

The future of elections in Africa: Critical Issues and Perspectives

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Abstract

The centrality of elections in democracy has been overemphasized. Huntington asserts that the institutionalization of elections is a sufficient step to bring and consolidate democracy. He argues that elections are not only the life of democracy but also the death of dictatorship. However, since the inauguration of democratization in 1990s, African countries have failed to sustain credible democratic institutions. Elections have remained a safety valve to legitimize authoritarian regimes. This article revisits how elections are managed in order to understand the trust of results and outcome. In specific terms, it focuses on four interrelated issues, that is, the independence of electoral management bodies, electoral fraud, boycotting elections and electoral violence.

Introduction

The “Third Wave” of democracy presumed elections central to democratization in the global south. Huntington asserts that “Elections are the way democracy operates. In the third wave they were also a way of weakening and ending authoritarian regimes. They were a vehicle of democratization as well as the goal of democratization ... The lesson of the third wave is that elections are not only the life of democracy; they are also the death of dictatorship” (Huntington 1991: 1741). While modern democracy cannot operate without elections, elections alone are insufficient to end authoritarianism. Brownlee argues that elections are not like lifting the lid off of Pandora’s Box, unleashing a torrent of political change; they are a safety valve for regulating societal discontent and confining the opposition. The durable authoritarianism of Egypt and Malaysia support this view of elections as a mechanism of control (Brownlee 2007).

Since the publication of the third wave, elections in the Third World have remained a subject of controversy. Patel aptly argues that in many countries, incumbents reluctantly concede to a multiparty framework, but then proceeded to weaken, obstruct, harass and divide the opposition. This is the case in most countries where a transition to multiparty politics did not bring a change of government, but only the continuation of the former one-party rule, albeit under a new multi-party guise (Patel 2005). Even in those countries, where a change of government took place, the new incumbents often resorted to the same tactics of weakening the opposition by luring their members into the new ruling party and disrupting opposition party campaigns. The opposition does not enjoy a level playing field. Publicly funded media organizations, and various apparatuses of the state, including the security services, are deployed against the opposition parties.

One of the problems that the Third World faces today in institutionalizing democracy is elections. In line with this view Bratton and van de Walle argue "...a regime transition can be depicted as a struggle between competing political forces over the rules of the political game and the resources with which the game is played" (Bratton and Walle 1997). Likewise, Pinkney submits that whoever dominates the transition process, automatically will design the rules in his or her favour (Pinkney 2003). This would also mean controlling the resources with which to play the electoral game. In most Third World countries, the ruling regimes have an upper hand in defining the rules of the game. Olukoshi sums up thus:

In articulating their demands for multiparty politics, many opposition elements were too quick to allow themselves to be hurried by incumbents into elections without first insisting on the implementation of the far-reaching constitutional changes that were necessary for governing post-electoral political activity....crucial questions regarding the manner in which the transition to multiparty politics would be governed and by whom were side-stepped. Rules regulating the rights of political associations to convene rallies or organize protests were virtually ignored until the opposition fell afoul of them after the dust of electioneering had settled (Olukoshi 1998:30).

In particular, African regimes are best described as "Competitive authoritarianism". Levitsky and Way (2010) maintain that after the end of the Cold War some regimes could not democratise and thereby ended up as "competitive authoritarianism" exhibiting a hybrid of both democracy and authoritarianism. Levitsky and Way (2010: 7) posit that a competitive authoritarian regime is distinguished from democracy in that "incumbent abuse of the state violates at least one of three defining attributes of democracy: free elections, broad protection of civil liberties, and a reasonably level playing field." Notwithstanding, elections may still generate considerable uncertainty, and autocratic incumbents must therefore take them seriously (Levitsky and Way 2002:55). It appears therefore that in competitive authoritarianism while elections are often "free" they are always "unfair". Yet, the dominant literature on democracy considers elections to be "free" when there is

universal suffrage. It also encompasses that “citizens” are not restricted to go and vote on the election day. Levitsky and Way (2010:7) posit that elections are free in the sense that there is no virtually fraud or intimidation of voters. Goodwill posits that ‘free’ in *free and fair election* is about participation and choice and ‘fair’ is about impartiality, non-discrimination, and equality of participation in voting (Goodwin-Gill 2006). Free and fair elections entail respect for human rights and the absence of coercion.

