



Electoral Institute for Sustainable Democracy in Africa

REPORT ON EISA'S 14TH ANNUAL SYMPOSIUM

ELECTORAL INTEGRITY IN AFRICA: UNDER IMMINENT THREAT?

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Introduction

The electoral process, an integral component of democracy, serves not only as a gauge of a country's political landscape; but, perhaps more importantly, as a way in which the will of citizen is most clearly expressed. The integrity of the electoral process of any democratic country is thus crucial to ensuring that the democratic system's overall integrity is maintained. Electoral integrity in Africa is constantly under the spotlight owing to the continent's history of colonisation and, in most cases, its turbulent transition from colonial rule to democracy.

These transitions have led to the emergence of various issues – ranging from election fraud and politically linked violence to logistical and environmental challenges – that have influenced the outcomes of many elections. Often, these outcomes are considered neither as accurate reflections of the political landscape nor as expressions of the will of voters. Rather, as is often highlighted through research and in reports conducted by election observer missions (EOMs), civil society organisations (CSOs) and the media, electoral integrity in many African countries is jeopardised by political actors whose interests lie outside of public service and who, in essence, attempt to subvert democratic processes for personal and/or narrow partisan gains.

From an electoral perspective, engaging with the concept of electoral integrity in Africa is a highly relevant exercise as elections on the continent become more closely contested; as technological advances have an inevitable impact on elections and how they are conducted; as Africa finds itself within and central to a globalised economy; as broader social, political, economic and environmental concerns become increasingly pressing; as the relevance of traditional democratic thought is constantly being questioned, especially on a continent with a vast youth population; and as it becomes increasingly evident that integrity rests more within the moral and ethical arena than it does within that of procedure and 'check box' protocol.

In keeping with its mission of promoting credible democratic elections, citizen participation and strong political institutions for sustainable democracy in Africa, EISA recognises the need to facilitate discussions and debate on electoral integrity, to highlight common and specific issues in the electoral processes through the comparative experience of African countries, and to draw inspiration towards finding evidence-based solutions.

In this regard, EISA's 14th Annual Symposium, which took place in Johannesburg, South Africa, from 25-26 September 2019, focused on electoral integrity in Africa, with emphasis on the question of whether electoral integrity in Africa is under threat. Specifically, case studies and other research conducted on recent elections held in the Democratic Republic of Congo (DRC), Kenya, Nigeria, Sierra Leone and Zimbabwe, were looked at in order to bring issues to the fore and attempt to extrapolate these issues as a sample of electoral integrity on the continent.

During the two-day symposium, esteemed guests from various regions and organisations across the continent shared their experiences and insights on topics

related to electoral integrity in Africa. This report is based on the presentations of guest speakers at the symposium. It provides a summary of and identifies common themes emerging from the presentations, as well as points of departure for further research and policy development. The report is organised, as per the symposium's programme, into six broad sections.

The first three sections deal with topics ranging from emerging political trends within assumed democratic and electoral trajectories, pre- and post-election political transitions, and the pertinent issue of the impact of Information Communication Technologies (ICTs) on democratic institutions within the context of the Fourth Industrial Revolution. The latter half takes a closer look at ensuring integrity in results management systems. Interesting discussions were held around the use of parallel voting tabulation (PVT) as a tool in evaluating electoral integrity and trends in electoral justice, especially in terms of the growing role of the judiciary in determining the outcomes of elections in Africa; as well as a review of case studies into the integrity of elections in three countries where elections were postponed.

The overarching tone of this report follows some of the points raised by the symposium's keynote speaker, Dr Brigalia Bam, the former chairperson of South Africa's election management body (EMB), the South African Independent Electoral Commission (IEC). During her keynote address, Dr Bam eloquently highlighted the need in Africa, above all, to adopt a sense of morality and code of ethics that fosters trust and nurtures Africa's young population. This applies especially to those, mainly young women, who are vulnerable to the exploitative practices of predatory political and economic actors. According to Dr Bam, elections should be viewed as part of democracy's functioning rather than creating democracy itself.

Given this important distinction, Dr Bam further suggested that elections in Africa are no longer a question of ideology but rather a test of common conceptions of justice and equality. The implication here is that the integrity of any election is directly related to and indicative of the level of fairness existing in that democracy. Taking this into account, the following section deals specifically with the trajectory of elections in Africa in relation to democratic systems on the continent, with some interesting observations regarding emerging political trends, and the operational and procedural integrity of elections.

Section 1: Trajectory of elections and democracy

In order to effectively gauge electoral integrity in Africa, it is necessary to begin by providing an overview of approximately where African countries are located in terms of their stages of electoral and democratic development. These trajectories might offer insight as to what operational, technical and political trends have emerged and which might, in turn, determine relative levels of integrity. The following discussion takes a closer look at emerging political trends in Africa's electoral landscape in order to

contextualise a review of the operational and procedural integrity of elections, which is discussed later in this section.

1.1 RECONSIDERING ELECTORAL INTEGRITY WITHIN EMERGING POLITICAL TRENDS

Identifying emerging political trends in Africa could be critical to strengthening electoral and democratic integrity. However, in doing so, it is important to re-frame the question of whether integrity is under threat. Because the capitalist system is more or less entrenched globally, democratic integrity, whether in Africa or elsewhere, is threatened by political actors who invest in exploiting, undermining and subverting democratic systems. Accordingly, the question for Africa regarding electoral and democratic integrity should rather centre on whether this threat is worsening, and if so, determining the possible reasons behind it.

Firstly, in order to make this determination effectively, and taking into consideration the emerging trend of increasing threats to integrity, the issue of integrity itself should be taken beyond the narrow field of election management and be located in broader historical, social, political, economic and cultural contexts. Despite the fact that EMBs across the continent comprise the most honest, professional and proficient individuals, and that they invest heavily in technical, mechanical, logistical and legal infrastructure, questions around integrity persist. By focusing specifically at contextual trends, we might be able to broaden our frame of assessment.

This reconsideration would incorporate the historical issue in Africa that, since the transitions from colonialism and apartheid, we have not managed to form a leadership consensus around effective and healthy contestation for political power. This basic consensus entails a common understanding and agreement among all political actors as to the rules of the game. This is in order to eliminate the persistent trend of African democracies where zero-sum games are played by political actors and their parties, whereby they intend not only to gain absolute power, but in doing so, to destroy their opponents.

