar.

The mediator's content and source bias were underpinned by an interest to maintain their roles and identities as capable regional and inter-regional agents of democratic peace and security. At the primal level, mediators seek "to protect the[ir] physical, political and cultural identities" (Kleiboer 1998:41). For these organisations including SADC, political identity is carried in their actorness" (Hulse 2014:547); a main feature of which is the organisation's political and financial capacity to implement its policies (Adlemann 2009:30). Both the source and content bias, based on democratic principles, gave the mediator more political authority and clout, because liberal democracy, good governance, peace, and security often resonate with a larger international audience than any UCG. Such resonance allowed the mediation to garner more sticks and carrots from a wide range of constituents, including the time, support and other resources, as well as the flexibility wielded from these resources.



Unlike the mediator's unmoving stance on the content bias, there was some flexibility regarding the source bias against Rajoelina. In November 2009, the Additional Act was drafted to establish Rajoelina as a co-president of the transitional Government of National Unity (GNU). This was a shift from the unconditional denunciation of Rajoelina's presidency and the HAT. His inclusion as a co-president nevertheless reiterated the mediator's insistence that he is not the sole leader of Madagascar. The co-presidency indicated the mediator's efforts to broker a Rajoelina inclusive process while refusing to legitimize his unconstitutional incumbency. Rajoelina recognized this and reacted by opposing the clause that bound him to the co-presidency with two members from opposition movements. Less than a month after the co-presidency agreement, he contravened the accord by firing the consensus prime minister of the GNU and withdrawing his signature from the Additional Act.

The mediator's content bias was based on the backing organisations' reverence for principles of constitutionality and democratic governance. The collective conflict management effort by the organisations and states backing the mediation represented the

*“phenomenon in international relations in which countries, international and regional/subregional organizations, and, importantly, non-official institutions or private actors address potential or actual security threats by taking concerted action in order (1) to control, diminish or end the violence associated with the conflict through combined peace operations and/or mediation, conflict prevention and avoidance; (2) to assist, where appropriate, with a negotiated settlement through peace building, cross-border management and other cooperative efforts and measures”* (Crocker Hampson and Aall 2011:51).

This concerted effort served to contain the instability and insecurity in Madagascar, to mitigate further escalation and contagion that could disrupt order within the borders of the states constituting these organisations, and safeguard economic, political and social interests (Asongu 2011, Sisk 2010:30). Also congruent with a regulatory stance, the mediator denounced Rajoelina's actions to project an intolerance for UCGs and thereby dissuade any other actors from orchestrating UCGs. By failing to acknowledge the poor state of governance and public satisfaction under Ravalomanana, while explicitly criticising Rajoelina's actions, the mediator expressed deeper concern for the destabilizing effect of the crisis at the systemic level, rather than the roots of the crisis within Malagasy society.

#### **4.1.2. Impotence**

The sin of impotence develops in the mediator's inability to carry out a dual-responsive process. It is a derivative of resources, their availability and their strategic application. On one hand, the mediator should muster and dispend enough resources to make the disputants move towards peace. On the



other hand, the mediator must drive the disputants to a peaceful end that is satisfactory to the constituents – those parties supplying the mediator’s resources – to the extent that these benefactors do not withdraw the resources (Brahimi and Ahmed 2008). Although Brahimi and Ahmed focus on the latter, the former is equally important for driving disputants into compromise. The mediator like most actors in the international arena has three categories of resources; diplomatic, material or financial, and military resources, to bring the conflict to peace. The sections below consider how impotence occurred in the application of three categories of resources, to the extent that it contributed to the challenge of Rajoelina’s intransigence during the mediation.

### *Material and financial resources*

In 2009, Madagascar, as with the rest of the world, was experiencing the economic vulnerability of the 2008 world economic crisis. One of Madagascar’s most critical incoming funding channels through the United States, the Millennium Challenge Corporation (MCC), was suspended immediately after the UCG in March 2009. Also, in early 2009 came halts in the World Bank’s operationalisation of its Country Assistance Strategy (CAS) for Madagascar, which limited the Bank’s lending to the island state. The Bank took “a very cautious, strategic and selective approach to new lending so as to address emergency situations in social sectors and ... major external shocks or humanitarian crises as they may occur” (World Bank 2012). Together with the island nation’s exclusion from the African Growth and Opportunities Act (AGOA) and an estimated 600 million Euros in aid stops from the EU, Madagascar was in a state of financial austerity and humanitarian crisis (UN News Centre 2011).

Counteracting the leverage of these financial cuts however, was the continuous financial, fiscal and military assistance from France to the HAT (US Government 2009a). French assistance was a major point of weakness within the ICG-M as a collective mediating forum. Also, this support became a fort for Rajoelina and the HAT, strengthening their resolve and thereby bolstering the political conflict that fuelled the crisis. This rendered the financial suspensions an impotent unit of leverage to persuade the HAT’s and Rajoelina’s to comply. In 2013, amidst Madagascar’s deteriorating economic climate of austerity and a need for election funding, the EU, with French support this time, applied negative financial leverage by withholding funding for elections in support of an AU objection against Rajoelina’s candidacy in the 2013 elections.

The AU objection was based on Article 25 of the AU-CDG. The EU supported this objection, and would only finance elections if Rajoelina’s ‘illegitimate’ candidacy was withdrawn (Reuters 2013). The budget required to host elections was unattractive and unfeasible for a government under fiscal

hardship, and the pledge to fund the elections constituted an enticement or a carrot to the HAT government. Strategically, the mediator simultaneously wielded a stick by suspending this already pledged financial support for an anticipated event such as the elections.

An evaluation of the mediator's ability to use financial leverage – once French support was withdrawn – to make Rajoelina and the HAT concede indicates that French support was a key factor that influenced the direction of the crisis in earlier stages of the mediation. The mediator's impotence in this instance came from incoherence in a multiparty mediation context, in the form of French deviation from the rest of the mediating collective. Without French assistance at the beginning of the crisis Rajoelina and the HAT would not have withstood the collective financial suspensions of the ICG-M constituent states and organisations, and may have conceded to the mediator's suggestions. This is illustrated in Rajoelina's compliance to leave the electoral race once France halted its support for the HAT and aligned with the EU stance on withholding elections funds.