Bratton and Walle (1997:204) note that of the fifteen incumbents who retained office between 1989 and 1994, twelve did so in elections that fell short of internationally accepted standards. The study observed that incumbents had already calculated correctly the interests of the international community to be inclined more towards political stability than democracy and that they would turn a blind eye to flawed elections. To be sure, as the 1990s progressed in Africa, some leaders became adept at accommodating the international norms of competitive elections while at the same time learning to manipulate them to their own ends. Generally speaking, as the later founding elections were held, the poorer the quality of their conduct became (Bratton 1998:55). This article focuses on four critical but interrelated issues namely the independence of election management bodies, electoral fraud, boycotting elections and electoral violence.

Independence of Election Management Bodies

The central issue on election management is who should manage elections? This brings one critical question of independence of an EMB. Dacey (2005:7) aptly posits ‘It is ...incorrect to assume that an organisation either is, or is not, institutionally independent. The extent of its independence will rather fall on a continuum, ranging from highly independent to not at all independent, and its location on the continuum will depend on the extent of its institutional independence in a number of different dimensions’. To understand this in a perspective, Mozzaffar (2002:91) underscores the typology of independence of EMBs. The first is non-autonomous EMBs located within the formal government bureaucracy, the second is semi-autonomous EMBs located within the formal government bureaucracy but under the supervision of an autonomous body established especially for that purpose and the third is autonomous EMBs (also known independent electoral commissions) located outside the formal bureaucracy of the government.

The above view has four omissions. First, it overstates the structural (formal/actual) independence¹ at the expense of perceived (behavioural/fearless) independence². In so doing it takes it for granted that once a structure of an EMB is

¹ It is that independence which is defined by laws on matters like appointment and dismissal of commissioners, its budget, powers, structures and functions of the commission.

² It is that independence based on the credibility, integrity, fearless of the Commission to act independently and impartially. It is possible for an electoral body to have actual independence but to miss the perceived one.

designed and installed, it automatically functions to achieve its goal. Second, it assumes that bureaucracy is always partisan and in favour of the ruling system. This should be put under context. In countries where democracy is well entrenched, bureaucracy is highly trusted and has in most cases managed elections without complains regarding the integrity of the EMBs (Makulilo 2009). In countries where democracy is still immature, a different scenario has occurred. For example, in Zambia during Keneth Kaunda, Malawi during Kamuzu Banda and Kenya during Daniel Arap Moi, the ruling parties did not win the elections. This could not be attributed to the bureaucracy acting against these regimes. Or were the EMBs in those countries autonomous and independent? As it can be seen, these regimes were described as authoritarian yet they lost power. This could be due to other factors other than the impartiality of the election management bodies. Third, the classification does not focus on specific attributes of independence apart from just locating EMBs either within or without the bureaucratic structure of the government. In so doing, it does take it for granted that the only enemy of independence of EMBs is bureaucracy (Makulilo 2009). Fourth, independence is the question of degree. The author has failed to state and specify the exact degree of independence, how it is measured and when is it optimal (Makulilo 2011). Despite the outlined shortcomings, the above view is still instructive insofar as it resolves two of the key issues under the discussion. First is that, every model fits its own particular context. Second is that, the choice of any model is by design and not default and thus a particular model will impact differently on the independence, impartiality and legitimacy of an EMB (Makulilo 2009; 2011).