This in turn speaks to the previously mentioned moral crisis faced by African countries, where political parties experience not only aggressive contests against other parties but also intra-party conflicts. These create highly toxic individualised politics and the subsequent emergence of popular figures, or 'Godfathers', as party leaders. With such crises occurring between and within parties, the implications for much-needed socio-economic development is evident. Rampant unemployment, poverty, and deepening inequality, in turn speak directly to integrity on all levels, including that of elections.

Secondly, in assessing emerging trends, there is a noticeable disconnect between political and socio-economic reforms, whereby democratisation, and what is considered the democratic system, are conceived of as separate from socio-economic development. The effect this has on citizens is that elections are viewed merely as a kind of democratic formality that makes no material difference in their lives other than the possibility of selling their votes to powerful political actors to temporarily relieve their persistent poverty. This, in turn, speaks to the third overarching emerging political trend of rising ethno-nationalism, which hinders development and overall democratic projects in Africa and directly impacts on electoral integrity.

Issues of poverty, inequality and corruption thus remain at the core of the increasing threat to electoral and democratic integrity in Africa. With this in mind, appropriate socio-economic development becomes central to establishing and maintaining integrity. This requires that choiceless democracies, in which citizens view elections as mere formalities to entrench absolute power, be replaced by robust systems of democratic governance where accountability guides socio-economic development. The following discussion takes a closer look at the operational and procedural integrity of elections in Africa, with a view to strengthening the proposition that electoral and indeed democratic integrity goes beyond the narrow field of election days or weeks, but is determined by many more factors, including the way in which elections are run and managed.

1.2 REVIEW OF THE OPERATIONAL AND PROCEDURAL INTEGRITY OF ELECTIONS

If free and fair elections are integral to maintaining the integrity of democratic systems, the operational and procedural integrity of elections themselves is critical in ensuring that certain universal standards of voting and managing elections are upheld. This discussion focuses specifically on the DRC's 2018 elections, the results of which were announced nearly two months after they were held, and offers a brief snapshot of operations and procedures, and their relevance to electoral and democratic integrity.

The 2018 election in the Democratic Republic of Congo (DRC) eventually brought about a transition in political leadership, in which opposition leader Felix Tshisekedi replaced former President Joseph Kabila. Subsequently, however, much concern has been raised about the integrity of the DRC's entire electoral process, including the period before, during and after the elections. Malpractice has been alleged on multiple fronts, including the level of independence of the DRC's EMB, the Independent National Electoral Commission (CENI); the manner in which the country's electoral calendar is adopted; issues relating to candidates and voting procedures; overall concerns around the safety and security of the process; freedom of the press; results tabulation and announcement; and post-election disputes and the manner in which they were resolved.

In a country as geographically vast and with a population as young as the DRC's, the issue of voter perception of elections is pertinent, as there is an impression that the electoral process is opaque. Compounding this is a sense that the country's voters' roll is heavily skewed in regions with the highest concentration of eligible youth voters. For various reasons these regions are seen to be government strongholds, which points mainly to manipulation and malpractice. Judging by the 2018 elections, the operational and procedural integrity of the DRC's electoral process is considered by many as not being congruent with universal standards of democratic electoral integrity.

These and other issues emanating from the country's electoral process are discussed in greater detail in the following section on the possibilities of a stalled transition in the DRC. It is however important to note that most of the issues highlighted in this discussion are not unique to the DRC. Rather, by referring to the country's 2018 elections as a case study, we are able to draw possible commonalities and themes across the continent.

These may, in turn, assist in further interrogating the key threats to electoral integrity, and enabling the conceptualisation of context-specific frameworks to strengthen and support integrity.

The following section deals specifically with political transitions, including the recent experience in the DRC, and questions the integrity – and in some cases, viability – of such transitions. Beginning with a theoretical overview of how the concentration of power could be understood, the section branches into specific discussions around transitions of power in Zimbabwe and the DRC, and how these transitions are currently playing out in relation to how power is configured and concentrated in these countries.

Section 2: Political transitions, pseudo-transitions and stalled transitions

Contrary to a common misconception, political transitions are inevitable and are not only a result of elections. This is in keeping not only with the idea of the constantly changing nature of power and its concentration; but also with the notion that democratic projects, wherever they might be, are in constant flux. Building on these basic concepts, this section explores forms of political transitions that have emerged on the continent, specifically the recent cases of Zimbabwe and the DRC. As previously mentioned in this report, a noticeable trend in Africa is that elections here are more closely contested than ever before.

Although this could be seen to indicate the direct desire for change among citizens, it can also be seen as an opportunity to manipulate the concentration of political power in favour of those who stand to benefit outside of the public interest. In recognising this nexus, or interplay, between citizens' need for socioeconomic development and change, and the opportunities that arise for predatory political actors from this desperation, it is possible to gauge the integrity of transitions.

2.1 POLITICAL TRANSITIONS AND ELECTORAL DEMOCRACY

A brief theoretical overview of understanding power is presented to engage with the discussions that follow in this section, and to enable appropriate alignments and/or develop synthesised models for understanding how political transitions play out in Africa. There are three broad theories that are commonly used to understand the concentration of power: the functionalist theory, the power-elite theory, and the Marxist theory. Each theory offers insight and bears relevance, in part or in whole, to most functioning democracies in the world, especially capitalist democracies.

The functionalist theory places government as an intermediary between various interest (power) groups, including big business, CSOs and other lobbies. Within the functionalist approach, it is assumed that government behaves objectively and that

each interest group has equal influence, hence power, as so-called veto groups. Another assumption in this theory is that power balances out over the long term and is ultimately beneficial to all stakeholders. In the power-elite theory, a subset of elite actors influence the balance and concentration of power. This assumes that the elite, through various networks based on privileged and exclusive accessibility, exerts disproportionate influence over government, where the most important decisions are taken *sub rosa*, and not necessarily in the public interest.

