

Journal of African Elections

ARTICLES BY

André Mbata Mangu

Timothy B Reid

Tlohang W Letsie

Anja Osei

Adriano Nuvunga

Eduardo Siteo

Tom Wolf

Lloyd M Sachikonye

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HOUSEKEEPING NOTES

There is a sense in which the study of elections has to catch up with the speed of developments on the ground. This is not a new problem, of course: intellectual and academic work invariably lags behind real world developments. But recognising that it is not new does not make it acceptable any more than recognising the truth in the old saying that the world has problems but universities have academic departments.

The question is how to bridge the gap.

One of the ways, of course, is to better utilise the *Journal of African Elections*. Although our resources are limited, these pages could serve as the ideal platform for a deeper conversation about the ways in which the study of elections – in Africa and elsewhere – might better meet the innumerable challenges it faces. This conversation might begin with a consideration of the notion of whether the study of elections is the same as what in formal Political Science is called ‘Electoral Studies’.

All too often ‘Electoral Studies’ takes a narrow approach to elections, based on statistics, in the great positivist tradition of American social *science* – with the idea that the social world can be reduced to a science, as in the study of the natural sciences. This kind of research often takes years to ripen, by which time political and other caravans have moved on.

More humanistic-centred study of elections reveal, among other things, that they are culturally-rich events in which symbolism plays an enormously important part. Arguably, this kind of research can be produced more quickly, although it, like all serious academic work, requires deep reflection.

My point here is not to pit one of these methods against the other, but to wonder aloud whether readers of the *JAE* think that a debate on the study of elections – whatever guise this takes – might find a place in these pages.

Peter Vale
Editor

OBITUARY

JOHN MAKUMBE: SCHOLAR, ACTIVIST AND AUTHOR¹

There were many warm tributes for John Makumbe both inside and from outside Zimbabwe, on his passing on 27 January 2013. The community of scholar-activists in Zimbabwe is not a large one so when one as distinguished as John Makumbe passes on, a huge gap is created. He was a rare example of a highly learned scholar who was also a resilient activist for social justice, human rights and democracy.

Often at the centre of various campaigns in different civil society organisations and forums, Makumbe invested a great deal of his time, indeed of his life, in denouncing institutions and conditions that curtailed freedom and justice. In this he was fearless where others were timid, blunt where some were reticent and eloquent where others were obscure in their analysis of authoritarianism and repression in Zimbabwe. He could be relied upon to 'call a spade a spade' in Zimbabwean politics and to remind us if and when the 'emperor had no clothes'.

John Makumbe was born on 6 May 1949 in the Buhera district of Manicaland province in eastern Zimbabwe. First trained as a school teacher in the early 1970s, he later studied for a BA in Administration at the then University of Botswana, Lesotho and Swaziland (UBLS). Following independence in 1980, he completed his BA Hons in Administration at the University of Zimbabwe before proceeding to his PhD studies, which he completed in 1986 at the University of Tasmania in Australia.

He was thus one of a remarkable set of scholar-activists who obtained their doctorates just before or after independence and transformed the teaching of Political Science and Administration at the University of Zimbabwe. This trio, consisting of the late Masipula Sithole, the late Elphas Mukonoweshuro and John himself, brought an intellectual vibrancy that was felt in the wider society. Their yearning for a more democratic and just society motivated them to participate actively and take the lead in civil society. They demonstrated that it was possible, indeed necessary, to organise to make society more humane and conscious of its basic freedoms.

Active in different civil society organisations at different times, for the past 25 years John Makumbe had juggled his time among lecture rooms, public seminars and the various campaigns in which he was involved. He was the model of a 'public intellectual', as much at home in the seminar room as in public debates, where his sharp wit and delicious humour were legendary.

1 An earlier version of this tribute appeared in the *Zimbabwe Standard* on 3 February 2013

Regardless of the sensitivity of the theme of the debate he had the gift of being lucid, blunt and humorous at the same time, a disarming tactic that confused his critics. A treasured source of quotes for print journalists and the electronic media, John was forever ready to offer the most apt comment on topical governance issues. He was equally fluent and clear in the regular columns he wrote for the *Zimbabwean* and the *Worker* newspapers.

Of course, his sharp commentary and active work in civil society brought John Makumbe some critics. When the state media carried pieces on the role of intellectuals and non-governmental organisations in society, he was often one of those 'named' and 'demonised'. Terms such as 'sell out' were used and this must have hurt Makumbe, despite the humorous gloss he put on his responses. Such criticism is, perhaps, inevitable when an intellectual refuses to be co-opted by an authoritarian state and persists in 'speaking truth to power'. As they say, 'it goes with the territory'.

Makumbe wrote many journal articles and several books on administration in Zimbabwe, but his best book was *Behind the Smokescreen* (UZ Press), which he co-authored with Daniel Compagnon in 2000. It remains one of the sharpest analyses of the defects in Zimbabwe's electoral system that made possible the rigging of elections. He enjoyed my praise of this book and warmly returned the compliment when my own, entitled *When the State turns on its Citizens* (Jacana Press), was published in 2011.

Makumbe worked hard to earn his professorship and could have climbed to further heights if he had left for the diaspora. But it was the measure of the man that he remained modest and stayed on at home 'with the people', to organise and struggle for democratic change. He often spent his sabbaticals as a guest lecturer at Michigan State University in the US and his stature was acknowledged when, in 2004, the University of Birmingham conferred an honorary LLD on him 'on the strength of his brave and principled commitment and integrity in Zimbabwe, and in Africa more broadly'.

John Makumbe's intellectual and public outreach is all the remarkable when set against his inherited condition of albinism. In his childhood he struggled against the deep prejudices against albinos at family, school and community levels. As he once told an interviewer, 'because I am an albino, I grew up being insulted by schoolmates, and I started fighting when I was pretty young. After a while, they would still insult me, but they would do it while running away!'

In later years, Makumbe turned his albinism into a source of humour, introducing himself as 'the white man from Buhera'! In 1996 he founded the Zimbabwe Association of Albinos, an organisation dedicated to looking after the welfare of albinos. In a society in which superstition about the causes of albinism and in a wider regional context where, as in Tanzania in recent years, albinos have

been attacked and killed for their body parts for witchcraft or 'medicine', John was an important role model.

He was a highly esteemed board member of many civil society organisations, including, among others, Crisis in Zimbabwe Coalition, National Constitutional Assembly, Transparency International (Zimbabwe Chapter) and the Mass Public Opinion Institute. They will sorely miss his passion and wisdom.

At the time of his death John Makumbe had spent more than 25 years teaching at the University of Zimbabwe. He had hinted that he intended to campaign for a parliamentary seat in the general elections in mid-2013. But that was not to be.

Zimbabwe is all the poorer for losing such an illustrious public intellectual, activist and humanist. It is, however, richer for having benefited from his contribution and example. The best memorial for him would be to pick up from where he left off. Makumbe's ideal was a society in which pluralism and diversity in thought and politics were respected and protected. No matter how much Zimbabweans may disagree on some issues we would still be Zimbabweans at the end of the day, he believed, hence the need to nurture a culture of intellectual and political tolerance. *Mufambe zvakanaka* (Go well) professor.

*Lloyd Sachikonye
Institute of Development Studies
University of Zimbabwe*

DEMOCRACY AND STATES' COMPLIANCE WITH REGIONAL AND SUB-REGIONAL ELECTION BENCHMARKS IN AFRICA

*The 28 November 2011 elections in the
Democratic Republic of Congo in retrospect¹*

André Mbata Mangu

André Mbata Mangu is Research Professor, Department of Public, Constitutional and
International Law, College of Law, University of South Africa
Professeur, Faculté de Droit, Université de Kinshasa
e-mail: manguamb@unisa.ac.za

ABSTRACT

Since the beginning of the century elections have been held regularly in several African countries. Unfortunately, these elections have generally failed to comply with regional and sub-regional electoral norms adopted to promote credible and transparent elections and contribute to democratic consolidation. The Democratic Republic of Congo (DRC) is a representative and dramatic case of the region's experience with democracy and multiparty elections. This article reflects on democracy and the 28 November 2011 presidential and parliamentary elections in the DRC. It revisits the concepts of democracy, elections and the rule of law, which are at the heart of this reflection, and the relationship among them. It examines the electoral laws and processes, the social-political and social environment as well as national and international reactions to these elections in the DRC, which is a representative but dramatic case study of Africa's experience with democracy and elections. It then assesses the DRC's compliance with the regional and sub-regional norms and principles governing democratic elections. It concludes that the DRC unfortunately failed to comply and draws some lessons about democratic consolidation in Africa.

¹ This article is based on a paper delivered at a regional conference on the *Rule of Law and Elections in Africa*, organised by the International Commission of Jurists (ICJ) in Victoria Falls, Zimbabwe, from 20 to 21 September 2012. I wish to thank the ICJ for inviting me to the conference.

INTRODUCTION

Since the beginning of the 21st century several African countries have gone to the polls. In 2011 alone, general elections were held in Cameroon, Chad, the Central African Republic, the Democratic Republic of Congo (DRC), Seychelles, São Tomé and Príncipe and Zambia. Angola, Egypt, Ghana, Senegal, Sierra Leone and Somalia held presidential elections in 2012. Kenya's election took place in March 2013 and Madagascar and Zimbabwe are also expected to vote in 2013, while Malawi and South Africa will go to the polls in 2014.

The 2011 elections in the DRC were probably the most controversial in Africa's history. Were they credible or were they a fiasco? How was the electoral process conducted? Did the elections comply with regional, sub-regional and even national norms and principles governing democratic elections? What were the national and international responses to the results of the elections? Did they advance and consolidate democracy in the DRC? What lessons can African people learn from these elections as they go to the polls regularly but still struggle to consolidate democracy on the continent?

This article reflects on democracy and elections with reference to the 2011 presidential and parliamentary elections in the DRC, which are a representative but dramatic case of Africa's experience with democracy and multiparty elections. This case is already well documented (MNO 2011; *Ligue des Electeurs* 2012 and the websites www.afriquejet.com/election-rd-2011120128598.html, www.cartercenter.org and eeas.europa.eu/eueom/missions/2011/Congo; <http://blog.liguedeslecteurs/net>).

It revisits briefly the three key concepts of democracy, elections and the rule of law and the relationship among them. It deals with the electoral law and the institutions responsible for the 2011 elections in the DRC, the pre-electoral period and surrounding controversies, the electoral period and proclamation of the results and national and international reactions to these elections.

It then examines the regional and sub-regional benchmarks and applies them to the 2011 DRC elections, finding that the elections did not comply with the benchmarks, as they were marked by several irregularities and were not credible, democratic or free and fair. The conclusion summarises the findings and recommendations.

DEMOCRACY, ELECTIONS AND THE RULE OF LAW IN AFRICA

Democracy, elections, and the rule of law are distinct but interrelated concepts (Mangu & Budeli 2008, pp 103-109, 112-113). Nwabueze (1973, p 1) points out that '[n]o word is more susceptible of a variety of tendentious interpretations than

democracy'. There is widespread agreement that democracy is 'a good thing'. The adjective 'democratic' almost inevitably connotes praise, while 'undemocratic' implies censure (Wiseman 1990, p 4; Mangu 2002, p 173).

According to Schochet (1979, p 1), the 'veneration' of democracy is among the enduring and probably justified vanities of liberal political theory. Ronen (1986, p 1) contends that '[d]efining democracy is a challenge'. Depending on the scope of democracy, two major conceptions of the term may be identified, namely the minimalist and maximalist conceptions (Nyang'oro 1996, p x; Wiseman 1996, pp 7-14; Sklar 1996, p 166; Shivji 1991a, pp 27-69). The clue to understanding democracy is based on this vital distinction (Hinden 1963, pp 6-8; Mangu 2002, p 175).

Minimalist conceptions are based on institutions of government and related institutions such as political parties and pressure groups, elections and the rule of law. Democracy is defined as a specific political machinery of institutions, processes and roles (Ronen 1986, p 200). The notion of procedural or institutional democracy is found in Robert Dahl's concept of polyarchy (Dahl 1971; Dahl 1989, pp 220-24; Sorensen 1996, p 42; Wiseman 1996, p 8).

In minimalist terms, democracy is synonymous with competitive, multiparty democracy and elections. It is representative democracy, also labelled 'Western' or 'liberal' democracy. According to Sandbrook (1996, pp 137-38), it is

a political system characterized by regular and free elections in which politicians organized into political parties compete to form the government, by the right of virtually all adult citizens to vote, and by guarantees of a range of familiar political and civil rights.

Amin (1996, pp 64-70) argues that, in minimalist terms, democracy privileges individual and political rights over collective and socio-economic rights and the rights of the minority (bourgeois) over those of the people.

Glaser (1996, p 270) also blames Western 'formal democracy' for being 'irretrievably associated with individualism, formalism and reformism'. As for Shivji (1991b, pp 254-255; 1992, p 2), he regretted that democracy was frequently, if unconsciously, conflated with its liberal form – a parliamentary or multiparty system – and with constitutionalism and individual rights and freedoms rather than interrogated as a form of struggle and the mode of politics of the large majority of the working people.

While minimalist scholars define democracy as a process and a set of institutions and focus on political democracy, emphasising individual and political rights, maximalist conceptions concentrate on the substance and values of democracy, the most prominent among them being social equality, and on

collective and socio-economic rights (Glaser 1996, p 251). Maximalist scholars such as Ake (1996, pp 132-134) advocate social democracy that places greater emphasis on concrete political, social, collective and economic rights rather than liberal democracy, which emphasises abstract individual and political rights. Social democracy is popular, participative and substantive democracy (Ake 1996, pp 137, 139; Shivji 1991b, pp 254-255; Shivji 1992, p 2).

Glaser criticises the maximalist conception of democracy for its emphasis on social equality, substantive democracy and collective rights, to the detriment of formal, legal equality, formal democracy and individual rights. According to Glaser (1996, p 251), civil liberties and political pluralism are indispensable to any social order claiming to be democratic and should not be judged or jettisoned on the basis of instrumental criteria.

Therefore, democracy as a system of government includes the institutions, principles, individual, civil and political rights championed by minimalist scholars as well as the values and the collective and socio-economic rights defended by maximalists.

Elections and democracy have become virtually synonymous in Western political thought and analysis (Joseph 1999, pp 9-11; Bratton & Posner 1999, p 378; Haberson 1999, p 39; Mangu 2002, p 196). In the liberal conception, 'elections are the defining institution of democracy' (Bratton & Posner 1999, p 378).

Ake (1996, p 130), remarks that in the race to globalise democracy after the Cold War it was reduced to the crude simplicity of multiparty elections to the benefit of some of the world's most notorious autocrats, who were able to parade democratic credentials without reforming their repressive regimes.

According to Olukoshi (1999, p 456), the embrace of dubious electoral and political arrangements on the grounds that at this stage of Africa's development it is the only outcome that can realistically be expected, is very problematic. Bratton & Posner (1999, pp 378-79) argue that formal procedures for elections do not create a democracy.

In Africa, as in Asia and South America, for instance, experience has shown that elections can co-exist with systematic abuses of human rights and disenfranchisement of large segments of the population and that authoritarianism may tie the knot with elections and multipartyism and frequently does (Conac 1993b, p 492). However, it would be wrong to suggest that elections and multipartyism do not matter for democracy. In our modern era one can have elections or multipartyism without democracy, but it is difficult, if not impossible, to consider that modern democracy can do without elections and multipartyism (Bratton & Posner 1999, pp 379; Conac 1993a, p 5; Conac 1993b, p 492; Glaser 1996, pp 249-250; Mangu 2002, p 199; Nzongola-Ntalaja 1997, p 15; Pelletier 1993, p 477). African people are not interested merely in elections but in free and fair

or democratic elections. However, these can only be held within the parameters of the rule of law.

On the initiative of United Nations (UN) Secretary-General Ban Ki-moon, the rule of law was the theme of the debate at the UN General Assembly in September 2012. According to Lakhdar Brahimi, the rule of law 'was originally a narrow, legalistic concept, meaning that no man is punishable except for a distinct breach of the law, established in the ordinary courts of the land'. The concept has now acquired a much wider meaning, requiring the existence of just laws and respect for human rights (Brahimi 2002, p 10; Melber 2012, p 1). In its modern sense, the doctrine of the rule of law has come to include principles such as the independence of the judiciary, legal certainty, control over legislatures and over the exercise by state organs of discretionary powers, limitation of governmental powers by way of checks and balances and effective judicial remedies for the enforcement of fundamental rights (Carpenter 1997, pp 959-60; Mangu 2002, p 115). The modern concept of the rule of law promotes human rights and democratic values such as formal and substantive equality, human dignity, popular sovereignty, human and peoples' rights, justice and popular accountability.

According to Conac (1993b, p 485), there is a close relationship between democracy and the rule of law or the French concept of *état de droit*. Democracy is the political transposition of the *état de droit* and the rule of law its legal transposition. *Etat de droit* does not necessarily mean the *democratic* rule of law. Badinter (1993, p 9) argues that the emphasis should be on democratic *état de droit* or rule of law, since the adjective is important.

The rule of law does not merely mean that laws should rule, but, as Badinter (1993, p 9) and Brahimi (2002, p 14) point out, such laws should be just and the rule of law should have a strong human rights component. Unjust laws and laws which do not promote and protect human rights should not be allowed to rule, but should be combated and this, unfortunately, cannot be done by using the same laws.

A distinction needs to be drawn between domestic rule of law and regional or international rule of law. The international rule of law is based on legal instruments adopted within the UN and regional organisations such as the European Union (EU) and the African Union (AU). National rule of law is based on a constitution, which is the supreme law of the land, and on other pieces of legislation. It should comply with enshrined norms that constitute the international rule of law. The two are interrelated – the credibility of national rule of law depends on its compliance with international rule of law.

Elections are a political game and, like any other game, are subject to the rule of law. It is unlikely that there will be credible, democratic, free and fair elections if the state that holds them fails to abide by the rule of law. An inquiry into the 2011

elections in the DRC may help revisit the electoral process and examine whether it complied with the norms and principles of the rule of law.

THE 2011 ELECTIONS: ELECTORAL LAW, OPERATIONS, RESULTS AND REACTIONS

On Sunday 28 November 2011, for the second time under the current Constitution, which was adopted by a referendum held on 18 and 19 December 2005 and promulgated on 18 February 2006, the DRC organised a presidential election and the election of the members of the National Assembly, which is the second house of Parliament (DRC Constitution 2006, Article 100).

Electoral law, establishment of the National Independent Electoral Commission and pre-electoral operations

A number of steps were taken in preparation for the elections. According to the principles of the rule of law, legislation had to be adopted to govern the electoral process, starting with voter registration and ending with the proclamation of the results and the judicial settlement of electoral disputes.

Electoral law consisted of two major instruments, namely the Constitution (Arts 1, 5, 7, 8, 64, 69-71, 101, 193, 104, 160-163, 197-198, 211-212, 223),² the Act relating to the organisation and functioning of the National Independent Electoral Commission (NIEC) and the Electoral Act. On 20 January 2011 Parliament amended the 2006 Constitution to provide for the election of the president by a simple majority vote (DRC Constitution 2006, Art 71).

Earlier, Parliament passed legislation on the NIEC (DRC Act 2010, No 10/013), which is an independent body established by the Constitution (Article 212) to

2 Art 1 provides that the DRC is a 'democratic' state. In terms of Arts 6, 7, and 8, political pluralism or multipartyism is recognised. According to Art 5, sovereignty belongs to the people who exercise it directly through a referendum or elections and indirectly through their representatives. The conditions for organising elections and referendum are determined by law. Art 7 prevents anyone from establishing a single party on all or part of the national territory. Art 8 relates to the recognition of the opposition. In line with Art 4(p) of the AU Constitutive Act, Art 64 outlaws *coups d'état* and any change of government, while enshrining the 'right to revolution' or 'rebellion' against anyone who would seize power and rule the country in violation of the Constitution. Any attempt to overthrow a constitutional regime would constitute high treason. Arts 69-71 deal with the election of the president. Arts 103 deals with the election of the members of the National Assembly and Art 104 with the election of the Senate. Arts 160-163 refer to the Constitutional Court, which is also the judge in disputes related to presidential and parliamentary elections. Arts 197 and 198 refer to the election of the members of provincial assemblies ('provincial deputies'), the governor and the vice-governor. Arts 211 and 212 provide for the establishment of two supporting democratic institutions, namely the National Independent Electoral Commission (Art 211) and the High Authority of the Media (Art 212). As for Art 223, it provides that pending the establishment of the Constitutional Court its powers are vested in the Supreme Court of Justice.

conduct and preside over the electoral process. Finally, an Electoral Act (DRC Act 2011, No 11/003) was enacted.

The NIEC, which replaced the Electoral Independent Commission (EIC), which had organised the first elections under the current DRC Constitution, in July 2006, was mandated to manage the electoral process from voter registration to the proclamation of the provisional results. It was to be organised at national, provincial, municipal and local levels and to be presided over by a bureau consisting of seven members (four from the majority and three from the opposition) elected for six years by the National Assembly (DRC Act 10/013 of 2010).

The first step towards the elections was the adoption by Parliament of Act 10/013. The process was delayed by disagreement over the composition of the NIEC bureau, with the majority rejecting the nomination of Senator Jacques Djoli, a member of the Mouvement de Libération du Congo (MLC), the leading opposition party, as they thought he would be an obstacle to the re-election of their leader, President Joseph Kabila.

For their part, the opposition rejected the nomination of Revd Daniel Ngoy Mulunda, who was likely to lead the NIEC, on the grounds that he came from the same province (Katanga) as President Kabila and was a founding and influential member of the presidential party, the Parti pour le Progrès, la Reconstruction et la Démocratie (PPRD). The opposition believed the election would be rigged in favour of the president and the majority and the NIEC would lose its autonomy and impartiality if Revd Mulunda were to preside over the bureau. Finally, after weeks of stalemate, the two sides agreed to adopt each other's lists and the bureau was inaugurated. It was able to start work once the Electoral Act (Act 11/003 of 2011) was passed, enabling it to adopt its guidelines, appoint its personnel at provincial and local levels, register voters and candidates and publish the provisional lists of candidates for the presidential and, later, National Assembly elections.

It ordered the electoral material, including ballot papers, and supervised its distribution to voting stations. In terms of the Constitution and the Electoral Act, the Supreme Court of Justice, acting as the Constitutional Court pending the court's inauguration, was competent to deal with disputes related to the provisional lists of candidates published by the NIEC.

Campaigning took place over a 30-day period, ending one day before election day on 28 November. The campaign period was marked by a number of problems and controversies, with the first relating to the presidential election and the constitutional amendment of 20 January 2011.

The 2006 Constitution provided that the president would be elected by an absolute majority (more than 50%) of the total number of votes. If no candidate

obtained such a majority a second round would be organised, with the candidates being the two who obtained the highest number of votes in the first round (DRC Constitution 2006, Art 71).

President Kabila's party and supporters anticipated that their candidate would hardly get through the first round and was likely to lose to a common opposition candidate, as had happened to President Laurent Gbabgo, who lost to Allasane Dramane Ouattara in Côte d'Ivoire. To play it safe, the possibility of a second round had to be ruled out by an amendment to Art 71. The amendment, which the opposition contended was undemocratic, was adopted by Parliament, where President Kabila had a strong majority, paving the way for his re-election since an absolute majority was no longer required and the opposition failed to unite behind a single candidate.

The second controversy related to voter registration and the publication of the voters' roll. According to Articles 6 and 8 of the Electoral Act, the NIEC had to publish the national voters' roll and the list of registered voters by province and constituency at least 30 days before the electoral campaign began. In each voting station the lists of registered voters, including their names, places and dates of birth, sex, domicile or habitual residence had also to be published at least 30 days before election day. This never happened.

There were also complaints during the voter registration period that the corrupt voters' roll that had been used for the 2006 elections had not been cleaned up. The names of several hundred thousand people who had died or been displaced since then still inflated the number of voters, particularly in the five provinces (Eastern Province, Katanga, Maniema, North Kivu and South Kivu) which were biased in favour of President Kabila. There were innumerable cases of multiple registrations as one voter could register in many places without this being discovered. Moreover, members of the police and the Congolese army, who were excluded by the Electoral Act from voting but favoured Kabila, were allowed to register. The NIEC and President Kabila's political coalition rejected all attempts by the opposition to audit the voters' roll.

Controversy also surrounded the logistics and the equipment (laptops and computers) used to save the data. Despite the fact that the the equipment was supplied by impartial providers such as the Chinese, Belgians and South Africans, these countries were accused of backing President Kabila's re-election, as was the United Nations Stabilisation Mission in the DRC (MONUSCO), which secured the transport of electoral personnel and material around the DRC. The equipment was said to have been corrupted in advance to produce figures that would contribute to President Kabila's re-election.

The NIEC and the government refused to allow the opposition access to the equipment or to audit the data recorded. The printing of the ballot papers

was another source of controversy. The total number of voters was classified information for the incumbent president and his supporters in the NIEC. Nobody apart from them knew the exact quantity and cost of the electoral material or who was providing it. The suppliers were based in countries that supported the incumbent president. In exchange for lucrative commissions to be paid to the members of the NIEC, a private Johannesburg-based company was contracted to produce ballot papers. Millions of these ballot papers were dispatched to the DRC in private planes and trucks that first landed or arrived in the Eastern DRC, especially in President Kabila's native province of Katanga.