There are several meanings of the term “independence” of an EMB. However, at the bottom line of all conceptions lies the question of institutional and/or behavioural dislodging of an EMB from an organ or person with interest³ in the outcome of the electoral competition. True to this argument is the popular principle of natural justice that ‘*No man a judge in his own cause*⁴’. This principle normally is observed in order to ensure fairness and impartiality by a court of law in rule adjudication. In light of this principle, thus, any affiliation of an EMB to an organ or a person with interest in the outcome of an election is likely to undermine its independence, impartiality and legitimacy. This argument is also reflected in the

³ Interested parties in elections are narrowly referred here to specifically mean contestants in an election. This includes political parties and candidates. If an EMB inclines to any one of the contestants it will be partial. The principle of impartiality requires an EMB to treat all contestants impartially and fairly.

⁴ See ‘Rule against bias’ in H.W.R. Wade and C.F. Forsyth .2000. *Administrative Law*, 8th Edition, Oxford University Press, p.445. It has been normal and mandatory for the judges and magistrates to decline determining justice in a case that involves their friends, relatives or any other interest that they are attached to. The attachment of interest may thus be formal or informal, direct or indirect. Similarly, an EMB that has attachments of any sort with one of the contestants in an election is likely to act in favour of that particular contestant against its counterparts.

Social Contract Theory of Thomas Hobbes that '*Man is by nature egoistic*'. In this regard, human behaviour should be contained to ensure fairness and justice. Thus both structural and behavioural dislodging are important for an EMB to act impartially.

In order to achieve independence of EMBs in Africa, the regional standards were set in 2003. The Independent Electoral Commission of South Africa in collaboration with the African Union Commission and the African Association of Electoral Authorities convened the conference on Elections, Democracy and Governance in Africa from 7th to 10th of April, 2003. One of the agenda was in regard to independent EMBs. The following principles were adhered by member states of Africa:

- The independence of EMBs should be secured constitutionally, and their budget should be voted directly by the legislative bodies responsible for allocation of budgets.
- The selection and appointment procedures for commissioners should be determined by parliament and should be transparent, inclusive and sensitive to gender equality and the representation of diverse groups.
- EMBs must independently appoint their secretariat.
- EMBs should conduct themselves with integrity, independence, transparency and impartiality.
- EMBs should have formal structure in various sub-regional bodies and within the African Union through which they can interface with political principals.
- The African Union in consultation with EMBs should work towards the adoption of common standard norms for the management of elections in Africa.
- Each election management body should structure a process that allows for public scrutiny of all processes and ensures accountability to the broader body politic.

The above principles focus on two core issues. These include: an inclusive appointment process of commissioners of EMBs by all stakeholders. This is very important as it instils not only a sense of ownership of an EMB by all stakeholders but also their trust in its integrity. The other area of concern is the constitutional security of the independence of an EMB. In a broader sense, this means also the security of tenure of the commissioners that is protected by the constitution, a budget that is deliberated by the legislature and accountability of the EMBs to the public for their actions.

From the conference it can be summarized that, the minimum attributes of independence of EMBs should include: fiscal autonomy, durable tenure of office by commissioners that is protected by the constitution, autonomous structure that is free from the government of the day or any political party, impartiality, an inclusive

appointment procedure of the members of the body after consultation with various stakeholders, professional competence of its staff, transparency in decision making processes, and capacity to make and enforce decisions by the body. For proper and effective implementation of these attributes, individual member states of Africa should not only write them in their constitutions and electoral laws but must ensure that they are implemented. In Africa, EMBs have seriously been protested on the allegations that they are not independent. This, for example, was the case in Kenya during the 2007, 2013 and 2017 elections in Kenya. It has also been the case in Zanzibar and Tanzania mainland since the inception of multiparty system in 1992.