The Marxist theory assumes that power is linked to class relations, that is, how society is structured in terms of dominant and dominated classes. This theory recognises that social interactions played out by dominant and dominated actors reinforce various hegemonies – including political, economic and intellectual. Branches of Marxist theory have widely influenced African politics since independence. They offer non-elites, i.e. dominated classes, an opportunity for grass-roots disruption without necessarily requiring access to a subset of elites and facilitate the rapid organisation of people for common causes such as justice and economic freedom.

The purpose of presenting the various assumptions of these theories is to develop a model for understanding the concentration of political power in transitioning democracies – the essential question being how a specific transition came into being. By applying these theories, we realise that political transitions do not come about by chance and are, in most instances, curated as means for specific ends. This is especially apparent when looking at the trajectories of power concentration in African countries since independence, where in attempting to set a continent-wide standard, the African Union introduced the idea of unconstitutional changes to government into the electoral discourse.

The adoption of the African Charter on Democracy, Elections and Governance (ACDEG) in 2007 was intended to stem the tide of military coups. However, in recent years it has become an opportunity for those with power to manipulate the electoral process through means provided for in adopted or established constitutions and legal frameworks. As this phenomenon is commonly observed in democracies across the world and coincides with and is arguably due to the rise of nationalist politics, questions arise as to the relevance of such discourse. This is especially as scholars in democratic studies, such as Larry Diamond, have termed the current global political situation a ‘democratic depression’, with electoral democracy in decline due to standards of integrity not being upheld and in some cases being violated.

Taking into account what has previously been discussed in this report regarding socioeconomic development, it seems that there is indeed a great demand from citizens for fair and just electoral democracy; however, there is a dire lack of supply from political and/or economic actors. Transitions of power are seen as pseudo or stalled, devoid of any meaningful contribution to socioeconomic development, as highlighted in the following discussions.

2.2 ZIMBABWE: A CASE OF PSEUDO-TRANSITION?

Zimbabwe's political history since independence is heavily underscored by the presence of Robert Mugabe as head of state for 37 years, as well as the tight grip on state control his party, Zanu-PF, has assumed for nearly four decades. The extent to which Zanu-PF's political power is concentrated, with the Zimbabwean military being a de facto extension of the party, has had dire implications for the country's economy and, as a result, its socioeconomic development. In late 2017, the then 93-year-old Mugabe stepped down as president after succession-related tensions within Zanu-PF boiled over into an alternation of power that had elements of a 'coup d'état', with the Zimbabwe Defence Forces backing Emmerson Mnangagwa (current Zanu-PF leader and President of Zimbabwe) to succeed Mugabe.

This grip of almost 40 years on political and economic power in Zimbabwe, with a leadership transition coming only in the form of a change in presidents from the same party, has led many to view the shift from Mugabe to Mnangagwa's leadership as a pseudo-transition. In addition, with the military firmly in Mnangagwa's control, Zimbabwe is seen to be run by a military junta. This has led to serious questions around the safety and security of ordinary Zimbabwean citizens, where any dissent is met with harsh punitive consequences. Despite the country having held regular elections since independence, this has led to the notion that such elections, devoid of much integrity or conformance with universal values, are the cause rather than solution to violence in Zimbabwe.

When located in the broader African context, Zimbabwe's post-independence experience is not unique. Many African countries have faced some, if not all, of Zimbabwe's symptoms, especially in terms of liberation-movements-turned-political-parties gaining power and holding on indefinitely. Zimbabwe's pseudo-transition provides an opportunity to examine electoral integrity in Africa, to question the manner in which democratic systems are put in place, as well as to rethink the electoral models that are meant to support these democratic systems.

This rethinking should include the acknowledgement that democracy in Africa bears certain imperial and colonial birthmarks for purposes of developing viable, and at times context-specific, African benchmarks in keeping with universal principles of electoral and democratic integrity. As elections in Africa tend to be costly, in more than purely financial ways, it appears that costs related to elections are not connected to any gains for ordinary citizens, especially when electoral processes, as in the case of Zimbabwe, result in pseudo-transitions.

Accordingly, a rethinking and benchmarking exercise would naturally entail looking at the costs and expenses involved in elections and embarking on a project to keep these in line with what citizens stand to gain. In addition, this exercise would embark on projects to shift mind-sets and perceptions from elections as an ethnic census towards a greater focus on virtue and integrity in democratic leadership. With these rethinking and benchmarking exercises, and as the necessity for the dissipation of imperial and colonial birthmarks on African democracies becomes apparent, it would become strikingly evident that Africa, as a resource-rich continent, does not operate in a vacuum.

Electoral integrity would be conceived in relation to threats by external power elites to integrity, specifically in the form of multinational companies with narrow profit-making interests. This implies that elections alone will not enjoy integrity without real changes to political systems and cultures. This is particularly in terms of the shift from the aforementioned zero-sum approach to a culture of power-sharing, as well as the relevance and appropriateness of elections as they currently are in Africa. It becomes increasingly clear that no elections, with their emergent issues, in specific countries are necessarily specific to those countries; and there is a greater need to assess problems with electoral integrity as they are instead of as they appear to be.

2.3 DRC: A CASE OF STALLED TRANSITION?

As highlighted in the previous section, the DRC's elections in late 2018 did not meet standards of electoral integrity from an operational and procedural standpoint. However, beyond that and leading into this discussion, questions around the transition of leadership subsequent to those elections have emerged. These questions centre mainly on whether the replacement of Kabila by Tshisekedi, despite the latter being an opposition party leader, was as a result of political manoeuvring and manipulation by Kabila to maintain his party's majority in Parliament. This, in turn, would probably secure his return to the presidency by 2023.

Some observers and CSOs have consequently described the post-election transition in the DRC as a mere cosmetic regime change, with neither electoral nor democratic integrity being upheld despite there being a change of leadership in opposing parties. Notably, the dominant theme of symposium discussions, highlights the need to view elections as a component of democracy rather than constituting democracy in itself. It also indicates that the extent to which elections are able to create change is dependent on the will of various political actors to commit to real change in the form of socioeconomic development.

In turn, this speaks directly to the rise of ethno-nationalism and xenophobia, where citizens, who are not deriving much value from elections (nor indeed from current democratic systems that fail to provide sufficient means for development), unleash their frustrations and anger on more convenient and accessible targets rather than the root causes. Another point worth noting, which has already been alluded to in this report, is that transitions take place with or without elections. The quality of such transitions, however, is largely determined by levels of integrity that are upheld during transition periods.

