

## 2.1 Thematic Essays

# Political Missions and Departures from Constitutional Order

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In the past few years, Guinea, Madagascar, Fiji, Niger, Mauritania, Togo and Kyrgyzstan have experienced unconstitutional changes of government, either through coups d'état or mass popular protests.<sup>1</sup> Kenya, Zimbabwe and Côte d'Ivoire have also recently experienced breaks in constitutional order by presidents committing electoral fraud in order to stay in office. In 2011, several Arab states experienced mass protests that sparked political negotiations over succession and in some cases the ouster of presidents. What unites these events is that they all represent constitutional crises over who legitimately rules a state. Intergovernmental organizations (IGOs) like the UN, regional and sub-regional organizations have been drawn into each of these crises by adopting political positions, providing mediation support, or offering electoral or other technical assistance. Because these events do not necessarily rise to the level of armed conflict or civil war, political missions (in the form of standing regional offices, specially-appointed country envoys, or pre-existing peacebuilding presences) rather than peacekeeping operations have been the main vehicle for addressing them.<sup>2</sup> Based on recent trends, political missions are likely to be called upon increasingly in coming years to address challenges to constitutional order.

This essay analyzes the role of political missions in providing mediation and other forms of support to transitions in three cases of departures from constitutional order between 2007-2010, drawing lessons for the UN System and for regional and sub-regional organizations. The cases are Guinea's 2008 coup, Kyrgyzstan's 2010 political transition



UNOWA chief Said Djinnit (right) arriving for political talks in Guinea with ECOWAS Commission President James Victor Gbeho, 2010.

UN Photo

and Kenya's electoral dispute and related violence and subsequent powersharing agreement in late 2007 and early 2008. The essay offers neither a comprehensive study of each mediation process nor an analysis of the full range of the causes, character and consequences of each transitional arrangement. Instead, it contains the basic elements of the transitional arrangements and a brief account of the role of various political missions. Based on the three cases, it then identifies a number of lessons and challenges for future response by political missions

to crises of constitutional order.

Before proceeding, it is useful to clarify terminology. The African Union (AU) and its sub-regional organizations have adopted strong norms against what it calls “unconstitutional changes of government,” including coups, violent demonstrations or unrest and nonviolent “revolutions” or mass protests. Heads of state who comprise intergovernmental organizations would logically be concerned about illicit attempts to *change* governments and oust them from power. However, constitutional order is also threatened by untoward attempts to *persist* in office by unconstitutional means. Although sitting heads of state may be less enthusiastic about norms against unconstitutional persistence in office through electoral fraud and other means, widespread condemnation of the conduct of sitting presidents in Kenya in 2007, Zimbabwe in 2008 and Côte d’Ivoire in 2010 may signal the normative extension of support for constitutional order to cover constitutionally questionable attempts to cling to power, rightfully putting them on an equal footing with unconstitutional *changes* of government. In this essay, the concept “departure from constitutional order” refers both to unconstitutional changes of government (e.g., Guinea’s successful 2008 coup and Kyrgyzstan’s ouster of President Kurmanbek Bakiyev in 2010) and unconstitutional *persistence* of government (e.g., the alleged electoral fraud in Kenya in 2007).

## POLITICAL MISSIONS AND CONSTITUTIONAL CRISES: THREE EXAMPLES

This section presents three recent departures from constitutional order involving different constellations of IGO political missions. The cases were selected to represent diverse regions, a variety of constitutional crises and different combinations of political missions that changed over time.<sup>3</sup> The first case study on Guinea represents the most common departure from constitutional order, a classic coup d’état. Its mediation was co-led by the Economic Community of West African States (ECOWAS) and the AU, with the Special Representative of the Secretary-General (SRSG) of the UN Office for West Africa (UNOWA) playing a key facilitating role.

The second case study, Kyrgyzstan, represents an increasingly common form of regime transition

that combines civilian-led street demonstrations where the military either splits or sides with the regime’s opponents. Its mediation was a tripartite effort of the OSCE, the EU and the UN. These “revolutions” are, in the eyes of some observers, unconstitutional changes of government, and the international community will likely spend considerable time in the next decade sorting through what criteria make such an ouster “legitimate” or not.