### *Diplomatic resources*

Madagascar has been a member to SADC since 2005, to the AU since 1963 when the OAU was founded, and to the UN since 1964. Despite this fact, Rajoelina and the HAT did not concede when the island state was suspended from SADC following the UCG of March 2009. The suspension did not place enough pressure on the HAT for Rajoelina to relinquish office. Seeking to counter the diplomatic deficit that the HAT was facing, Rajoelina and Colonel Vital visited Addis Ababa to argue their case before the AU despite the announcement of Madagascar being suspended from the AU in May 2010 (ICG 2010:3). The responsiveness evident in Rajoelina and Vital's actions showed the HAT government's understanding and desperation for international support and acknowledgement. Even though Madagascar was not suspended from the UN, when the motion to block Rajoelina from addressing the UNGA was passed at the 6th session of the UNGA 2010, it was an injury to the HAT's campaign for legitimacy.

The mediator's use of diplomatic negative leverage in the form of suspensions from diplomatic fora and summits only held limited influence over Rajoelina and the HAT. Arguably, diplomatic leverage is limited in this context because diplomacy and diplomatic dialogue are the primary conduits for international mediation. The AU (2007:10) prescribes that in the case of UCG, "Notwithstanding the suspension of the State Party [from participation in the activities of the African Union], the [African] Union shall maintain diplomatic contacts and take any initiatives to restore democracy in that State Party". The mediator's impotence with regards to using diplomatic resources in negative leverage therefore stems from mediation primarily being a diplomatic activity. Ultimately, the strategic





application of all available diplomatic resources was more profitable than diplomatic isolation, because “political dialogue [was] an essential element in addressing the [Malagasy] problem” (Zounmenou 2010:73). Withholding diplomatic interaction would have yielded comparatively less success in ending the crisis.

### *Military resources*

The use of force to restore democracy on the African continent is framed by the AU’s transition from non-interference to non-indifference within the context of the International Commission on Intervention and State Sovereignty’s Responsibility to Protect (R2P) framework (ICISS 2001; Murithi 2009:92, Kioko 2003:41). By R2P prescripts, military intervention is initiated as the last resort and applied in accordance with the rule of subsidiarity amongst regional organisations. SADC was therefore justified by subsidiarity to be the primary mediating organization and the prospective primary decision maker in the eventuality of military intervention. Military intervention was tabled in 2009 at the beginning of the crisis, but it was set aside as a disproportionate and hasty response (Dewar, Massey and Baker 2013:15, Girardeau 2010:67, COMESA 2009), despite the involvement of the Malagasy military in the crisis. This decision was informed firstly, by South Africa’s antimilitaristic approach to international peacemaking and secondly, the controversy surrounding the legitimacy and mandates of SADC’s most recent (1998) military interventions in Lesotho and the Democratic Republic of Congo (Nathan 2012:82-85).

With military intervention set aside, sanctions in the form of embargoes on military aid, training and other forms of military cooperation may have been strategically applied as incentives or disincentives for compliance. Such military leverage might have proved useful in the Malagasy mediation because of the key role the PAF played in the crisis through its influence over Rajoelina’s decisions. France, as the strongest of Madagascar’s military benefactor and a key (USA international business publications 2006:76) member of the ICG-M, was well suited and positioned to apply military leverage. France however, provided continuous military assistance to Rajoelina and the PAF, which encouraged Rajoelina to resist conceding to the mediation efforts. This eventually peeved other members of the ICG-M (US Embassy cable 2009:304). The pooled diplomatic clout of the ICG-M was superseded by the historical and long-standing military relationship between France and Madagascar. Ultimately, the rest of the mediating collective were rendered impotent with regards to military resources.

No category of resources has a fixed role and all resources can be forged into either sticks and carrots, or both, depending on the mediator’s goal. This is exemplified by the EU withholding already pledged



financial resources to fund elections to induce compliance. Additionally, because the conflict and international environments are not static, different counteractions, intentional or otherwise, to the mediator's use of resources and leverage may render the mediator impotent. The leverage used in the Malagasy mediation was primarily financial and diplomatic. The key cause of the mediator's impotence across all resource categories was French support, especially in the 2009-2010 period, which allowed the Rajoelina and the HAT to outlive financial and diplomatic constrictions, and therefore prolonged the duration of the conflict and the crisis. Ultimately, the inability to apply these resources on the disputants to the extent of bringing peace falls upon the mediator's head as impotence.

### **4.1.3. Arrogance**

The first achievement of the JMT-M in the form of an agreement was the Maputo Agreements, whose focus was the establishment of a transitional authority to govern for no more than fifteen months, with the aim of organizing elections. Due to the high-level nature of the parties involved, the mediator adopted a campaign that limited key consultations to the leaders of the four mouvances. Initial drafts of the Maputo Agreements were drawn from UN chief mediator Tiebile Drame's consultations with "the churches, civil society, the military and the 'elders'" of Madagascar (US Embassy cable 2009:336). Negotiations on the Maputo Agreements including Maputo II, Maputo III, the Additional Act and consecutive negotiations up to the first Roadmap drafted by France and South Africa, however, were exclusively limited to the leaders of the four mouvances and drafted by the mediator.

Rajoelina recognised the lack of inclusiveness in this process and announced his abrogation from the Maputo Agreements in August 2009, using this lack of inclusiveness to justify a unilateral initiative (ICG 2010:20). He announced the prospect of a national *malgache-malgacho* dialogue for ending the crisis. Malagasy civil society initiated and drove this process (SADC 2010), which Rajoelina eventually transformed into the Ivato Agreement. The initiative remains commendable for its inclusiveness, but the three mouvances involved in the international mediation process refused to sign the Ivato Agreement and expressed their standing confidence in the Maputo Agreements. Rajoelina stayed out of the international mediation process for the rest of 2010 in pursuit of a national solution under his own directive (ICG 2010:20). Had the international mediation initially included Malagasy civil society as key stakeholders in the negotiation consultations, Rajoelina would not have the lack of popular inclusiveness as an excuse.

From the Malagasy public's perspective, the process engendered an arrogance because the mediator side-lined the popular scope of the crisis. For this reason, Malagasy civil society initiated the popular





dialogue platform. The mediator's high-level deliberations included only the opinions of the movements leaders, when it is "the governors and the governed ... alike", who should be included (Brahimi and Ahmed 2008:6). A deep popular inclusiveness promotes what Nathan (2006, 2009b, 2009c) calls popular ownership of the agreement. Although the exclusivity of the negotiations was a strategy to limit the number of parties and therefore interests at the negotiation to drive the process to a quicker end, Nathan (2004:71) cautions that "whatever their motivation ... a mediator's confidence that he or she can quickly bring the parties to their senses is both naïve and arrogant".