Disputes during the pre-electoral period also related to the timing of electoral operations and to election day, both of which were unilaterally determined by the NIEC and the ruling coalition in violation of the Constitution. According to Article 73 of the Constitution, the presidential election should be held at least 90 days (three months) before the end of the term of the incumbent president. The opposition complained that this provision was violated by the NIEC's decision to hold the elections on 28 November, which was only seven days before the end of the president's five-year term, which had started on 6 December 2006. The opposition also complained that, in violation of Arts 149 and 161 of the Constitution, an independent Constitutional Court had not been inaugurated to serve as the final judge of the electoral process to ensure that the elections were credible, transparent, free and fair. The president had not promulgated the relevant legislation despite the fact that it had long been adopted by Parliament, and retained in office the Supreme Court of Justice, whose members he appointed and could dismiss at will. The opposition, therefore, held that it was imperative to establish the Constitutional Court if the elections were to be credible, transparent, free and fair.

All the opposition's challenges to these violations failed. Meanwhile, several human rights violations, most of them aimed at securing Kabila's re-election by weakening his opposition, were reported around the country, as were incidents of violence and murder perpetrated by the armed forces and security services.

The police, the armed forces and the administration, which, in terms of the Constitution, were expected to be apolitical and impartial (Constitution 2006, Arts 183, 188, and 193) were biased in favour of Kabila and the ruling party and, among the rights that were violated were the constitutional right to freedom of thought and conscience, the right to freedom of expression, the right to information, the right to assemble and the right to demonstrate peacefully and unarmed (Constitution 2006, Arts 22- 26). Despite the establishment of the High Authority of the Media, which was constitutionally mandated to guarantee their impartiality (Constitution 2006, Art 212) and the constitutional obligation for the public media to be accessible equally to all political parties and social forces, public radio and television were hijacked by the ruling coalition.

As a minority, the opposition was unable to prevent the electoral process being run by the NIEC and the Supreme Court of Justice in the service of Kabila and his ruling coalition. In September 2011 the NIEC published the provisional list of candidates for the presidency and the National Assembly. The Supreme Court of Justice confirmed the lists, retaining all 11 presidential candidates proclaimed by the NIEC.

Some of these were independent candidates, but the overwhelming majority represented political parties. Attempts by the opposition to rally around a single presidential candidate to oppose the president failed.

Table 1
Presidential candidates

Candidate No	Name	Political affiliation
01	Andeka Djamba, Jean	ANCC (Alliance des Nationalistes Croyants Congolais)
02	Bombole Intole, Adam	Independent
03	Kabila, Joseph	Independent (but leader of presidential majority)
04	Kakese Malela, François Nicefort	URDC (Union pour le Réveil et le Développement du Congo)
05	Kamerhe Lwa Kanyinginyi, Vital	UNC (Union Nationale Congolaise)
06	Kashala Lukumwena, Oscar	URC (Union pour la Reconstruction du Congo)
07	Kengo wa Dondo, Léon	UFC (Union des Forces du Changement)
08	Mbusa Nyamuisi, Antipas	Independent
09	Mobutu Nzanga Ngbagawe, François Joseph	UDEMO (Union des Démocrates Mobutistes)
10	Mukendi Kamana, Josué Alex	Independent
11	Tshisekedi wa Mulumba, Etienne	UDPS/Tshisekedi (Union pour la Démocratie et le Progrès Social/Tshisekedi)

Source: www.ceni.gouv.cd

The number of candidates registered for the National Assembly elections totalled 18 478 (only 2 244 of them women) (www.ceni.gouv.cd). Most of the candidates were nominated by the 423 political parties then registered in the DRC.

Election day and the proclamation of the results

The political climate remained tense on election day and during the wait for results to be proclaimed and tensions escalated after the proclamation. While both the presidential and National Assembly elections were held on 28 November they neither started nor ended at the same time. In some constituencies, where the electoral material was received early and voting stations opened as required, they were peaceful, but, in others, there were incidents of violence or intimidation of voters, insufficient ballot papers and officers and material arrived late or not at all. In some of these stations voters were allowed to cast their votes after polling was due to close and some even voted the next day.

According the Electoral Act, voting stations must transform into counting stations immediately after voting ends and counting must take place in the presence of all the electoral officers and the candidates' witnesses. No other person is allowed to participate in the counting. No provision is made for the presence in the counting stations of members of the police, the army, the security services, the administration, the government or the parties.

Once counting is over minutes of the results must be signed by all parties to the count and posted for the public, the candidates and the political parties to see, to allow for contestation before the competent authorities, namely the NIEC and the Supreme Court of Justice. The candidates and their parties are entitled to receive copies of the results. In many cases, candidates or party witnesses, generally those from the opposition, were intimidated and prevented from participating in the counting.

The original documents must be secured and sent immediately to the compilation centre of the constituency in which the count is done and the winners proclaimed according to the number of the seats allocated by the Electoral Act to the constituency. Communication problems in the DRC are so huge that it generally took several days, sometimes even weeks, for the results to reach the compilation centres. Some parcels did not arrive at all. In other cases, when they arrived they had been opened and the results falsified. In still others, they arrived after the centres had announced the results.

It was not possible for the ballots to be recounted because innumerable ballot papers were missing or had been destroyed. Despite all the irregularities, the compilation centres published the results and communicated them directly to the NIEC bureau, which announced them, subject to confirmation by the Supreme

Court of Justice. The court proclaimed the final results after dealing with the disputes emanating from candidates and parties contesting the provisional results.

As the NIEC had planned, the presidential election results were announced before those of the parliamentary elections to avoid any crisis of legitimacy in the highest office in the republic. The day after the election many opposition leaders and independent observers proclaimed that opposition leader Etienne Tshisekedi had won. The battle had begun. Despite several reports of massive electoral irregularities in many areas, the NIEC provisionally announced the results on Friday 9 December. It came as no surprise to most that Kabila was declared the winner, with 48.95% of the vote. He was followed by opposition candidates Tshisekedi (32.33%), Vital Kamerhe (7.74%), and Léon Kengo wa Dondo (4.95%). The remaining candidates won less than 2% of the vote.

Table 2
Provisional results of the presidential election

No	Name	Votes	Percentage
01	Kabila, Joseph	8 880 944	48.95%
02	Tshisekedi wa Mulumba, Etienne	5 864 775	32.33%
03	Kamerhe Lwa Kanyinginyi, Vital	1 403 372	7.74%
04	Kengo wa Dondo, Léon	898 362	4.95%
05	Mbusa Nyamuisi, Antipas	311 787	1.72%
06	Mobutu Nzanga Ngbagawe, François Joseph	285 273	1.57%
07	Andeka Djamba, Jean	128 820	0.71%
08	Bombole Intole, Adam	126 623	0.70%
09	Kakese Malela, François Nicefort	92 737	0.51%
10	Mukendi Kamana, Josué Alex	78 151	0.43%
11	Kashala Lukumwena, Oscar	72 260	0.40%

Source: www.ceni.gouv.cd

The NIEC's decision was referred to the Supreme Court for confirmation and candidates who objected were urged to lodge their complaints with the highest court. On the basis of reports from his party's witnesses and several independent observers, including those of the Catholic Church, Tshisekedi rejected the results and declared himself president. He declined to challenge the results in the Supreme

Court of Justice, which the opposition accused of lacking independence and being subject to President Kabila.

The only legal challenge came from Vital Kamerhe, who also rejected Kabila's election and congratulated Tshisekedi on his victory. Kamerhe's party, the UNC, launched the challenge in terms of the Electoral Act on 12 December. The Supreme Court of Justice unanimously and unreservedly dismissed the application on 16 December (*UNC v Kabila Kabange*) and confirmed the NIEC's decision, proclaiming Joseph Kabila the winner. Kabila was sworn in on 19 December.

A week later Tshisekedi addressed the people from his residence in Kinshasa-Limete during his own official swearing in as the 'DRC's legitimate president'. Since then, the DRC has had two presidents.

Accusations of vote rigging, corruption among the members of the NIEC, subornation of witnesses, falsification of results, violence, destruction of ballot papers in areas favourable to the opposition and their multiplication in those favourable to Kabila, his party and his coalition, which were aired before the announcement of the results of the presidential election, intensified while the nation awaited the results of the National Assembly election. These fraud allegations were confirmed by the overwhelming majority of independent observers, including those from the Carter Center and the European Union (EU), and contributed to discrediting further the electoral process and the NIEC. At one point President Kabila himself acknowledged that there had been a number of irregularities but said these would have no impact on his election. The situation worsened when the NIEC delayed the announcement of the results in violation of the Electoral Act and its own guidelines.

A team of American and British independent observers was invited to help the NIEC retain some credibility but they quickly left the country. The NIEC, fearing that the findings of the group might reinforce or corroborate the accusations of fraud, denied having invited them. (Self-proclaimed) President Tshisekedi then decided to 'nullify' the parliamentary elections.

Despite Tshisekedi's decree the NIEC went on to announce the provisional results. The PPRD (President Kabila's party) and the Presidential Majority (MP, Kabila's coalition) were proclaimed winners of the parliamentary elections, with a more than two-thirds majority in the National Assembly. UDPS, Tshisekedi's party, came second.

Tshisekedi ordered the elected members of his party to resign from the National Assembly or face expulsion. The majority of them decided to keep their seats and were expelled from the UDPS for participating in an 'illegitimate parliament' dissolved by the 'president'. This crisis continues to have negative consequences on Congolese politics. 'M23', a rebellion movement launched in the Eastern DRC with backing from Rwanda, which is accused of invading the DRC,

justified its rebellion on the ground that the DRC elections were rigged by President Kabila and his coalition. The question that arises is whether the November 2011 elections complied with regional and domestic norms and principles governing democratic elections and whether they were free, fair and credible.

National and international reaction

There were different responses to the irregularities from the Congolese, the international community, the AU, and from African sub-regional organisations that had sent observers to monitor the elections.

The Congolese responses mainly came from political leaders, independent observers, the NIEC and the Supreme Court of Justice. The winners, President Joseph Kabila, his party (PPRD) and his coalition (MP), accepted the results, while their opponents rejected them on the grounds that the election was not free and fair. Despite the fact that both sides agreed that the elections had been fraudulent and Kabila was among the first to concede that there were irregularities, he was quick to add that they were not of such magnitude as to render the elections, particularly the presidential election, non-credible. In September 2012 his government requested Parliament to adopt new legislation amending the composition and functioning of the NIEC.

Among the political leaders and parties supporting the president there were mutual accusations of fraud, which were brought to the Supreme Court of Justice. The majority of disputes emanated from the members of the ruling coalition. They, too, admitted that the elections had not been free and fair and had failed to comply with norms and principles governing democratic elections.

Opposition parties, too, despite their participation in Parliament, contested the legitimacy of the elections. Even before the NIEC proclaimed the results national and international independent observers had started ringing warning bells about massive irregularities that affected the credibility of the elections.

Among the national observation missions were observers from the Conférence épiscopale nationale de l'église catholique au Congo (CENCO), representing the powerful Catholic Church, and from non-governmental organisations, especially the four that formed the Mission nationale d'observation (MNO), namely, Réseau national pour l'observation et la surveillance des élections au Congo (RENOSEC), Réseau d'observation des confessions religieuses (ROC), Cadre permanent de concertation de la femme congolaise (CAFCO) and the Conseil national de la jeunesse (CNJ). The MNO deployed 12 688 observers in 9 074 voting stations across the country (MNO 2011, p 2). ROC deployed an additional 17 000 observers.

The MNO published four documents relating to the elections. These included a statement on 7 November, assessing the pre-electoral situation; a report on

27 November on the political environment during the elections; an interim report on 16 December and a final report on 15 January 2012.

The overwhelming majority of observers concurred that the electoral process had not been credible and that the elections had been marred by numerous irregularities and could hardly be considered free and fair according to international and domestic standards. Despite all these reports the NIEC went on to announce the results.

Responding to a question from a reporter for Radio France International a few days after the announcement of the provisional results of the presidential election, NIEC deputy-president Jacques Djoli came close to admitting the irregularities when he confessed that he had been forced to agree with his colleagues within the bureau to avoid a political crisis.

Many people were disappointed that this constitutional law professor, who had appeared to be a man of integrity during his term as a senator, finally endorsed fraudulent electoral results, and believed the widespread rumour that he and his colleagues had taken millions of US dollars as a bribe to proclaim the incumbent president the winner. They found his statement irresponsible for a man of his calibre and he did not repeat it.

The NIEC bureau again indirectly acknowledged its wrongdoing in running the elections when it presented its annual report to the National Assembly on 14 June 2012. Responding to critics on behalf of the bureau Djoli maintained that the quality of the elections reflected that of the political leadership. He added that no elections were perfect and the NIEC was not the only institution to be blamed for the failure. He also accused the National Assembly of passing the Electoral Act and inaugurating the NIEC late and of not providing the commission with adequate financial resources. This response was typical of that of political leaders in Africa in general and in the DRC in particular, where mistakes are rarely acknowledged and are generally justified.

More than 500 disputes were brought before the Supreme Court of Justice in relation to the parliamentary elections. In April 2012 the court invalidated 32 members of the National Assembly, fuelling further criticism of the NIEC.

The court aggravated an already problematic situation by proclaiming as winners some members of the presidential coalition who had neither been named by the NIEC nor had appealed against the NIEC's decision. The Supreme Court of Justice was also blamed for corruption and unconfirmed reports alleged that it had been ordered to dismiss as many applications from the opposition as possible and to ensure that the president received a majority in the National Assembly to enable his government to apply his programme of action.

The NIEC bureau also criticised the court for affirming candidates in constituencies where the commission had proposed that elections be nullified

because of irregularities. This resulted in a conflict between the two institutions and confirmed that the elections had not been democratic. The NIEC had nevertheless to accept the court's decisions because, in terms of the electoral legislation, they were final and binding.

On 2 October 2012, almost 11 months after the elections and following the judgement of the Supreme Court of Justice, the NIEC announced the results of the parliamentary elections in the Masisi constituency, where it had had to organise a new election due to gross irregularities. The attitude of the Supreme Court of Justice gives rise to the question whether and why the rule of law requires respect for unjust decisions made by the highest court in the land.

After a false moment of suspense, instead of condemning the DRC's non-compliance with international norms and principles governing democratic elections, the international community, led by some Western 'democratic' leaders and governments, welcomed the results and congratulated President Kabila and his government on successful and exemplary elections, disappointing millions of democrats worldwide.

Despite having about 20 000 'Blue Helmets' in MONUSCO, which is the UN's largest peace-keeping force in Africa since the Cold War, the UN declined to play an important role in preventing and combating election fraud. The Security Council, which established MONUSCO and determined its mandate, did not even bother to listen to opposition leaders who wanted MONUSCO to be mandated to authenticate the results published by the NIEC, as they did in Côte d'Ivoire. President Kabila was not Laurent Gbagbo and there was no Security Council permanent member like France to push for such an extended mandate for MONUSCO.

For his part, Kabila had learnt from experience that an extension of MONUSCO's mandate could amount to political suicide, with possible deferment to the International Criminal Court (ICC), as happened to Laurent Gbagbo. He therefore opposed MONUSCO and succeeded in keeping it out of the process. Unlike Gbagbo, he could count on the assistance and understanding of all Security Council members, including permanent members such as the US, France, and China and non-permanent members like South Africa and Gabon, all of whom were interested in having him in power despite the fact that the elections had been denounced as irregular by non-African international observers and by the observer missions of both the Carter Center and the EU (www.cartercenter.org/news/pr/drc-121011.html).

Although they were not represented at the highest level during his inauguration, the world's major powers did not want Kabila replaced by a nationalist leader who might not preserve their interests.

The Belgian government was the first Western government to visit the DRC and to congratulate Kabila on his re-election. China, which had concluded lucrative deals with the DRC government, was interested in the continuation of the Kabila regime as was the Obama administration, which jettisoned the Carter Center's report.

French President François Hollande, after some suspense about the relationship between his government and that of President Kabila in response to several confirmed reports of human rights abuses in the DRC, including the assassination of Floribert Chebeya Bahizire, a leading Congolese human rights activist, finally announced in August 2012 that he would participate in the 14th Summit of Francophone countries to be hosted by Kabila in October of that year. It would have been surprising if he hadn't. After all, it was former French President Charles de Gaulle who is reported to have said that states have no friends, only interests.

In a globalised world where the French language is losing out to English and other major foreign languages, it was naïve to believe that the French president would not participate in a summit aimed at preserving or reinforcing the leadership of his country.

The recognition by major powers like the US, France, China and Belgium, DRC's former colonial power, of Joseph Kabila as the 'legitimate' DRC president paved the way for the recognition of his government by the UN, the EU, and the rest of the international community, notwithstanding the fact that the elections had failed to meet international and domestic standards.

The observers from the AU and sub-regional organisations such as the Southern African Development Community (SADC), the Economic Community of Central African States (ECCAS), the Common Market for Eastern and Southern Africa (COMESA) and the International Conference on the Great Lakes Region (ICGLR) disagreed with both national and other international observers. In a joint declaration they held that the elections had been successful, while regretting isolated acts of violence (www.afriquejet.com/election-rd-2011/20128598.html).

Notwithstanding the irregularities, they confirmed Joseph Kabila as the winner of the presidential election. Their joint declaration was published two days after the elections, a week before the announcement by the NIEC of the provisional results of the presidential election (6 December 2011) and their confirmation by the Supreme Court of Justice (10 December 2011) and several months before the proclamation of the results of the parliamentary elections. The statement contradicted the findings of all other national and international electoral observers and was not credible.

Did the 2011 elections comply with regional and sub-regional benchmarks?

THE 2011 ELECTIONS AND THE DRC'S COMPLIANCE WITH REGIONAL AND SUB-REGIONAL BENCHMARKS

The DRC is a member state of the AU and several sub-regional organisations, namely ECCAS, COMESA, ICGLR, and SADC. The 2011 elections had therefore to comply with the norms and principles governing democratic elections adopted by these organisations.

Regional and sub-regional election benchmarks

The major regional instruments containing these norms and principles are the African Charter on Human and Peoples' Rights (ACHPR), adopted on 27 June 1981 in Nairobi, Kenya, which came into force on 21 October 1986; the AU Constitutive Act, adopted on 11 July 2000, which came into operation on 26 May 2001; the African Convention on Preventing and Combating Corruption in Africa (ACPCC), adopted on 11 July 2003, which came into force on 5 August 2007 and, particularly, the African Charter on Democracy, Elections and Governance (ACDEG), adopted on 30 January 2007 and which came into force on 15 February 2012.

The ACHPR is the founding instrument of the African human rights system. It enshrines human and peoples' rights, which are critical if democracy is to prosper on the continent. These rights must be protected if people are to participate in elections and if those elections are to be democratic, free and fair.

Particularly important is the right of every citizen to participate freely in the government of his or her country, either directly or through freely chosen representatives, in accordance with the provisions of the law (ACHPR 1981, Art 13.1). Arguably, 'law' here should be construed to include regional or international law and domestic law that would be consistent with internationally agreed norms and principles. The ACHPR is probably the most important instrument the AU inherited from the Organisation of African Unity (OAU).

The Constitutive Act of the AU also contains objectives and principles aimed at promoting democratic elections in Africa. These include the promotion of democratic principles and institutions, popular participation, human rights, the rule of law, gender equality, good governance, the union's right to intervene in a member state pursuant to a decision of the assembly in respect of grave circumstances, namely, war crimes, genocide and crimes against humanity, and condemnation and rejection of unconstitutional changes of governments (AU Constitutive Act 2001, Arts 3(g)-(h) and 4(h), (l), (m), (p)).

Despite the fact that its primary objective is to prevent and combat corruption, the ACPCC, which is based on the AU Constitutive Act, contains

provisions aimed at promoting democratic elections. The ACPCC principles include respect for democratic principles and institutions, popular participation, the rule of law, good governance, respect for human rights, transparency and accountability in the management of public affairs and condemnation and rejection of acts of corruption, related offences and impunity (ACPCC 2003, Art 3).

Democratic elections are to be promoted through the exclusion and condemnation of electoral manipulation, corruption and vote-rigging by ensuring transparency, equity, and efficiency in the management of tendering and hiring procedures in the public service (ACPCC 2003, Art 7.4).

The ACPCC also provides for the confiscation of proceeds or property derived from corruption or related offences (ACPCC 2003, Art 16(1)(b)) and the incorporation of the principle of transparency in the funding of political parties (ACPCC 2003, Art 10(b)). It proscribes the use of funds acquired through illegal and corrupt practices to finance political parties (ACPCC 2003, Art 10(a)) and promotes the right of access to any information required to assist in the fight against corruption and related offences (ACPCC 2000, Art 9.5).

As for the ACDEG, it is the most important regional instrument containing norms, principles and standards governing democratic elections. States parties commit to promoting democratic elections based on respect for the rule of law, human rights and good political, economic and social governance.

At the continental level there have been discussions about merging the African Court of Justice provided for by the AU Constitutive Act (Arts 5.1(d) and 18) and the African Court on Human Rights established by the Protocol to the African Charter into a single court, to be known as the African Court of Justice and Human Rights. This court will be competent, *inter alia*, to prosecute and judge the perpetrators of unconstitutional changes of government. When the amended protocol merging the two courts comes into operation it will further contribute to the promotion of democracy and to the organisation of democratic elections in Africa.

All the above AU instruments are treaties that bind states parties only. Although other instruments are not legally binding, *per se*, and may be considered 'soft law', they cannot be ignored. They include the OAU / AU Durban Declaration on the Principles Governing Democratic Elections in Africa, adopted by the Assembly of the African Union in July 2002 (AHG/Decl.1 (XXXVIII)) as well as the New Partnership for Africa's Development (NEPAD) Declaration, adopted in Abuja, Nigeria, in October 2001, at the first meeting of the Heads of States and Government Implementation Committee of NEPAD, and the Declaration on Democracy, Good Political, Economic and Corporate Governance (DDGPECG), adopted by the AU Assembly of Heads of State and Government in Durban, South

Africa, in July 2002 to govern the work of the African Peer-Review Mechanism (APRM)³ (Heyns & Killander 2006, pp 299-306).⁴

As sub-regional organisations, ECCAS, COMESA, ICGLR and SADC also adopted norms, principles, standards and guidelines in order to promote democratic elections. These regional economic communities (RECs) generally send observers to monitor elections held in their member states, including the DRC.

ECCAS, which was established in October 1983 and is among the oldest RECs within the AU, adopted a declaration on electoral support to be provided to member states but the Human Rights and Democracy Centre, inaugurated in 2001, is still to become operational. ECCAS has shown some interest in the organisation of free, fair, democratic and peaceful elections since its 2005 summit, at which the organisation decided to establish a Unit of Electoral Support to member states within the secretariat (ECCAS 2005). Accordingly, the council of ministers requested the secretariat-general to convene an urgent meeting of the ministers of home affairs in order to adopt a strategy for the organisation of free, fair, democratic and peaceful elections (www.ceeac-eccas.org/index.php).

Starting with the 2006 elections in the DRC, ECCAS has sent several observer missions and has provided technical assistance to national electoral commissions in some member states. Nevertheless, its contribution to the promotion of democratic elections has been limited compared to that of other African RECs. This is mainly due to the fact that ECCAS faces many challenges, including understaffing and a lack of sufficient resources.

The political will and commitment to democracy in Central Africa is among the lowest on the continent. Elections are generally rigged. There is little respect for human rights and the rule of law. Constitutions are regularly amended or violated to suit the needs of incumbent leaders. São Tome and Príncipe seems to be the notable exception to the rule of undemocratic and bad governance in the region – it finished 11th of all African countries in the 2010 Ibrahim Index of African Governance.

Apart from São Tomé and Príncipe, in no ECCAS member state since the start of the 21st century has an incumbent leader respected the constitutional limitation on the number of terms of office or conceded defeat in the sub-region.

3 The APRM was established as a voluntary mechanism to assess and make recommendations to improve governance among AU member states participating in NEPAD. AU member states that participate in NEPAD and adhere to the APRM are also required to comply with the recommendations. In support of good political governance they agreed to ensure the effective functioning of parliaments and other accountability institutions, including parliamentary committees and anti-corruption bodies, and the organisation of regular, free and fair elections. Regional guidelines were also developed to govern elections.

4 The NEPAD Base Document was adopted at the 6th summit of the NEPAD Heads of State and Government Implementation Committee in March 2003 in Abuja, Nigeria.

Most ECCAS leaders have come to power by unconstitutional means (wars, coups d'état, rebellions or constitutional and electoral manipulation). There has been almost no attempt on the part of the ECCAS countries to promote constitutionalism and democracy. ECCAS has also failed to adopt norms, principles and guidelines to govern democratic elections in its member states, as has COMESA.

Even when these RECs are requested to send observation missions, the missions rely on the norms, principles and guidelines or standards adopted by the AU, whereas ICGLR and SADC have added their own in line with those of the AU.

ICGLR's principal instrument for the promotion of democratic governance is the Protocol on Democracy and Good Governance adopted on 1 December 2006. This protocol endorsed the Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes, which was adopted on 20 November 2004. The principles contained in the ICGLR's protocol include the separation of powers; accession to power through regular, free, fair and transparent elections; the prohibition of unconstitutional change and any other undemocratic means of acceding to or maintaining power; popular participation in decision-making; decentralisation; non-partisan defence and security forces; equality and non-discrimination; political pluralism; freedom of association and assembly and peaceful demonstration; freedom of expression; freedom of movement and prohibition of forced exile (ICGLR Protocol 2006, Art 2).