The third case study, on Kenya’s electoral dispute with its associated mass violence and atrocities, represents a different category of departure from constitutional order: the constitutionally contested persistence in office of a sitting president who hangs onto power after a disputed election. It was mediated by an AU Panel of Eminent African Personalities, chaired by Kofi Annan.

### Guinea’s 2008 Coup d’État

On 23 December 2008, six hours after the death of Guinea’s longtime ruler Lansana Conté, a coup d’état was announced by Captain Moussa Dadis Camara on behalf of the National Council for Democracy and Development (CNDD). The military junta dissolved the institutions of government, and suspended the constitution and all political and union activity. Negotiations between the CNDD and the *Forces Vives*, a collection of civil society and political groups, commenced with mediation led by the AU and ECOWAS, which co-chaired a large International Contact Group for Guinea formed during the AU Summit in January 2009. Said Djinnit, the SRSG and head of UNOWA, was invited to that meeting and served as an active, unofficial third arm of the mediation. The AU appointed Ibrahima Fall as Special Envoy, and ECOWAS was represented by its president, Mohammed Ibn Chambas. The three mediators met monthly in Conakry, assisted by an ECOWAS official based there. The Contact Group rejected the unconstitutional change of government and called for new elections and the exclusion of the CNDD members.

In April, Dadis Camara seemed to renege on earlier pledges that members of the CNDD would not stand for elections, leading to protests. Government forces suppressed a demonstration in September 2009 with violence, leading to mass rape, other atrocities and over 150 deaths, prompting the

## Review of UN Special Political Mission Funding and Backstopping

At the end of its regular 2010 session, the United Nations General Assembly passed a resolution asking the Secretary-General to conduct a thorough review of special political mission (SPM) funding and backstopping, and to make proposals for alternatives.<sup>1</sup> This represented a potentially significant step towards strengthening the contribution of the UN's political missions to peace and security.

As outlined in the Secretary-General's 2009 report on SPMs, "SPM" is only a budgetary category.<sup>2</sup> It now comprises by default most peace and security activities *not* included in the rest of the UN programme budget (the regular budget), as well as anything that is *not* a blue-helmet peacekeeping operation. With no clear definition of an SPM other than a budgetary one, this category has come to include a wide range of entities, ranging from the missions and envoys described in this volume to sanctions panels (experts dealing with specific sanctions regimes).

While SPMs keep growing into more numerous and complex formats – especially in the cases of larger UN special political missions such as those in Iraq and Afghanistan – there have not been any major improvements to their funding and backstopping arrangements. This means there are gaps in the support provided at headquarters to staff deployed in some of the world's most dangerous environments including Somalia, Afghanistan and the Palestinian Territories.

The challenges that the Secretary-General's forthcoming SPM funding and backstopping review is likely to highlight include:

- The UN financial rules and arrangements have effectively two separate and misaligned systems. The peacekeeping budget is set annually in the middle of each year, while the regular budget – including SPMs – is biannual and agreed at the end of every other year. This means that budgeting for SPMs requires a good deal of guesswork about future needs. Unsurprisingly, the UN Secretariat often has to request supplemental funds for SPMs that expand or face new challenges.
- Exacerbating this problem, political missions receive less individual attention from member states than peacekeeping operations, as their financial requirements are wrapped up with other elements of the regular budget debate. That limits the oversight by Member States. Similarly, there is no inter-governmental entity equivalent to the Special Committee on Peacekeeping Operations (the "C34") that reviews the state of peace operations every year.
- Also, SPMs lack a "support account" to budget headquarters substantive and support backstopping, and lack any proper access to start-up and expansion resources. This means that SPMs are backstopped by fewer staff than peacekeeping operations, directly impacting support and reporting processes.

UN to establish a commission of inquiry. As the inquiry's report neared release in December, Dadis Camara was shot in the head by a lieutenant he had implicated in the atrocities. The injured *de facto* leader was flown out of the country, and Defense Minister Sékouba Konaté assumed power on an interim basis.