The JMT-M was mandated to "negotiate an inclusive, consensual solution to the crisis" (Call 2012:20; JMT-M 2009). In principle, such a solution can only come about when negotiations are conducted through an equally inclusive and consensual process. The JMT-M's political process lacked popular inclusiveness (CNOSC 2011:5). While Ratsiraka and Zafy's inclusion was meant to address the inclusive aspect of the peace process, it was discredited as "unnecessarily offering veto powers over transitional arrangements to two former presidents who no longer had much of a constituency" (Call 2012:20; see also Zounmenou 2010:74). Due to the two figures' lack of constituency in Madagascar at the time of their inclusion, their participation at the negotiation table came short of crediting the resultant peace as inclusive.

Looking into the different challenges of conflict mediation in Africa, the mediator should command domestic support or risk "generating resentment and conflict" (Nathan 2004:71; see also 2006:14). Similarly, exclusion is ultimately counterproductive to the mandate of stability, security and peace (Brahimi and Ahmed 2008:6). The challenge came from the mediator's sin of arrogance in Malagasy peace process in the way of Rajoelina using the lack of inclusiveness to "[discard] the framework provided by 'the four political movements' and redefine 'inclusiveness' to embrace other political forces (a recurring theme whenever the [HAT] regime was on the back foot)" (ICG 2010:18). Contrary to the process led by the ICG-M and the JMT-M, which used a Track I diplomatic platform that lacked popular consultation and marginalized Malagasy civil society groups and smaller political parties, Rajoelina joined and took advantage of a movement that had broad based popular inclusiveness.

The SADC Roadmap, being the last and decisive of the international mediation agreements, was signed by many smaller Malagasy political parties. This inclusiveness was residual of the *malgache-malgacho* dialogue and civil society dialogue platforms for ending the crisis. Although the Ivato initiative failed to get international endorsement, the groups that were part of the *malgache-malgacho* popular dialogue were appended to the list of key stakeholders to the crisis exit process and the SADC Roadmap. One factor which differentiated this last Roadmap from previous agreements is the popular

inclusiveness. It's success in comparison to that of preceding agreements indicates that the sin of arrogance expressed through the absence of inclusiveness can jeopardise the effectiveness of a mediation.

#### ***4.1.4. Ignorance***

The Malagasy crisis was a recurrent one on the island state. Historical inference from the 1991 and 2001 Malagasy UCG crises shows the persistent involvement of the Malagasy military in UCGs, yet the military was excluded from the negotiation table. This exclusion of the military from the talks that culminated in the Maputo Agreements and consecutive agreements demonstrated the sin of ignorance. The military has played a regular role in Malagasy UCGs from the first one in 1972, the three between 1975 and 1976, those in 1991 and 2002, up to the 2009 crisis (University of Central Arkansas 2013 see also Kensley 1994). Moreover, the Malagasy PFA operates as a political elite group, not a non-political functionary of the state (Hauge 2011:525). Without an official stake at the negotiations table, the military furthered their agenda and interests through Rajoelina, who was ideally placed to do so because of the supporting role the military played in his coup. Equally important, Rajoelina could not afford to lose the support of the military, however capricious, because they held the decisive power to topple whoever is at the seat, as illustrated in Rajoelona's own ascent to power (Cawthra 2010:18; Crisis group 2011:526).

Rajoelina's conduct at the negotiations was erratic on events of discord and disagreement between him and the military or within the military itself. For example, Rajoelina fired the consensus prime minister and appointed of Colonel Vital in this position to appease the military, which wanted to secure influence and control in the peace process (ICG 2010:5). This correlation between Rajoelina's actions and the PAF's wiles points to the military's underhanded eminence in the peace process and Malagasy politics. The PAF as a veto-player in Malagasy politics and the crisis, was excluded from the negotiations but continued to contribute from the side-lines using Rajoelina as a proxy. In this error the mediator failed to heed Brahimi and Ahmed's (2008:04) caution on the "need to understand the motivations, interests and strengths of those with whom they must work". The mediator was therefore technically negotiating with five parties, although the fifth was not playing by the official rules of the negotiation table. Such lack of awareness suggests that spoiler interests could have also infiltrated the international mediation negotiation platform and equally contributed to the ineffectiveness of the mediation (see Stedman 1997:40).



## 4.2. Multiple unmet and unenforced deadlines

Brahimi and Ahmed explain that the mediator commits a grave sin by assuming that agreements signed between the disputants are final. These intermediary agreements, although not final, warrant adherence from the disputants. In the Malagasy mediation, despite best efforts, the mediator failed to maintain the continuity of the crisis exit process through the series of intermediary agreements drafted and signed throughout the peace process. This because as the disputants annulled these agreements, failed to meet their terms, or abrogated on them, the mediator set out a new terms for negotiation, thus drafting a new agreement altogether.

### 4.2.1. *Haste*

Mediation of the Malagasy conflict began in 2009, with probe missions sent in to investigate the disquiet that occurred before the UCG took place. There was no lack of haste in responding to the conflict crisis, yet the mediation had multiple deadlines that were unmet, transposed and inconsequentially abandoned by the disputants with no significant rebuff from the mediators. Brahimi and Ahmed's sin of haste is conceptualized around the exclusion of the larger population in negotiations and consultations with the aim of bringing the mediation process and the crisis to an end as quickly as possible. Considering the expansion of the sin bracket of haste beyond the literal and constricted meaning of the title, however, haste encompasses an array of time mismanagement, including the misuse of deadlines. The mediator's ability or lack thereof to set appropriate timelines for the implementation of the agreement falls within this bracket (Brahimi and Ahmed 2008:9).

The mediation process's first weakness with regards to the use of time is identified in the Maputo Agreements, which failed to set out set timelines for the intermediary dictates of the fifteen month transition governance, such as timelines for the constitutional referendum and the passing of the amnesty law. As a result, the disputants' inability to reach a consensus had no consequence or rebuff, but only led to further negotiations. This error draws to Brahimi and Ahmed's (2008:9) advice that "the best way to kill a potentially viable political solution is to float it prematurely". The mediator's proposal was premature because the mediator did not dedicate enough time and detail to forge a communicative and enforceable agreement. The agreement failed to sufficiently schedule disputants to the intermediary obligations and activities of dictated in the Agreements, and it held no conditions of reward or loss for the disputants in relation to the adherence or disregard to its scant timelines. This error rendered the mediator very little control over timing the mediation as well as the disputants' compliance to the Agreements.