Given these factors, and those discussed in the previous section around the operational and procedural integrity of the DRC's electoral process, the following recommendations are advanced to avoid further instances of stalled transitions in the country:

- Strengthen the electoral system through constitutional amendments that allow for presidential election runoffs.
- Secondly, results must be published at stipulated times and these times must be adhered to by the CENI.

- Thirdly, voter literacy levels must be increased. This is something that speaks directly to the importance of socioeconomic development in any democratic project.
- Fourthly, to improve electoral integrity in the DRC, it would be necessary to address some crucial infrastructural issues, from ballot sheets and voting stations to logistics.
- Lastly, and perhaps most importantly in light of the 2018 elections, the roles of the Constitutional Court and the CENI must be clearly defined to avoid political meddling in both institutions as well as ensure independence.

The involvement of courts in African elections is another major issue that impacts on the integrity of electoral and democratic processes. In many African countries, going to court to contest results is predetermined by political parties long before elections even take place. This issue will be discussed in greater detail later in this report.

Section 3: Electoral administration in the Fourth Industrial Revolution

The purpose of this section is to provide context for the role technology plays in elections, especially with regard to the Fourth Industrial Revolution, which is characterised by how disruptive technologies and trends are changing the way we live and work. In Africa, even in cases where technology plays a greater role in the electoral process and administration, integrity is still questionable. Hence, from the outset, it is important to note that the use of even the most advanced technology does not guarantee integrity. Rather, it is identifying the most appropriate technology to be used in specific electoral contexts that might strengthen integrity.

3.1 THE IMPACT (DISRUPTIVE EFFECT) OF ICTS ON DEMOCRATIC INSTITUTIONS

One of the cornerstones of any democracy is the right to vote in secret; but with the introduction of computerised voting, that fundamental is jeopardised, as – arguably – nothing that is computerised is completely secret. This already calls into question the integrity of fully computerised electoral systems and brings to the fore important questions around how and when technology should be used.

Perhaps the most obvious, but nevertheless key rule in adopting new technologies in any system is to first assess the opportunities these technologies present towards harnessing the power of large volumes of information and vastly improved modes of communication. This is within the context of realising data as the new commodity of choice, as well as viewing access to data as a basic human right, wherein the handling of personal data should be done with care and respect. Another important element regarding data and its management is its ability to be manipulated to serve the interests of specific individuals or groups. There has been an international proliferation of data

being turned into fake news to either discredit or assign undue credit to individuals, interest groups or organisations.

From an EMB perspective, using technology to maintain electoral integrity should be a holistic process whereby appropriate systems are installed and established within the electoral system, not only during elections but as a matter of course throughout the electoral cycle. This could be in the form of establishing electoral monitoring portals, as in the case of Kenya's Ushahidi initiative in 2008, or empowering voters through data initiatives that also encourage education and greater participation. It is up to EMBs to embrace elements of the Fourth Industrial Revolution, particularly in terms of ICTs. This should enrich the democratic experience in order for it to have some relevance in the lives of ordinary citizens, as well as the ultimate goals of citizen empowerment and socioeconomic development.

The underlying imperative for any EMB in Africa should be to use appropriate technologies to instil a democratic culture whereby democracy is not seen as a competition in a zero-sum game. ICT technologies should not be seen as a silver bullet to cure long-standing and at times deep-seated issues concerning a lack of integrity in electoral systems, when there is a lack of integrity among political players.

3.2 THE PROLIFERATION OF ICTS AS SOLUTIONS TO DEMOCRATIC DEFICITS

Based on the previous discussion and drawing from elements already contained in this report, it is evident that there is a definite interplay between politics and technology in shaping electoral integrity. With this in mind, we notice systems in play whereby certain technologies are promoted and adopted in line with particular strategies of political gain. However, the danger this poses to democracies, particularly in Africa, is that as the rate of technological advancement far outstrips our human capability to adapt to such advances, the relevance of public policy falls by the wayside, with the potentially devastating effect of it being ignored in the process of adapting to technological change.

As public policy guides the process of socioeconomic development, the implications of this are substantial when considering the demand in Africa for socioeconomic development but its crippling undersupply. As previously discussed, the adoption of technology should not be for its own sake; rather, from an electoral perspective, new technologies should be applied to address procedural shortcomings only when and if necessary. Technology itself, particularly ICT technology, ticks many boxes in terms of integrity but still generates much controversy. What this indicates is a lack of transactional trust in the process, especially when technologies are adopted that are not in touch with real needs.

Transactional trust comprises free and open communication, competence and predictability from the perspective of establishing and maintaining electoral and, as a result democratic, integrity. This trust can only be created incrementally rather than instantly at the time of elections, as it includes the following elements: trust of character, which requires EMBs and political actors to display their values, integrity, ethics and sincerity ; and verified trust instead of blind trust from stakeholders.

Given the need for technology to be relevant for public policy, and the need for transactional trust to bridge democratic deficits, EMBs can draw much optimism from the availability of ICTs as they provide widely available roadmaps for effective implementation, as well as, to an extent, the ability to control the speed of innovation.

3.3 NEW FORMS OF CIVIC ENGAGEMENT IN ELECTORAL PROCESSES: SOCIAL MEDIA AND THE INTERNET

Ensuring the freedom of the press lies at the heart of maintaining electoral integrity, beyond operational and procedural aspect. This is to foster an electoral and democratic system of openness and fairness, and societies in which citizens are empowered to express their political will and opinions outside of the secret ballot. However, given the proliferation of technologies and new ICTs discussed previously, part of this assurance for the freedom of the press also entails fighting disinformation and curbing the spread of vast amounts of information that are tampered with to yield specific political outcomes.

In the context of the Fourth Industrial Revolution and the rapid advancement of ICT technologies, disinformation becomes a particularly dangerous tool that can be employed with great effect by those who wish to subvert democratic processes, such as elections, to achieve narrow goals that are not in the public interest. Examples of such disinformation campaigns can be seen widely in the form of deepfakes, where content is manipulated to the extent that a person could be presented as saying or doing something that they did not, by means of digital photo, video and/or audio editing and manipulation.