Electoral institutions should be independent and should reflect the principle of gender parity (Art 7). They should maintain transparent and credible voters' registers, which should be open to all stakeholders for inspection from time to time (ICGLR Protocol 2006, Art 9). The organisation and conduct of elections and the declaration of results should be done in a transparent manner (Art 10).

Since the collapse of the Mobutu regime the DRC has developed stronger links with SADC than with other sub-regional organisations. The SADC Principles and Guidelines Governing Democratic Elections are more elaborate with regard to member states' obligations to promote democratic elections. They were not only informed by SADC's legal and policy instruments but by the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa (AU Doc AHG/DECL/1(XXXVIII)) and the AU Guidelines for Electoral Observation and Monitoring Missions (AU Doc EX/CL/35 (III) Annex II).

In terms of the SADC Principles, SADC member states must adhere to the following principles in the conduct of democratic elections:

- Full participation of all citizens in the political process;
- Freedom of association;
- Political tolerance;

- Regular intervals for elections as provided for by their respective national constitutions;
- Equal opportunity for all political parties to access the state media;
- Equal opportunity to exercise the right to vote and be voted for;
- Independence of the judiciary and impartiality of the electoral institutions;
- Voter education;
- Acceptance of and respect by political parties for election results proclaimed to have been free and fair by the competent national electoral authority in accordance with the law of the land; and
- The ability to challenge election results as provided for in the law of the land.

(SADC Principles 2004, 2.1-2.10)

There are a number of guidelines to be used by SADC member states in determining the nature and scope of election observation. In terms of these guidelines they should provide for constitutional and legal guarantees of freedom and the rights of citizens; a conducive environment for free, fair and peaceful elections; non-discrimination in voter registration; updated and accessible voters' rolls; polling in neutral places and vote counting at polling stations (SADC Principles 2004, 4.1.1.-4.1.8).

SADC member states are required, *inter alia*, to:

- Take necessary measures to ensure the scrupulous implementation of the principles;
- Establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- Safeguard the human and civil liberties of all citizens, including freedom of movement, assembly, association, expression and campaigning as well as access to the media during electoral processes, in order to maintain peace and security;
- Take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- Ensure the availability of adequate logistics and resources for carrying out democratic elections;
- Ensure that adequate security is provided to all parties participating in elections;

- Ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and / other observers / monitors;
- Encourage the participation of women, the disabled and the youth in all aspects of the electoral process in accordance with the national laws.

(SADC Principles 2004, 7.1-7.9)

Findings on the DRC's compliance with regional and sub-regional election benchmarks

For a variety of reasons the 2011 elections were chaotic and characterised by many irregularities (MNO 2011; Ligue des Electeurs 2012; Carter Center; EUEOM 2011). Among these were:

- The lack of independence of the Supreme Court of Justice and the NIEC despite the fact that the Constitution proclaims that they are 'independent'. These institutions remained subject to the incumbent president and to the ruling coalition. The majority of the members of the NIEC bureau were nominated by the president, who also appointed the judges of the Supreme Court of Justice from among his supporters in the judiciary, without any proper consultation with the High Council of the Magistracy (Judicial Commission), as set down in the Constitution.⁵ This appointment also took place *in tempore suspecto*, just before the electoral campaign, and the judges were sworn in by a president who was no longer entitled to do so, as he was, at that point, one of several presidential candidates. Such judges were aware that they owed him a debt and were therefore accountable to the president and to the ruling majority. They could not afford to 'betray' them and the only way to pay them back was to announce their victory.
- The NIEC violated Articles 6 and 8 of the Electoral Act by failing to publish the lists of registered voters by province and by constituency at least 30 days before the beginning of the electoral campaign. In each voting station the lists of registered voters, including their names,

⁵ According to Art 82 of the 2006 Constitution judges must be appointed and dismissed by the president on the initiative of the High Council of the Magistracy (*Conseil superieur de la magistrature*).

places and dates of birth, sex, domiciles or habitual residences had to be published at least 30 days before the election day;

- Intimidation of voters and electoral officers as well as destruction of electoral material by some candidates and their parties;
- Late opening of the voting stations on election day;
- Unavailability of some voting stations where voters were expected to cast their votes and unannounced changes of venue of some voting stations. As a result, many registered voters were disoriented and could not cast their votes despite the fact that Article 47 of the Electoral Act provided that the NIEC had to publish the list of voting stations and their addresses 30 days before the election. This did not allow candidates and parties to accredit their witnesses in all the voting stations and in time;
- Insufficient ballot papers for the number of registered voters in many voting stations favourable to opposition candidates, in violation of Art 56 of the Electoral Act. However, in areas favourable to Joseph Kabila, the number of ballot papers largely exceeded that of registered voters;
- Possession by some candidates and unauthorised persons of unregistered ballot papers. These papers were later introduced into the system and benefited some candidates and their parties, especially those of the ruling coalition;
- At a number of voting stations thousands of ballot papers were already marked in favour of presidential candidate no 3 (Kabila) and candidates for his party or the majority;
- In some voting stations in his province of origin (Katanga), Kabila obtained 100% of the vote while the 10 other candidates won 0%. In *UNC v Kabila Kabange*, the Supreme Court of Justice, acting as the Constitutional Court, dismissed Vital Kamerhe's complaint on the ground that the Constitution did not prevent any candidate from winning 100% of the vote;
- Some candidates were allowed to campaign after the deadline and around the voting stations, in violation of the Electoral Act;
- The minutes of the vote counting in some areas were not signed by competent electoral officers and by the witnesses of the candidates or parties, in violation of Article 38 of the Electoral Act;
- Witnesses of the candidates and parties were prevented from entering some voting and counting stations. The aim was to facilitate fraud;
- Falsification of ballot papers and election results in many areas;
- Reception of many parcels containing the ballot papers and the results

several days after the election and manipulation or falsification of the results during their transfer to the counting stations, in violation of the Electoral Act;

- Non-publication of the results in the voting stations, as provided by law;
- Lack of independence and professionalism of public servants in the administration and security services (army, police, and intelligence services), who felt duty bound to work for the re-election of the outgoing president, the ruling party or the majority;
- Lack of independence and impartiality of the state media, which campaigned for the outgoing president, his party and coalition while closing their doors to the opposition, in violation of the Constitution and the Electoral Act;
- Utilisation of state material, financial resources and personnel in the campaign of the outgoing president and the candidates of his party or coalition, in violation of the Constitution and Article 36 of the Electoral Act. This could lead to their invalidation by the NIEC, which it did not;
- Posting of campaign messages on public buildings, in violation of Article 30 of the Electoral Act;
- Destruction of many ballot papers, especially in areas suspected of favouring the opposition;
- Discordance between the results published by the NIEC and confirmed by the Supreme Court of Justice and those published at the voting stations in order to favour the outgoing president, the ruling party or coalition and their candidates;
- The presence in the voting stations of non-authorised persons such as local heads of the administration and members of the security services;
- Corruption of electoral officers or their collusion with some candidates, particularly those of the ruling party or coalition.

Against this backdrop, the 2011 elections in the DRC were neither credible nor democratic. Some members of the National Assembly were democratically elected but the majority seem to have been elected by the NIEC, the Supreme Court of Justice, or both.

On 2 October 2012 the Supreme Court of Justice ordered the NIEC to announce the results of an election it had nullified several months earlier because of fraud. The Party of Nationalists for Integral Development (PANADI) issued a statement in which it deplored the fact that for the first time in the history of

elections parliamentary representatives had been elected in a poll that had been nullified for gross irregularities (www.ceeac-eccas.org/index.php).

Not only did the elections not comply with regional and sub-regional principles, norms, standards and guidelines, they also failed to comply fully with domestic electoral norms, principles, and guidelines.

CONCLUSION

Since the winds of change brought the one-party state to an end in the late 1980s multiparty elections have been held regularly in Africa. If peaceful power transfer from one president or ruling majority to another as a result of an election is not a *sine qua non* for democratic consolidation it nevertheless testifies to the fairness of elections (Bratton & Posner 1999, p 378; Joseph 1999, p 11). Africa offers some good examples of democracy and free and fair elections, among them Benin, Botswana, Ghana, Namibia, Senegal, South Africa and Zambia.

Accordingly, not everything everywhere conforms to Conrad's image of Africa as the 'heart of darkness'. Unfortunately, on balance, good is rare. Authoritarian rule and vote rigging or electoral manipulation prevail in many African countries.

This article reflected on democracy, elections and the rule of law in Africa, especially in the DRC, which is a member of the AU, COMESA, ECCAS, ICGLR and SADC. It assessed the DRC's compliance with regional and sub-regional election benchmarks to establish whether the elections held on 28 November 2011 were democratic, transparent, free and fair.

It concludes that, contrary to the unanimous and joint findings of AU, COMESA, ECCAS, ICGLR and SADC observers, according to all regional and sub-regional election benchmarks the elections did not qualify as credible, transparent, free and fair despite the fact that Joseph Kabila was recognised by all these regional organisations as the 'legitimate' DRC president. African organisations and their leaders were not alone in accepting the results of the elections. Several world leaders within the UN, the European Union and other organisations, forgetting about the findings of observers from the Carter Center and the EU, joined in praising the Congolese authorities on 'successful' elections.

They chose to condone the flagrant irregularities of the elections and recognised President Kabila and his government as the 'legitimate' president and government of the DRC. Yet even Congolese leaders, institutions and electoral observers did not believe the results were credible. The fact that leaders of both the majority and the opposition agreed to amend the Act of Parliament governing the NIEC and establish a new bureau to replace the one that ran the contested elections was a unanimous recognition that the elections were not credible.

The conclusion reached within the AU, COMESA, ECCAS, ICGLR and SADC was hardly surprising since these organisations continue to function as 'clubs' of African leaders, supporting one another even against their peoples, just as the OAU did before the AU replaced it at the beginning of the century. In fact, it would have been surprising if they had not done so since they are still dominated by authoritarian leaders, many of whom came or cling to power by unconstitutional means and electoral manipulation, while the few who were democratically elected tend to keep quiet and compromise.

As Africa commemorates the 50th anniversary of the founding of the OAU it must, unfortunately, be stressed that despite the number of instruments adopted and statements generally made for popular and Western consumption, many African leaders and organisations have provided little evidence of their commitment to democratic governance through the organisation of credible, transparent, free and fair elections.

The findings of this article tend to confirm some assumptions made earlier and adopted by other observers and analysts of African politics. Despite being interrelated, democracy, elections and the rule of law should not be considered synonymous. Like the rule of law, elections are not necessarily democratic. Democracy in Africa should not be reduced simply to multiparty elections. African people need genuine democratic change and elections instead of a 'cosmetic' and 'choiceless' democracy (Ake 1996, pp 130, 132, 137; Mkandawire 1999, pp 119-135). They are fed up with 'voting without choosing' (Mkandawire 1999, pp 119-135). They are not interested in simply having elections but want elections that are credible and bring about positive change in their living conditions and in the governance of their countries. They are interested in truly democratic, transparent, free and fair elections that allow them to elect legitimate leaders who serve their interests and also remain accountable to them.

The post-colonial experience has shown that authoritarianism is not sustainable. Nor does it favour the peace and development that Africa needs to achieve an African renaissance in the 21st century. The question is not whether or not elections matter, but what to do to make them democratic, credible, free and fair and ensure that they contribute to change. This is probably one of the greatest challenges confronting many African states since the demise of one-party rule.

Elections without change, or fraudulent elections, have resulted in some components of the people resolving to vote with their feet, with AK47s and with machetes in countries such as Burundi, Côte d'Ivoire, Egypt, Liberia, Libya, Kenya, Mali, Rwanda, Sierra Leone, Sudan, Tunisia, and Uganda, to name but a few. The DRC is one of the countries whose people tend to resort to rebellions and wars to make political change happen since violence seems to be the language that most African authoritarian leaders and even some prominent members of the international community understand.

The 2011 elections constituted a terrible setback, a fiasco, compared to elections organised in several other African countries and even to the first elections held in the DRC under the current Constitution in July 2006 (Mangu & Budeli 2008, pp 93-103, 109-112). There are eight lessons to be learnt by African people from the DRC elections as they head for their own elections:

- The major one is that bad practice should never be emulated. The 2011 elections have taken the DRC backwards and failed to advance democracy in a country that has gone through authoritarian rule since it gained its independence from Belgium on 30 June 1960.
- While modern democracy cannot prosper without credible, transparent, free and fair elections, these require respect for the rule of law and for human rights. Non-credible elections, electoral fraud, vote rigging and corruption cannot lead to democratic consolidation in Africa or elsewhere.
- Voter education and a democratic culture among the electorate and mainly among political leaders, who should be prepared to win or lose an election and accept the results peacefully, are also needed for democratic consolidation.
- Democratic elections require the existence of credible, apolitical and non-partisan institutions such as public media, the police, the army, the security services, the electoral commission, and the judiciary.
- Democratic elections are costly, but each country should be able to fund its own instead of relying on foreign governments and institutions. If this is not possible countries should not be surprised that those who fund their elections also decide who should govern.
- Elections, which were considered to be a solution to the problem of legitimacy of political institutions and leaders in a number of African countries, including the DRC, have turned out to be a major political problem which has a negative impact on development, peace and security. Instead of resolving problems, rigged elections may end up creating more, as has happened in the DRC, which has been confronted by a multifaceted rebellion since the 2011 elections.
- Elections are not a panacea for Africa's problems of insecurity, wars, armed conflict, poverty, diseases and underdevelopment. However, after several decades of 'dictatorships of underdevelopment', sponsored by Western leaders and international financial institutions like the World Bank and the International Monetary Fund, democratic elections are the most probable means of bringing about peace, security and economic development in Africa. There is no alternative.

Africa's peoples should therefore continue to struggle for democracy as one of their fundamental rights. Once democratic institutions have been established, the struggle should continue for their consolidation.

- In his famous Gettysburg Address, delivered in 1863, then US President Abraham Lincoln described democracy as the government 'of the people, by the people for the people'. Therefore, no one will ever champion and be interested in democracy, free and fair elections, and respect for human rights and the rule of law more than the people themselves.
- The AU and the African sub-regional organisations that have already adopted several benchmarks for democratic elections should ensure that member states actually and fully comply with these benchmarks or face sanctions, instead of condoning or encouraging electoral fraud and applauding leaders who use elections to impose themselves on their people or allow themselves to be imposed or tolerated by external political, economic, social, or religious forces to serve their own interests.

The 2011 elections in the DRC have, unfortunately, gone down in history as a dramatic case of failure that can be attributed to the people of the DRC, their political elite and institutions, African leaders and regional and sub-regional organisations as well as to the international community, especially those influential governments that are expected to promote democracy, good governance and respect for the rule of law and human rights not only in their own countries, but in the rest of the world, including Africa.

— REFERENCES —

Publications

- Ake, C. 1996. *Democracy and Development in Africa*. Washington, DC: The Brookings Institution.
- Amin, S. 1996. 'The Issue of Democracy in the Contemporary Third World'. In J E Nyang'oro (ed). *Discourses on Democracy: Africa in Comparative Perspective*. Dar-es-Salaam: Dar-es-Salaam University Press.
- Badinter, R. 2003. 'Quelques réflexions sur l'état de droit en Afrique'. In G Conac (ed). *L'Afrique en transition vers le pluralisme politique*. Paris: Economica.
- Bourgi, A & C Casteran. 1991. *Le Printemps de l'Afrique*. Paris: Hachette.
- Brahimi, L. 2002. *The Rule of Law at Home and Abroad*. The 2002 Dag Hammarskjöld Lecture. Uppsala: Dag Hammarskjöld Foundation.

- Bratton, M & D N Posner. 1999. 'A First Look at Second Elections in Africa with Illustrations from Zambia'. In R Joseph (ed). *State, Conflict and Democracy in Africa*. Boulder and London: Lynne Rienner Publishers.
- Carpenter, G. 1997. 'Public Law: Constitutional Law'. In W J Hosten, C G Van Niekerk, C J Nagel (eds). *Introduction to South African Law and Legal Theory*. Durban: Butterworths.
- Conac, G. 1993a. 'Introduction'. In G Conac (ed). *L'Afrique en transition vers le pluralisme politique*. Paris: Economica.
- Conac, G. 1993b. 'Etat de droit et démocratie'. In G Conac (ed). *L'Afrique en transition vers le pluralisme politique*. Paris: Economica.
- Conrad, J. 1999. *Au Coeur des Ténèbres*. Paris: Edition Mille et Nuit.
- Dahl, R A. 1971. *Polyarchy: Participation and Opposition*. New Haven, CT: Yale University Press.
- Dahl, R A. 1989. *Democracy and Its Critics*. New Haven and London: Yale University Press; New Delhi: Orient Longman Ltd.
- Glaser, D. 1996. 'Discourses of Democracy in the South African Left: A Critical Commentary'. In J E Nyang'oro (ed). *Discourses on Democracy: Africa in Comparative Perspective*. Dar-es-Salaam: Dar-es-Salaam University Press.
- Haberson, J W. 1999. 'Rethinking Democratic Transitions: Lessons from Eastern and Southern Africa'. In R Joseph (ed). *State, Conflict and Democracy in Africa*. Boulder and London: Lynne Rienner Publishers.
- Heyns, C & M Killander. 2006. *Compendium of Key Human Rights Instruments of the African Union*. Pretoria: Pretoria University Law Press.
- Hinden, R. 1963. *Africa & Democracy*. London: Encounter.
- Joseph, R. 1999. 'State, Conflict and Democracy in Africa'. In R Joseph (ed). *State, Conflict and Democracy in Africa*. Boulder and London: Lynne Rienner Publishers.
- Ligue des Electeurs (LE). 2012. *Les élections tronquées en République Démocratique du Congo. Rapport final sur l'observation des élections présidentielles et législatives du 28 novembre 2011*, March.
- Mangu, A M B. 2002. 'The Road to Constitutionalism and Democracy in Post-colonial Africa: The Case of the Democratic Republic of Congo'. LLD Thesis, University of South Africa.
- Mangu, A M B & M Budeli. 2008. 'Democracy and elections in Africa in the Democratic Republic of Congo: Lessons for Africa'. *Law, Democracy & Development* 12(1).
- Melber, H. 2012. 'Promoting the rule of law: Challenges for South Africa's policy'. *SAFPI Commentary* 5.
- Mkandawire, T. 1999. 'Crisis management and the making of 'choiceless democracies''. In R Joseph (ed). *State, Conflict and Democracy in Africa*. Boulder and London: Lynne Rienner Publishers.

- MNO (Mission nationale d'observation). 2011. *Observation de la Compilation des Elections Législatives du 28 Novembre 2011*. Kinshasa.
- Nwabueze, BO. 1973. *Constitutionalism in the Emergent States*. London: C Hurst & Co.
- Nyang'oro, J E. 1996. 'Discourses on Democracy in Africa: Introduction'. In J E Nyang'oro (ed). *Discourses on Democracy: Africa in Comparative Perspective*. Dar-es-Salaam: Dar-es-Salaam University Press.
- Nzongola-Ntalaja, G. 1997. 'The State and Democracy in Africa'. In G Nzongola-Ntalaja and M Lee (eds). *The State and Democracy in Africa*. Harare: AAPS Books.
- Olukoshi, A. 1999. 'State, Conflict, and Democracy in Africa: The Complex Process of Renewal'. In R Joseph (ed). *State, Conflict and Democracy in Africa*. Boulder and London: Lynne Rienner Publishers.
- Pelletier, J. 1993. 'L'Afrique en mouvement'. In G Conac (ed). *L'Afrique en transition vers le pluralisme politique*. Paris: Economica.
- Ronen, D. 1986. 'The Challenges of Democracy in Africa: Some Introductory Observations'. In D Ronen (ed). *Democracy and Pluralism en Afrique*. Boulder: Lynne Rienner Publishers.
- Sandbrook, R. 1996. 'Liberal Democracy in Africa: A Socialist-Revisionist Perspective'. In J E Nyang'oro (ed). *Discourses on Democracy: Africa in Comparative Perspective*. Dar-es-Salaam: Dar-es-Salaam University Press.
- Schochet, G J. 1979. 'Introduction: Constitutionalism, Liberalism, and the Study of Politics'. In J R Pennock and J W Chapman (eds). *Constitutionalism*. New York: New York University Press.
- Shivji, I G. 1991a. In I G Shivji (ed). *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPES.
- Shivji, I G. 1991b. 'Contradictory Class Perspectives in the Debate on Democracy'. In I G Shivji (ed). *State and Constitutionalism: An African Debate on Democracy*. Harare: SAPES.
- Shivji, I G. 1992. *Fight My Beloved Continent: New Democracy in Africa*. Harare: SAPES.
- Sklar, R L. 1996. 'Developmental Democracy'. In J E Nyang'oro (ed). *Discourses on Democracy: Africa in Comparative Perspective*. Dar-es-Salaam: Dar-es-Salaam University Press.
- Sorensen, G. 1988. 'Democracy and the Developmental State'. In J E Nyang'oro (ed). *Discourses on Democracy: Africa in Comparative Perspective*. Dar-es-Salaam: Dar-es-Salaam University Press.
- Wiseman, J A. 1990. *Democracy in Black Africa. Survival and Revival*. New York: Paragon House Publishers.
- Wiseman, J A. 1996. *The New Struggle for Democracy*. Aldershot: Avebury.

Constitutions, conventions and declarations

African Charter on Human and Peoples' Rights (ACHPR), adopted 27 June 1981 and enforced from 21 October 1986.

African Charter on Democracy, Elections and Governance (ACDEG), adopted 30 January 2007 and enforced from 15 February 2012.

African Union Constitutive Act (AUC), adopted 11 July 2000 and enforced from 26 May 2001.

African Union Convention on Preventing and Combating Corruption (ACPCC), adopted 11 July 2003 and enforced from 5 August 2007.

AU, ECCAS, ICGLR and COMESA joint declaration on the DRC presidential and parliamentary elections on 30 November 2011.

AU Guidelines for Electoral Observation and Monitoring Missions (AU Doc EX/CL/35(III) Annex II)

Constitution of the Democratic Republic of Congo, 18 February 2006 (DRC Constitution 2006), as amended by Law no 11/002, 20 January 2011.

Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes (adopted on 20 November 2004).

Declaration on Democracy, Good Political, Economic, and Corporate Governance (DDGPECG), adopted by the AU Assembly of Heads of State and Government in Durban, South Africa, in July 2002).

ECCAS Declaration on Electoral Support to Member States, adopted on 7 June 2005.

ICGLR Protocol on Democracy and Good Governance, adopted on 1 December 2006.

NEPAD Declaration, adopted in Abuja, Nigeria, in October 2001 at the first meeting of the Heads of State and Government Implementation Committee.

NEPAD Base Document, adopted at the 6th summit of the NEPAD Heads of State and Government Implementation Committee in March 2003, Abuja, Nigeria.

OAU / AU Declaration on the Principles Governing Democratic Elections in Africa, adopted by the AU Assembly in July 2002 (AHG/Decl.1 (xxxviii)).

SADC Principles and Guidelines Governing Democratic Elections, adopted 17 August 2004.

Legislation

DRC Act 10/013, 28 July 2010 related to the organisation and functioning of the National Independent Electoral Commission (NIEC).

DRC Act 11/003, 25 June 2011 (Electoral Act/Law), amending Act 06/006 of 9 March 2006 related to the organisation of presidential, parliamentary, provincial, urban, municipal, and local elections, *RDC Official Journal* 13, 1 July 2011.

Internet sources

Afriquejet. Available at: www.afriquejet.com/election-rd-2011/20128598.html

Carter Center. Available at: www.cartercenter.org

CEEAC-ECCAS. Available at: www.ceeac-eccas.org/index.php

CENI. Available at: www.ceni.gouv.cd

EUEOM. 2011. eeas.europa.eu/eueom/missions/2011/Congo *Le Potentiel*.
Available at: www.lepotentielonline.com

Ligue des lecteurs. Available at: blog.liguedeslecteurs.net

Court case

UNC v Kabila Kabange Joseph & Electoral National Independent Commission,
12 December 2011.