The earliest form of exploitation of this weakness in the fifteen-month deadline occurred when Rajoelina announced that he planned to organize elections earlier than set out in the Maputo Agreement. Rajoelina's actions suggest there was nothing or relatively less for him to lose by moving the elections forward and abrogating on the agreement. The international community's rebuff for Rajoelina and the HAT focused on condemning the unilateralism of their actions (SADC 2009), without a similar explicit mention of their violation the transition schedule. This further suggest that the mediator's time allocation was arbitrary.

Timelines should be constructed to serve the purpose of the mediation, to get the disputants to move towards peace, and not arbitrarily. With a purpose in mind, the timeline is structured by deadlines with bearing on the disputants instead of event timing, because the latter leaves the mediator very little control of the process. In a differentiation between practical and artificial deadlines (Berridge 2005:58-61), the artificial deadline is a "target date", with little implication of punishment if it is not met. Alternatively, and more effectively, practical deadlines are set against factors or schedules that in the case of noncompliance will be forfeited at a great cost to the disputants. The fifteen month period for the Transitional Government and elections was an artificial deadline because it had neither justification nor conditionality.

A second demonstration of the mediator's lack of diligence in employing and effecting time constraint on the disputants occurred at second Maputo Summit held on the 25th to the 27th August 2009. The disputants put forward an arbitrary deadline, the 4th of September, to find consensus for the key executive appointments for the Transitional Government. They did this after apologizing to the Malagasy and international public that despite their best efforts, they could not reach a consensus on appointees for the executive positions of the transitional government (JMT-M 2009b), this being an expression of their inability to follow through on the agreement Maputo II Agreement. The disputants' liberty to set out deadlines for themselves showed a level of ownership that is was necessary to the process, but it also highlighted the mediator's inability to hold the disputants accountable to the deadlines of negotiation and finding consensus.

Whether by chance or by recognition of these mistakes, the SADC Roadmap unlike the first Maputo Agreements was accompanied by an Implementation Framework for the Roadmap, which explicitly set deadlines for the executive appointments of the consensus prime minister on the 1st of November 2011, 17th November for members of the transitional government and parliament, and 30th November for the ratification of the SADC Roadmap by the First Act of parliament (Kotzé 2014:17).

#### **4.2.2. *Inflexibility***



The Malagasy crisis mediator was compelled to represent the positions of the three main organisations in responding to the crisis. Flexibility was key on the part of all three organisations to make compromises on their policies for the mediator to present a united front before the disputants. Considering the two extreme positions of SADC's initial militancy vis-à-vis the UN's reluctance to condemn the UCG, the common position expressing both censure of the UCG as well as a negotiation involving both Rajoelina and Ravalomanana demonstrated flexibility from the mediating organisations. Flexibility or the lack thereof is also a mediator's tool to drive disputants into concession. Moving from the initial posture constitutes some form of flexibility, but the mediator cannot afford to be overly flexible to the extent of serving the disputants' wiles.

The first year of the Malagasy mediation experienced multiple unilateral abrogations from Rajoelina. With each instance, such as when he appointed Col. Vital as prime minister of the Transition, the mediator remained steadfast on a rejection of Rajoelina's unilateralism and a rejection of his self-assumed role as the sole national leader of Madagascar (Girardeau 2012:76). By maintaining a voice that condemned Rajoelina's actions for their unilateralism, the mediator expressed a specific rejection for the procedural disposition. While the issues that were carried in Rajoelina's actions were equally important, the mediator demonstrated a recognition that procedural aspects of mediation are critical because the outcome can be discredited based on faults in the procedure. The mediator's unrelenting condemnation of all unilateral decisions and actions demonstrated a necessary inflexibility on the stipulated inclusive and consensual nature of the process.

The mediator's refrain was however undermined during the Maputo III summit, wherein Chissano proposed an agreement that was signed by the movements except movement Rajoelina. The summit, which Rajoelina refused to attend, culminated in the Maputo III Agreement. Rajoelina duly rejected the Agreement, causing further regress in the process. Rajoelina's repeal of the Agreement was based on a very valid premise, that he was expected to abide by an Agreement that lacked legitimacy and inclusiveness, because he neither attended the summit nor signed the Agreement (Madagascar Tribune 9 December 2009). The mediator committed a sin by being overly flexible in allowing the three movements that attended the Maputo III summit to consider Rajoelina's refusal to attend the summit as a defection from the crisis exit process (Rajaofera 2009). The mediator afforded Rajoelina an opportunity to further discredit the international mediation process on the premise that it is biased against him, illustrated in his exclusion from Maputo III. The mediator overlooked the reiterated precept for scrupulous adherence to consensus, and thereby predisposed the mediation to another null agreement without reprisal for the disputants.



## Conclusion

The mediator in the Malagasy mediation gained a substantial achievement by drawing the crisis to an end through the elections that saw the election of current president Henry Rajaonarimampianina. The international mediation process that led to these elections experienced hiccups, mainly featuring Rajoelina's audacity to rescind on processes and issues unilaterally, and the need for constant revision and re-negotiation of agreements. Although Brahimi and Ahmed assert that a peace process may comprise multiple agreements, it becomes detrimental when these are a product of constant renegeing on the disputants' part and a lack of enforcement on the mediator's part. In the Malagasy mediation, the sins of impartiality, impotence, arrogance, ignorance, haste and flexibility as the sins committed by the mediator that brought challenges of Rajoelina's intransigence and multiple annulled agreements to the international mediation effort.

French support to the HAT regime substantially lowered the potency of the mediator's leverage when wielding sanctions on Rajoelina and the HAT regime. Over and above this, the lack of deadline prescription in the initial agreements by the mediator was problematic because the mediation lacked time structure, and the disputants set out arbitrary deadlines independent of the mediator's input. Only in the Implementation Framework of the SADC Roadmap was explicit and structured time constraint employed. Despite its effectiveness, the Implementation Framework could not recompense for time and resources lost in previous stages of the mediation, showing that sins at one stage of the peace process can affect the effective execution of the mediation in another.