Electoral Fraud

Election rigging is prominent feature of elections in Africa. Often, elections are manipulated to retain incumbents in power. Incumbents use their control over the state machine to determine election outcomes (Hyde, 2007). Similarly, electoral institutions are designed in the manner that they enable fraud by denying fair election (Norris, 2012). Common acts of rigging include disfranchisement, tampering with voters list, ballot stuffing and inaccurate tabulation of votes. The effectiveness of election rigging has made elections a preferred avenue for incumbents to retain power unlike the past. Echoing this view Jason Mapuva argues that elections are a “gimmick played by politicians who seek to legitimize the illegitimate practice of coercing citizens into voting for them on the backdrop of rampant electoral rigging (Mapuva, 213: 88). Ursula Dexcker argues that incumbents conduct elections simply to “please domestic and international audiences and reap international benefits such as aid or investments” (Dexcker, 2012:503). With incumbents increasingly relying on rigging elections to hold into power, the meaningful of elections as institution of democracy is diminishing in Africa. Often, rigging is answered with violence and boycott of elections. Similarly, the voters opt not to turn up for voting as their choices are meaningless.

The manner in which election rigging is carried out, however, differs across states. In some states it is carried out with a certain level of sophistication. Thus, those who perpetuate fraud choose to temper with the voters register or by interfering with electronic tabulation of results (Calingaert, 2006). The 2007 elections in Kenya are the prototype of rigged election which was systematically conducted. The Independent Review Commission (IREC) dubbed as Kriegler commission identified massive fraud involving ballot stuffing. This was conducted through tampering with the voters register by including voters who were non-existent. For instance, it noted the names of some 1.2 million ghost voters in the voter register (IREC, 2008). The counting, tallying and announcement of results were also characterized by irregularities. Similarly, the European Union (EU) observation mission noted: “most significantly, the electoral process suffered from a lack of transparency in the processing and tallying of results, which undermined the confidence in the accuracy of the final result of the presidential election” (EU, 2008:1). Based on these accounts the Kriegler commission report concluded that the “conduct of the 2007 elections was so materially defective that it is impossible – for IREC or anyone else – to

establish true or reliable results for the presidential and parliamentary elections” (IREC, 2008:9). In other states, however, rigging is carried out in the crude and openly manner. Thus, electoral procedures and processes are violated by using force. For instance, in Nigeria general elections of 2007 the ruling party used the state machinery and the electoral commission to rigging the election in favor of Umaru Yar’Adua – the incumbent president. In Katsina state election monitors observed announcement of results for polling stations that did not hold the elections. In one instance, the Human Rights Watch (HRW) monitors witnessed diversion of ballot boxes to the home of local government leader. Voters were left waiting for polling materials that were never delivered. Instead, the electoral commission personnel claimed that voting had already been done and the results tabulated (HRW, 2007). Similarly, there were reports of ballot stuffing and theft of ballot boxes throughout the country. Most of these incidents were seem pre-planned as they occurred under the supervision of security forces (NDI, 2007).

Electoral violence

In Africa there is no single election held without a single incident of violence (Burchard, 2015). Stephan Lindberg (2006) study found that violence prevailed in 80% of elections conducted between 1993 and 2003. Incidents of electoral violence have resulted into tremendous political, economic and social consequences. These include deaths, displacement of people, state failure, destruction of property, deterioration of human rights, insecurity, collapse of the economy, and deterioration in social relations (Mapuva, 2010; Omotola, 2008; Collier, 2009; UNDP, 2009).

Africa established democracy in 1990’s, but the structural factors of the past have remained intact. These include “informal patronage systems, poor governance, exclusionary politics and socio-economic uncertainties of losing power in states where almost all power is concentrated at the centre” (Adolfo *et al.*, 2012). In Africa, political power is vital for accessing economic and social resources. Since elections are the channels for gaining or retaining political power, they are won at any cost. Holding competitive elections under this setting aggravate the danger of violence (Sisk and Reynolds, 1998). Actors opt for violence to mobilize support and weaken competitors. Violence is rationalized by framing it a matter of group’s survival and continuity to enjoy resources and patronage. In the Ivory Coast’s 2010 presidential election, violence erupted after the incumbent president, Laurent Gbagbo, refused to hand over power after a defeat by an opposition candidate, Alassane Ouattara. Gbagbo rationalized his decision, to his supporters, as being motivated by defending Southerners political and economic interests against the Northerners. As a result, there was an outbreak of civil war which claimed the lives of over 2000 civilians. Moreover, the economy was highly ruined and the mistrust between the Northerners and Southerners increased (Boone, 2009).