CONGOLESE ELECTIONS 2011

Mostly a Problem of Global Governance and Negative 'Soft Power', not Resources

Timothy B Reid

Timothy B Reid has been involved in peacekeeping for more than 15 years, both in the military (Bosnia, Ethiopia-Eritrea) and as a civilian (Rwanda, Cambodia, the Democratic Republic of Congo, Lebanon and Libya). He has served as a justice and investigations officer for the UN Human Rights Field Operation in Rwanda, as a political affairs officer dealing with armed groups and a team leader for disarmament, demobilisation, repatriation, resettlement and reintegration in Bukavu, responsible for the South Kivu Province of the Congo. He holds an MPA from the John F Kennedy School of Government, Harvard University; an LLB from the University of Montréal; an MSc in international economy and a BAA from the École des hautes études commerciales Montréal. The opinions expressed in this article are the author's own and do not purport to represent those of the United Nations or any other organisation.

e-mail:timothyreid@hotmail.com

ABSTRACT

When Congolese President Joseph Kabila was inaugurated for a second term on 20 December 2011 the fallout from the 28 November elections in the Democratic Republic of the Congo (DRC) was 'situation normal: continued instability'. After Kabila's main opponent, Etienne Tshisekedi, 'swore himself in' on 23 December (Tshisekedi website), there were two men claiming to be president and several other candidates demanding a new ballot. The 2006 elections, the DRC's first since the Global and Inclusive Agreement (Dialogue Inter-Congolais 2002), were shambolic, but clearly legitimate (UN 2007, Carter Center 2006a, b, c). This was partly due to the fact that the United Nations Organization Mission in the Democratic Republic of the Congo (Monuc) had a stronger presence than its successor, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo (Monusco). There was also more international attention in 2006, including an EU rapid reaction force. However, many of the issues in the 2011 election – violence, logistical problems and irregularities – were present in the previous one (see, eg, UN 2006; Carter Center 2006a, b, c). There was possibly as much international financial and logistical support

as there had been in 2006. There were fewer international observers but more local ones. The main differences relate to context, the structure of international assistance and the lack of a second presidential round. The crisis had been years in the making. More important than diminished engagement in the mechanics of the election was the international community's sham attention to governance in sub-Saharan Africa and the culture of impunity it has encouraged. The West, unlike China, has failed to appreciate the strategic importance of the DRC. By encouraging regional dictators instead of enthusiastically supporting the rule of law early and often, it tacitly encouraged bad behaviour.

VOTERS AND OBSERVATION

This article begins with a comparison of voter participation and electoral observation in 2011 with that in 2006. The statistics are somewhat ambiguous: though, in absolute terms, more people voted in 2011, the rate of participation decreased and the number of discarded ballots increased. These factors can be interpreted in different ways, relating to the quality of registration and voting in both years, but would not seem to be strong enough to enable a definitive judgement to be made. International observation was significantly down but domestic observation was considerably increased, proving that the DRC has a healthy civil society. The election, therefore, did not suffer from a 'lack of eyes on the target', though the diminished number of international observers probably represented diminished international attention, which plays an important role in the DRC's current situation.

In 2006, 25 420 199 people were entitled to vote. A total of 25 712 552 voters was registered but 292 353 were excluded from the voters' roll for multiple registration (Nanitelamio 2008). The official turnout was 70.5% (approximately 17 921 240) in the first round and 64.5% (16 396 028) in the second, run-off, round. There were 4.9% invalid and 0.7% blank ballots in the first round and 1.7% invalid and 0.4% blank ballots in the second (Carter Center 2006c). According to the Independent National Electoral Commission (La Commission Électorale Nationale Indépendante – CENI), in 2011 there were 32 024 640 voters, of whom 18 911 572 (59.05%) voted, minus 768 468 spoiled or blank ballots (4.1%) for a final tally of 18 143 104 (56.7%) 'valid voters'.

Putting aside potential manipulation, these figures show important slippage in the level of participation and an official doubling of discarded ballots (perhaps partly due to less funding from international donors for voter education (Carter Center 2011a). On the other hand, more people actually put ballots into boxes, perhaps saying something about the registration process.

In 2006 the first round was observed by some 47 500 national observers, 466 000 political party witnesses and 1 773 international observers (UN 2006). The 2011 presidential and legislative elections were observed by 108 238 national observers, 1 777 130 political party witnesses, 785 international observers, 1 747 Congolese journalists and 62 international reporters (CENI 2012a). The European Union Electoral Observation mission (EU EOM) consisted of 147 people drawn from the EU's 27 member states, including Norway, Switzerland, and Canada and comprising a core team of 10 experts, 46 long-term observers, 72 short-term observers and about 20 DRC-based diplomats on election day (EU 2012).

The Francophonie sent 16 (see Organisation Internationale de la Francophonie 2011). Several African regional associations also sent observer teams. The Southern African Development Community (SADC) sent about 200 (SADC 2011), which included DRC-based diplomats, and the Common Market for Eastern and Southern Africa (Comesa) sent 25. (*The Times of Zambia* 24 November 2011). There were also missions from the African Union (AU), the Economic Community of Central African States (ECCAS or Communauté Économique des États de l'Afrique Centrale – CEEAC) and the International Conference On The Great Lakes Region (ICGLR); however these appear to have been very small (numbers are not mentioned in their press releases and they did not respond to requests for information). The Carter Center sent 70 international observers, including 10 long-term observers from 17 August and another 10 after September.

There were significantly larger numbers of domestic observers than there had been in the previous election, despite a decline in international support for such groups (Carter Center 2011a). The Carter Center itself trained 300 long-term and 6 000 short-term observers, deployed in all provinces. The Catholic Church deployed 30 000. The National Electoral Observation Mission ('Mission Nationale pour l'Observation électorale'), composed of four different Congolese organisations and supported by international NGOs, placed 12 350 observers throughout the country.¹ Some of its members sent out additional observers. The 'Observation Network of Religious Confessions' ('Réseau d'Observation des Confessions religieuses') deployed an additional 17 000. The joint mission of the European Network for Central Africa (Réseau Européen pour l'Afrique Centrale – EurAc) and AETA ('Agir pour les Élections Transparentes et Apaisées': Action for Transparent and Calm Elections) consisted of 12 000 observers (AETA

1 The 'Mission Nationale pour l'Observation électorale' comprises the following Congolese organisations: Le Réseau National pour l'Observation et la Surveillance des Élections au Congo; Le Réseau d'Observation des Confessions religieuses; Le Cadre Permanent de Concertation de la Femme congolaise and Le Conseil National de la Jeunesse. They were supported by the Swedish International Development Cooperation Agency) and EISA and were deployed at 9 074 CENI sites (see RENOSEC 2011; Carter Center 2011a).

2 December 2011). These missions did an outstanding job, but perhaps had there been a stronger international contingent the Congolese government would have been more fastidious about its electoral organisation.

RESOURCES

In this section I compare the resources dedicated to the elections in 2011 with those available in 2006. Though many commentators seem to have the impression that a lack of resources was to blame for the problems in 2011 and although it is not clear exactly how much was spent, what is clear is that far more money was spent on these one-round elections with no EU reaction force than on the two-round elections in 2006 when there was a reaction force. It is conceivable that the international community paid almost as much (perhaps more) in 2011 than in 2006. The big difference is that, having funnelled much of the money through the government in general budget support, the international community did not have as much direct control over how it was spent. In addition to its donations the international community played a similar role to that in 2006, though apparently with less intensity.

It is difficult to compare electoral budgets accurately as estimates cover different periods, keep changing, and it is not clear what they include. Donors may have given more or less resources than they promised. A report by the International Crisis Group in May 2011 claimed that the CENI is less financially stable and independent than its predecessor, the Independent Electoral Commission (Commission Électorale Indépendante – CEI) (ICG 2011a). In an article in the Congolese press it was claimed that as of July 2011 the government had given CENI only \$110-million (Congo News Agency 2011).² Despite complaints from the CENI that the international community failed to provide sufficient resources (CENI 2012a) it is possible that international donors contributed about as much to this election as they did to the previous one.

The United Nations Development Programme (UNDP) electoral assistance project (projet d'appui au cycle électoral – PACE)³, the European Commission (EC) and IDEA (the International Institute for Democracy and Electoral Assistance) estimated the global cost of the 2005-2006 elections to have been \$517.7-million, *including* US\$86-million for Monuc logistics (Nanitelamio 2008). The government

2 Unless otherwise specified, all \$ figures represent US dollars.

3 The objectives of Pace are to support the CENI in organising free, transparent and credible national and local elections and to reinforce the CENI's capacity to enable it to manage the electoral cycle properly on a permanent basis. Pace regrouped the funds and efforts of the EU, UK, Belgium, Canada, Netherlands, Sweden, France, Switzerland, Spain, Italy, the Francophonie, Japan, and the UNDP. An EC press release (2 August 2011) stated that in addition to observers the EU provided €47.5m for presidential and legislative elections.

only paid 10%, approximately US\$52-million (see, eg, *Le Potentiel* 2010; Congo News Agency 2010) (or US\$32.76-million once the approximately 37% of foreign funding for the budget is factored out) (IMF 2012).

The cost of the special EU force for the elections (EUFOR RD Congo) was €60-million (about \$75.6-million in June 2006) (Hoebeke, Carette & Vlassenroot 2007). Adding EUFOR and subtracting the fully Congolese part of the budget gives an estimate of \$560.54-million of international support in 2006. The CENI claims the global budget for the 2006 elections was US\$550-million, 502-million of which (91%) was paid by the international community and 48-million (9%) by the government (CENI 2012a). It is not clear whether these figures include EUFOR or other international budget assistance. The CENI's March 2012 report mentions several draft combined budgets with one, dated September 2011, containing the figure of \$1 000 957 527 for 2011-2013 (CENI 2012a). It breaks down this amount into:

- revision of the electoral register: \$94 797 844;
- organisation of presidential and National Assembly elections: \$264 343 559;
- operationalisation and reinforcement of capacities: US\$171 910 163;
- logistical assistance from Monusco: US\$74 600 000;
- organisation of provincial elections: US\$169 083 971;
- organisation of local elections: US\$226 221 991.

NOTE: the total in fact is \$1 000 957 528

The CENI report claims that in 2011, 34.05% of this budget (\$340 557 964) was spent, of which \$257 528 260 was used by the government and \$83 049 074 by the international partners (Pace and others), with Monusco's logistical support still being evaluated. There are a number of problems with the maths. To begin with, even assuming the total 2011 amount to be correct, it would represent 34.02%. According to Pace's website, it had spent \$80 894 605. This amount does not include funds from donors such as the United States, which gave \$15.5-million, mostly for observation and police training (not to mention US participation in Monusco, debt relief and so on, estimated at \$900-million) (see, eg, US Department of State 2011; US Embassy 2011).

However, these discrepancies are minor compared to others. Just the official amounts budgeted for registration and elections in 2011 add up to \$359 141 403 (differing by \$18 583 439 from the CENI figure). Furthermore, it would seem logical that the operationalisation and reinforcement of capacities (\$171 910 163) would have to be mostly, if not totally, completed before the elections, not afterwards.

Without even adding the costs of Monusco's contribution, the same categories of expenses that would have existed in 2006 cost the government \$531 051 566, slightly more than the international election specialists' estimate for the 2006 elections and slightly less than the figure given by the CENI.

Though in September 2011 the government estimated that Monusco's logistical support would cost \$74.6-million (ignoring other forms of assistance), the mission itself had initially budgeted for \$90-million (a figure that apparently took into account, among other costs, the amount required for the use of staff from the Electoral Assistance Division) (UN 2011a). A further \$74 560 100 was added on 4 November 2011 for support for the elections for the period from 1 July 2011 to 30 June 2012 to deal with unforeseen costs (UN 2011a). Potential estimates for Monusco's assistance, therefore, range from \$90-million to \$164 560 100. Adding these to the \$531 051 566 indicates that the costs of the 2011 elections were between \$621 051566 and \$695 611666.

It should be remembered that there was no second presidential round to pay for, though subsequent provincial and municipal elections are included. Rescheduled for 25 February 2013 and 5 February & 30-31 March 2014, these were subsequently pushed back further pending the reform of the CENI, finally enacted on 27 April 2013 – see below)(CENI 2012b, CENIMonusco UNDP2013a, Monusco2013a).

According to some accounts a lot more money – not less – was spent on the 2011 elections. One journalist claims to have seen a revised budget sent by the CENI to international partners indicating that the cost of the electoral cycle, including local elections in 2013, had risen to \$1.2-billion, with the cost of the November 2011 election alone increased to over \$700-million (much of the government's share allegedly funded by selling state mining assets to China and India) (Hogg 2011).

Given that the government's estimate dates from September 2011 it probably excludes a number of last-minute expenses, so the \$700-million may be closer to the truth. It is a bit strange that the CENI was not able to come up with a more complete estimate six months after the election; nor was I able to find any other estimate a full year after the elections.

If one accepts the CENI's claim – probably an underestimation – that the international community contributed \$83 049 704 to its 2011 budget (without including Monusco's costs) that leaves \$448 001 862 for the government to pay. If 42.3% of the projected DRC Central Government budget comes from international aid, that portion (approximately \$189 504 788) of the electoral budget should also

be counted as 'indirect international aid'.⁴ Together with the direct contribution and Monusco's costs, the estimate of international funds spent is between \$362 554 492 and \$437 114 592. If we use the higher figure of \$700-million then subtract the CENI figure for direct aid, the total is \$616 950 296 for the government's portion of the 2011 election budget – 42.3% of that is \$260 969 975. Direct and indirect election aid would be \$344 019 679. Together with Monusco's costs the figure is between \$434 019 679 and \$508 579 779 in international assistance.

Although exact figures are not available it is clear that as much or even considerably more money was spent on the 2011 election than on the 2006 election. It is conceivable, if one factors in Monusco's contribution, the part of the DRC budget financed with international aid and non-Pace donors, that the international community paid almost as much (maybe even more) for the one-round/no EUFOR 2011 elections than they did for the two round/EUFOR-secured 2006 elections. The big difference is that, having funnelled much of the money through the government, the international community did not have as much direct control over how it was spent.

Though there has been no clear explanation of the differences, a superficial comparison shows that the international community played a very similar role in both elections, providing technical and logistical assistance, security, 'political services' (including human rights, gender, and so on) and fund management (Nanitelamio 2008). However, according to a diplomatic source there were concrete differences in the degree of participation. Monusco provided about 200 election officials compared to the 600 provided by Monuc. International staff were no longer omnipresent and Monusco had no control over the logistics plan. Whereas the International Committee in Support of the Transition (CIAT) met regularly and was heavily involved in 2006, its successor, the Election Partnership Committee, met very seldom.

Current reports suggest that the CENI continues to have funding problems leading up to provincial elections in 2013 (UN 2012c). The EU, for example, had

4 Hogg (2011) gives a figure of 50% but does not cite a source. Despite its obvious significance, no one has been able reliably to provide the correct figure. Both the World Bank and the African Development Bank claimed not to have it. The International Monetary Fund (IMF) did not respond; however, there is an estimate in IMF 2011. The projected revenues of and grants to the central government for 2011 total 4 274-billion Congolese francs (about \$4 718 282 300), of which 1 268-billion (\$1 399 808 600) (approximately 29.7%) comes from grants and debt relief. The projected expenditure is 5 308-billion francs (\$5 859 766 600). The grants and debt relief only amount to 23.9% of this figure; however, we get a higher figure if we include Net Foreign Financing, estimated at 979-billion francs (1 158-billion in project loans, 12-billion in debt relief and 192-billion in amortisation due before debt relief. There seems to be 1-million francs more than these figures would indicate, perhaps due to rounding.) If this is included, the total is 2 247-billion francs, divided by the projected expenditure of 5 308-billion francs – amounting to 42.3% of the budget.

made its financing dependent on reform of the CENI and an electoral calendar for provincial and local elections (Rolland 2013).

POLITICAL AND SECURITY DEVELOPMENTS

In some ways, the 2011 election resembled that of 2006, with the same types of electoral violence and allegations of malfeasance. However, there were three big differences. Firstly, instead of the Ugandan-backed warlord Jean-Paul Bemba as his main competition, President Kabila had to face perennial opposition figure Etienne Tshisekedi. Secondly, after initially being seen as the leader of opposition to foreign invasion Kabila came to be regarded by many as having been weak – maybe even a bit complicit – in Rwanda's continued destabilisation of the Kivus. Thirdly, this time there was no run-off round for the presidency. In 2006, despite similar problems, the run-off election had allowed Kabila to claim clear legitimacy. Instead, he now has to face lingering questions about whether he would have won another round.

In 2006 two strong, if flawed, candidates faced off and Joseph Kabila clearly beat Jean-Paul Bemba in a reasonably fair vote. Bemba, with his own militia, supported by Uganda, resorted to violence after losing each round. The Congolese Rally for Democracy ('Rassemblement Congolais pour la Démocratie' – RCD-G) showed itself to be the sham, Rwandan-controlled front that everyone except the international community knew it to be.

Long-time opposition figure Etienne Tshisekedi, a minister under the late dictator, Mobutu Sese Seko, went into opposition in 1980 after Mobutu cancelled elections. When Mobutu was forced to open his government to the opposition in the early 1990s Tshisekedi served two separate terms as prime minister in the space of two years. During the transition between the signing of the Global and Inclusive Agreement and the 2006 elections ('the Transition'), he did not feel he was getting the respect he deserved, so he and his party, the Union for Democracy and Social Progress (Union pour la démocratie et le progrès social – UDPS), boycotted the 2006 election, claiming it was rigged in advance.

In 2006 Kabila had some real achievements to his credit. Following the assassination of his father he had supported the transition and the deployment of Monuc. The country was reunited and inflation tamed. Though still in bad shape, the country had made great strides from where it had been when he took over. Compared to his major opponents in the presidential race he looked reasonably good, particularly in the east, which was managed by Rwandan and Ugandan controlled proxies. Since winning a mandate in 2006, however, at the urging of the West and the UN, he allowed (without consulting the National Assembly and the Senate) the brutal army of Rwandan President Paul Kagame to enter

the DRC once again, displacing a further 900 000 Congolese citizens and adding thousands more rapes and deaths to the millions since 1994 (see Hubert 2010; Congo Advocacy Coalition 2009).⁵ This cost Kabila a great deal of support.

Vital Kamerhe, who ran his previous campaign and was president of the National Assembly, defected and formed his own party, Union for the Congolese Nation (Union pour la nation congolaise – UNC). Though there had been some moves to improve governance of natural resources these were counterbalanced by other moves to shore up presidential power and charges of cronyism that had not been addressed. At the start of 2011 Bemba was sitting in the dock of the International Criminal Court in The Hague, not because of the atrocities he had committed in the DRC as Uganda's proxy but because of those his troops had allegedly committed in the Central African Republic in support of former president Ange-Félix Patassé.

His 2006 'boycott strategy' having failed, Tshisekedi mounted a vigorous campaign. Perhaps fearing he might lose a run-off election, Kabila changed the 2006 Constitution by means of Law No 11/002 of 20 January, which instituted a one-round presidential election system, waiving the requirement that the winning candidate needs more than 50% in the first round to avoid a second round and allowing a candidate to win the presidency with less than 50% of the vote (see ICG 2011).

The pretext – not without merit – was that a poor country like the DRC could ill afford to pay for a second round. However, besides the steep financial cost mentioned above, as many observers anticipated, this proved extremely damaging to the credibility of his win and will probably cost a lot more in the long term. Another suggestion was that an alternate vote ballot should be used (see, eg, UN2011b; *Christian Science Monitor* 2011; Ulfelder 2011), though this may have proved too much for the already overwhelmed electoral administration.

In addition to the constitutional change, the CEI, run by respected Catholic prelate Apollinaire Malu Malu, was replaced by the CENI, led by Pastor Daniel Ngoy Mulunda, a founding member of Kabila's People's Party for Reconstruction and Democracy (Parti du peuple pour la reconstruction et la démocratie – PPRD). Observers noted important problems in voter registration, candidates' widely varied access to media, and political violence (see, eg, Carter Center 2011a; ICG 2011).

5 For proof of US encouragement, see John F Kennedy Jr Forum 2010. Regarding deaths caused by a previous attempt to eliminate the Democratic Forces for the Liberation of Rwanda by force at the behest of Rwanda see Human Rights Watch 2009. As opposed to those troops sent in 'clandestinely' to support the M23, these troops were apparently still operating as late as September 2012, when Rwanda announced it was officially 'withdrawing' those it had sent in to supposedly hunt down the FDLR with 'official' permission. See, eg, AETA 2012.

The Audiovisual and Communication High Council (Conseil Supérieur de l'Audiovisuel et de la Communication – CSAC), which replaced the High Media Authority just two months before the elections as the government agency responsible for ensuring equal access to public media during elections, was accused of bias in the administration of its mandate. EU mission chief Mariya Nedelcheva noted that presidential candidates did not get equal access to the national television network, with Kabila receiving 86% of airtime against just 1% for Tshisekedi. Nedelcheva also noted the nomination of 18 new magistrates by the president, raising doubts about the independence of the Supreme Court, which was charged with examining the preliminary results and declaring them official (AFP 2011).

A UN human rights report documented 188 violations between 1 November 2010 and 30 September 2011 apparently linked to the electoral process and relating to freedom of expression, physical integrity, liberty and security of individuals and freedom of peaceful assembly (Monusco & OHCHR 2011). Most of these incidents directly involved elements of the Congolese National Police or the National Intelligence Service targeting supporters of the opposition parties.

International observers also expressed concern about violent pre-election demonstrations. Human Rights Watch (2011) reported at least 18 civilians dead and 100 seriously wounded in electoral violence between 26 and 28 November. The majority of those killed were shot by the Republican Guard in Kinshasa. Other civilians were killed and injured in fighting between rival political parties, attacks by armed groups, and mob violence.

On election day there were incidents of violence related to suspected fraud, augmented by the poor preparation of electoral lists. Many citizens had been left off the lists and their late posting, just before the election, allowed little chance to demand a revision. Electors and officials were often unsure whether a particular voter could vote. Late and insufficient materials at some polling stations did not help either. EU observers noted attempted ballot box stuffing in several provinces, undelivered election materials, unsealed ballot boxes, voters turned away from polling stations and other problems. In some cases, when election officials or others tried to stop apparent fraud, they were threatened or attacked by those committing the fraud, some of them members of the security forces.

Several polling stations were burned down following allegations of ballot box stuffing. In other areas there were attempts to intimidate electors into voting a certain way, notably by Erasto Ntiburama of the former Rwanda-backed rebel militia-turned political party, the National Congress for the Defense of the People (CNDP). Observers say he compelled voters to vote for his son, Bahati Ibatunganya, and for Kabila. Following the elections there were violent demonstrations, resulting in harsh crackdowns. In a report contested by the

government, the UN Joint Human Rights Office claimed that defence and security forces had killed at least 33 people and injured 83 others between 26 November and 25 December 2011 as well as arbitrarily arresting 265 civilians (see UNJHRO 2012; Ministère de la justice 2012).

Presidential candidate and head of the Senate, Léon Kengo, had called for a recount, but nonetheless attended Kabila's swearing in. He was subsequently violently attacked in Paris – an attack the government blamed on Tshisekedi supporters (France 24 International News 2012). On the positive side, the violence was much milder than that in 2006, probably because, unlike Bemba, Tshisekedi did not have his own personal, foreign-backed army. Other heavy-handed responses were applied to the media. The CSAC suspended two broadcast networks without an official decision according to the regular process and one newspaper close to the opposition. In Tshisekedi's stronghold of Mbuji Mayi police closed down broadcaster RLTV without legal cause. Even Radio France International was shut down. Following international pressure most media restrictions were lifted (see Stearns 2012).

ELECTION EVALUATION

There are stark differences among the evaluations of the different monitoring missions. All international observers noted that voting day was generally peaceful and that the Congolese people showed their determination to live in a democracy by walking long distances and suffering long waits to vote (see, eg, AU, SADC, ECCAS, ICGLR & COMESA 2011; EU 2011; Carter Center 2011b; AETA/EurAc 2011; Monusco 2011). For the missions of the AU, SADC and other African interstate organisations this seemed to be enough and they ratified the results (AU, SADC ECCAS, ICGLR & COMESA 2011; BBC Africa News 2011).

The Francophonie (which, in addition to numerous African members also had some important Western ones) limited itself to calling for respect for the legal process, for non-violence and for inclusive dialogue (La Francophonie 2012). Most Western and Congolese missions expressed a more critical view.

The Carter Center (2011c) was particularly scathing, saying the quality and integrity of vote tabulation varied across the country and the results 'lacked credibility'; though it also said the serious problems observed did not necessarily mean the final order of candidates would have been any different. It highlighted the loss of 2 000 polling station results in Kinshasa and extremely high turnout in pro-Kabila Katanga contrasted with average participation in pro-Tshisekedi Kasai Occidental. The Center also noted delays in announcing results, a lack of proper observer access to the tabulation process and some severe restrictions on media and communication.

After voting ended, opposition candidates and observers complained that the results had not been properly separated by polling station, as required by law. The EU EOM asked that, in the name of transparency, detailed results be posted at the local compilation centres as well as on the CENI's internet site. This appears to have been done initially only to voting-centre level, but, according to a diplomatic source the results *were* subsequently distributed on CDs to interested parties (see CENI site; AETA 2011). The conclusions of the Catholic Church's observation mission were broadly similar in tone (CENCO 2012). It denounced the chaos, irregularities and violence and called for an overhaul of the CENI.

The report of the National Electoral Observation Mission (Mission nationale d'observation 2011) included a number of pointed criticisms, including fraud, as did the report of the 'Voice of the Voiceless for Human Rights' (La Voix des Sans-Voix pour les droits de l'homme – VSV 2012). VSV also decried a lack of political culture, saying neither Kabila nor Tshisekedi (who declared himself the winner even before the vote) (UN 2012a), seemed prepared to accept defeat. All the Congolese missions called for calm, for the rule of law to be upheld and for an inclusive national dialogue to sort out the problem, though neither the president nor Tshisekedi seemed interested (Radio Okapi 2012a).

The civil society coalition, AETA, came closest to saying that Tshisekedi had won. In a letter to the UN secretary-general it wrote that the DRC had a 'legal President that was not legitimate and a president who was legitimate but not legal'. It asked either for a recount or a second round of presidential elections organised concurrently with provincial ones. It also requested that Monusco be given the mandate to observe elections and protect Tshisekedi (AETA 2012a & b). It was a strange request in the light of the fact that Tshisekedi himself blamed Monusco for the electoral problems and derided an international investigation mission (Clottey 2012; Radio Okapi 2011 updated 2012).