The sins in Brahimi and Ahmed's list prove useful for identifying the errors that were central to these challenges and unpacking how these challenges affected the effectiveness of the Malagasy mediation that started in 2009. The effectiveness of the sins' explanatory value is increased through the sin bracket approach that this research has identified and applied. Resigning the workings of the seven deadly sins of mediation to mere autocorrelation as Brahimi and Ahmed have, is not a full exploration and exploitation of the sins' explanatory value. As illustrated above, it is more useful to identify how the mediator commits these sins and understand why these sins are detrimental to effective mediation. Due to the context dependent effect of the sins, the framework still comes short of providing a direct causal explanation for the sins and the potential to be developed into a theory of mediation failure. Also, that the error of false promises was not committed in the Malagasy mediation does not mean it should be removed from the original list.





## **CHAPTER 5: FINDINGS AND CONCLUSION**

International mediation continues to be the most revered means for responding to centralist conflict crises. Brahim and Ahmed have identified seven weak points that are linked to ineffective mediation, which they have dubbed the seven deadly sins of mediation. Through this study, these sins have been applied to the Malagasy mediation that took place between 2009 and 2014, to explore how well the seven deadly sins can explain the challenges faced by mediation operations. The main objective of this chapter discusses the findings of this research on the explanatory value of Brahim and Ahmed's list.

### **5.1. Summary of the study**

So far in the study, Chapter 1 introduced the research by providing a literature review of the different themes that inform the mediation and justified the aims of the research. The chapter presents that the absence of an appraisal of Brahim and Ahmed's (2008) framework together with the potential lessons that can be learnt from the Malagasy mediation presents a gap in the literature, thus justifying the aims of this study. In Chapter 2, a conceptual framework of mediation was built by unpacking international mediation and variants of its underpinning assumptions. The Chapter also identifies the conceptual premise of the framework by deconstructing each sin to identify and understand their workings in different contexts. Chapter 3 then gave an account of the origins, key actors and events of the 2009 Malagasy crisis, starting from the tentative mission of investigation to the commendation of the 2013 elections results in 2014, which marked the end of the mediation. Chapter 4 carries out an analysis of hurdles faced by the Malagasy crisis mediator, seeking out which of Brahim and Ahmed's errors contributed to these challenges.

### **5.2. Findings of the study**

Under the purview of exploring the explanatory value of Brahim and Ahmed's list, one of the aims of this research was to provide an explanation of the challenges faced by the Malagasy mediation. Two main challenges were identified by the study, namely Rajoelina's intransigence and multiple unmet and unenforced agreements. Rajoelina's intransigence was a key challenge because his position on being the sole person vested with the powers of head of state did not waver. He reneged on all propositions or agreement clauses that short-changed him of this position. As the mediation progressed, his initial cause for righting the wrongs of Ravalomanana's mismanagement of public funds, misdirected governance and atrocities against citizens, fell away, and Rajoelina's own incumbency quickly became his primary cause. The second key challenge, which is multiple unmet



and unenforced agreements, subjected the mediation to a start-stop process, because the agreements had limited continuity and progress. Throughout the series of Maputo agreements, the disputants never seemed to reach consensus and opted for more time, which often yielded partial implementation, more abrogation, and in some instances, the need for a new agreement.

Rajoelina’s intransigence can be explained by the mediator committing the sins of impartiality, haste, impotence and arrogance during the mediation. Regarding multiple unmet and unenforced agreements, the challenge can be traced to instances where the mediator committed the sins of inflexibility and ignorance. The table below summarises the following: the challenges faced by the Malagasy mediation in the first column, the errors committed to effectuate the challenge in the second column, titled ‘why’, and the select event or events that marked that challenge to illustrate it’s occurrence in the third column, titled ‘how’. Then where relevant, the last column indicates an objective that was hindered by the challenge.

Figure 1 Summative table of challenges and sins committed in the 2009-2014 Malagasy mediation.

Challenge	Why	How	Objective/goal hindered
Rajoelina’s Intransigence	<p>IMPARTIALITY</p> <p>-Content bias-</p> <p>Explicit call for the reinstatement of constitutional order through amongst other measures, the reinstatement of Ravalomanana</p>	<p>Rajoelina reneged on every agreement that challenged his legitimacy as sole leader of the Transition and Madagascar</p>	<p>Intended time period of transition to elections set at 15 months (JMT-M 2009)</p>
	<p>-Source bias-</p> <p>Explicit and implied condemnation of Rajoelina’s de facto government through rhetoric and sanctions on HAT members</p>	<p>Rajoelina cited the mediator’s bias against him as an excuse for refusing to participate in some negotiations</p>	





	<p><b>HASTE</b></p> <p>Mediator neither used practical time constraint nor set intermediary deadlines</p>	<p>Transposition of deadlines and the setting of arbitrary deadlines</p>	<p>Intended time period of transition to elections set at 15 months (JMT-M 2009)</p>
	<p><b>IMPOTENCE</b></p> <p>Continuing French support to the HAT reduced the pressure of negative leverage exerted through sanctions</p>	<p>Rajoelina and the HAT outlived pressure to concede using French support</p>	
	<p><b>ARROGANCE</b></p> <p>Limiting negotiations to mouvance leaders</p>	<p>Integrity of the process compromised by the lack of broad based popular consultation in the Maputo and Addis Agreements;</p> <p>Rajoelina uses this as an excuse to launch a parallel popular crisis exit dialogue which stalled the international mediation for the larger part of 2010</p>	<p>Maintaining continuity and integrity of the mediation through the ‘Spirit of Maputo’</p>



Multiple unmet and unenforced Deadlines	IGNORANCE Exclusion of the Malagasy military (PAF) from the negotiation despite their key role in the crisis	The PAF influenced Rajoelina's actions and choices in the negotiations. He served as a proxy for the military's interests in the mediation	
	INFLEXIBILITY -Procedural- Mediator was overly flexible by allowing three parties to exclude Rajoelina from the Maputo III negotiations and Agreement	Maputo III Agreement negotiated and signed without Rajoelina. He rejects this agreement, and disengages from the international mediation until December 2010	Delivering a Consensus based process and agreements.

### 5.2.1. *Explanatory value of the seven deadly sins*

The first finding of the analysis is that indeed Brahimi and Ahmed's seven deadly sins can be used to explain the failures experienced by mediation initiatives. The challenges of the Malagasy mediation operation are linked to the mediator committing six of the sins in the framework, namely, impartiality, haste, arrogance, ignorance, inflexibility and impotence. An additional sin, the lack of a clear mandate, was identified as a problematic factor for the mediation, and recognised as an additional sin.