With new technologies being used to manufacture this level of disinformation it is important to first understand that disinformation has a direct bearing on democracy in that it has the potential to render it meaningless. This, in turn, gives rise to nationalism and authoritarianism. Secondly, the role of EMBs and media organisations in fighting disinformation is vital, whereby EMBs and credible media organisations need to be proactive rather than reactive in detecting disinformation so as to expose those elements who wish to subvert democratic processes.

The entire project of proactive detection requires integrity from within EMBs and media organisations, as well as a culture of openness and rights-based democratic freedom among citizens to identify disinformation and hold to account those who spread it. There is thus an urgent need for legitimate stakeholders in all spheres of society to communicate as appropriately and effectively as possible by using the most relevant modes of communication available.

As mentioned previously in this report, Africa is a young continent whose population finds it increasingly difficult to relate to how older social actors communicate. This leads in most cases to situations where old men are trying, and failing, to communicate effectively in fast-changing and youthful environments. In addition, media organisations must continue to engage in the current war on perceptions of reality. In an increasingly mediated world, the role of the media should not be to further obfuscate the democratic

process as much as it should be to shed light on how the process could work to the benefit of the majority, rather than minorities waiting for opportunities to undermine and exploit weak systems.

Section 4: Ensuring the integrity of results management systems

As the role of the media and freedom of the press are integral to upholding electoral and democratic systems, so too are systems used by EMBs to tabulate and manage election results. This is to ensure that what the media reports on, and ultimately what determines how people are governed, is as accurate and reflective of the will of the people as possible. This section takes a brief look at three key aspects of results management in the African context: firstly, with a discussion on aggregation and tabulation of results, then looking specifically at the role PVT can play in results management to either strengthen or undermine the electoral process, and lastly taking a closer look at whether results management systems in Africa are engendering transparency or legitimising fraud.

4.1 Aggregation and tabulation of results: the Achilles heel of elections?

Transactional trust, as discussed in the previous section, plays a major role in election results management as the integrity of any electoral system is determined to a large extent by the level of official transparency and EMBs' provision of relevant and accurate information. This entails enabling access to results at every level, in real time or as soon as possible, and providing aggregated and disaggregated results in the spirit of proper recordkeeping and accountability. As, also mentioned previously, there seems to be a tendency in Africa to assume that results are inaccurate, and to challenge them in court before elections are even held, let alone results being tabulated and published.

Also specific to the African context is the difficulty of ensuring proper communication owing to infrastructural and other challenges. As such, EMBs require high levels of organisation and competency to ensure that the correct standards of election results management are upheld. This discussion takes a brief look at results management in four countries that recently held elections where aggregation and tabulation played a role, in varying degrees, in determining the integrity of those elections.

Sierra Leone: Sierra Leone's 2018 elections were widely considered to be well run after the decision to have a runoff resulted in an alternation of power. By using PVT as a gauge to determine the validity of the official results tabulation, a sampling error of just 2% was recorded, meaning that the official count was as accurate as possible. Subsequent to the runoff, the ballot count was widely accepted to have been managed honestly.

Kenya: Kenya's 2017 elections, however, were mired in controversy after the results of the August elections were annulled by the country's Supreme Court. The court's ruling was based on the opinion that the results were generated in a procedurally flawed system. The elections were held again in October and resulted in the reinstatement of Uhuru Kenyatta as president. The Supreme Court's opinion was based on technicalities, whereby the country's heavily computerised results management system produced an inordinate amount of errors. The results tabulation in the October election were cited as being far better, with the errors in the annulled elections suggesting procedural shortcomings and communications difficulties rather than centrally coordinated and deliberate misrepresentation.

DRC: As discussed in previous sections, the DRC's 2018 elections were held after a two-year postponement due to contestation around automated voting machines. As Congolese law does not require results to be displayed at local centres, PVT was conducted by the Catholic Episcopal Commission, but results were nonetheless announced almost two weeks after the election. This was suspected by some to be a stalling tactic adopted by the incumbent Kabila in manoeuvrings for his party to maintain control of Parliament. In addition, the CENI did not release disaggregated results. Overall, as has already been discussed, there is a widespread perception of the DRC's 2018 election being a deal brokered between Kabila and opposition parties, with many questions still persisting as to whether the results of the elections are credible.

Malawi: Malawi's 2019 elections were marred by widespread predictions of rigging, with civil unrest and violence ensuing after the results were announced, handing incumbent President Peter Mutharika another term in office. The Malawi case highlights the general need in Africa for methods of tabulation and aggregation to be culturally embedded. Elections should be considered by all to be relevant and relate to people's understanding, will and desire for change, as opposed to being considered another democratic formality that only serves to reinforce the aforementioned democratic depression.

4.2 THE ROLE OF PVT IN STRENGTHENING OR UNDERMINING PERCEPTIONS OF ELECTORAL INTEGRITY

This discussion briefly unpacks the uses of PVT as a tool in electoral systems, and questions whether, if perceived and used appropriately, it could be a valuable element in the overall election results management toolkit. The discussion draws from the experience of applying PVT in Mozambique since 2003. It is important to state from the outset that one interesting conundrum African countries have faced since independence is that many countries hold elections that are widely considered credible, yet do not allow citizen observation. The implication here is that in order for citizens to experience the relevance of democratic processes such as elections, it is critical that they are able to participate as observers.

Since the 1980s, PVT has been used in various forms as a means to compare election results and make recommendations as to the validity of such results from an independent perspective, that is, one not aligned to any state institution, even EMBs. The contemporary trend in PVT is representative sampling using advanced statistical

methods, which brings statistical soundness to election observation processes. If used correctly, PVT could be a relevant tool in election observation to assess the quality and integrity of elections, especially with regards to results tabulation and management.