Structural factors, on the other hand, influence occurrence of electoral violence as they inform the way in which elections are conducted and managed. There is the role of election institutions. Despite internal diversities, most African states use Simple Majoritarian electoral system. In this system “small number of

votes can make a big difference on the outcome of the election, such as first-past-the-post arrangement, violence is more likely to occur” (Höuglund, 2009:422). The simple majoritarian system makes election as a zero-sum game as it is based on winner-takes-all thus making the costs of losing an election too high (Fjede and Höuglund, 2015). As a result political groups employ electoral violence to influence electoral outcomes. Incumbents rely on security apparatus or vigilantes aligned to them while the opposition rely on mobilization of supporters to conduct protests, demonstration or civil unrests (Collier and Vicente, 2012). In the 2008 elections in Zimbabwe the government unleashed violence and intimidation to systematically discourage voters in opposition strong holds from registering and hence minimizing chances of electoral defeat (Starus and Taylor, 2013).

Moreover, institutions which administer and manage elections are culpable of leading to electoral violence. The lack of integrity, inclusiveness, professionalism, independence, impartiality and technical capacity fuels the occurrence of electoral violence (Pastor, 1999; Elklit and Reynolds 2002; Optiz *et al.*, 2014). The anomalies, however, are preferred by incumbents as they are central for them to maintain the grip on power at the expense of the opposition. They enable them to conduct rigging and electoral fraud, as they have control over state apparatus and resources. On the other hand, the opposition feeling disadvantaged, often react with violence to force for changes or inclusion in power arrangements. The 2007 Kenya’s presidential election experienced unprecedented post-election violence after allegations of electoral fraud and rigging. The violence was waged along ethnic lines of political supporters as the Kalenjins, Luo, Coastal people and Luhya attacked the Kikuyus. The Kikuyu on the other hand, mobilized militia groups, the Mungiki being the prominent, to retaliate against attacks towards them. It was estimated that more than 1500 death occurred and 600,000 were displaced by the violence (Buchard, 2015). The prevalence of electoral violence in Africa, affects the rationale of elections. Elections are seen as host ground for violence. It is against this backdrop that preparing for mobilizing and using violence is now a norm for political actors during elections. Electoral violence is a dominant feature of present and future elections in Africa.

Boycotting elections

There is an increasing trend of opposition boycott of elections in Africa. Some states that have experienced this phenomenon include Mali, Kenya, Zanzibar, Tanzania, Zambia and Burundi. Often, the intention of boycotting elections is to express dissatisfaction with the whole election or some of its processes. This includes lack of trust towards the electoral system especially the EMBs that the election is not going to be free from manipulation and rigging (Beaulieu, 2006; Lindberg, 2006). Beaulieu and Hyde (2009:397) posit that: “Opposition parties may see a boycott as beneficial if it improves the fairness of future elections, which would increase their own future chances of electoral success.” On the other hand, boycotting elections may be intended to make them illegitimate as it is a one-sided affair. Thus, leaders and

government, which are the outcome of such elections, are illegitimate to the national and international community (Rouissias and Ruz-Rufino, 2013).