The next month, in January 2010, Konaté, Dadis Camara and the *Forces Vives* reached an agreement brokered by Burkina Faso's President Compaoré, who had assumed the lead mediator role on behalf of ECOWAS after the September violence. Under the Ouagadougou Accord, the first round of presidential elections took place in June, followed by a second round in November – the latter amid some incidents of violence. The UN deployed a Peace and Development Adviser and a Senior

Mediation Adviser with support from the UN Peacebuilding Fund. The UN's Electoral Assistance Division (EAD), which had a technical team on the ground from before the coup through November 2009, proved vital in assisting the electoral commission and ensuring that the second round of voting transpired. Opposition leader Alpha Condé was declared the winner, a result accepted by the defeated candidate and recognized by the International Contact Group. Condé assumed power and has ruled without a parliament pending legislative elections scheduled for late 2011.

### Kyrgyzstan's 2010 Putsch

In February 2010, demonstrators in the north of Kyrgyzstan launched protests against price hikes

## Review of UN Special Political Mission Funding and Backstopping (Continued)

The different budgetary systems for peacekeeping operations and special political missions complicates resource sharing and service provision from one side to the other, as well as transitions to and from peacekeeping operations and SPMs. For example:

- The Department of Field Support (DFS) covers the logistical needs of both peacekeeping operations and SPMs. However, under current rules it should not use resources paid through the peacekeeping support account to support SPMs, and SPMs should not have access to the strategic deployment stocks of equipment and supplies housed in the UN's Brindisi Logistics Base.
- While the General Assembly has passed a resolution endorsing a new Global Field Support Strategy designed by DFS,<sup>3</sup> it only provides specific improvements for peacekeeping operations but not to SPMs.
- There are similar problems associated with SPMs drawing on experts based within the Department of Peacekeeping Operations (DPKO) such as the staff in its Office of the Rule of Law and Security Institutions (OROLSI). Paradoxically, OROLSI cannot budget for providing support to SPMs, even in cases of SPMs with mandates that include police reform or security sector reform.
- Conversely, under the current arrangement the Department of Political Affairs' Electoral Assistance Division has difficulties budgeting for expert backstopping to leaders of peacekeeping operations involved in organizing elections, although EAD staff have long been supporting elections where there are peacekeeping operations.
- Where countries hosting peacekeeping operations face decreasing imminent threats of armed conflict or crisis (e.g., Liberia, Timor Leste), transition to smaller political missions is complicated by the lack of interoperability across the two budgetary systems.

If the UN is to run political missions more rationally, and ensure that they receive the best available support from New York, Brindisi or a neighboring mission, new arrangements need to be found to remove these artificial boundaries. In a multi-year legislative reform, the Secretary-General's review is likely to propose changes to the funding rules that will have a direct impact on operational effectiveness.

1 A/RES/65/259 (2011)

2 A/64/349 (2009)

3 A/RES/64/269 (2010)

due to privatization of utilities. These spread in the subsequent weeks, with protestors raising their demands to include the resignation of President Kurmanbek Bakiyev, whom they accused of engaging in authoritarian practices and corruption. On 6 April, protestors briefly took over the governor's offices in Talas and declared a "people's government."<sup>4</sup> The next day, protests swelled and spread to other cities, and President Bakiyev fled to his southern stronghold of Jalalabad. Unlike the 2005 ouster of President Akaev, state forces used violence against protestors, resulting in the deaths of 85 people and hundreds injured over several weeks.

Founded in 1998, the OSCE Center in Bishkek had been in regular contact with the political opposition, and on 8 April, the OSCE appointed a Special Envoy for Kyrgyzstan, Zhanybek Karibzhanov. On the same day the UN Secretary-General appointed Jan Kubiš as Special Envoy for Kyrgyzstan, and he, Karibzhanov, and the EU Special

Representative for Central Asia, Pierre Morel, all arrived within two days of Bakiyev's flight to the south, seeking a political solution that would prevent national and regional mass violence and restore some form of constitutional order. In contrast to the AU and sub-regional organizations' reactions to unconstitutional ousters in Guinea, Mauritania and Madagascar, neither the European Union, the OSCE nor the UN condemned the coup or sought Bakiyev's return to power.<sup>5</sup>

On 8 April a new interim government was announced under the leadership of former Foreign Minister Roza Otunbaeva, with pledges of new elections and a new constitution later in 2010. The three envoys of the OSCE, UN, and the EU worked in close collaboration, issuing a joint statement on 10 April, facilitating talks between Bakiyev and his supporters and the leaders of the provisional government, who held disparate opinions on issues such as whether Bakiyev should be held for trial or



permitted to flee. After a week of intensive negotiations involving various external actors, agreement was reached on 15 April on Bakiyev's flight into exile and resignation. The next day UN Special Envoy Kubiš resigned, handing the lead to the UN Regional Centre for Preventive Diplomacy for Central Asia (UNRCCA) under SRSG Miroslav Jenča.