Immediately following the vote the opposition candidates, Léon Kengo, Antipas Mbusa and Adam Bombole, demanded the vote be annulled but this did not include Tshisekedi, confident that he would win anyway (AETA 2011b). Many observers worried about his veiled threats of upheaval (see, eg, www.udps.org; AFP 2011). On 9 December the CENI announced that Kabila had won, with 8 880 944 votes (48.95 %), followed by Tshisekedi with 5 864 775 votes (32.33 %) and Kamerhe with 1 403 372 votes (7.74%). On 12 December the CENI sent the provisional results to the Supreme Court for validation. Kamerhe at first appeared to call for annulment then accepted the vote while maintaining accusations of large-scale fraud before being the only candidate to petition formally for nullification (see, eg, www.vital-kamerhe.com; Hogg & Lewis 2011). The application was turned down on 12 December and Kabila was formally declared the winner (UN 2012a, paras 9-10). Kamerhe then asked on his website for Kabila to be impeached (Kamerhe 2012).

Tshisekedi, too, objected to the official result, instructed the army to stop obeying Kabila (BBC Africa News 2011), had himself sworn in as president and announced he would shortly form a Cabinet (Radio Okapi 2012b), though he has not yet done so. After a period of what some called a form of ‘tacit house arrest’ Tshisekedi ventured out to meet the German Ambassador on 27 February 2012 (*Jeune Afrique* 2012; Radio Okapi 2012c, 2012e).

Several opposition groups banded together to form a ‘National Resistance Council’, whose goal was to get to ‘the truth of the ballot boxes’ (Le Phare 2012). A delegation led by Kamerhe went to an AU meeting in Addis Ababa to lobby African heads of state, even though many had been elected in circumstances far dodgier than those of Kabila (*Congo News* 2012). They tried to participate in a pacific ‘Christian march’ organised on 16 February 2012 by the Catholic Church. After the governor of Kinshasa banned the march police forced demonstrators to stay inside their churches and used tear gas against some (AETA 2012a, 2012b; Colombant 2012).

The presidential camp responded to allegations of fraud by saying that, although there had been irregularities they were not sufficiently severe to have given Tshisekedi a higher number of votes than Kabila (AETA 2011a). In support of this claim, they published a number of simulations, purporting to show that, even if all the votes from ‘questionable’ districts were given to Tshisekedi he would have 1 641 013 fewer than Kabila and maintained that all candidates had received high levels of support where expected. The explanation for the extremely high levels of votes for the president in certain areas was that proxy votes had been used and that it had been decided to allow voters who had their cards but whose names had been left off the electoral lists to vote.

Following all the drama of the elections draft amendments to the Organic Law on the Organization and Functioning of the Independent National Electoral Commission were submitted to the National Assembly on 24 September 2012 (UN 2012c). The majority and the opposition disagreed on elements such as the composition of the CENI’s executive board and the establishment of a plenary body. On 7 October 2012 a special commission, with members from both sides, was established in an effort to reach a compromise and Law 13/012 of 13 April 2013 was signed into effect by President Kabila on 27 April 2013. The new commission comprised: 13 members, six from the majority, four from the opposition and three from civil society.

LEGISLATIVE ELECTIONS

With all the drama over the presidential results legislative elections were somewhat ignored, though, in some ways, they were more contentious. The same

number of missing or fraudulent ballots in a given district, while not significant enough to change the presidential standings, can make a difference in a local race.

After several postponements most of the provisional results were published on 1 February 2012 (CENI 2012a), although the CENI later claimed to have published them on 26 January. The CENI sought to annul elections in seven districts affected by violence and demanded legal action against 20 candidates accused of participating in violence (CENI 2012a). The districts were: Kiri in the east of Bandundu, Ikela in Equateur, Masisi in North Kivu, Kole and Lomela in Kasai Oriental, Punia in Maniema and Demba in Kasai Occidental.

According to Article 73 of Law no 11 / 003 of 25 June 2011 candidates and their parties had eight days within which to contest the results. The Supreme Court received 507 important legislative challenges (Carter Center 2012) and had two months within which to examine the complaints (Art 74 Law 11 / 003). On 27 April 2012 the court invalidated the election of 32 members of the National Assembly owing to irregularities and fraud, instated 31 other candidates in their place (validated by the Assembly on 4 May) and ordered a by-election for the Befale constituency in Equateur (UN 2012b). In the same ruling, the court approved the CENI's petition to nullify the results in Masisi because of significant irregularities, but ordered it to publish the results from the other six districts. This was done on 8 September 2012 (UN 2012c).

On 4 August 2012 the CENI maintained it would not be possible to hold by-elections in Masisi due to insecurity, so, on 18 September, the court directed the commission to overturn its decision to cancel the results there and on 2 October the CENI published provisional results for that district. Following an appeal by the attorney general the Supreme Court ordered the Assembly to decide on the validity of the mandates of the seven deputies from Masisi and on 12 December 2012 they were confirmed (see, eg, Radio Okapi, 2012g).

General results of the elections for the Assembly roughly followed the tendencies of those in the presidential ballot. The main presidential party, the PPRD remained in first place, but the number of representatives dropped from 111 to 62 (CENI 2012a). However, the president could still count on significant support from other parties (see, eg, AETA 2012c).

Many Congolese politicians, like those in other countries, are adept at following their own interests. The 'presidential majority' in the National Assembly is around two-thirds, though it may be difficult to manage its components. Some candidates from competing pro-presidential parties contested each other's elections in court.⁶ It is also notable that the number of seats won by Bemba's MLC was much diminished (from 64 to 22), whereas Tshisekedi's UDPS, after

6 For a list of court appeals so far, see Tshiambi 2012. See also *RFI* 11 Feb 2012.

boycotting the 2006 election, was now the leading opposition party – and the second-strongest party after PPRD, with 41 seats. However, having sworn himself in as president, Tshisekedi ‘annulled’ the legislative elections and the UDPS boycotted the Assembly.⁷ Tshisekedi expelled from his party the 33 UDPS deputies who insisted on taking their seats (UDPA 2012a, 2012b). Given that most of the members took up their seats and that the Assembly does not need the UDPS to function, it is questionable whether the party is more effective shouting from outside rather than being inside.

INTERNATIONAL REACTION: NEGATIVE SOFT POWER

After the presidential results were published Monusco and the international community called for calm, verification of results, national dialogue and the pursuit of grievances through the courts (see, eg, Monusco 2011a; Radio Okapi 2012d). The United States suggested a technical review (US Department of State 2011a, 2011b), but a joint mission by the International Foundation for Electoral Systems (IFES) and the National Democratic Institute (NDI) was frustrated in its attempts to bring clarity. Its only conclusion was to recommend a broad review of the electoral process with all stakeholders and access to electoral materials (NDI-IFES 2012).

Activists complained about the fact that the US was not more forthright in condemning the results and more proactive in pressuring the government (Colombant 2011) but, judged by the standards of American diplomacy and regional democracy, the American response was quite harsh, with critics saying that the elections had not measured up to ‘democratic gains’ in other African countries and criticising the pace of reform in general (see US Department of State 2011a, 2011 b; Baer 2012).

The activists were, however, forced to admit that the obvious flaws did not necessarily mean that the order of candidates would have been different from that announced by the CENI. Having failed to convince the government not to abolish the second round, they could not confidently say that Kabila had not won the election under the new rules. It is worth repeating that although the Election Partnership Committee was supposed to be equivalent to the CIAT it was considered almost moribund. Also, as stated above, although the international community *did*, in fact, provide massive funding for the 2011 election, this was mostly done indirectly through general budget support, giving it considerably less leverage.

The hectoring of the international community would be more effective if the community were more coherent in its treatment of sub-Saharan governments.

7 ‘Législatives-RDC: la Majorité présidentielle en tête.

‘Soft Power’ is the ability to influence through example, attraction and legitimacy (Nye 2004). ‘Negative soft power’ repels when behaviour is not seen as legitimate, especially when it contradicts lofty rhetoric.

The current Rwandan and Ugandan regimes are responsible for the deaths of close to seven million people in the region. Using development aid and Western military assistance these regimes have organised and controlled the chaos, rape and pillage in the DRC. President Paul Kagame of Rwanda has outlawed, beaten, murdered and imprisoned his opposition (see, eg, Reid 2009, pp 133-196; Hironelle News Agency 2005; BBC News 2004 and 2008, EU 2003, Immigration & Refugee Board of Canada 2006, Economist 2010, Amnesty 2010, Human Rights Watch 2010). Despite these crimes, Kagame was named co-chair of the UN’s Millennium Development Goals Advocacy Group (UN 2010; UN Department of Public Information 2010; Iacobini de Fazio 2010; Russell Lee 2010; Lynch 2010) and awarded a Global Citizen Award for ‘Leadership in Public Service’ by former US President Bill Clinton (Clinton Global Initiative 2009). Despite the fact that under his leadership there was massive recruitment of child soldiers and scores of children died, the US Fund for Unicef honoured Kagame with its Children’s Champion Award (see Unicef).

Despite the fact that he had caused countless rapes through his wars and destabilisation of the Great Lakes region (see, eg, Reid 2011; Baaz & Stern 2010), Liberian president and Nobel Peace Prize winner Ellen Johnson-Sirleaf awarded Kagame Liberia’s highest honour for ‘services to women’ (*Rwanda New Times* 2009).

As it pushed for the rule of law in the DRC, the US State Department filed a *Suggestion of Immunity* on 29 August 2011 on behalf of Kagame for acts committed before he became head of state (*Habyarimana et al v Kagame* 2011). Kagame was represented by former US Ambassador for War Crimes, Pierre-Richard Prosper (Arent Fox 2011; Al Jazeera 2011). Despite the well-documented pillage by Rwanda and Uganda of the DRC, the international community has not pressured Rwanda or Uganda to join the Extractive Industries Transparency Initiative (EITI).⁸

Over the objections of the DRC and Human Rights Watch, Rwanda was voted onto the UN Security Council on 18 October 2012 (UN News Centre 2012), the day after a leaked UN report again confirmed the Rwanda government’s control of the brutal ‘rebel’ group, M23 (Security Council 2012b, 2012a; BBC News 2012a & b; Wallis 2012; Smith 2012). Even the UK Foreign & Commonwealth Office,

⁸ The initiative was launched by Former British Prime Minister Tony Blair at the World Summit on Sustainable Development in Johannesburg in September 2002. It supposedly ‘aims to ensure that the revenues from extractive industries contribute to sustainable development and poverty reduction’. Despite their well-known pillage of the DRC and the fact that the UK is a major bilateral donor to Rwanda and Uganda, it has been unable or unwilling to get them to sign on. This is perhaps not surprising given the influence of Blair and that former UK Secretary of State for International Development, Clare Short, notorious for her unquestioning heavy support of these two rogue states, has been chair of the board since 2011.

normally Rwanda's staunchest supporter, expressed its confidence in the Panel of Experts Report (UK Foreign & Commonwealth Office 2012).

Within a week of this demonstration of international impunity for the Rwandan Patriotic Front, its proxy, M23, went on the offensive again and took Goma, the capital of North Kivu, on 20 November, with little apparent action or reaction from Monusco or the international community (Radio Okapi 2012f; Plett, B 2012; BBC 2012c; Briggs 2012). As in 2006 when another Rwandan-backed Congolese Tutsi warlord took Bukavu, mobs attacked UN installations and government buildings (see Monusco 2012).

According to Refugees International, as of November 2012 more than 2.4-million Congolese had been internally displaced and more than 460 000 had become refugees in neighbouring countries (Refugees International 2012). Susan Rice, the US Ambassador to the UN, who has frequently defended the RPF regime and who has tried to block the publication of UN reports critical of Rwanda, was President Obama's lead candidate to replace Hillary Clinton as Secretary of State before her candidacy was derailed by unrelated events in Libya (see, eg, Stearns 2012; Congo Siasa 2012; Hirsh 2012; Rosenblum 2002, pp 195-202). Seeing others rewarded for bad governance, why would the Kabila administration feel obliged to act differently?

In contrast to the West's 'convenient' morality, China does not pretend to care about elections, but it does bring real assets to bear. Canada is the natural resource capital of the world and Canadian listed companies are amongst the most important involved in the DRC, yet Canada refused, in 2010, to send one of its generals to lead the peacekeeping force. In contrast, China has had medical and engineering contingents in its mission for almost a decade. In 2008 China's Export-Import Bank promised to lend \$9-billion to build and upgrade 3200km of rail and 4 000km of road and develop and rehabilitate the mining sector in exchange for copper and cobalt concessions (eStandards Forum 2009). They will also construct two hydro-electric dams, rehabilitate water supply facilities, build 31 hospitals, 150 health centres, 4 large universities, a new parliament and 20 000 residences. Congolese will form 80% of the work force.

The IMF was against further debt relief to the DRC because of the size of the loan, state guarantees and the barter nature of the project, so the agreement was reduced to \$6-billion (eStandards Forum 2009; Economist Intelligence Unit March 2010, p 18). A similar deal, worth \$750-million, was made with Korean corporations to provide water infrastructure, also in exchange for Katangan mines (eStandards Forum 2009, p 11; Economist Intelligence Unit March 2010, p 10). The point is that emerging powers see the strategic importance of Africa that the West has missed and are engaging in partnerships rather than in 'charity'. This makes African governments less dependent on Western aid and less susceptible to criticism over lapses in democratic practice.

CONCLUSION

According to the principle of 'national ownership' the Congolese government should have played a much more important role in 2011 than it did in 2006, but, as in fragile post-conflict countries everywhere, this role resulted in a more partisan and less competent electoral administration. Had the international community been as hands-on as it was in 2006 some might have accused it of 'neo-colonialism'. Nonetheless, that is not an excuse for not maintaining better statistics and ensuring that aid achieves its intended goals.

Given its support for the Congolese budget, the international community still paid for a large portion of the costs, though without commensurate oversight. The technical flaws observed in 2006 were aggravated in 2011, without the second round of presidential elections which would have bolstered legitimacy. Though there was large-scale fraud it is not clear that, in fact, any other candidate would have won, given the rules in place ... The main problem was not insufficient voter education or too few international monitors (Congolese civil society did a sterling job) but rather a history of international complacency and complicity with war criminals and bad governance which makes pious statements about democracy seem insincere. The fact that China and other rising powers are starting to exploit the strategic potential that Western powers have ignored further diminishes leverage for democracy and human rights.

It was unlikely that the government or the international community would pay for another election. The interesting idea of combining the national and provincial elections did not go anywhere. The most likely scenario is that a Kabila administration with diminished legitimacy will limp along until the next national elections. There will be sporadic acts of violence against and from the government. It would be difficult to stage a full rebellion without the sort of outside interference that the Congolese have, rightly, come to mistrust.

Tshisekedi's relatively advanced age (almost 80) could both spur him on to obtain change quickly and tire him out. Vital Kamerhe may take over the role of chief figurehead of the opposition. His principled stand against Rwandan troops and his role in the transition might make him acceptable both to the Congolese and to the international community. The best hope for the future is sustained action by Congolese civil society but the West can help by combining a demand for rule of law with a Chinese-style partnership for development.

REFERENCES

- Agir pour les Elections Transparentes et Apaisées (AETA). 2011a. 'Documents préparés par des experts de la Majorité Présidentielle pour réfuter l'analyse du Centre Carter sur la crédibilité des résultats partiels proclamés par la CENI le 9 décembre 2011'. Available at: www.aeta-network.org/documents-prepares-par-des-experts-de-la-majorite-presidentielle-pour-refuter-l%E2%80%99analyse-du-centre-carter-sur-la-credibilite-des-resultats-partiels-proclames-par-la-ceni-le-9-decembre-2011?lang=en
- AETA. 2011b. 'RDC: les candidats Kengo, Mbusa et Bombole demandent un nouveau scrutin présidentiel', 15 December. Available at: www.aeta-network.org/rdc-les-candidats-kengo-mbusa-et-bombole-demandent-un-nouveau-scrutin-presidentiel
- AETA. 2012a. 'Déclaration sur la crise post-électorale en RD Congo', 28 January. Available at: www.aeta-network.org/organisations-de-la-societe-civile-congolaiseaeta-declaration-sur-la-crise-post-electorale-en-rd-congo
- AETA. 2012b. 'Future Assemblée nationale/ PPRD, PPPD, MSR ... UDPS: les principaux groupes parlementaires', 1 February. Available at: www.aeta-network.org/future-assemblee-nationale-pprd-pppd-msr%E2%80%A6udps-les-principaux-groupes-parlementaires
- AETA. 2012c. 'Lettre de la Société Civile Congolaise au S.G des Nations Unies sur la Crise Post-Electorale en RDC', 7 February. Available at: www.aeta-network.org
- AETA. 2012d. 'Kinshasa: le gouverneur interdit la marche des chrétiens', 16 February. Available at: www.aeta-network.org/kinshasa-le-gouverneur-interdit-la-marche-des-chretiens
- AETA. 2012e. 'Rwandais au Kivu Kabila en difficulté', 5 September. Available at: www.aeta-network.org/rwandais-au-kivu-kabila-en-difficulte
- AETA/ Réseau Européen pour l'Afrique Centrale (EurAc). 2011. 'Journée du scrutin en RDC: premières observations', 30 November. Available at: www.aeta-network.org/aetaeurac-journee-du-scrutin-en-rdc-premieres-observations
- Agence France Presse (AFP). 2011a. 'EU finds DR Congo vote irregularities', 1 December. Available at: news.yahoo.com/conspiracy-theories-swirl-dr-congo-awaits-vote-results-144700598.html
- AFP. 2011b. 'DR Congo opposition leader issues warning over vote tally', 4 December. Available at: www.capitalfm.co.ke/news/2011/12/dr-congo-opposition-leader-issues-warning-over-vote-tally/
- Al Jazeera. 2011. 'US court dismisses lawsuit against Kagame – Oklahoma court says Rwandan president has immunity as head of state in lawsuit over deaths of two African presidents', 29 October. Available at: www.aljazeera.com/news/americas/2011/10/20111029145039353562.html
- Amnesty International. 2010. 'Rwanda: End human rights clampdown before presidential elections'. Public Statement 24 April: AI Index: AFR 47/003/2010. Available at: www.amnesty.org/en/library/info/AFR47/003/2010/en

- Arent Fox. 2011. 'Arent Fox Wins Dismissal of Wrongful Death Suit Filed Against President of Rwanda'. Press Release, 1 November. Available at: www.arentfox.com/newsroom/index.cfm?fa=pressReleaseDisp&content_id=3396
- AU, SADC, Economic Community Of The Central African States (ECCAS), International Conference On The Great Lakes Region (ICGLR) & Common Market For Eastern And Southern Africa (COMESA). 2011. 'Joint Declaration on the Presidential and Parliamentary Elections in the Democratic Republic Of Congo'. Available at: www.au.int/en/sites/default/files/Joint_Statement_-_English%5B1%5D.pdf
- Baaz, ME & M Stern. 2010. 'The Complexity of Violence: A critical analysis of sexual violence in the Democratic Republic of Congo (DRC)'. Swedish International Development Cooperation Agency (SIDA) – The Nordic Africa Institute. Available at: www.sida.se
- Bafilemba, F. 2011. 'Congo's Kabila revises Constitution: presidential candidates now only need a plurality'. *The Christian Science Monitor – CSMonitor.com: Africa Monitor*, 19 January. Available at: www.csmonitor.com/World/Africa/Africa-Monitor/2011/0119/Congo-s-Kabila-revises-Constitution-presidential-candidates-now-only-need-a-plurality
- BBC Africa News. 2004. 'From president to prison', 7 January. Available at: news.bbc.co.uk/2/hi/africa/3728807.stm
- BBC Africa News. 2008. 'Timeline: Rwanda – A chronology of key events', 20 March. Available at: news.bbc.co.uk/2/hi/africa/1070329.stm
- BBC Africa News. 2011a. 'DR Congo election hailed a success by African observers', 30 November. Available at: www.bbc.co.uk/news/world-africa-15959155
- BBC Africa News. 2011b. 'DR Congo's Tshisekedi orders army to disobey Kabila', 19 December. Available at: www.bbc.co.uk/news/world-africa-16243472
- BBC Africa News. 2012a. 'DR Congo's M23 rebels threaten to march to Kinshasa', 12 November. Available at: www.bbc.co.uk/news/world-africa-20427682
- BBC Africa News. 2012b. 'Rwanda defence chief leads DR Congo rebels UN report says', 17 October. Available at: www.bbc.co.uk/news/world-africa-19973366
- BBC Africa News. 2012cb. 'Rwanda voted onto UN Security Council', 18 October. Available at: www.bbc.co.uk/news/world-19998195
- Briggs, C. 2012. 'Fall of Goma Shows Monusco's Failings'. Refugees International, 20 November. Available at: refugeesinternational.org/blog/fall-goma-shows-monuscos-failings
- Carter Center, The. 2006a. 'Preliminary Statement on the October 29 Presidential Elections in the Democratic Republic of the Congo', 1 November. Available at: www.cartercenter.org/news/pr/drc_runoff_preliminary.html
- Carter Center, The. 2006b. 'Second Carter Center Post-Election Statement on the October 29 Presidential Elections in the Democratic Republic of the Congo', 15 November. Available at: www.cartercenter.org/news/pr/DRC_111506.html
- Carter Center, The. 2006c. 'Third Carter Center Post-Election Statement on the October 29 Presidential Elections in the Democratic Republic of the Congo', 27 November. Available at: www.cartercenter.org/news/pr/third_DRC.html

- Carter Center, The. 2011a. 'First Carter Center Pre-Election Statement on Preparations in the Democratic Republic of Congo', 17 October. Available at: www.cartercenter.org/news/publications/election_reports.html#drc
- Carter Center, The. 2011b. 'Preliminary Post Election Statement'. The Carter Center International Election Observation Mission – Democratic Republic of Congo, Presidential and Legislative Elections, 28 November. Available at: www.cartercenter.org/news/publications/election_reports.html#drc
- Carter Center, The. 2011c. 'DRC Presidential Election Results Lack Credibility', 10 December. Available at: www.cartercenter.org/news/pr/drc-121011.html
- Carter Center, The. 2012. 'Carter Center: Democratic Republic of the Congo Legislative Election Results Compromised', 23 February. Available at: www.cartercenter.org/news/pr/drc-022312.html
- CENI. 2012a. 'Les Élections Présidentielles et Législatives du 28 Novembre 2011 en République Démocratique du Congo: Défis, Stratégies et Résultats'. Kinshasa: Commission Électorale Nationale Indépendante (CENI) de la République Démocratique du Congo, March. Available at: www.aeta-network.org/rapport-d%E2%80%99evaluation-de-la-commission-electorale-nationale-independante-ceni
- CENI. 2012b. Élection des députés Nationaux de 2011 – Résultats provisoires, 26 January. Available at: docs.google.com/viewer?a=v&pid=explorer&chrome=true&srcid=0B3GJKd5i8PncYmZINzY5ZmItZGRmMi00YzdmLTllODgtMTJjM2I2ZmQ1N2U3&hl=en_GB&pli=1
- CENI. 2012c. Décision No 019/CENI/BUR/12. Press Statement, 10 November. Available at: www.aeta-network.org/ceni-le-calendrier-pour-les-elections-provinciales-deja-connu
- CENI, Monusco, UNDP. 2013a. 'Note d'information – Processus électoral Actualité du processus électoral : Situation au 16 janvier 2013'. Available at: monusco.unmissions.org/LinkClick.aspx?fileticket=CuW8-x64511%3d&tabid=11253&mid=14404&language=fr-FR
- Christian Science Monitor*. 2011. 'Congo's Kabila revises Constitution: presidential candidates now only need a plurality', 19 January. Available at: www.csmonitor.com/World/Africa/Africa-millionitor/2011/0119/Congo-s-Kabila-revises-Constitution-presidential-candidates-now-only-need-a-plurality
- Clinton Global Initiative. 2009. 'Former President Clinton Announces Winners of the Third Annual Clinton Global Citizen Awards'. Press Release, 23 September. Available at: press.clintonglobalinitiative.org/press_releases/former-president-clinton-announces-winners-of-the-third-annual-clinton-global-citizen-awards/
- Clottey, P. 2012. 'DRC Opposition Figure Blames Monusco for Election Debacle'. *VOANews*, 1 January. Available at: www.voanews.com/english/news/africa/DRC-Opposition-Figure-Blames-Monusco-for-Election-Debacle-136501173.html

- Colombant, N. 2011. 'Activists, Analysts Express Frustration at US Congo Policy'. *VOA News* 27 December. Available at: www.voanews.com/english/news/africa/Activists-Analysts-Express-Frustration-at-US-Congo-Policy-136283298.html
- Colombant, N. 2012. 'While March in Kinshasa is Banned, Analysts Fear for Congo'. *VOA News* 16 February. Available at: www.voanews.com/english/news/africa/While-March-in-Kinshasa-is-Banned-Analysts-Fear-for-Congo-139483743.html
- Conférence Episcopale Nationale du Congo (CENCO). 2012. 'Message de la CENCO aux fideles et au peuple congolais: "le courage de la vérité"', 12 January. Available at: www.cheikfitanews.net/article-document-millionessage-de-la-cenco-aux-fideles-et-au-peuple-congolais-le-courage-de-la-verite-96973775.html
- Congo Advocacy Coalition. 2009. 'Congo Advocacy Coalition letter to United Nations: Civilian Protection Now', 6 February. Available at: www.enoughproject.org
- Congo News Agency. 2010. 'Parliament to Tackle Elections 2011 Budget during September Session', 14 September. Available at: www.congoplanet.com/news/1738/parliament-to-tackle-elections-2011-budget-during-september-session.jsp
- Congo News Agency. 2011. '31 Million Registered to Vote', 20 July. Available at: www.congoplanet.com/news/1861/dr-congo-presidential-election-thirty-one-million-registered-to-vote.jsp
- Congo News. 2012. 'Kamerhe, Félix, Fayulu: mission accomplie à Addis-Abeba', 1 February. Available at: www.7sur7.cd/index.php?option=com_content&view=article&id=29595:kamerhe-felix-fayulu-mission-accomplie-a-addis-abeba&Itemid=2
- Congo Siasa, 24 Nov 2012. Available at: congosiasa.blogspot.com/
- Economist, The*. 2010. 'A Rwandan shooting – Who is out to kill the dissidents? As an election looms, the politics of Rwanda become a lot nastier', 24 June. Available at: www.economist.com/node/16439016?story_id=16439016&fsrc=nlw|wwp|06-24-2010|politics_this_week
- Economist Intelligence Unit. 2010. 'Country Report: Democratic Republic of Congo', March. Available at: store.eiu.com/
- EITI. Available at: www.eitransparency.org/
- eStandards Forum. 2009. *Country Brief – Democratic Republic Of The Congo*. eStandards Forum Financial Standards Foundation, November 12. Available at: www.estandardsforum.org
- EurAc & AETA. 2011. 'RDC, Élections du 28 novembre 2011: Mission d'observation électorale', 2 December. Available at: www.radiovaticana.org/FR1/articolo.asp?c=542946
- European Commission (EC). 2011. 'Democratic Republic of the Congo: EU observers for presidential and parliamentary elections'. Press release, 2 August.