However, although PVT is mainly referred to and thought of in the context of citizen observation, it is increasingly being used by political parties. which has sounded alarm bells for the use of PVT as a credible mechanism in strengthening electoral integrity. With this in mind, it is important that PVT is firstly recognised as a mechanism and not an end in itself to justify the contestation of election results; and secondly, that PVT be understood and used for the public good only in the context of citizen observation exercises and not by political parties. The general principle governing the use of PVT is that the larger the sample, the smaller the margin for error. PVT is normally used for presidential elections, but it can be applied in other types of elections. In essence, the main purpose of PVT is to compare results solely for the sake of veracity and rigour. In this sense, if PVT is seen not as a tool to determine who won elections, it could lead to the detection and discouragement of electoral fraud. Ideally, PVT should form part of a comprehensive election observation approach.

In Mozambique, PVT was first sanctioned for use in the 2003 municipal elections. Experimentations with PVT continued in the country in subsequent elections, with varying degrees of success regarding sampling and other statistical errors., Aa year before the 2014 general elections, a new PVT methodology was employed using an open data kit and data collection and aggregation software using an app. This aided the process immensely and signalled a marked shift from the cumbersome and unreliable manual PVT practiced in the country in the past. However, as PVT yielded a discrepancy in the vote count in the 2014 election, largely due to the timing of releasing PVT results, the PVT was not accepted. The Mozambique Constitutional Council later ordered a rerun of the election. In the 2019 general election in Mozambique, PVT was practiced by means of a full open data kit, with PVT results being made available within six hours of polls closing. This means that PVT was concluded, and results coincided with the release of official results.

Given the successes and limitations of PVT, it is fair to suggest that PVT should not be used with the expectation of being a referee, or scapegoat, during any election. Another challenge faced by PVT is that until new methodologies are conceived, it remains heavily reliant on official results. However, PVT can help in identifying and quantifying data contamination where this occurs. To reiterate, PVT contributes to electoral integrity only in as much as it is used as a tool, and not a failsafe, in effectively detecting threats to integrity. In these cases, its findings may minimise, discourage or even counteract manipulation. Overall, what is required for PVT to be effective and useful in any democratic electoral system is the need for trust in the form of buy-in from all stakeholders concerned.

4.3 RESULTS MANAGEMENT SYSTEMS: ENGENDERING TRANSPARENCY OR LEGITIMISING FRAUD?

This discussion briefly interrogates whether the results management systems adopted by EMBs, which are supposedly independent and act in the public interest, either serve

to facilitate transparency in the electoral process or stifle the process by legitimising manipulation or fraud. With the previous discussion regarding the nullification of the results of Kenya's 2017 election in mind, this discussion will make further use of the Kenyan example. The August 2017 Kenya elections were nullified on the basis that they had shown the Supreme Court's procedural flaws, hence were open to manipulation.

What the Kenyan example also shows is that transparency in results management systems refers to accessibility and/or openness at each stage of the process, from the procurement of results management systems all the way through to implementation. This is to gauge the relevance such systems bear in the lives of ordinary citizens. In Kenya, there is an existing legal framework that is open to election observation, and it mandates that copies of election documents should be accessible, and that election results should be promptly published. Articles of legislation that relate specifically to elections and voting also stipulate that whatever method or system is implemented, it must be simple, accurate, verifiable, secure, accountable and transparent.

However, the same legal framework is prescriptive regarding the use of technology, which as the 2017 election experience highlighted, might be to the detriment of the integrity of Kenya's electoral process. The heavily computerised results management system was found not to meet principles of integrity, with the country's EMB, the IEBC, not having managed to process results in accordance with legal requirements pertaining to verification. In addition, the IEBC did not obey a court order to grant access to servers and system logs, as prescribed by law. What also motivated the Supreme Court's decision to annul the initial election results was what the court found to be the use of irregular forms.

In general, Kenya's case reflects that its legal framework does not correlate with its results management system, or that the results management system is not in keeping with the law. What this means, in essence, is that the country's entire electoral system is not a good fit for the country, which implies that the system is vulnerable to manipulation and direct threats to its integrity, with serious implications, in turn, for its democratic integrity. With this in mind, the issue of transparency remains key in any results management system, and legal frameworks must clearly stipulate the legally binding process in results management systems.

In addition, when technology is introduced into results management systems, there is a need for clear definitions around what constitutes results, as well as for such technologies to be strategically aligned, driven by EMBs, secure and procured timeously. In order for results management systems to engender transparency and not legitimise fraud, there is a critical need for them to be congruent firstly with legal frameworks; secondly with citizens in terms of their relevance; and thirdly, and most obviously, to be transparent in every respect from the manner in which they are conceived to how they are implemented.

Section 5: Trends in electoral justice: An abdication of the people's will?

This section deals specifically with the trend across Africa for election results to be contested in court. As previously mentioned, this trend has seen some political actors presupposing court petitions even before elections take place, which highlights the low level of perceived integrity in African electoral systems. However, and simultaneously, this trend also exposes how political actors are eager to contest elections to serve narrow interests, and thereby undermine electoral and democratic processes, with serious questions as to how this undermining process impacts on the overall integrity of democracy in Africa. The following discussions contextualise the increasing influence of the judiciary in African elections and how the timing of court judgments impact on the functioning of EMBs, especially in terms of their independence and impartiality.

5.1 THE GROWING ROLE OF THE JUDICIARY IN AFRICAN ELECTIONS

For many years, African judiciaries have been central to determining electoral outcomes; however, both petitioners and the courts themselves are ill-prepared to deal with the scope and implications of such determinations. With this in mind, it is paradoxical that although African countries in general have strong EMBs with increased observation and other mechanisms in place to verify results, the prevalence of disputed elections remains high.

The question then arises as to why elections are being disputed in spite of their operational and procedural integrity being strengthened. One reason could be the fact that elections in Africa are more closely contested now than previously, with a widespread shift in public sentiment towards larger parties and their incumbents. This is in the context of electoral systems having produced seemingly permanent winners in the past, as well as improvements to formal aspects of electoral systems. These have resulted in concerted efforts to manipulate elections by shifting to other elements of the process such as campaigns.

In addition, and as alluded to earlier in this report, democracy in Africa has historically offered little incentive to losing candidates in what has been described as the zero-sum approach to elections. Hence, it could be argued that in the absence of incentives for losing parties after elections, the increase in the judiciary's role in African elections could be seen as directly related to these losing parties seeking some form of grievance outlet from the courts for their loss. This is not in keeping with maintaining electoral integrity in any democratic process.