On 26 April, less than three weeks after the takeover, the interim government released a draft constitution that limited the powers of the president and introduced a parliamentary system, the first in Central Asia.<sup>6</sup> A constitutional commission of 75 persons completed a final draft that was released in May. Although the interim authorities consulted the Council of Europe and the European Commission for Democracy through Law (the Venice Commission),<sup>7</sup> only one concern raised by external technical advisers was heeded: to retain some form of a constitutional review body, albeit under the Supreme Court rather than as an independent judicial organ.<sup>8</sup> A referendum on the new constitution was scheduled for 27 June; presidential and parliamentary elections for 10 October 2010.

In May, in response to rising ethnic tension, the interim government rescheduled the presidential elections for 2011, and issued a decree stating that Otunbaeva would not stand for the presidency.<sup>9</sup> A month later, the political transition was overshadowed by mass violence concentrated in the southern part of the country. Escalating attacks, killings and displacement broke out between 10–14 June 2010, mainly between ethnic Kyrgyzs and Uzbeks. Some 2,000 people, mainly Uzbeks, were killed and 300,000 displaced in the space of a few days before some degree of calm was restored. After visits to the south, the tripartite mediators had warned the provisional government that ethnic tensions were rising, requiring a stronger government presence and response. Ultimately the killings revealed the inadequacy of the political missions of the three organizations in anticipating and mounting an effective strategy to prevent mass violence. Some charged that the political missions shared the Bishkek political elites' excessive focus on the political transition at the expense of paying due attention to social dynamics.<sup>10</sup>

Despite the recent mass violence and displacement, voters approved the new constitution and confirmed Otunbaeva as President in the

referendum on 27 June. The vote allowed for the establishment of a technically constitutional government once parliamentary elections were held in October 2011. A coalition government took office two months later under the new constitution.

### Kenya's 2007 Electoral Dispute

Over one thousand people died and over 350,000 were displaced in the violence that erupted after national elections in Kenya in December 2007. Isolated instances of violence initially broke out once the Electoral Commission of Kenya (ECK) announced that President Mwai Kibaki of the Party of National Unity (PNU) had won reelection, despite indications by some monitors of a large lead for challenger Raila Odinga of the Orange Democratic Movement (ODM).<sup>11</sup> Suspicions of vote tampering ran high given that the ODM had garnered a substantial portion of parliamentary seats.

As violence and consequent displacement of entire villages escalated into mid-January 2008, numerous African heads of state and intergovernmental officials arrived in Nairobi in an effort to help mediate the crisis. The two main parties ultimately acceded to the proposal of an African Union-mandated Panel of Eminent African Personalities consisting of former Tanzanian President Benjamin Mkapa, former Education Minister of Mozambique and child's rights advocate Graça Machel and Kofi Annan as chair. Annan took leadership of mediation on 22 January 2008, staffed mainly by three or four officials seconded from DPA, including two senior officials who served successively as his Chief of Staff. Annan also drew on some staff of his own non-governmental foundation, one AU official, and two staff members seconded from the Geneva-based Centre on Humanitarian Dialogue. UNDP set up a Trust Fund to support the mediation effort. Ms. Machel ensured that women played a role in the mediation process, although women's issues were neither mandated nor prominent.<sup>12</sup>

The Panel initially faced demands for justice for the election-related atrocities and for a determination about the outcome of the elections. The mediation drew on the UN's EAD, whose analysis revealed severe complications for re-running the elections again, a remedy whose outcome would likely have been rejected by one party and reignited violence. Ultimately, the creation of two

independent inquiries – a Commission of Inquiry into Post-Election Violence and an Independent Review Commission on the General Elections – helped remove these volatile issues from immediate dispute.