- Available at: europa.eu/rapid/pressReleasesAction.do?reference=IP/11/945&format=HTML&aged=0&language=EN&guiLanguage=en
- European Union (EU). 2003. Mission d'Observation Électorale de l'UE Rwanda 2003. 'Rapport final sur l'élection présidentielle et les élections législatives'. Available at: ec.europa.eu/external_relations/human_rights/eu_election_ass_observ/rwanda/moe_ue_final_2003.pdf
- EU. 2011. Mission d'observation électorale de l'Union européenne en République démocratique du Congo 2011. 'Une forte mobilisation de l'électorat dans un processus insuffisamment maîtrisé'. Press release, Kinshasa, 1 December. Available at: www.moeue-rdc.eu
- EU. 2012. Available at: www.eueom.eu/ue-moe-rd-congo-2011/home
- Financial Standards Foundation. 2009. 'Country Brief – Democratic Republic Of The Congo', 12 November. Available at: www.estandardsforum.org
- France 24 International News. 2012. 'Head of DR Congo Senate attacked in Paris', 2 January. Available at: www.france24.com/en/20120101-democratic-republic-congo-senate-chief-attacked-paris-leon-kengo
- Hirondelle News Agency (Lausanne). 2005. 'Former Rwandan President Bizimungu Back in Court', 20 April.
- Hirsh, M. 2012. 'Susan Rice: Benghazi May Be Least of Her Problems'. *National Journal*, 16 November. Available at: news.yahoo.com/susan-rice-benghazi-may-least-her-problems-060007367--politics.html
- Hoebeke, H, S Carette & K Vlassenroot. 2007. 'EU support to the Democratic Republic of Congo'. Centre d'analyse stratégique. Available at: www.egmontinstitute.be/papers/07/afr/EU_support_to_the_DRC.pdf
- Hogg, J. 2011. 'Congo election may be delayed on logistics setback, costs'. Reuters, 31 August. Available at: af.reuters.com/article/drcNews/idAFL5E7JV2Y220110831
- Hogg, J & D Lewis. 2011. 'Congo's Kamerhe withdraws call to annul elections'. Reuters, 1 December. Available at: news.yahoo.com/congos-kamerhe-withdraws-call-annul-elections-053548439.html
- Refugees International. 2012. Available at: refugeesinternational.org/where-we-work/africa/dr-congo
- www.unicefusa.org/news/releases/unicef-and-the-boston-celtics.html
- www.flickr.com/photos/paulkagame/3886156291/
- Hubert, T. 2010. 'Doubts over UN, government military shift in Congo'. *ReliefWeb: Briefing Kit for Reuters – AlertNet + Rwanda*. Reuters, 14 January, compiled on 10 July 2011. Available at: reliefweb.int/node/340371
- Human Rights Watch. 2009. 'You Will Be Punished – Attacks on Civilians in Eastern Congo', 13 December. Available at: www.hrw.org/node/871510
- Human Rights Watch. 2010. 'Rwanda: Protect Rights and Safety of Opposition Leaders', 15 October. Available at: www.hrw.org/en/news/2010/10/15/rwanda-protect-rights-and-safety-opposition-leaders
- Human Rights Watch. 2011. 'DR Congo: Rein in Security Forces: Tensions Mount

- Ahead of Election Results', 2 December. Available at: www.hrw.org/news/2011/12/02/dr-congo-rein-security-forces
- Iacobini de Fazio, M. 2010. 'U.N. Chief Returns from "Damage Control" Trip to Rwanda'. Inter Press Service News Agency, 9 September. Available at: ipsnews.net/africa/nota.asp?idnews=52778
- International Crisis Group (ICG). 2011a. 'Congo: The Electoral Dilemma'. *Africa Report* 175, 5 May.
- ICG. 2011b. 'Congo: The Electoral Process Seen from the East'. Update Briefing, *Africa Briefing* 80, 5 September. Available at: www.crisisgroup.org
- IFES. 2012. 'NDI-IFES Election Experts Recommend Broad Review of Electoral Process in the Democratic Republic of Congo', 25 January. Available at: www.ifes.org/Content/Publications/Press-Release/2012/NDI-IFES-Election-Experts-Recommend-Broad-Review-of-Electoral-Process-in-the-DRC.aspx or www.aeta-network.org/wp-content/uploads/2012/01/ATT484631.pdf
- IMF. 2011. 'Democratic Republic of the Congo: Third Review of the Three-Year Arrangement Under the Extended Credit Facility, Financing Assurances Review, and Request for Modification of Performance Criteria – Staff Report and Press Release on the Executive Board Discussion'. *IMF Country Report* 11(190), July.
- IMF. 2012. 'Democratic Republic of the Congo: Selected Issues and Statistical Appendix'. *IMF Country Report* 7(329), September. Available at: www.imf.org/external/pubs/cat/longres.aspx?sk=21353.0
- Immigration and Refugee Board of Canada. 5 May 2006. 'Rwanda: Treatment by government authorities of Faustin Twagiramungu and supporters of his candidacy during the presidential election campaign in August 2003 (August 2003-April 2006)'. Reference #: RWA101284.FE. Available at http://www.irb-cisr.gc.ca:8080/RIR_RDI/RIR_RDI.aspx?l=e&id=451418
- John F. Kennedy Jr Forum, Harvard University. 2010. 'Engaging Africa as a Strategic Partner: Diplomacy, Development, and Defense', 6 April. Available at: forum.iop.harvard.edu/content/engaging-africa-strategic-partner-diplomacy-development-and-defense
- Kamerhe, V. 2012. 'Actions en destitution de Joseph Kabila ...'. Available at: www.vital-kamerhe.com/action-en-destitution-de-Joseph-Kabila.html
- Kamerhe, V website. www.vital-kamerhe.com
- La Voix des Sans-Voix pour les droits de l'homme. 2012. 'Rapport final sur l'observation des élections présidentielle et législatives du 28 novembre 2011 en République Démocratique du Congo', January. Available at: www.vsv-rdc.com/
- Le Phare. 2012. 'Vérité des urnes en RDC: Le Conseil National de la Résistance sur pied de guerre – Joseph Olenghankoy élu Coordonnateur', 1 February. Available at: www.7sur7.cd/index.php?option=com_content&view=article&id=29598:-verite-des-urnes-en-rdc--le-conseil-national-de-la-resistance-sur-pied-de-guerre-joseph-olenghankoy-elue-coordonnateur&Itemid=2

- Le Potentiel. 2010. 'La CEI annonce un budget de 712 millions USD pour le processus électoral', 14 August. Available at: www.congoplanete.com/article.jsp?id=45262863
- Lynch, C. 2010. 'Did Ban Ki-moon's advisors try to spare Rwanda from genocide charge?' Foreign Policy, 3 September. Available at: turtlebay.foreignpolicy.com/posts/2010/09/03/did_ban_ki_moon_s_advisors_try_to_spare_rwanda_from_genocide_charge
- Mémorandum additionnel sur l'armée et la sécurité. Signed on 6 March 2003 in Pretoria.
- Ministère de la justice et droits humains de la République Démocratique du Congo. 2012. 'Réaction du Gouvernement au Rapport d'enquête du Bureau conjoint des Nations Unies aux droits de l'homme (HCDH-Monuc) sur les allégations des violations graves des droits de l'homme imputées aux membres des forces de sécurité et de défense congolaises dans la ville de Kinshasa, en RDC, entre le 26 novembre et le 25 décembre 2011', 14 March. Available at: www.ohchr.org/EN/countries/AfricaRegion/Pages/ZRIndex.aspx
- Mission d'observation électorale de l'Union européenne en République démocratique du Congo 2011. 2011. 'Une forte mobilisation de l'électorat dans un processus insuffisamment maîtrisé'. Press Release, Kinshasa 1 December. Available at: www.moeue-rdc.eu
- Mission Nationale d'observation. 2011. 'Rapport de la Mission Nationale d'observation: Observation de la compilation des élections législatives du 28 novembre 2011', 19 January. Available at: fr-fr.facebook.com/notes/union-pour-la-nation-congolaise-unc-en-sigle-page-officielle/rapport-de-la-mission-nationale-dobservation/274021059326985
- Monusco. 2011a. 'Presidential and National Legislative Elections: Roger Meece appeals for calm', 1 December. Available at: monusco.unmissions.org/Default.aspx?tabid=4640&ctl=Details&mid=5262&ItemID=15841
- Monusco. 2011b. 'Monusco calls on INEC to address electoral observer missions concerns'. Press Release, 12 December. Available at : monusco.unmissions.org/Default.aspx?tabid=4640&ctl=Details&mid=5262&ItemID=15947
- Monusco. 2012. 'UN Under Attack'. Available at: monusco.unmissions.org/Default.aspx?tabid=10662&language=en-US
- Monusco. 2013a. 'Nr 5 Bulletin Electoral - 01 au 15 Janvier 2013'. Available at <http://monusco.unmissions.org/LinkClick.aspx?fileticket=G6CSGaZVYU%3d&tabid=11253&mid=14677&language=fr-FR>
- Monusco & OHCHR. 2011. 'Report of the United Nations Joint Human Rights Office on Human Rights And Fundamental Freedoms During the Pre-Electoral Period in the Democratic Republic of Congo', November. Available at http://www.ohchr.org/Documents/Countries/ZR/UNJHRO_HRElectionsReport_en.pdf
- Nanitelamio, S-P. 2008. 'APEC & PACE projects and the collaboration between the EC, the UNDP and IDEA in the DRC'. In Joint Training on Effective

- Electoral Assistance, Maputo, 23-27 June. Available at: www.google.ca/url?sa=t&rct=j&q=%20apec%20%26%20pace%20projects%20and%20the%20collaboration%20between%20the%20ec%2C%20the%20undp%20and%20idea%20in%20the%20drc&source=web&cd=1&ved=0CCYQFjAA&url=http%3A%2F%2Fwww.ec-undp-electoralassistance.org%2Findex.php%3Foption%3Dcom_docman%26task%3Ddoc_download%26gid%3D70%26Itemid%3D&ei=bbwMT4KuBqrw0gGl89SSBg&usg=AFQjCNFTsFrk0x2uMLLqmDu627LqGAsQXg
- Nye, J S Jr. 2004. *Soft Power: The Means to Success in World Power*. Cambridge, MA: BBS Publications.
- Organisation Internationale de la Francophonie. 2011. 'Le Secrétaire général de la Francophonie dépêche une mission d'information et de contact en République Démocratique du Congo'. Press Statement CP/SG/33/JT/11, 22 November. Available at: www.francophonie.org/Le-Secretaire-general-de-la,38464.html
- Organisation Internationale de la Francophonie. 2012. 'Le Secrétaire général de la Francophonie appelle à l'apaisement et au respect des principes démocratiques dans la poursuite du processus électoral en RDC'. Press Statement CP/SG/02/JT/12. Paris, 20 January. Available at: www.francophonie.org/Le-Secretaire-general-de-la,39058.html
- PACE (UNDP). Available at: www.cd.undp.org/projet.aspx?titre=Projet%20d%27Appui%20au%20Cycle%20Electoral%20%28PACE%29&projetid=1
- Plett, B. 2012. 'UN under fire over fall of Goma in DR Congo'. BBC, 21 November. Available at: www.bbc.co.uk/news/world-africa-20422340
- Radio France Internationale (RFI). 2012a. 'En RDC, la Cour suprême de justice sous le «flot» des recours des candidats aux législatives', 11 February. Available at: www.rfi.fr/afrique/20120211-rdc-cour-supreme-justice-recours-candidats-legislatives-Evariste%20Boshab
- RFI. 2012b. 'RDC : violente intervention policière contre des fidèles regroupés dans des églises', 16 February. Available at: www.rfi.fr/afrique/20120216-rdc-violente-intervention-policiere-contre-fideles-regroupees-eglises
- Radio Okapi. 2011 (updated 2012). 'Etienne Tshisekedi : «Les experts internationaux de la Ceni viennent en touristes »', 31 December, 3 January. Available at: radiookapi.net/actualite/2011/12/31/etienne-tshisekedi-les-experts-internationaux-viennent-en-touriste/
- Radio Okapi. 2012a. 'RDC: l'opposition et la majorité réagissent au dialogue Kabila-Tshisekedi proposé par la VSV', 10 January. Available at: radiookapi.net/actualite/2012/01/10/rdc-lopposition-la-majorite-reagissent-au-dialogue-kabila-tshisekedi-propose-par-la-vsv/
- Radio Okapi. 2012b. 'Tshisekedi affirme être officiellement entré en fonction comme chef de l'Etat', 20 January. Available at: www.congoplanete.com/news/3416/etienne-tshisekedi-va-former-son-gouvernement.jsp
- Radio Okapi. 2012c. 'Le Renadhoc condamne «l'assignation tacite en résidence surveillée» d'Etienne Tshisekedi', 1 February. Available at: www.aeta-network

- org/le-renadhoc-condamne-%C2%ABl%E2%80%99assignment-tacite-en-residence-surveillee%C2%BB-d%E2%80%99etienne-tshisekedi
- Radio Okapi. 2012d. 'Législatives-RDC : la Monusco encourage le recours aux voies légales', 3 February. Available at : radiookapi.net/actualite/2012/02/03/legislatives-rdc-la-monusco-encourage-le-recours-aux-voies-legales/
- Radio Okapi. 2012e. 'Tshisekedi Leaves "House Arrest" to Meet German Ambassador', 27 February. Available at: www.congoplanet.com/news/1948/etienne-tshisekedi-leaves-house-arrest-to-meet-german-ambassador.jsp
- Radio Okapi. 2012f. 'Goma: retour sur les événements majeurs de la semaine', 23 November. Available at: radiookapi.net/actualite/2012/11/23/goma-retour-sur-les-evenements-majeurs-de-la-semaine/
- Radio Okapi, 2012g. 'RDC: l'Assemblée nationale valide les mandats de 7 députés de Masisi', 14 December. Available at: <http://radiookapi.net/actualite/2012/12/14/rdc-lassemblee-nationale-valide-les-mandats-de-7-deputes-de-masisi/>
- Reid, T. 2009. 'War is not Politics by Other Means: A Case Study of how Western Indulgence Encouraged Rwanda and Uganda to Undermine the Security and Sovereignty of the Democratic Republic of Congo'. In M Franco (ed). *A UE E ÁFRICA: EM BUSCA E PACERIA DE PARCERIA ESTRATÉGICA (The EU and Africa: Looking for Strategic Partnership)*. Lisbon: Fundação Luso-Americana & Instituto Português de Relações Internacionais.
- Reid, T. 2011. 'Rapes in the Congo: More Than a Weapon of War'. *The InterDependent*, a publication of the United Nations Association of the United States of America. Available at: www.theinterdependent.com/110729/rapes-in-the-congo-more-than-a-weapon-of-war
- RENOSEC. 2011. 'Le rapport à mi-parcours de l'Observation des élections du 28 novembre 2011'. Available at: www.lephareonline.net/lephare/index.php?option=com_content&view=article&id=4765:renosec--le-rapport-a-mi-parcours-de-lobservation-des-elections-du-28-novembre-2011&catid=54:rokstories&Itemid=107
- Résolutions Adaptées. Accord global et inclusif sur la transition en République Démocratique du Congo. Signed on 17 December 2002 in Pretoria.
- 'RDC, Élections du 28 novembre 2011: Mission d'observation électorale'. Réseau Européen pour l'Afrique Centrale (EurAc) and AETA ('Agir pour les Elections Transparentes et Apaisées': Action for Transparent and Calm Elections): 02 Dec 11. Available at: www.radiovaticana.org/FR1/articolo.asp?c=542946
- RFI. 2012. 'En RDC, la Cour suprême de justice sous le «flot» des recours des candidats aux législatives'. RFI, 11 February. Available at: www.rfi.fr/afrique/20120211-rdc-cour-supreme-justice-recours-candidats-legislatives-Evariste%20Boshab
- Rolland, P R. 2013. 'Financement du processus électoral en RDC. L'UE conditionne son appui à la mise en place de la CENI et de la CNDH'. *L'Avenir Quotidien* via AETA, 15 March. Available at: www.aeta-network.org/financement-du

- processus-electoral-en-rdc-lue-conditionne-son-appui-a-la-mise-en-place-de-la-ceni-et-de-la-cndh
- Rosenblum, P. 2002. 'Irrational Exuberance: The Clinton Administration in Africa'. *Current History* 101.
- Russell Lee, M. 2010. 'As UN's Ban's Choice of Kagame Triggers Spanish Boycott, Role of UNDP's Clark; Rwandan to Get UN Women Post?' Inner City Press, 16 July. Available at: www.innercitypress.com/mdg1kagame071610.html
- Rwanda New Times*. 2009. 'Rwanda: Liberia Awards Kagame with Highest Honour (Distinction of the Grand Cordon in the Most Venerable Order of the Knighthood of Pioneers)', 8 March. Available at: allafrica.com/stories/200903091268.html
- Security Council. 2012a. 'Letter dated 21 June 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council': S/2012/348 and its addendum: S/2012/348/Add.
- Security Council. 2012b. 'Letter dated 12 November 2012 from the Chair of the Security Council Committee established pursuant to resolution 1533 (2004) concerning the Democratic Republic of the Congo addressed to the President of the Security Council'. S/2012/843.
- Smith, D. 2012. 'Rwandan minister is leader of Congo rebels UN says'. *The Guardian* 18 October. Available at: www.guardian.co.uk/world/2012/oct/17/rwanda-minister-leader-congo-rebels-kabarebe
- Southern African Development Community (SADC). 2011. 'SADC Launches Electoral Observer Mission in DRC'. Media Release 12 November. Available at: www.sadc.int/english/current-affairs/news/
- Stearns, J. 2012. 'Susan Rice and the M23 crisis'. *Congo Siasa*, 24 November 2012. Available at: congosiasa.blogspot.com/
- Stearns, S. 2012. 'US Calls on Congo to Restore RFI Broadcasts'. *VOA News*, 5 January. Available at: www.voanews.com/english/news/africa/US-Calls-on-Congo-to-Restore-RFI-Broadcasts0-136767223.html
- Swiss Info. 2011. 'Swiss act as election observers in Congo' 24 November. Available at: www.swissinfo.ch/eng/politics/Swiss_act_as_election_observers_in_Congo.html?cid=31629986
- Times of Zambia, The*. 2011. '25-Member COMESA Team to Observe Local Polls', 24 November. Available at: allafrica.com/stories/201111240330.html
- Tshiambi, A. 2012. 'Contentieux électoraux: les recours s'amoncellent déjà à la Cour suprême'. *Le Potentiel* 1 February. Available at : www.aeta-network.org/contentieux-electoraux-les-recours-s%E2%80%99amoncellent-deja-a-la-cour-supreme
- Tshisekedi, E. Available at: www.udps.org/index.php?option=com_content&view=article&id=447&catid=40&Itemid=90
- Tshitenge Lubabu, M K. 2012. 'RDC: chez Étienne Tshisekedi, dans l'ancre du Sphinx'. *Jeune Afrique* 26 January. Available at : www.jeuneafrique.com/

- Article/JA2662p032-033.xml0/president-rfi-jacob-zuma-kinshasardc-cheztienne-tshisekedi-dans-l-antre-du-sphinx.html
- UK Foreign and Commonwealth Office. 2012. 'UN Group of Experts report on the Democratic Republic of Congo', 22 November. Available at: www.fco.gov.uk/en/news/latest-news/?view=News&id=837780882
- Ulfelder, J. 2011. 'Can Really Poor Countries Hold Fair and Inclusive Elections?', 2 September. Available at: dartthrowingchimp.wordpress.com/2011/09/02/can-really-poor-countries-hold-fair-and-inclusive-elections/
- Union for Democracy and Social Progress (UDPS). 2012a. 'Déclaration politique de la Présidence du Parti portant constat d'auto exclusion des membres de l'UDPS déclarés élus députés nationaux par la CENI et siégeant'. Nouvelles du Parti, 11 April. Available at: udps.org/docs/declaration_politique_du_10avril2012.pdf
- UDPS. 2012b. 'Félicitations aux huit vaillants députés de l'UDPS qui ont résisté à la tentation de bénéficier d'émoluments illégaux et illégitimes', 16 April. Available at: www.udps.org/index.php?option=com_content&view=article&id=477:felicitations-aux-huit-vaillants-deputes-de-ludps-qui-ont-resiste-a-la-tentation-de-beneficier-demoluments-illegaux-et-illegitimes&catid=39:nouvelles-du-parti&Itemid=89
- Unicef: www.unicefusa.org/news/releases/unicef-and-the-boston-celtics.html; www.flickr.com/photos/paulkagame/3886156291/
- United Nations (UN). 2006. 'Twenty-second report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo', S/2006/759.
- UN. 2007. 'Twenty-third report of the Secretary-General on the United Nations Organization Mission in the Democratic Republic of the Congo', S/2007/156.
- UN. 2010. 'Secretary-General's opening remarks at press conference to launch the 2010 Millennium Development Goals report'. Latest Statements, Secretary-General Office of the Spokesperson, New York, 23 June. Available at: www.un.org/apps/sg/sgstats.asp?nid=4629
- UN. 2011a. 'Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo', S/2011/298, 12 May.
- UN. 2011b. 'Financing arrangements for the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo for the period from 1 July 2011 to 30 June 2012. Report of the Advisory Committee on Administrative and Budgetary Questions', A/66/545, 4 November.
- UN. 2011c. 'Financial performance report on the budget of the United Nations Organization Mission in the Democratic Republic of the Congo for the period from 1 July 2009 to 30 June 2010 and proposed budget for the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo for the period from 1 July 2011 to 30 June 2012. Report of the Advisory Committee on Administrative and Budgetary Questions', A/65/743/ADD.8.

- UN. 2012a. 'Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo', S/2012/65, 26 January.
- UN. 2012b. 'Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo', S/2012/35, 23 May.
- UN. 2012c. 'Report of the Secretary-General on the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo', S/2012/838. Distr, 14 November.
- UN Department of Public Information. 2010. 'The MDG Advocacy Group List of Members', 25 June. Available at: http://www.un-ngls.org/spip.php?page=amdg10&id_article=2685
- UN Joint Human Rights Office (UNJHRO). 2012. 'Report of the United Nations Joint Human Rights Office on Serious Human Rights Violations Committed by Members of the Congolese Defense and Security Forces in Kinshasa in the Democratic Republic of the Congo Between 26 November and 25 December 2011'. AND the reply from the government of the DRC: Ministère de la justice et droits humains de la République Démocratique du Congo. 'Réaction du Gouvernement, au Rapport d'enquête du Bureau conjoint des Nations Unies aux droits de l'homme (HCDH – Monuc) sur les allegations des violations graves des droits de l'homme imputées aux membres des forces de sécurité et de défense congolaises dans la ville de Kinshasa, en RDC, entre le 26 novembre et le 25 décembre 2011', 14 March 2011. Both available at: www.ohchr.org/EN/countries/AfricaRegion/Pages/ZRIndex.aspx
- UN News Centre. 2012. 'Argentina, Australia, Luxembourg, Republic of Korea and Rwanda obtain non-permanent seats on UN Security Council', 18 October. Available at: www.un.org/apps/news/story.asp?NewsID=43320&Cr=Security+Council&Cr1=#.ULIUZIVv07B
- US Department of State. 2011. 'State's Carson on Improving Governance in the DRC'. Testimony by Assistant Secretary Johnnie Carson, Bureau of African Affairs-U.S. Department of State, Before the Senate Foreign Relations Subcommittee on African Affairs: Improving Governance in the Democratic Republic of the Congo'. Text & Transcript, 15 December. Available at: iipdigital.usembassy.gov/st/english/texttrans/2011/12/20111217154235su0.1032526.html#axzz1lUiw6qey
- US Department of State. 2012. 'State's Baer on U.S. Policy Toward Post-Election DRC': Testimony by Daniel Baer, Deputy Assistant Secretary, Bureau of Democracy, Human Rights, and Labor Testimony Before the House Subcommittee on Africa, Global Health and Human Rights, 2 February. Available at: iipdigital.usembassy.gov/st/english/texttrans/2012/02/20120203112443su0.6734059.html#axzz1lTj3rgxR
- US Department of State – Office of the Spokesperson. 2011a. 'Presidential Elections in the Democratic Republic of the Congo – Statement by Victoria Nuland,

- Spokesperson', 9 December. Available at: iipdigital.usembassy.gov/st/english/texttrans/2011/12/20111210142200su0.3268048.html#axzz1ITj3rgxR
- US Department of State – Office of the Spokesperson. 2011b. 'Clinton on Supreme Court Ruling on Presidential Election in DRC', 20 December. Available at: iipdigital.usembassy.gov/st/english/texttrans/2011/12/20111220153437su1.044869e-03.html#axzz1ITj3rgxR
- US Embassy Kinshasa. 2011. 'USA donates \$500,000 of protective equipment to the Police Nationale Congolaise'. Press Release, 15 November Available at: kinshasa.usembassy.gov/pressrelease_english_11152011.html
- Wallis, W. 2012. 'UN panel says Rwanda arming Congo rebels'. *Financial Times*, 17 October. Available at: www.ft.com/intl/cms/s/0/8905a350-1836-11e2-80e9-00144feabdc0.html#axzz2C35s9OR2

Legislation

Constitution de la Transition.