Using the compendium of sins as an explanatory tool is primarily deductive. The analysis method begins by identifying and acknowledging the challenges faced by the mediation. Thereafter the course of events that proved problematic to the mediator in his efforts to carry out his political role are identified. Then a scrutiny of the mediator's contribution and agency in the course of events follows alongside the examination of the mediator's actions for the occurrence of one or more of the sins. As was the case in the Malagasy mediation, the exercise may also lead to the identification of a sin that



is absent from the original framework. The researcher needs to carry out the analysis with inference from a thorough political map of the conflict to understand which of the sins were catalytic to producing the challenges of the mediation.

Identifying which sins were committed during a mediation does not guarantee that the mediation would have otherwise been unhindered without their occurrence. For this reason, the mediator needs to limit the occurrence of these errors in addition to limiting the effects of uncontrollable factors that contribute to ineffectiveness in mediation. As Brahim and Ahmed (2008:2) reiterate, the likelihood of the mediator committing the sins and the effect of these sins on the effectiveness of the mediation are contingent on the context of the conflict at hand and the form of mediation operation.

In analysing the challenges faced by international mediation, it is important to resist automatically vilifying the sins. The sins are objective concepts and their role is relative. They only pose a negative effect when they keep the mediator from effectively applying the political role and securing sustainable peace. Although they are dubbed as sins by Brahim and Ahmed, for objective analysis they prove more useful as factors that influence mediation effectiveness, with a predisposition to hindering effectiveness. These seven variables can also be applied to strengthen the mediator's political role. For example, on one hand, haste is indispensable when initiating mediation in a conflict with a rapidly rising death toll. On the other hand, placing the disputants under high time pressure may be regarded to be in bad faith and could lead the disputants to withdraw from the mediation process.

A second finding from this study is that not a single sin, but a combination of sins may lead to one challenge. As in the 2009 Malagasy mediation, the combination of the mediator's arrogance, impotence, haste and impartiality collectively contributed towards Rajoelina's intransigence. This finding is related to a secondary observation, that a disputant's actions and attitudes are neither definitive nor essential of the actor. Rather, they are a response to external factors, including the mediator's posturing and actions. Rajoelina presents as a very difficult disputant, whose flexibility is non-negotiable. Yet his difficulty is only gauged against how easily he concedes to the mediator's prescriptions. We may therefore inquire whether Rajoelina would have reacted in the same way or be judged in the same manner had the mediator's approach differed.

Thirdly, the study finds that it is not necessary for all seven sins to be committed to render a mediation ineffective. While the sin of false promises was not listed as having been deadly to the Malagasy mediation, this does not mean it was not committed at all throughout the mediation. Rather, it did not pose a significant hurdle to the mediator steering the disputants towards concession and settlement.



What may be considered false promises are the objectives and stipulations under the series of Maputo Agreements, which were annulled by the 2011 SADC Roadmap. These objectives included the creation of transitional state institutions that guarantee equitable wealth distribution and economic development in Madagascar (Charter of the Transition 2009:2). The transitional intentions for work towards economic and social development anticipated by the Malagasy public to correct the issues that spurred the conflict were forgone. However, this did not hinder the mediator's work for peace with the disputants during the transition period up until the 2013 elections. This finding complements the identification of an additional sin in this study, and confirms that Brahimi and Ahmed's list is neither comprehensive, absolute nor universally applicable.

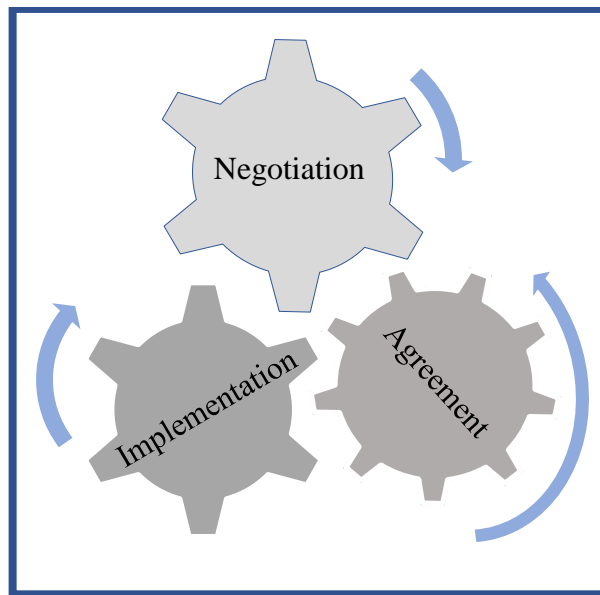
### *The three-part nexus of mediation phases*

A fourth finding from this study is that the sins of mediation may be committed during negotiation, agreement and implementation of the mediation process. When an error is committed in one of these points, it affects the efficiency of the others. For example, the Malagasy mediator used excessive flexibility in allowing negotiations over the Maputo III agreement to continue without Rajoelina, and thereby triggered Rajoelina to stall the process between December 2009 and January 2011. In the agreement phase, the error led to Rajoelina rejecting the agreement by refuting it on the legitimate grounds of its lack of consensus and inclusiveness. With regards to implementation of agreements, the cost was incurred when the international mediation defaulted on all implementation activities that had been scheduled before Rajoelina's reengagement with the mediator in 2011, including the 'Spirit of Maputo', which had become a rally call for the progress of the international mediation.

The mechanism of how errors in one mediation phase affect other phases can be explained by Bose's assertion that the implementation of an agreement should not be separated from the agreement itself (2002:53). Bose criticizes mediators, such as Richard Holbrooke, the renowned broker of the Dayton Accords, for separating the dynamics of these two phases. Holbrooke (1999:335) wrote that "On paper, Dayton was a good agreement; it ended the war and established a single, multi-ethnic country ... The results of the international effort to implement Dayton would determine its true place in history". According to Holbrooke's logic, failure to implement the agreement is not a reflection of and has no implication on the quality of the agreement, thus the two phases cannot be aggregated to indicate the effectiveness of a mediation. Bose (2002:53) argues that this separation and any arguments based on it are untenable, suggesting that the correlation between agreement and implementation is a nexus, and that the two are mutually reinforcing.