Annan was convinced that neither side alone could govern effectively, and the notion of a “Grand Coalition” powersharing arrangement emerged from the mediation team and some civil society actors. Such an arrangement was adopted in an accord on 28 February 2008, after forty-one days of talks. The Panel brought in two technical advisers who helped convince the parties of the merits of powersharing arrangements. President Kibaki would remain alongside Odinga as newly empowered Prime Minister, with shared Cabinet posts and some mutual vetoes on those posts. Although the perceived losing candidate persisted in office, further mass violence was averted. The arrangement was ratified by a parliamentary vote and is slated to endure until elections, to be held in 2012, under a new constitution approved by referendum in 2010. Although the accord helped avert deeper mass violence, the agreement was subsequently criticized internally and externally for signaling that democratic elections do not matter and that losers (e.g., Zimbabwe’s Mugabe) can turn to powersharing as an alternative to the popular will.<sup>13</sup>

Further negotiations on social and structural issues emerged from the negotiations and continued afterward. The negotiations led to the creation of a Truth, Justice and Reconciliation Commission (TJRC) and, subsequently, of the National Cohesion and Integration Commission (NCIC) and the Commission of Experts for drafting the new constitution. The Panel also created, in consultation with the parties and civil society, a Coordination and Liaison Office (CLO) in August 2008 to monitor and support the implementation of the agreements.

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## LESSONS FOR POLITICAL MISSIONS

These three cases, along with others such as constitutional succession crises in Mauritania, Niger and Madagascar, point to some important lessons about the role of political missions created by intergovernmental organizations.

### First

Political missions have often been the most salient external means of addressing succession crises that challenge constitutional order. Where armed conflict has not emerged and no peacekeeping troops have been deployed, political missions – particularly standing regional envoys and specially appointed envoys for a given country – have provided the primary mechanism for multilateral engagement with the disputant parties. Constitutional succession crises necessarily involve disagreement or questions about who holds authority over a state’s territory. Intergovernmental organizations – be they the UN, regional, or sub-regional organizations – can play a role here, partly because their recognition constitutes external legitimacy and shapes internal legitimacy as well.

### Second

The political missions of the UN and regional and sub-regional organizations have demonstrated remarkably effective collaboration. Although such cooperation is often deficient, these cases reveal the ability of the United Nations, especially diplomats that lead regional offices, to work both openly and behind the scenes in coordination and support of officially appointed mediators. They also show the importance of regional or sub-regional organizations in demonstrating strong commitments to constitutional order and in providing a legitimate, recognized forum for facilitating talks and deploying mediation support and other technical advisers.

In Kyrgyzstan, the OSCE’s special envoy along with the envoys of the EU and UN and the UN regional SRSG quickly established shared, broad principles in support of maintenance of security and the rule of law and the restoration of constitutional order. They worked behind the scenes in complementary fashion, and issued joint statements about the transition and the ethnic violence. One official involved in these efforts indicated that this cooperation was “immaculate” and “could be a model for these sorts of situations.”<sup>14</sup> That cooperation continued into 2011, most visibly in the form of joint statements, and could prove useful in the event of a future crisis. In Kenya, the collaboration

between UN officials seconded to the Panel and the AU was extremely smooth in the six weeks of mediation, and continued afterward in the Coordination and Liaison Office (CLO). In Guinea, the AU and ECOWAS' collaboration in co-chairing the International Contact Group on Guinea proved fruitful, and the UN's regional SRSG in charge of UNOWA provided crucial support and strategy for what would become the ECOWAS mediator, President Compaoré.

### Third

Regional-level political missions have demonstrated real and potential comparative advantages in resolving constitutional crises, illustrated by the regional UN Office for West Africa, the UN Regional Center for Preventive Diplomacy for Central Asia and the EU Special Envoy for Central Asia. Regional envoys or officials have the advantage of knowing key domestic elites in each country and having established networks among the neighboring countries as well as with the appropriate regional and sub-regional organizations. Regional level envoys are thereby not duplicating the work of country-level envoys, resident coordinators or ambassadors, because they are working at a different level removed from the day-to-day affairs of a national-level office.<sup>15</sup>

### Fourth

Part of the success of these political missions is due to key appointments of mediators with prior "crossover" experience in counterpart intergovernmental organizations. SRSG Djinnit is a good example, having served as Commissioner for Peace and Security of the AU and having helped create mechanisms designed to address political crises in Africa, including the AU Peace and Security Council and the Declaration of a Framework for an OAU Response to Unconstitutional Changes of Government. The AU Envoy for Guinea, Ibrahima Fall, also reflects this crossover background, having served as UN Regional Coordinator for the Great Lakes region, as well as in other senior UN posts. UN Special Envoy Kubiš and SRSG Jenča had both held senior positions in the regional organizations with which they coordinated, whereas Kofi Annan, AU-appointed lead mediator for Kenya, had obviously

held senior posts in the UN. Intergovernmental organizations should not just seek out respected, senior diplomats for appointments as regional and special envoys, but value crossover backgrounds in the UN and relevant regional bodies.