Since 2012 there have been six significant court petitions in Africa subsequent to elections. In Ghana, a court petition was heard and rejected; in Zambia in 2016, a petition was not heard and was rejected on a technicality; in Kenya in 2017, as has been discussed, the court petition was heard and was successful; in 2018 in Zimbabwe, a petition was heard but rejected; in 2019 in Nigeria, a petition was heard but rejected;

and in Malawi, also in 2019, a petition is still under way following allegations of large-scale vote-rigging by the incumbent Mutharika .

These and other petitions across the continent in recent years have revealed a paradox, wherein all petitions focus primarily on the accuracy of results. However, the challenges in court do not necessarily end up relating to accuracy more than they do to issues, particularly in terms of concentration of power and the manner in which narrow interests are perceived to be at the centre of this concentration. But the reason petitions could be seen as results rather than issues-based is that in the past, many African countries have indeed had instances where elections were manipulated. In addition, confusing coalition processes combined with unreliable information set a standard of sorts whereby if the electoral process cannot facilitate change, perhaps the courts might be able to do so.

But the quandary for petitioners is that even in instances where there might be an uneven electoral playing field, with ruling parties enjoying full concentration of power, as in the case of Zimbabwe, there is little quantifiable evidence to prove as much. The reason petitions are undertaken on the grounds of accuracy is that manipulation could be quantified in terms of the number of actual votes counted.

The growing role of the judiciary in elections in Africa indicates an assumption that judiciaries are independent and capable of offering redress to aggrieved petitioners. As was seen in the case of Kenya's 2017 election, where the Supreme Court annulled the results of the August presidential election and ordered a rerun, petitioning did, in fact, serve as a means for redress. Although the court found neither the ruling party guilty of manipulation nor that the results did not reflect the number of ballots cast, it did change the prevailing criteria for evaluating petitions by focusing on irregularities in electoral process management. However, despite this decision, and in the process broadening the criteria for assessing petitions to include adherence to the law, it is still unclear if the court would have annulled the election results if the ruling party was found to have manipulated the elections.

Although petitions may, in future, play a part in raising the standard for EMBs, they will also create new challenges. This is particularly as EMBs are not fully staffed on a full-time basis, with the increased likelihood of human error creeping in when ad hoc staff with limited training, and who are tired, work during elections. This challenge then further opens questions regarding human error and how much of it can be agreed on and permitted.

5.2 TIMING OF COURT JUDGMENTS AND THEIR IMPACT ON ELECTORAL ADMINISTRATION

Previous discussions have highlighted that in Africa, there is a tendency for over-reliance on potential court rulings on electoral matters, which in turn reflects a fundamental mistrust in the integrity of electoral systems. In addition, however, this trend has also brought to the fore that courts, specifically apex courts, have increased jurisdiction to determine presidential election petitions. Questions then arise as to why petitions are taken directly to apex courts instead of to lower and apparently more appropriate courts such as electoral courts.

Attempts to respond to these questions should take into account the various factors at play before, during and after elections in Africa, as well as the various perspectives from which petitions are lodged. In addition, petitions in Africa seem to be hybrids, involving elements of civil, criminal and administrative law. This might explain why petitioners go directly to apex courts, as these are generally seen to have the capacity to deal with hybrid cases. Given the perceived stature of apex courts, election dispute resolutions taken there are seen to render quick resolutions wherein a parity of status (i.e. that a ruling from an apex court holds a higher status than that from a lower court) and political legitimacy are assumed.

What does this perceived stature of apex courts mean for electoral integrity, especially when considering that apex courts, although seemingly independent, are themselves open to manipulation in that, in most African democracies, their judges are ultimately appointed by the executive? Assuming that they are independent, apex courts are in general structurally rigid and not as nimble when it comes to election dispute resolutions as lower courts could be. Their vulnerability to manipulation and inherent rigidity makes them susceptible to elite cohesion to avoid democratic accountability. The question then arises as to whether apex courts have the jurisdictional tools to protect electoral integrity.

The following tests are used for annulling election results: the prescriptive model, whereby quantitative triggers are sought; the outcome determinative model, wherein whatever is alleged must be proven to have changed the outcome of elections; and the common law hybrid model, which is disjunctive for compliance with law and conjunctive for electoral irregularities. However, the use of these tools is itself open to manipulation and external influence if judiciaries are not independent and are not seen to uphold standards of integrity.

Accordingly, establishing courts' jurisdiction for ruling in cases of election disputes should be approached with caution as they immediately sound alarm bells in terms of possible threats to independence and integrity. Compounding this threat is the high-stakes, yet high-yield potential, of hearings in appellate courts. This notwithstanding, the increase in petitions in Africa draws attention to several aspects: that this might be an important avenue to realise the need for legal and electoral reforms; that the threat this increase poses to electoral integrity is that petitions are weak rather than that courts are strong (petitions are often thrown out on the basis of technicalities, rather than merits of the case); that the courts have limited capacity for investigation; a lack of access to election materials during petition proceedings; and the burden to show irregularities.

Section 6: Integrity of postponed elections

Along with the increase in court petitions, there has been a noticeable increase in election postponements in Africa for various reasons. This section takes a brief look at three African countries that recently postponed elections for different reasons, as well as whether these postponed elections displayed levels of integrity in keeping with democratic standards.

6.1 SIERRA LEONE CASE STUDY

After there was no clear winner in the first round of Sierra Leone's 2018 elections, a runoff was announced, which took place three weeks after the first round. Although the runoff produced an opposition winner, it did so by a very narrow and somewhat controversial margin, with the use of PVT in the runoff eventually averting what could have been a catastrophe.

The country's 2018 elections were by far its most challenging in that the first round itself was held after the controversy concerning the president's delay in setting the date for presidential and parliamentary elections. This opened up possibilities for certain political actors to take advantage. The presidential election went to a second round, as no candidate met the 55% threshold. Again, there were tensions around the date for the runoff election. This potentially volatile situation was further compounded when three days before the agreed date for the runoff, the high court handed an interim injunction preventing the National Elections Commission (NEC) from proceeding with the election on the grounds of allegations of electoral fraud. However, the real reason for this postponement is widely considered to be that the ruling party had lost the first round. As the High Court did not have jurisdiction to hand down an injunction, the NEC appealed the ruling in the Supreme Court.