Although Bose does not comment on the place of the negotiations on the content of agreements in relation to these two phases, this research's analysis finds that while negotiations are distinct from the agreement and the implementation, they remain mutually reinforcing with these two phases. This study therefore dares to extend Bose's suggested two-part nexus of agreement and implementation into a three-part nexus including the agreement phase.

Figure 2 Three-part nexus of mediation phases



By incorporating the negotiations phase to form a three-part nexus, this research further insists that the nexus works as a mechanism of cogs (see *Figure 1* above) that feed into each other's' movement. A flawed negotiation eventuates an equally flawed agreement and an unsuccessful implementation. Where the implementation of an agreement breaks down, the agreement is reviewed, and negotiations are reinitiated. Similarly, the implementation of an agreement can be contested because the negotiations on the agreement's contents are not inclusive.

In practice, the mediation process follows a chronology of negotiation, agreement and then implementation, and perhaps renegotiation. The mediator's errors, however, do not follow this chronology, because they can affect the weight and value of both future and past actions in the different phases. There is no linear progression between the three phases, and as exemplified by the damage caused in the Maputo III negotiations and Agreement, the mediator's flexibility negated the implementation of past agreements and stalled future activities of the mediation process.

The integration of the negotiation phase also has implications for the evaluation of the mediation norms of consensus and inclusiveness. The process used in the drawing of the range of agreements in the Malagasy international mediation shows that the inclusiveness and consensus of the disputants



was engaged during deliberations on agreements pre-drafted by the mediator. Commenting on prospects to a solution for Madagascar's 2018 political crisis, Hanitra Razafimanantso, a Malagasy parliamentarian, reflects on the resolution gained through the 2009-2014 mediation as "solutions imposed by the international community" (Filou 2018). While pre-drafted agreements speed up the mediation process, they do not engage a comprehensive or insightful agenda as would be the case where local stakeholders are consulted.

The stakes and agendas of the 2009-2014 agreements prominently featured structural positive norms such as constitutionality and an adherence to international treaty principles, but reflected little of the local dynamics of the conflict. This assessment lends the Ivato Agreement deeper inclusiveness, even though the agreement was criticized and rejected for having been used by Rajoelina to side-line the international mediation effort. The Agreement's "New Inclusiveness" (Digitéque MJP 2011), which is set in the preamble and strategically coined to contrast the exclusivity of the international mediation agreements, is reflected, firstly, in a reiteration that the agreement is constructed from the broad-based consultation of the *malgache-malgacho* dialogue, and secondly, in its inclusion of cultural identity, territorial demarcation and civil society action as elements that guide the agreement's formulation, its agenda, and its implementation going forward.

#### ***An additional sin: The lack of a clear mandate***

To complement Brahimi and Ahmed's framework with contextual insight and as a final finding of this study, the lack of a clear mandate has been identified as an additional problem that predisposed the mediation to the challenges stated above and overall ineffectiveness. In the specific case of the Malagasy mediation, none of Brahimi and Ahmed's sins; ignorance, arrogance, partiality, impotence, haste, inflexibility, and false promises, could account for Chissano proposing a crisis exit roadmap that was contrary to SADC and the AU's condemnation of Rajoelina's incumbency. This Roadmap legitimised Rajoelina and ostracised Ravalomanana from any stake in the political process for resolving the conflict and crisis.

SADC did not openly condemn the Chissano Roadmap (Nathan 2013:13, Sunday Independent 2011) but endorsed it only after amendments were made allowing for Ravalomanana's unconditional return to Madagascar and a curb was placed on Rajoelina's executive powers (SADC 2011). Rajoelina had gladly accepted the Chissano Roadmap, but the mediator was forced to rescind and redraft the agreement. As a result, Chissano was discredited as lead mediator, and responsibility for the mediation was relegated to the Troika of the SADC Organ on Politics, Defence and Security

Cooperation, under the leadership of South African Deputy Minister of Foreign Affairs Marius Fransman (Nathan 2013:7).

Figure 3: Summative table of the Lack of a clear mandate as a sin committed in the 2009-2014 Malagasy mediation.

Challenge	Why	How	Objective hindered
Loss of credibility for the mediator	LACK OF A CLEAR MANDATE  Incongruence between the mediator and sending organisations	Chissano proposed a Roadmap that deviated from SADC's stance of refusing Rajoelina legitimacy	

The occurrence of Chissano's error illustrated an incongruence between the mediator's aims and those of organisations backing the mediation, particularly SADC. Other errors feature in the occurrence of this challenge; Chissano's failure to ensure that SADC vetted the Roadmap before presenting it to the disputants points to arrogance, and the roadmap's concession to Rajoelina's ambitions reflects excessive flexibility. Yet the lack of a clear mandate is catalytic in this instance because it explains the arrogance and flexibility, explaining how Chissano was able to commit this error. The factors that create an environment for the lack of a clear mandate can be explained by Nathan's (2016:1) observation that:

*In situations of high intensity conflict, tensions might arise between the norms of democracy and those of peace and security, and between democratic norms and mediation norms, such that mediators have to choose between them*

With this insight we may judge that the mediating organisations remained stalled on whether to pursue an outcome that upholds democracy on one hand or peace and security on the other. It was clear, nevertheless, in the rhetoric of SADC and the AU throughout the mediation process, that they remained committed to the mediation principles of inclusiveness and consent.

The lack of a clear mandate qualifies as a sin because a mediator who enters the fray of a crisis without clear objectives and goals precludes success. In the worst-case scenario, the mediator is likely to worsen the crisis and the conflict underlying it. In the Malagasy mediation, the chief mediator lost credibility with the backing organisations, with the disputants and with the Malagasy public as a result



of this sin. Beyond the toll of this error on his personal and professional capacity, Chissano's error cost the international mediation process on credibility.

A mediation mandate ought to be comprehensively communicative of both its end objectives and the means to achieving them. This will mitigate errors and false promises emerging from misinformed public expectations and assumptions. At the beginning of the mediation the JMT-M's mandate was to "restore normalcy in Madagascar" (JMT-M 2009), a mandate that was neither prescriptive nor sufficiently detailed. Also, it was neither explicitly aligned with conflict management or conflict resolution, nor with producing either a positive or negative peace. Ultimately, it sets no bar against which to measure effectiveness, making even the most minimal peace a worthy output.