### Fifth

The international community should nevertheless be realistic about what political missions can achieve in reversing departures from constitutional order. Mediation played an important role in restoring constitutional order in recent years, including in Kenya and Guinea. However, under some circumstances (e.g., where the prior president flees, where popular sentiment or the military supports the departure, and/or where international actors are disinclined to expend much effort to reverse the departure), restoring constitutional order may be very difficult. As one mediator said, "mediation will only go as far as one is given the opportunity by the parties."<sup>16</sup> Madagascar and Honduras show the limits of international efforts to restore an ousted government.

### Sixth

In terms of the content of transitional political arrangements, international political missions can influence the menu of options and even the selection process. However, such influence is uncommon, and national actors rely heavily on prior models or proposals. Political missions have in recent years ramped up their capacity for providing advice on constitutional reforms or revisions, and these efforts can be influential. The case of Kenya shows how influential international pressure, in the context of a high-profile mediation effort on a dependent state, can be in shaping transitional political arrangements. At the same time, the content of transitional arrangements and electoral systems after departures from constitutional order tend to be shaped heavily by past models. In the Kyrgyz Republic, for instance, despite consultations with the Venice Commission and international technical advisers, members of the provisional government dictated the pace, process and content of constitutional reforms. The provisional authorities drew on an earlier constitution and earlier proposed reforms in presenting their draft constitution only

three weeks after claiming power. In Kenya, despite the adoption of a powersharing mechanism that prevented renewed mass violence, the parliament later adopted a new constitution that embraced the prior presidential system. Political missions can assist constitutional reform processes by offering a smattering of comparative experiences and by pressing for inclusive national processes of reform.

### Seventh

Aside from high-level diplomacy, political missions have the potential to facilitate the restoration of constitutional order through lower-profile programs, technical assistance and electoral assistance. A number of technical advisers provided assistance in the three cases examined in this essay. Although it is difficult to evaluate their impact, some interventions did advance peaceful restoration of constitutional order in these cases. Technical experts not only provided details of the strengths and weaknesses of powersharing for the parties in Kenya, but also helped convince the parties that a negotiated powersharing arrangement was necessary. Elections experts helped preserve the transition in Guinea by ensuring the second round went forward. As in Guinea, Kyrgyzstan and Kenya, intergovernmental political missions can facilitate the creation of commissions of inquiry into violence or elections, bracketing contentious issues, entrusting them to experts who enjoy some trust, and buying time for mediators. Political missions can also assist political parties, civil society organizations and the national-level media in their institutional development. Standby experts are already helping to review constitutional provisions and to advise on powersharing options, options for transitional justice and reconciliation, and security sector reform. This technical assistance can also have secondary effects such as ensuring greater participation of women and other vulnerable groups.

In terms of elections, this essay has focused on electoral disputes that involve national-level constitutional crises over succession. However, IGOs are likely to be called upon to address a broader array of electoral disputes of lesser gravity, including fraud and violence surrounding parliamentary and sub-national elections. The UN's EAD and other electoral assistance programs have developed more sophisticated approaches to assisting and

preventing violence surrounding electoral processes, as illustrated by the 2011 UN Panel on the Referenda in Sudan. These technical assistance programs are likely to prove helpful in preventing lesser crises from becoming constitutional crises, in preventing electoral violence and in preventing region-wide destabilization.

## CONCLUSION

Popular expectations and demands have risen in recent years not only for a voice in national governance, but also for governments that act responsively and accountably. Citizens also have greater technological capacity to make such demands and organize collectively when they are not met. Consequently, more states may experience popular protests and uprisings, often led by civilians. To the extent that elections – rather than military coups d'état, inherited patrilineal authority or civil wars – become the mechanism for succession of heads of state, electoral processes may become the locus of greater contestation, disputes and outright fraud and violence. Political missions may therefore increasingly be asked to facilitate nonviolent political transitions after departures from constitutional order, and to help resolve violence related to succession crises.