In 2016 the Zanzibar main opposition party, the Civic United Front (CUF), boycotted the election. The decision came as a protest of nullification of 2015 the election which it claimed to have won. The electoral body, Zanzibar Electoral Commission (ZEC) annulled the elections on the ground that there were many irregularities which shorn the credibility of voting exercise. However, this was contrary to the election law which only mandates the commission to announce the results. Article 51 (2) of the Zanzibar Electoral Act 1984 as amended, ZEC has the authority to postpone an election if there are impediments to holding such an election. Once the elections are held, the jurisdiction to determine and duly declare the elections as null and void rests with the High Court in line with Articles 117 and 118 of the Electoral Act. CUF claimed that the commission deliberately annulled the election under the pressure from the ruling party which was defeated. This position was backed by local and international election observers who had applauded the elections for being conducted in free, fair and peaceful environment.

Similarly, in 2017 main opposition political parties in Tanzania announced their decision to boycott the parliamentary by-elections for Longido and Songea urban parliamentary constituencies held in January 2018. Among other things, the opposition alluded to the experiences of massive electoral malpractices and violence in the councillorship by-elections held back in November 2017, as a reason for their decision. In Kenya the strong opposition coalition the National Super Alliance (NASA) boycotted the re-run of 2017 presidential elections. The opposition had accused the incumbent candidate, Uhuru Kenyatta, for colluding with the country's EMB, The Independent Electoral and Boundaries Commission (IEBC), to rig the August election. Those claims were validated by the ruling of Supreme Court of Kenya on 1 September 2017 which invalidated and nullified the presidential election results. The court ruling was on the ground of serious malpractices whereby the IEBC did not manage the election in accordance with the provision of the election law and the constitution. The court directed the electoral commission to organize fresh elections. The opposition, however, demanded for reforms to the electoral commission before fresh election was held. Citing the ruling of the court, NASA posited that IEBC without being reformed was incompetent to organize elections since it had failed to organize free and fair ones in the first election. Among other things, NASA wanted change of commission's officers, reforms on technology for election and identification of new printer for ballot papers. However, the opposition demands went in vein as the electoral commission refused to implement their demands. As a result, NASA announced to boycott the October election. The decision had an implication as it has left Kenya polarized along ethnic lines. It has also rendered Kenyatta's government illegitimate in the eyes of some citizens.

The other factor which influence election boycott is electoral violence. Often, the opposition refuses to participate in election to avoid violent repression and intimidation from the incumbent. In the second round of Zimbabwe presidential elections of 2008, the opposition party, Movement for Democratic Change (MDC),

boycotted the election. The decision came after campaign of violence, intimidation and killings towards opposition supporters conducted by government security forces and Zimbabwe African National Union-Patriotic Front (ZANU-PF) sponsored militias. The MDC leader, Morgan Tsvangirai, asserted that they withdrew from the election to save the lives of their supporters (Mapuva, 2010; Straus and Taylor, 2013). Also the Burundi scenario of 2015 is another example of election boycott in Africa. The problem started with President Pierre Nkurunziza violation of the Arusha accord signed in 2000 by deciding to run for third term. However, the Arusha agreements put two presidential term limits. Nkurunziza was facing opposition from the opposition, lawyers, neighbouring countries and the international community. People took to the streets to protest Nkurunziza's running for third term. To ease the opposition in his country, the government unleashed a campaign of violence against the opposition. The campaign was chiefly conducted by Nkurunziza political party's youth wing called the "Imbonerakure." This group operates as a paramilitary and it is above the law. Imbonerakure youth sometimes in police uniform, attacked protestors with clubs and machetes and even grenades (IRN News, 28 April 2015). The violence forced a large number of opposition supporters to flee the country as refugees. Fearing for violence and rigging of election 17 opposition political parties chose to boycott the election. The election commission, however, kept the names of opposition candidate in the ballot paper.

Conclusion

While elections will continue to be a "legal" way of legitimizing governments, they will progressively not be trusted as credible mechanisms of popular will. This is so due to the fact that they fail to meet the international standards of free and fair elections. Moreover, it appears that elections remain poor mechanisms of holding accountable those in power. In a nutshell, elections are going to be institutions of authoritarian regimes. They will continue to be disputed and potentially remaining sites for violence and political instability.

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