The High Court's injunction was met with robust civil society mobilisation led by the National Election Watch (NEW). The NEC's appeal in the Supreme Court led to a stay on the interim injunction. The impact of this was threefold. Firstly, from a political perspective, the period during the postponement saw widespread proliferation of fake news in a tense political atmosphere, and a sense of disenfranchisement among citizens. Secondly, from a financial standpoint, during the postponement the country's economic activities came to a standstill; and thirdly, from a technical perspective, the injunction led to an abrupt exit of some international EOMs, meaning that citizen observers had to re-strategise their deployment and the military was called in to strengthen security.

Overall, the integrity of Sierra Leone's electoral process was threatened and undermined by the postponement, considering the tense atmosphere that prevailed between the runoff and the announcement of the results. However, through the effective use of PVT, tensions were somewhat calmed. The post-election period in Sierra Leone has also been characterised by a series of by-elections.

6.2 NIGERIA CASE STUDY

Since Nigeria's return to democracy, three elections have been postponed. In 2011, logistical challenges led to no election materials being available in all areas; in 2015, the country faced security issues due to the terror threats posed by Boko Haram; and in 2019, elections were postponed hours before commencement due to the inability of the Independent National Electoral Commission (INEC) to deploy election materials and manage logistical arrangements in all parts of the country.

However, these reasons for postponement are widely considered to be invalid, as corrective and/or mitigative measures could have been put in place and established ahead of the elections. INEC's inability to adopt and adhere to a viable electoral calendar and adequately manage logistics has challenged the integrity of the electoral process. This issue comes into sharp focus when considering that the polls opened later than the official time during the postponed elections, and in some cases voting stations only opened at 1pm. The postponements, therefore, did not improve the logistics for the elections.

The postponed elections had the following impact on the integrity of Nigeria's electoral process: declining voter turnout due to the unpredictability of the commencement times; mistrust in the system as a whole; voter apathy; and disregard for the sanctity of electoral procedures and operations. As such, these postponed elections favoured only incumbents and not smaller parties, and certainly not the people. So it could be safely assumed that the postponement of elections in Nigeria has threatened electoral integrity in the country and, as a result, undermined the credibility of its democracy.

6.3 DRC CASE STUDY

Given the discussions in the previous sessions regarding elections in the DRC, specifically in terms of the country's most recent elections, the postponement of elections has greatly led to what is seen as deterioration of the legitimacy of elections in the country. Even though the DRC has experienced an alternation of power, this alternation is seen to have come at the expense of the integrity of the electoral and democratic systems.

The postponement and emergent issues in the DRC highlighted an active and deliberate process to preserve and protect private financial and economic interests, especially in the context of the country's rich resources in terms of forestry and mining. In addition, the current state of elections and democracy in the DRC indicates that powerful political actors are using any available means to preserve their own interests. This plays out against the backdrop of a dire need for improvement in the lives of the majority of the country's people.

International influence in respect of business interests in the DRC largely reinforces the political status quo. The concentration of power does not allow for the basic elements of a strong electoral system such as an agreed and published electoral calendar, and powerful actors are able to modify the country's electoral legislation at will. In addition, the sheer cost of elections in the DRC flies in the face of the country's dire poverty and, as such, their relevance is not fully realised by ordinary citizens.

Overall the postponement of the 2018 election in the DRC had a negative impact on popular trust in the system. This endorses the common thread running throughout this report, which suggests that electoral integrity is heavily dependent on, and directly related to, the integrity of the actors involved. It is only once a degree of morality and a code of ethics is instilled that real and widespread change can take place.

Section 7: Conclusion and recommendations

This concluding section briefly highlights some of the recommendations made by delegates during the final session of the symposium. Given issues raised during discussions and presentations, as reported above, the emerging challenges to electoral integrity should be understood as multifaceted in that they are not only symptomatic of elections, but rather the broader democratic systems in which they occur. The adoption of this holistic view might assist in strengthening public policy, not only in terms of elections, but also the manner in which socioeconomic development in Africa is conceived from a rights-based standpoint.

A salient and underlying theme drawn from the symposium is that trust is integral in any human endeavour, especially at the intersection of politics, economics and democratic governance. Accordingly, trust implies that there is a shared understanding and responsibility to uphold and promote standards of integrity that transcend narrow interests and myopic gains. In this way it contributes to working towards a common vision that entails prosperity on a continent so ravaged by the effects of its past, yet with the potential to offer new and fresh insights and opportunities, not only regionally but globally.

The topic of this symposium was timely in discussing matters related to electoral integrity in Africa. The symposium afforded the opportunity to identify issues that could be resolved collectively in order to spread understanding and assurances of integrity across the entire democratic system, with trust, socioeconomic development and freedom at the centre of the entire project. What this means, in essence, is that through finding ways to strengthen electoral integrity, opportunities for broader solutions can emerge.

7.1 RECOMMENDATIONS:

- Strengthen voters' registers/rolls by finding ways to merge EMB registers with civic registers

- Strengthen integrity regarding election calendars
 - Set dates and adhere to them
 - Strict implementation of election programme

- Bridge the trust divide
 - Focus on building trust in EMBs to promote integrity
 - Appropriate communications strategies for EMBs
- Election dispute resolution mechanisms should avoid delays and look at possible ways of benchmarking to avoid petitioning in apex courts
- Increase civic education around elections and what electoral integrity means
- Increase the use of multiparty liaison committees as an election dispute resolution mechanism throughout the electoral cycle, and at all levels, including the community level
- Conduct more in-depth research on the cost of elections in Africa to set benchmarks
- Budgeting and funding to be immune from interference from executive
- Pay attention to independence, especially that of the judiciary and EMBs
 - For example, CSO monitoring and oversight of EMBs
- As concerns increase around judiciaries' influence on elections, it would be worthwhile for members of various judiciaries to be invited to and attend symposiums such as these
- Deepen democracy by ensuring citizen observation, especially among young people; and promote a culture of volunteerism
- Improve logistics
- Find innovative ways to strengthen the electoral process by identifying the most relevant technology
- Develop a barometer for electoral integrity which takes into account pre-election processes.

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