Art 73 Loi no 11/003 du 25 juin 2011 modifiant la Loi no 06/006 du 09 mars 2006 portant organisation des élections présidentielle, législatives, provinciales, urbaines, municipales et locales.

Loi organique modifiant et complétant la loi n° 10/013 du 28 juillet 2010 portant organisation et fonctionnement de la Commission Electorale Nationale Indépendante acc 03 May 2012 at www.digitalcongo.net/UserFiles/file/PDF_files/2013/loi_ceni.pdf

Conference

Dialogue Inter-Congolais, Sun City, 25 February to 19 April 2002.

Court case

Madame Habyarimana, et al., Plaintiffs, v. Paul Kagame, President of the Republic of Rwanda, et al. Civil Action No 10-437-W, United States District Court For The Western District Of Oklahoma Case 5:10-cv-00437-W Document 49 Filed 08/29/11

THE 2012 GENERAL ELECTIONS IN LESOTHO

A step towards the consolidation of democracy

Tlohang W Letsie

Tlohang Letsie is a lecturer in the Department of Political and Administrative Studies of the National University of Lesotho
e-mail: tlohang@yahoo.com

ABSTRACT

The May 2012 general elections in Lesotho were held in the best political climate since democracy returned to the country in 1993. Even the minor disputes that surfaced were resolved speedily before they could graduate into serious election-related conflict. The elections were historic in that the results were not disputed. In addition, for the first time in the country's history the elections failed to produce a clear winner, hence the formation of a coalition government. The elections also resulted in a change of leadership, bringing to an end Pakalitha Mosisili's 14-year rule. The article contends that the peaceful conduct of the elections was the result of the amendments made to the country's electoral laws and the preparedness of the Independent Electoral Commission. It goes further to show how the Democratic Congress, the party with a relative majority of parliamentary seats, came to be omitted from the coalition government and was relegated to the opposition. All these, the article argues, are positive developments in the country's move towards democratic consolidation.

INTRODUCTION

On Saturday 26 May 2012 the people of Lesotho went to the polls to vote for the government of their choice. The May 2012 elections were the fourth since the country's return to democracy in 1993. This return followed 23 years of authoritarian rule, 16 of one-party rule and seven of military dictatorship. The other three polls, held in 1998, 2002, and 2007, were all disputed in one way or another.

In 1998 three opposition parties, namely, the Basotho National Party (BNP), Basutoland Congress Party (BCP) and Marematlou Freedom Party (MFP) refused to recognise the government of the Lesotho Congress for Democracy (LCD)

because, they alleged, it had won the elections fraudulently (Mothibe 1999). Although it eventually took its seats in Parliament after the 2002 elections, the BNP initially rejected the results, alleging that there had been irregularities. In 2007 the MFP went to the High Court to challenge the final allocation of seats, arguing that the LCD/National Independent Party (NIP) alliance had received 20 more seats than it deserved (Elklit 2008, p 16).

Unlike on previous occasions no serious concerns were aired about the way the May 2012 elections were run. After the final allocation of seats it became clear that no party had won enough to form a government. As a result, for the first time in its electoral history Lesotho had a hung Parliament and the parties were compelled to negotiate with one another in order to form a coalition government.

When the negotiations and horse trading involved in coalition formations were over it emerged that despite having a relative majority of 48 seats in a 120-seat Parliament the incumbent party, the Democratic Congress (DC), had failed to persuade other parties to join a coalition and had, as a result, been relegated to the opposition.

In this article, which gives an overview of the 2012 elections, the elections are analysed within the democratic framework that uses election outcomes as a measure of democracy. This framework not only considers elections to be a prerequisite for democracy, it also regards acceptance of election results by all stakeholders as a step towards democratic consolidation. On this basis the article argues that Lesotho's 2012 elections were a positive step on the country's path to consolidating democracy. The four main sections of the article discuss the relationship between elections and democracy, the pre-election period, polling and election results and the formation of the coalition government.

ELECTIONS AND DEMOCRACY

Simply defined, elections are the process through which citizens vote for candidates wishing to take up seats in a parliament. It is important to note that contrary to many views elections consist of far more than merely the voting process, they are a multi-phased process stretching over a long period. Among the many stages of the electoral process are the registration of voters, nomination of candidates, campaigning, polling and the announcement of results.

Elections as a process are premised on the liberal democratic theories of representation that appreciate the need for citizens to be represented by an elected few in public decision-making. Elections have become a common feature of modern states because huge populations and vast geographical boundaries make it difficult for citizens to participate directly in public affairs. Lesotho is no exception in this regard. Commenting on elections, Axford & Rosamond (1997,

p 132) state that 'for the citizens, elections provide a particularly low-cost method of participating in the political process'.

Elections are generally regarded as a precondition for the process of democratisation. For Bratton & Van de Walle (1997, p 194) 'a transition to democracy can be said to have occurred only when a regime has been installed on the basis of a competitive election, freely and fairly conducted within a matrix of civil liberties, with results accepted by all participants'. Using this argument it would be easy to conclude there had, prior to May 2012, not been any serious 'transition to democracy' in Lesotho. Opposition parties have, on a number of occasions in the past, complained that elections were not 'free and fair' and have, as a result, rejected the results.

Highlighting the importance of elections, Matlosa (2003, p 98) argues that they are intended to ensure the deepening and consolidation of democratic governance and political stability. Consolidating democracy, according to Smith (2003, p 259), 'entails strengthening democratic institutions, extending democratic processes and preventing authoritarian reversals'.

Elections perform a number of functions within political systems. Among other things they offer citizens a means of choosing representatives to participate on their behalf where direct participation is not feasible. Furthermore, they give governments legitimacy. Governments installed through elections normally get more recognition, both domestically and internationally, than their unelected counterparts. Most importantly, elections serve as a mechanism for changing governments, or extending or renewing the mandate of incumbent regimes (Kapa 2003; Helgesen 2008).

Because they are an integral feature of liberal democracies, elections are considered to be a panacea for conflict and instability. In Lesotho, however, ever since the pre-independence election in 1965, elections have triggered numerous conflicts. These reached a peak when, in 1998, they nearly plunged the country into civil war after the BNP, BCP and MFP rejected the LCD's victory, labelling it fraudulent. Order was only restored after military intervention by South Africa and Botswana. Opposition parties' rejection of election results and the resultant political instability have undermined the very process of democratisation in Lesotho. The May 2012 elections, however, differed from their predecessors in that all stakeholders accepted the results and the fact that the transfer of power from the incumbent DC to the new coalition government took place peacefully.

BUILD UP TO POLLING DAY

This section discusses the events that unfolded prior to Saturday 26 May 2012. It examines the efforts made by the country's Independent Electoral Commission

(IEC) to prepare for the elections. It also discusses some of the amendments made to the country's electoral laws and views the activities of the political parties prior to polling day.

The IEC's preparations

In an effort to deliver acceptable and credible elections the IEC took some innovative steps including outsourcing civic and voter education and establishing a monitoring panel.

Outsourcing of voter education

In order to educate voters about their rights and about voting procedures ahead of the elections, the IEC renewed the partnership it had entered into with the Lesotho Council of Non-governmental Organizations (LCN) prior to the 2011 local government elections. In terms of this partnership, the LCN was to spearhead the civic and voter education campaign ahead of the elections. According to the IEC's Director of Elections, Mphasa Mokhochane, the main objective of the partnership was to fight the voter apathy that had characterised previous elections (*Lesotho Times* 28 April 2011, p 4). The opposition parties had earlier complained that the IEC lacked the capacity to provide adequate civic and voter education. The LCN engaged temporary staff, consisting mainly of college graduates, and distributed them among the country's 80 electoral constituencies. The delegation of civic and voter education to the LCN was welcomed by all political parties and there were no objections to the manner in which the LCN conducted this education.

Monitoring panel

The IEC also established a panel to monitor the use of public facilities by politicians ahead of the elections. The five-member panel comprised high calibre persons drawn from civil society organisations. The panel was established in response to complaints from opposition parties in previous elections that incumbent parties contested elections from an advantaged position in that they used state resources such as media and vehicles during their campaigns.

The creation of the monitoring panel was one of the rare steps taken by the IEC to be commended by opposition parties. In response to its establishment the leader of the All Basotho Convention (ABC), Tom Thabane, said:

this step by the IEC is a very commendable one that comes as a result of the consultation they had with us ... The 2007 general elections were characterized by rampant abuse of state resources; there was so much misuse of government transport by Ministers and government officers.

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As a result, the May 2012 polls were not characterised by any serious complaints about the ruling party's use of state resources during the electoral process.

Electoral law reforms

One of the most important steps taken by the country in preparation for the 2012 elections was the repeal of the National Assembly Elections Order 1992 and its replacement with the National Assembly Elections Act 2011. One of the notable reforms contained in the new Act is s55, which amends the format of the country's mixed member proportional (MMP) model from 'two ballots, two votes' to 'one ballot, two votes'. The section states that 'during general elections, constituency votes shall be counted both for the candidate and be converted into party votes'.

An electoral model is a very important element of elections. Heine (2006, p 82), for instance, writes that 'the type of electoral system to be set up is another critical challenge faced during transitions and one whose impact on the stability and continuity of the newly emerging democracy is by no means minor'. It was, therefore, important for the country to revisit its electoral system to ensure that it promotes political stability. As Nohlen (2001), cited in Heine (2006, p 82), notes, 'electoral systems in today's world are supposed to satisfy a number of criteria that include amongst the many, representativity [sic] – a balanced correlation between the number of allocated seats and the various social and political forces existing in the country at large'.

Another criterion for assessing the effectiveness of an electoral system is its ability to enable a number of political parties to be represented in Parliament.

The old 'two ballots, two votes' format of the Lesotho electoral system had proved to be problematic, contributing immensely to the political instability that characterised the post-2007 elections. The big parties, the ABC and the LCD, had taken advantage of it in 2007, adulterating the model by forming alliances (the ABC with the smaller Lesotho Workers Party – LWP and the LCD with the National Independent Party – NIP) in order to benefit from the compensatory seats allocated in line with the proportional representation (PR) aspect of the model.

Matlosa (2008) notes that after entering an alliance with the NIP in 2007 the LCD received 21 compensatory seats when it was entitled to only one seat. This allocation became a hotly contested issue for the rest of the Lesotho's seventh Parliament, from 2007 to 2012. With the law now stating specifically that constituency votes must also be converted into party seats, there was no longer a need for such controversial alliances prior to the 2012 elections.

Another improvement in the country's electoral law related to campaign funding. According to the new law, all parties registered with the IEC were, from 2012, entitled to funding from the Consolidated Fund for the purpose of

campaigning and paying party agents. Prior to the 2012 elections parties received paltry allowances from the commission. In the 2007 general elections, for instance, the subvention was M450 (equivalent to South African R450) per registered candidate. Clarifying the formula to be used in the new allocation of the funds, s 70(5) of the Act states that:

- (a) in respect of a political party which participated in the last elections, the funding shall be based on the number of votes gained in the last elections on condition that the votes gained were not less than the threshold required for registration with the Commission;
- (b) in respect of a political party registered with the Commission which did not participate in the last elections, the funding shall be based on the threshold requirement for registration with the Commission.

This funding contributed to ensuring the effectiveness of the model, as it helped the parties canvass for support and increase their chances of being represented in Parliament. The IEC budgeted M2.7-million for campaign funding. According to the IEC, the highest amount went to the NIP, a small party that had benefited from an electoral alliance with the larger, then-ruling LCD prior to the 2007 elections. According to this arrangement, members of the LCD had voted for NIP on the PR ballot. Because of this, despite being a very small party, the

NIP got the biggest cheque of M800 000 for having 'won' 229 602 votes in 2007 elections. The smallest cheques amounted to M1 742 each and went to Sefate Social Democracy (SSD) that registered 500 votes in the 2007 general election, and to all newly registered parties.

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Furthermore, in order to ensure representivity, s 47(a) provided for gender balance in the party lists submitted to the IEC. The lists must include equal numbers of women and men and, the section states, 'have to arrange candidates in order of preference from top to bottom, with a female or male candidate immediately followed by a candidate of the opposite sex'.

Political parties

The three months leading to polling day were dominated by electoral hype. Lesotho's Constitution provides that elections must be held within 90 days of the dissolution of a Parliament. The hysteria began with the formation of the DC, a splinter party of the LCD, on 28 February, a few days before Parliament

was dissolved, and the subsequent announcement by the king of the date of the election.

The DC was to become a very important factor in the election, both in terms of voting patterns and in the formation of the coalition government. It was formed by the disgruntled Lija-mollo (fire-eaters) faction under the leadership of the former LCD leader and the country's prime minister, Pakalitha Mosisili. The Lija-Mollo and Litima-Mollo (fire extinguishers) factions had, for a long time, been locked in a tussle over control of the LCD. Though he was a chairman of the party's national executive committee, Mosisili had completely lost control of the Litima-Mollo-dominated organ, hence his departure from the party.

The formation of the DC and the party's immediate usurpation of state power generated considerable debate in the country. The speaker of Parliament, Ntlhoi Motsamai, controversially declared the party the new government on 28 February after 45 LCD MPs crossed the floor to join it.

It is worth mentioning that, apart from being the speaker of Parliament, Motsamai was an LCD MP who had been party to the plan to defect and form the DC. Under Lesotho law constituency MPs are permitted to cross the floor and join new parties. This is, however, not the case with PR MPs who lose their parliamentary seats. As a result of this law some known LCD members who had won their seats through the NIP's PR list could not cross the floor with other members despite having been involved in the plans to form the DC.

Opposition parties were not impressed by the process of declaring the DC, which had only 45 seats in a 120-member Parliament, the new government. The party had not entered an arrangement with any other party to acquire the minimum of 61 seats for a party, or coalition of parties, to form a government, as stipulated in s 87(2) of the Constitution. The day after the DC was declared the government opposition MPs walked out of Parliament in protest as members of the DC – together with those of the NIP (the majority of whom were known LCD members who had entered Parliament in 2007 on the NIP PR list) – passed a vote of confidence in Mosisili. The vote was an attempt to give the newly declared government some legitimacy. The opposition MPs complained that Motsamai had ignored them when they had tried to raise points of order in an attempt to argue that the National Assembly Standing Orders made no provision for a vote of confidence. The vote showed that Mosisili had the support of 63 members in a Parliament of 120 seats (*Lesotho Times* 1 March 2012, p 1).

Three opposition MPs, Lehlohonolo T'sehlana of the Senkatana Social Democratic Party (SSDP), Sello Maphalla of the LWP and Pitso Maisa of the ABC, filed an urgent application asking the High Court to declare the DC government unconstitutional, arguing that the way the speaker had handled the issue of floor crossing and the subsequent declaration of the DC as the new government was

flawed and erroneous. This view was shared by the then-deputy speaker, Sephiri Motanyane, who indicated that:

There was no physical floor-crossing as stipulated in the regulations. But even if the 45 MPs had physically crossed the floor from the LCD to the DC it was wrong for the Speaker to then declare the DC as new government because it did not have the majority and she [the speaker] does not have powers to do so. Only the King has the power to declare a government formed.

Lesotho Times 15 March 2012, p 2

The High Court dismissed an application to have the DC government declared illegal on the grounds that it was not urgent (*Sunday Express* 11 March 2012, p 4).

In a similar fashion to what happened in 1997 after the LCD had relegated the BCP to opposition status, as polling day came closer the political atmosphere became polluted and there was a growing tension between the DC and the opposition parties, particularly the LCD. The tension became visible, not only among the leaders of the political parties but among ordinary members.

Supporters of different political parties were heard on local media, particularly the privately-owned media, condemning the DC and calling for opposition parties to vote for 'change' (the ousting of the DC). The unity among opposition parties became most vivid on Sunday 20 May, the day of the parties' last campaign rallies. Clad in their parties' regalia, members of the three main opposition parties, the ABC, the BNP and the LCD, were seen at rallies of the three parties in Maseru. However, no one in the colours of any of the three parties was seen at the DC rally. Similarly, DC supporters were nowhere to be seen at the other three parties' rallies.

To people familiar with Lesotho's politics these signs of unity among opposition parties were strange, as, prior to the formation of the DC, the ABC and BNP did not see eye to eye with the LCD. These developments indicated clearly that the controversial relegation of the LCD to the status of opposition won the party sympathy from other opposition parties while at the same time widening the rift between itself and the DC. These developments later became vital factors in the election outcome and the formation of the coalition government, as becomes evident in the following sections.

Party campaigns

Following the announcement of the date of the election political parties began canvassing for support among voters. In total, 18 political parties and nine

independent candidates registered to contest the election. Most party rallies were held at weekends. Some parties, most notably the DC, however, took their campaigning to another level, with door-to-door canvassing. As soon as the campaigning started, four parties – the ABC, BNP, DC and LCD – stood head and shoulders above the rest and, in terms of rally attendances, seemed to be the only serious contenders.

The local media played a crucial role in the party campaigns. From time to time political leaders appeared on local radio stations – national and private – to woo support. Party loyalists also took advantage of phone-in programmes to sell their parties to other listeners.

Over the years the national media have been accused of favouring the ruling party, in breach of s 61 of the Electoral Act, which dictates that public officers and authorities should give equal treatment to political parties registered with the IEC to enable them to conduct their campaigns freely. In an effort to level the playing fields prior to the 2012 elections, both national broadcasting agencies, TV Lesotho and Radio Lesotho, provided each of the parties contesting the elections with a one-hour slot, giving each a chance to be heard. It must, however, be stated that the move did not level the playing fields adequately as the incumbent DC continued to enjoy unlimited coverage under the pretext that its leaders were still in government and their activities had to be covered. Although this disparity was noted by opposition parties it did not become a serious issue.

Violence at campaign rallies

While campaigning was generally peaceful, there were sporadic incidents of disruption at DC rallies in the Maputsoe and Ha Thetsane industrial areas, where Mosisili was the main speaker. The disruptions were allegedly caused by factory workers suspected to be supporters of the ABC, the BNP and the LWP. Disgruntled workers were reported to have disrupted the DC's rallies in order to show their displeasure that Mosisili only came to them when he wanted their votes after neglecting them for more than 14 years (*Public Eye* 13 April 2012, p 4). Mosisili had, on numerous occasions, shunned textile industry workers, refusing to accept their petitions over low salaries and poor working conditions. While at Maputsoe Mosisili was merely heckled, violence broke out at Ha Thetsane and at least 10 people were injured and the windows of numerous vehicles were smashed (*Sunday Express* 22 April 2012, p 6).

At the Ha Thetsane rally Mosisili urged his supporters to retaliate whenever their rallies were disrupted, a call that was described as irresponsible by many analysts, who claimed it incited even more violence. The army, in the meantime, issued a strong warning following the disruptions and subsequent violence

at the DC's rallies, threatening to hit perpetrators of violence 'very hard' and warning that such people were 'challenging the Lesotho Defence Force (LDF)'s capability to maintain law and order' (*Sunday Express* 22 April 2012, p 2). The army's warning was condemned by opposition parties as being biased in favour of Mosisili and his new party as the same army was accused of remaining silent while many Basotho – including prominent opposition politicians – were being attacked at an alarming rate. Among the politicians who were attacked were ABC MP Clement Machakela, the former minister of labour, who was murdered in his home in Sekamaneng, outside Maseru, on 19 March, and the party's chairman and MP, MolobeliSoulo, who escaped death by a whisker when he was shot and injured by unknown gunmen at his Lithoteng home in Maseru on 25 February (*Lesotho Times* 1 March 2012, p 2). No arrests have been made in connection with the two attacks.

The army's warning was described by some sectors of society as premature as the police had not claimed to be incapable of dealing with such acts. This view was shared by Nobel Peace laureate Archbishop Desmond Tutu, who urged the army to stay in its barracks until the rightful authority (the police) called on them (*Sunday Express* 22 April 2012, p 4). Tutu was speaking at a prayer session organised by the Christian Council of Lesotho and the United Nations Development Programme Lesotho to appeal for political tolerance during the election. Tutu reminded the LDF that 'the army was meant to be a people's army to defend the people, not a tool of unscrupulous politicians' (*Sunday Express* 22 April 2012, p 4).

Disturbances and violence prior to polling day were a new occurrence in Lesotho politics. In the past, violent conflict has manifested during the post-voting period. It was important, therefore, that the trend be stopped. However, the involvement of the army at that early stage could not be justified. Concern about the army's involvement was expressed in workshops organised both by local NGOs and by international election observer missions. The feared intimidation by the army of members of opposition parties did not, however materialise. From a few days prior to polling day to days after the official handover of the reins by the outgoing prime minister the uniformed members of the army were confined to their barracks.

Election manifestos

Generally, most of the party manifestos were similar, reflecting neither serious ideological nor issue differences. The manifestos of the four main contenders leaned towards social democracy, favouring a balance between the market and the state. For instance, all parties promised that their governments would work with the private sector to improve the economy and create job opportunities,

stimulate agriculture to ensure food security and improve all aspects of the quality of life of the people.

Despite their general uniformity, the parties differed over some specific issues. The BNP promised to review the powers of the king in ensuring good governance in the country. The party also promised to hand back to Basotho privatised state-owned enterprises, as well as to hold a referendum on Land Act 2010, which allows foreigners to own land in Lesotho. The DC promised to review inheritance laws in line with international conventions the country has signed. The LCD, on the other hand, promised to enact a law limiting the prime minister's terms of office to a maximum of 10 years – two parliamentary terms. Currently, the term is not fixed. Furthermore, the party promised to review the issue of dual citizenship, which is outlawed by the current Constitution.

THE MAY 2012 GENERAL ELECTION AND THE FORMATION OF THE COALITION GOVERNMENT

Following weeks of intensive campaigning, the people of Lesotho went to the polls on Saturday 26 May 2012. As stated above, attendances at party rallies suggested that the serious contest would be among the ABC, the BNP, the DC and the LCD. On this basis analysts and some party leaders, notably Advocate Lekhetho Rakuoane of the Popular Front for Democracy (PFD), warned the country to brace itself for a coalition government. The four-party contest was a new occurrence in the country's electoral history. Pre-electoral campaigns have, in the past, been two-party races – in 1998 between the BCP and the BNP, in 2002 between the LCD and the BNP and in 2007 between the LCD and the ABC.

Numerous groups, both local and international, observed the elections. Most notable among these groups were the Commonwealth Election Observer group, headed by former Malawi president Bakili Muluzi, and the Southern African Development Community (SADC) Electoral Observer Mission, led by South Africa's Deputy Minister of International Relations and Co-operation, Ebrahim Ismail Ebrahim. Also present was a mission from the Electoral Institute for Sustainable Democracy in Africa (EISA), headed by former Zambian president Rupiah Banda. Apart from a few minor problems at some polling stations, voting went smoothly, as attested to by the reports of the various observer missions and the lack of complaints from political parties.

Election results, announced from the morning of Sunday 27 May, indicated that the predictions had been correct. Of the 80 constituency seats contested, the DC won 41, the ABC 26 and the LCD 12. Contrary to the predictions of many analysts, the dark horse, the PFD, won one constituency while one of the favourites, the BNP, failed to win a seat (IEC 2012).

All parties accepted the results. As noted above, Bratton & Van De Walle (1997, p 194) argue that acceptance of election results is a positive development in democratic transition. This rare, yet positive occurrence proved to be a milestone in a country in which the results of all elections held since independence had been contested, leading, in some cases, to bloody conflicts between losers and winners.