However, a number of obstacles confront political missions in addressing such crises. First, their mandates and policies on departures from constitutional order vary and are applied inconsistently. Until the mid-1990s, IGOs rarely intervened in internal disputes over who governs a country. IGO mandates and strong norms of state sovereignty militated against such a role. The UN, for instance, still has no standing policy to condemn coups or other departures from constitutional order. Only with the 1991 OAS' Santiago Declaration and the Framework for an OAU Response to Unconstitutional Changes of Government implemented in 2000 did regional organizations begin to adopt principled frameworks for responses to coups and other constitutional succession crises, incurring on conventional notions of sovereignty. Swift condemnation of coups d'état by the OAS, AU, ECOWAS and SADC has become customary in recent years. As the 2011 uprisings in Egypt and Tunisia show, however, sometimes toppling a constitutional order



may reflect popular will. Even the AU hesitated to condemn these unconstitutional changes of government, raising the question of whether IGOs should have blanket policies against all departures from constitutional order.

Second, IGOs may not have adequate resources to deploy political missions or capacity for addressing constitutional crises and electoral disputes. Where political missions are present in given regions or countries before a crisis emerges, IGOs have the advantage of readily available political analysis and contextually-oriented staff. Where no such missions exist, the deployment of envoys and thematic technical experts can be delayed and require orientation.

The United Nations' capacity in mediation support, electoral assistance and other technical areas has proven vital in supporting AU, ECOWAS and SADC<sup>17</sup> efforts. Several recent developments show greater commitment to UN capacity for preventive diplomacy and mediation: the creation of UN regional political offices; the growth of the UN's Mediation Support Unit; the appointment of several thematic UN Standby Experts who have been sent to countries experiencing constitutional crises; and the deployment of more Peace and Development Advisers (PDAs) to UN Country Teams. Even so, not all regions are covered by UN regional offices, and deployments of envoys, experts and PDAs often take months rather than days. Thematic technical experts remain too scarce and require greater breadth of cross-cultural experiences.

Third, IGOs face uncertainty about how they can work together effectively and who should have the lead in a given crisis. Although sub-regional and regional organizations often have greater

legitimacy in spearheading mediation efforts, their low capacity can sometimes impede effectiveness. Political complications internal to a given IGO can undermine its ability to offer good offices in good faith. While it may be best not to agree a priori that a given IGO will have the lead in constitutional crises in a specific region, such flexibility opens the door to forum shopping and unstable mediation. After Madagascar's 2009 unconstitutional ouster of President Ravalomanana, the mediation lead passed from a local NGO to the UN to the AU and then to SADC, all within a few months.

The cases presented in this essay suggest that political missions can play a significant role in facilitating the restoration of constitutional order, advancing the emergence of more accountable and inclusive regimes. Regional offices and special envoys hold particular potential, especially when led by experienced and widely respected senior figures who also demonstrate prior "crossover" experience working in other relevant intergovernmental organizations. In order to enhance their effectiveness, intergovernmental organizations might wish to enhance their working knowledge of one another's staffs, mandates and organizational cultures, perhaps through personnel exchanges. Despite the generally positive performance of political missions in these three cases, political missions cannot resolve every departure from constitutional order. Nevertheless, as the cases of Libya and Côte d'Ivoire remind us, the costs of mediation efforts remain miniscule compared to the costs in lives and treasure of military deployments once constitutional crises lead to warfare or mass violence.

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## NOTES

- 1 This paper draws on Charles T. Call, "Transitional Political Arrangements after Departures from Constitutional Order: Five Recent Cases Involving UN Mediation Support," *International Peace Institute*, 20 May 2011, presented to the UN Department of Political Affairs 15 June 2011. The author and CIC gratefully acknowledge the cooperation of the International Peace Institute in permitting use of that paper and its research for this essay.
- 2 Because the electoral dispute in Côte d'Ivoire occurred in the wake of a civil war with a peacekeeping operation already on the ground, that UN peace operation, rather than a political mission, was the main UN mechanism there.
- 3 The cases also reflect an earlier study referenced to in note 1.