The Chissano Roadmap reflected a very minimalist outcome of ending the Malagasy crisis by conceding to Rajoelina. Despite the positive peace ambitions mentioned in the Charter of the Transition (SADC 2009), to achieve "economic and social development", this Roadmap lost the 'Spirit of Maputo' and succumbed to the path of least resistance by narrowly focussing on a return to constitutional order. The contents of the Roadmap suggest that there was no explicit mandate and that the process management was mainly reactive. As Chissano's actions illustrate, the person interacting with the disputants is likely to realize the errors committed when being rebuffed for the decision. At first glance, a comprehensive mandate may suggest inflexibility, but without it the mediator cannot determine appropriate limits of flexibility.

The amended Chissano Roadmap, now called the SADC Roadmap, maintained a focus on the democratic transfer of power, which was evident in the Roadmap's weak address of substantive issues. Only two issues under the purview of social development were addressed in the Roadmap, namely, a blanket amnesty for politically exiled Malagasy nationals and the establishment of a Malagasy Reconciliation Council for facilitating national reconciliation around the political afflictions that transpired since 2002. Issues that were at the root of the conflict but remained unaddressed included but were not limited to environmental degradation and food insecurity with regards to land allotment to foreign enterprises, as well as accountable governance and public spending.

As a sin to be appended to Brahimi and Ahmed's framework, culpability for the lack of a clear mandate is related to the mediator's relationship to organisations and bodies supporting the mediation. Like the sin of excessive or lacking flexibility, they both depend on the parameters for concession given to the mediator by the supporting organisations. This sets the lack of a clear mandate as a sin that occurs in the structural context of the mediation operation. The culpability extends beyond the





chief mediator on the ground to the organisations supporting the mediation, because it is the responsibility of both parties to continuously liaise on the objectives of the mediation project and the anticipated outcomes of those objectives.

A mediator relies on clear lines of communication and concerted action in relation to what he can offer the disputants the supporting organisations to delivering on these offerings. Without a clear mandate, however, the mediator will make offers that cannot be delivered and eventually, the mediator cannot be trusted by the disputants and the backing organisations. This sin should not be confused with the sin of impotence, where the mediator knows the expectations of backing organisations and states, but fails to actuate them. Conversely, the lack of a clear mandate means the mediator does not know the parameters of the mandate due to a disconnect between the organisational and operational levels of the mediation. Under these circumstances, the mediator will fall into the trap of confidently taking risks to see the conflict to an end, only to commit an error that jeopardises the progress of the mediation and the resultant peace.

Although the lack of a clear mandate affords the mediator room for problem-solving and creative diplomacy, it equally creates a hazard for irreparable errors. It is impossible to carry out a mediation perfectly, even where there is deep procedural and substantive involvement from the mediator. The myriad of exogenous factors beyond the mediator's control at every moment of the process make it impossible to micromanage the mediation towards perfection. To address this, the communicative mandate demarcates the procedural and substantive limits of action, as well as the field of application for the mediator's creativity, without curbing the creativity itself.

Considering the minimalist achievements of the mediation process, together with Rajaonarimampianina and Robinson running for elections as proxies for Rajoelina and Ravalomanana respectively, we may infer that the Ravalomanana-Rajoelina conflict outlived the international mediation and the 2013 elections, as did the issues underlying the conflict. True to this deduction, these political and social tensions which led to the 2009 crisis, eventually became the bedrock of the 2018 Malagasy political crisis (Bozzini 2018:2-3). By abandoning the goals for economic and social development, the sustainability of the resultant peace from the Malagasy mediation was compromised.

### ***Areas for further research***

Brahimi and Ahmed's seven deadly sins show substantial potential for informing and equipping mediators. A further opportunity for study is the prospect of honing Brahimi and Ahmed's list into a theory of practical mediation, which is inclined to operational mediation rather than theoretical



analysis of international mediation. Such a framework can be used to train prospective mediators and applied to inform simulative preparations and considerations when actions are taken ahead of and during international mediation initiatives. This development requires practical engagement and observation in mediation initiatives, with international mediation practitioners, persons who have participated in international mediation as disputants and national stakeholders, as well as specialized units in the relevant international organisations. Academic study will contribute to this process by synthesizing the lessons learnt, findings and recommendations towards building a background theory to bolster the praxis of mediation.

## **Conclusion and recommendations**

International mediation continues to be the tool of choice for responding to UCG crises and centralist conflicts. It is revered for its peaceful nature and lack of intrusiveness compared to military intervention. Perfectly executed international mediation, however, continues to elude individuals, states and international organisations alike. The 2009 to 2014 Madagascar mediation has been no exception, as it did encounter challenges which led to a very fragile peace. This case study constituted the testing ground to determine the evaluation and explanatory value of Brahim and Ahmed's seven deadly sins of mediation.

The study has applied Brahim and Ahmed's compendium as a framework to explain the shortcomings that mediation initiatives experience. In the case of the 2009 to 2014 Malagasy mediation, the study has linked the challenges faced by the mediation to six of the seven sins in Brahim and Ahmed's framework. By broadening each sin into a sin bracket that encompasses various contextual considerations beyond the sin title, a more comprehensive insight into the workings of each sin was established. This built the list of sins into a framework which accommodates contextual fit and applicability for case study investigations. Furthermore, the identification of an additional sin, the lack of a clear mandate in the Malagasy case, indicates that the seven deadly sins are not a complete compilation of probable errors. Using the framework in different cases of international mediation will expose other sins specific to the respective cases. The absence of false promises in the Malagasy mediation suggests that the floundering of a mediation project does not need all seven sins to occur.

The 2013 elections in Madagascar together with the undisputed inauguration of Henry Rajaonarimampianina, were a commendable step towards restoring political, social and constitutional normalcy in Madagascar. On conflict management, the elections that were held in 2013 and culminated in the incumbency of a popularly elected President represented the end of a constitutional



crisis. An observation of SADC and the AU's rhetoric from the beginning of the mediation reflected this minimalist orientation, with a concern anchored on the reinstatement of a constitutional order.

The study has shown the usefulness of Brahim and Ahmed's list when used in retrospective analysis of a mediation initiative. The framework has potential utility as a tool for navigating the political map of a conflict to understand the likelihood of a mediator committing the sins, as well as being a key reference in simulation activities to forecast the likely effect of these sins. This proactive application of the framework will prove difficult, admittedly, because live conflict and crises are subject to exogenous factors and influences, the majority of which are unpredictable. It will constitute, however, one step towards strengthening the explanatory value of Brahim and Ahmed's list and prospectively honing it into a theory of practical mediation.



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