In 1970 BNP leader Leabua Jonathan annulled the election when it became apparent that his party was losing to the BCP. Election results were also contested in 1993, when, following the humiliating loss to its bitter rival, the BCP, the BNP claimed 'the elections were rigged and challenged the results in the courts of law' (Kadima 1999, p 76). In that election, held according to the first-past-the-post system, the BCP won all 65 constituencies, with an overall 75% of the votes cast (Mahao 1997). This meant the party held 100% of parliamentary seats. Attempts to reverse the results through the courts failed and the BNP engaged in protests that threatened the country's political stability and led to the loss of life.

There was another dispute over election results in 1998, when three opposition parties – the BCP, the BNP and the MFP – refused to recognise the LCD government because, they alleged, it had won the elections fraudulently (Mothibe 1999). The newly formed LCD had won 78 of the 79 constituencies contested. The three parties challenged the authenticity of the election results in the courts and, when their challenges failed, organised a march to the royal palace on 4 August. After handing over their petition the protesters refused to leave the palace gates. Instead, they organised a sit in that was to last more than a month until it was dispersed by the South African National Defence Force on the morning of 22 September.

Lesotho held another general election in 2002 after the country had adopted the MMP electoral model as a consequence of the 1998 electoral conflict. The LCD once again won the election overwhelmingly, this time taking 77 of the 78 constituencies contested, with a single seat going to the Lesotho People's Congress (LPC). FPTP elections failed to take place in two constituencies because of the deaths of some candidates. Southall (2003, p 288) writes that 'when the parliamentary seats were finally allocated the ruling LCD was barred from securing any seat from the PR wing of the electoral model because it already had 77 (or 65%) of the total number of 118 (constituency + PR) seats being competed for on the election day (or 12 more seats than the party's proportional entitlement)'. The remaining 40 PR seats were shared among nine opposition parties.

Elklit (2002, p 8) notes that despite the fact that the quota of votes needed for a party to gain a PR seat was 5 910 one small party, the National Progressive Party (NPP) managed to get a seat by virtue of having the highest remainder – 3 985. The BNP once again rejected the election results. Its leader, Major General Metsing Lekhanya, made 'generalized complaints about electoral malpractice and alleged

curious statistical patterns in the votes' (Southall 2003, p 290). The BNP later took up its position as the main opposition, with 21 seats. The election was seen by many observers as a milestone as, for the first time in its history, Lesotho had an inclusive Parliament with 10 political parties represented (Kabemba 2006, p 21).

Further elections were held in February 2007, following the formation of the ABC by 17 disgruntled LCD MPs and one independent candidate. This left the LCD with just 61 seats, a one-seat majority. It was this precarious situation that, according to Likoti (2008), persuaded Prime Minister Mosisili, leader of the LCD, to act swiftly and advise the king to dissolve Parliament and call for new elections. In an effort to strengthen their chances of winning the elections two contenders, the LCD and the ABC, formed electoral alliances with smaller parties, the LCD with the NIP and the ABC with the LWP. The alliances were designed to allow the bigger partners access to the PR compensatory seats that, in terms of the MMP system, are rarely available to parties that win constituencies. The allocation of PR seats that resulted from this arrangement was to become a post-election issue on which new conflict was to centre.

According to the election results that were announced, the LCD won 61 constituencies, the ABC 17, and the Lesotho People's Congress (LPC) one (IEC 2007). Voting for one FPTP seat had not taken place in Thaba-Putsoa # 39 constituency because of the death of one of the candidates. The final allocation of seats was 82 for the LCD/NIP alliance and 27 for the ABC/LWP, with the rest of the seats divided among seven smaller parties (IEC 2007).

The allocation of seats to the two alliances was hotly disputed by the opposition parties, who argued that if the model had been applied appropriately the LCD/NIP alliance would have received a total of 62 seats as against 82. The ABC/LWP alliance, on the other hand, would have received 29 seats as opposed to its 27. Other smaller parties 'would have increased their parliamentary seats through the PR component and one other small party, the New Lesotho Freedom Party (NLFP), which was not represented in Parliament would have at least won one seat' (Matlosa 2008, p 41).

The adulteration of the electoral model through the formation of these controversial alliances has been described by Jørgen Elklit, a professor of Political Science who was appointed international advisor to the Lesotho IEC prior to the introduction of the MMP system in 2002, as an abuse of the system (Elklit 2008). Protests over the allocation of seats took many forms, including court cases and work boycotts organised by civic organisations sympathetic to the opposition parties. The conflict even attracted the attention of SADC, which assigned the former president of Botswana, Sir Ketumile Masire, to mediate. Masire later abandoned his mediation, citing lack of cooperation from the ruling LCD.

This history of non-acceptance of election results shows why the fact that the 2012 results were accepted was a cause for celebration, marking, as it did, a departure from what had become the norm. The following sections are concerned with the discussion of allocation of parliamentary seats in the eighth Parliament of Lesotho and the dynamics of coalition government in the country.

HUNG PARLIAMENT AND THE FORMATION OF THE COALITION GOVERNMENT

Lesotho's National Assembly consists of 120 seats. Of these, 80 constituency seats are filled through the FPTP element of the country's MMP model and the other 40 are party seats, determined by PR. Table 1 shows the final allocation of seats after the 2012 general election.

Table 1
Final Seat Allocation in Lesotho's Eighth Parliament

Party	Total votes received	Party's proportion of votes	Allocation based on proportion	Constituency seats won by the party	Provisional allocation of PR seats	Total number of seats
ABC	138 917	30.21	30	26	4	30
BBDP	2 440	0.53	0	0	1	1
BCP	2 531	0.55	1	0	1	1
BDNP	3 433	0.75	0	0	1	1
BNP	23 788	5.17	5	0	5	5
DC	218 366	47.49	47	41	7	48
LCD	121 076	26.33	26	12	14	26
LPC	5 021	1.09	1	0	1	1
LWP	2 408	0.52	0	0	1	1
MFP	3 300	0.72	0	0	1	1
NIP	6 880	1.50	1	0	2	2
PFD	11 166	2.43	2	1	2	3
Others	12 400		0	0	0	0
Total	551 726			80	40	120

Source: IEC 2012

The table shows that 12 political parties are represented, one more than the number represented in the previous Parliament. The implication of the allocation of seats,

as shown in the table, was that for the first time the country had a hung parliament, a situation in which no political party (or block of allied parties) has an absolute majority, which, in the case of Lesotho, is a minimum of 61 seats.

Consequently, the parties were compelled to negotiate among themselves with a view to forming a coalition government. On the basis of the allocation of seats it would appear that the DC was best placed to lead the resultant coalition. By virtue of having a majority of 48 seats the party needed just 13 to reach the required 61 needed for a party, or a coalition, to form a government in terms of s 87(2) of the Constitution.

This was, however, not to be the case. With the DC and the ABC having the two highest numbers of seats, the LCD became the 'kingmaker', holding the key to a coalition government. Unless the two leading parties decided to work together, which was very unlikely in view of the antagonistic relationship between both their leaders and their members, neither could form a government without the LCD. For this reason both parties approached the LCD and the ABC successfully persuaded it to join it in a three-party coalition, which included the BNP, another sworn rival of the DC.

The DC's failure to attract allies into a coalition government meant the party was relegated to the opposition benches, marking the end, not only of DC rule but also of the 14-year reign as prime minister of Pakalitha Mosisili, who had been handpicked by the former leader of the LCD, the charismatic Ntsu Mokhehle, in 1997.

Had the DC succeeded in forming a government Mosisili would have achieved another five years as head of government, at the end of which he would have been in office for 19 years, making him one of the longest-serving heads of government in Africa. This is the trend the continent is trying to move away from as it has proved to be one of the catalysts for the creation of dictatorships.

It was always going to be difficult for the DC to court the LCD in view of the unceremonious manner in which it had broken away just three months before the May 2012 election. It was, therefore, no surprise that the LCD opted for coalition with the ABC. A few days before polling day LCD leader Metsing had made it clear that his party, 'as a matter of principle, and not hatred, would never go into a coalition with the DC'. He maintained that '... engaging the DC clandestinely would be an insult and a betrayal of voters who are crying for change. After all they [the DC] have made it very clear at their rallies that they would not put up with a coalition government' (*Lesotho Times* 24 May 2012).

As Metsing's statement suggests, the omission of the DC from the coalition government can largely be blamed on the party itself, and particularly on Mosisili. Even after all the indicators had pointed to the fact that there was likely to be a coalition government after the elections Mosisili remained in denial, insisting that

his DC would win enough seats to form a government. He went to the extent of calling analysts who predicted a coalition government 'false prophets'.

In view of the above it is clear that the country's new coalition government did not emerge from any ideological considerations, it was largely determined by the desire of the electorate to bring about change.

The change itself was premised on at least two considerations. Firstly, the electorate wanted a change of government as the 14 years of Mosisili's rule had failed to rid the country of social ills such as poverty, unemployment, HIV / Aids, crime and corruption, to name just a few. Some of these failures have been acknowledged by Mosisili himself. Handing over the reins of government to Prime Minister Thabane on 8 June 2012, Mosisili admitted that his government had failed to deal with a number of problems, most notably corruption within its own structures. Although Mosisili did not mention it specifically, HIV / Aids remains one of the most burning problems the ABC-led coalition has inherited. As at July 2012 the prevalence rate in the country was about 24% (Index Mundi 2012).

The electorate's desire to replace Mosisili is illustrated by the fact that the party failed to win a single constituency in the capital, Maseru, and other lowlands urban centres. The ABC won all the constituencies in Maseru as well as those in the Teya-teyaneng and Mafeteng town centres. Hlotse and Maputsoe (both in Leribe) went to the LCD. History has shown that urban dwellers are always the first to be hit by failures of government and consequently become the first to call for change by voting for opposition parties. This was evident when, in Zimbabwe, the Zimbabwe African National Union-Patriotic Front lost urban constituencies to the Movement for Democratic Change in 2008.

There is also a possibility that the DC's loss was the result of the electorate's desire to 'punish' Mosisili and the party for the 'wrongs' committed during the party's formation in February. To ensure that Mosisili and the DC were removed from power some members of the business community in Leribe, the home district of the LCD leader, Mothejoa Metsing, promoted what they called the Tona-kholoeaBochabela (Prime Minister from the East) campaign.

The ten districts of Lesotho are divided into three main administrative divisions, the South, the Central and the North. Though the Leribe district forms part of the North, it is located to the east of Maseru and is usually referred to as Bochabela (East).

Mosisili comes from the southern district of Qacha's Neck. Through the Tona-kholoeaBochabela campaign, the Leribe community called for voters in the district, irrespective of their party affiliation, to join hands and vote for the LCD. The campaign probably explains how the LCD managed to win nine of the district's 13 constituencies. The DC won just two, with the remaining two going to the ABC.

The eighth Parliament was officially opened and MPs sworn in on Wednesday 6 June. With the amendment of the electoral law to force parties to include equal numbers of women and men on their PR lists, there was always going to be a need to assess the gender balance in the new National Assembly. Overall, there are 31 women in the eighth Parliament, an increase of only two from the number in the previous National Assembly. A deeper analysis of the composition of the candidates shows that the amendment has had a great impact on gender balance – there is a strong possibility that without the amendment the number of women in the National Assembly would have fallen. Of the 80 constituency seats, only 13 (16.3%) were won by women. However, there was a huge difference in the PR seats, where women received 18 (45% of the 40 available).

Thomas Thabane, leader of the main party in the coalition, the ABC, was sworn in as the country's new prime minister on Friday 8 June at a ceremony in the Setsoto national stadium graced by the attendance of their majesties King Letsie III and Queen 'Masenate. At the ceremony Mosisili handed over the reins of power to Thabane. The peaceful transfer of power from the DC to the ABC/BNP/LCD coalition was an historic event and a positive development in the consolidation of democracy in the country. Never before had an outgoing prime minister handed over power to his successor. All elections since the return to democratic rule in 1993 had seen the incumbent prime minister returned to power.

On 15 June Thabane announced his 30-member Cabinet, consisting of 23 ministers and seven deputy ministers. As expected, the Cabinet was made up of ministers drawn from all three coalition parties. The ABC received 11 ministerial posts, the LCD 10 and the BNP two. The LCD received four of the most strategic ministries – finance, foreign affairs, public works and education. The ABC received defence, police and national security, justice and mining, while the BNP bagged home affairs.

CONCLUSION

The enviable atmosphere that surrounded the 2012 general elections and the peaceful transition have brought hope to the people of Lesotho that the democracy that has eluded the country in the past is starting to mature.

The peaceful atmosphere was made possible by the thorough preparations made by the country's IEC and the enactment of the new electoral laws. The number of parties represented in Parliament has increased from 11 to 12, a positive step as it enables more views to be represented. For the first time in the country's electoral history there have been no serious election-related disputes.

The elections were also historic in that they produced no outright winner and, as a result, gave birth to the first coalition government in the country's history.

Furthermore, the election brought to an end Mosisili's 14-year rule. Had his party won the elections or been part of the coalition government Mosisili would have ruled for another term and, in the process, become one of the longest-serving heads of governments in Africa, a trend that the continent is trying to move away from.

— REFERENCES —

Publications

- Axford, B & B Rosamond. 1997. 'Political Participation'. In B Axford, G K Browning, R Huggins, B Rosamond & J Turner. *Politics: An Introduction*. London: Routledge.
- Bratton, M & N van de Walle. 1997. *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*. Cambridge: Cambridge University Press.
- Elklit, J. 2002. 'Lesotho 2002: Africa's first MMP elections'. *Journal of African Elections* 1(2).
- Elklit, J. 2008. 'The 2007 General Election in Lesotho: Abuse of the MMP System?' *Journal of African Elections* 7(1).
- Heine, J. 2006. 'Institutional engineering in new democracies'. In U J van Beek (ed). *Democracy Under Construction*. Pretoria: Van Schaik Publishers.
- Helgesen, V. 2008. *Elections: A Vehicle for Triggering or Tempering Conflict?* IDEA.F:/election and conflict. Available at: www.idea.int/news/editorial_feb08.cfm.
- Index Mundi. 2012. Available at: www.indexmundi.com/lesotho/hiv_aids_adult_prevelence_ratehtm/
- Intelserv Lesotho. *Talking points for Sir Ketumile Masire*, 9 July 2009. Available at: www.intelserv.co.ls/index.php?optio=com_content&task=view
- Kadima, D. 1999. 'The DRC and Lesotho Crises: Some Lessons for SADC'. *Lesotho Social Sciences Review* 5(1).
- Kabemba, C. 2006. *From Military Rule to Multiparty Democracy: Political Reforms and Challenges in Lesotho*. Johannesburg: EISA.
- Kapa, M.A. 2003. 'Secrecy and Transparency in Lesotho's General Elections'. *African Security Review* 12(14).
- Likoti, F J. 2008. 'The 2007 General Election in Lesotho: The Application and the Challenges of the Electoral System'. *African Studies Quarterly: The Online Journal for African Studies* 10(4). Available at: www.africa.ufl.edu/asq/internal/forthcoming/v10i4a3.htm
- Mahao, N. 1997. 'The 1993 Election and the Challenges for the Development of Constitutionalism in Lesotho'. *Lesotho Social Sciences Review* 3(2).
- Matlosa, K. 2003. 'Political Culture and Democratic Governance in Southern Africa'. *African Journal of Political Science* 8(1).

- Matlosa, K. 2008. 'The 2007 General Election in Lesotho: Managing the Post-Election Conflict'. *Journal of African Elections* 7(1).
- Mothibe, T. 1999. 'The Military and Democratization in Lesotho'. *Lesotho Social Sciences Review* 5(1).
- Pule, N W. 2002. 'Politics since Independence'. In N Pule & M Thabane (eds). *Essays on Aspects of the Political Economy of Lesotho 1500-2000*. Department of History, National University of Lesotho: Morija Printing Works
- Smith, B C. 2003. *Understanding Third World Politics: Theories of Political Change & Development*. New York: Palgrave Macmillan.
- Southall, R. 2003. 'An Unlikely Success: South Africa and Lesotho's Election of 2002'. *Journal of Modern African Studies* 41(2).
- Van de Walle, B. 2001. *African Economies and the Politics of Permanent Crisis, 1979 – 1999*. Cambridge: Cambridge University Press.

Legislation

- Constitution of the Kingdom of Lesotho. 1993. Maseru: Lesotho Government Printers.
- National Assembly Election Order, 1992: 2001 Amendment.
- National Assembly Electoral Act, 2011

Documents

- Independent Electoral Commission of Lesotho (IEC). 2007. *Report: Lesotho National Assembly Election Results 2007*.
- IEC. 2012. *Report: Lesotho National Assembly Elections Results 2012*.
- IEC. 2012. *Lesotho National Assembly Elections Final Seat Allocation*.

Party manifestos 2012

- All Basotho Convention
- Basotho National Party
- Democratic Congress
- Lesotho Congress for Democracy

Newspapers

- Lesotho Times* 28 April 2011
- Lesotho Times* 2 February 2012
- Lesotho Times* 1 March 2012
- Lesotho Times* 15 March 2012
- Lesotho Times* 24 May 2012
- Public Eye* 13 April 2007
- Public Eye* 20 April 2012
- Sunday Express* 22 April 2007
- Sunday Express* 11 March 2012

PARTY-VOTER LINKAGE IN SENEGAL

The rise and fall of Abdoulaye Wade and the Parti Démocratique Sénégalais¹

Anja Osei

Dr Anja Osei is a postdoc researcher at the chair of International Relations
and Conflict Management in the Department of Politics and Management,
University of Konstanz, Germany
e-mail: anja.osei@uni-konstanz.de

ABSTRACT

In March 2012 Abdoulaye Wade was defeated by Macky Sall in the hotly contested presidential elections in Senegal. This article uses the concept of party-voter linkage to examine how and why Wade and his party, the Parti Démocratique Sénégalais (PDS), lost touch with the electorate. It is argued that this failure must be viewed within the context of a complex process of social change that challenged traditional, often clientelistic, forms of linkage. As an alternative strategy, the PDS emphasised the personal charisma of its leader. Charismatic linkage, however, is naturally unstable, and the PDS began to lose public support. These findings suggest that political parties in Senegal cannot build their strategies on clientelism and charisma alone, they will have to begin to compete over issues and develop programmatic visions. If this challenge is not taken up, the long-term prospects for democratic representation and effective linkage are uncertain.

INTRODUCTION

In March 2012 the future of democracy in Senegal hung in the balance. In the run-up to the presidential election angry youth and opposition activists took to the streets, demanding the departure of the incumbent president, Abdoulaye Wade. The fact that a key role was played by young activists who came together in the Mouvement du 23 Juin (M23) is remarkable because the urban population, especially urban youth, had been a key element in Wade's rise to power in 2000.

1 I thank the anonymous reviewer for the helpful comments.

Along with the sinking popularity of the once-adored president, the quality of democracy has also deteriorated in the past decade. What was at stake in the 2012 elections was, therefore, nothing less than the future of democracy in the country. Ultimately, Wade was defeated in the second round of elections by his former prime minister, Macky Sall. The performance of the Senegalese electoral bodies, first and foremost the Independent Electoral Commission (Commission Nationale Electorale Autonome – CENA), lent much credibility to the process. Hopefully, this peaceful transfer of power will help restore Senegal's reputation as one of the more democratic nations in Africa.

This article examines the rise and fall of Abdoulaye Wade and his Parti Démocratique Sénégalais (PDS) from the perspective of linkages – the 'interconnections between mass opinion and public decision' (Key 1961, p 409). In representative democracies the task of establishing these linkages falls to political parties as the 'central intermediate and intermediary structure between society and government' (Sartori 2005 [1976], p ix). If parties fail to provide successful linkages the bonds between public opinion and decision-making are broken. This can have grave consequences both for individual parties and politicians and for democratic representation itself (Morgan 2011, p 46; Lawson 1988, p 13).

Using the ideal types of programmatic, clientelistic, and charismatic linkage proposed by Kitschelt (2000), this article analyses how and why the linkage strategies of the PDS failed. It is argued that this failure must be viewed within the context of a complex process of social change that challenged traditional, often clientelistic, forms of party-voter linkage. Because the returns on clientelistic investments had become increasingly uncertain, the PDS emphasised the personal charisma of its leader, Abdoulaye Wade, as an alternative strategy. Charismatic linkage, however, is short lived and unstable (Weber 1978, p 246). Furthermore, the PDS completely failed to provide any programmatic linkage and did not offer any answers to Senegal's many pressing social, economic, and political problems.

These findings related to the evolution of the PDS have wider implications for Senegal's political development. In times of rapid social change parties cannot rely on clientelism and charisma alone, they have to develop more concrete visions for the future of the country and begin to compete over issues. If this challenge is not taken up the long-term prospects for democratic representation and effective linkage are uncertain.

Qualitative data for this research study were collected in interviews with national and local politicians in selected constituencies between 2006 and 2008. In addition, a small survey was conducted of voters' attitudes to political parties (100 respondents). This survey is not representative in a statistical sense; it was intended to function largely as a control and verification of the reported self-perceptions of the political parties. The article proceeds as follows: the second

section introduces the concept of linkage and discusses it in relation to Africa; the third gives a short introduction to the political history of Senegal; the fourth and fifth sections provide a more detailed picture of the strategies employed by the PDS, and the final section discusses the findings and draws some conclusions.

PARTY-VOTER LINKAGE IN AFRICA: CONCEPTS AND DEBATES

Ideal types of linkage

Political parties are 'agencies for forging links between citizens and policy makers. Their raison d'être is to create a substantive connection between rulers and ruled' (Lawson 1980, p 3). While this definition holds true for all political systems, the strategies that parties employ to create these connections vary widely. This article follows the ideal types proposed by Kitschelt (2000), who distinguishes between programmatic, clientelistic, and charismatic linkages. Programmatic political parties offer policy packages that they promise to pursue if elected (Kitschelt 2000, p 850), while clientelistic parties create bonds with their followers by offering direct, material rewards (Kitschelt 2000). Charismatic linkage relies on the personal skills of the party leader, and 'involves asymmetry between leaders and followers, but also directness and great passion' (Kitschelt 2000, p 849).

These ideal types are a good starting point for this article's research focus because they describe the central issues around which the discussion of political parties in Africa has revolved: the limited programmatic appeals of many parties, their reliance on clientelistic mobilisation and the extensive personalisation of politics in many countries (Erdmann 2004; Manning 2005). The following sections briefly discuss significant findings and debates related to each of the types.

Programmatic linkage

Many theories of voting behaviour are based on the assumption that voters make choices according to ideological or programmatic preferences (Mainwaring & Torcal 2006, p 210). However, strong party polarisation along the classical left-right ideological continuum is found primarily in Western industrialised countries (Kitschelt, Freeze, Koley & Wang 2009, p 760) where the labour / capital cleavage was a driving force in party formation (Lipset & Rokkan, 1967).

In Africa, by contrast, the working class is small and the economy is only weakly industrialised. As a consequence, the left / right distinction does not really apply. Although African parties readily use labels such as 'liberal' and 'social democratic', elections rarely include debates about macroeconomic policy or the role of the state in the economy (Bleck & Van de Walle 2011, p 1127).

This ideological catch-all style reflects the conditions under which most of Africa's parties have emerged. Many of them came into being as heterogeneous coalitions of diverse interest groups during the course of the third wave of democratisation in the early 1990s. Often these groups had little in common with each other, apart from their hostility to the old regime. In addition, the dominant discourse of this period conceptualised multiparty democracy and economic liberalism as two sides of the same coin (Abrahamsen 2000, p 51). Structural adjustment generally prescribed the same economic policies in each country and precluded decisions on economic issues that should be subject to contestation in a true democracy (Mkandawire 1999, p 124). These circumstances, together with the discrediting of socialist ideas after the fall of the Soviet Union, created a situation in which political challengers had 'great difficulty in defining an alternative *projet de société*' (Young 1999, p 29).

Furthermore, political parties were often led by professional politicians who had once belonged to the incumbent administration or to a previous regime (Wiseman 1998, p 54). For these individuals, multiparty politics was just a way (back) to power (Aké 2000, p 133). As a result, political competition was (and still is) often reduced to leadership alternation. However, Bleck & Van de Walle (2011, p 1139) call attention to the fact that 'African voters care deeply about many substantive issues'. There are a number of unclaimed issues that could possibly be taken up by opposition parties in the future (Bleck & Van de Walle 2011, p 139). This indicates that there is at least the potential for an increase in ideological competition and – on the part of voters – even a demand for greater programmatic differentiation of parties. It is also worth noting that in some countries (Zambia and Ghana, for example) ideological positions seem to play at least a limited role in political competition (Cheeseman & Hinfelaar 2009; Osei 2012).

Clientelistic linkage

Political clientelism is generally understood as the exchange of material benefits for political loyalty (Clapham 1982). Patron-client relationships are commonly viewed as a persistent feature of African politics (see, eg, Bratton & Van de Walle 1997; Chabal & Daloz 1999) that has continued to shape party competition even after the democratic wave. Van de Walle (2003, p 314) notes that in Africa 'parties do not really serve to aggregate interests – rather they serve a representation function in a context of clientelistic politics'.

Although clientelism can be found in almost every political system, it is much more prevalent in developing countries (Lemarchand & Legg 1972). One explanation for this is that, with rising incomes, the utility of the material benefits traded in clientelistic relationships decreases, while the costs of clientelism may

rise (Hicken 2011, p 299). Another explanation is suggested by Keefer (2005), who claims that there is an association between clientelism and the age of a democracy. Because competitors in young democracies are often 'less able to make credible promises to voters regarding public good provision and economic performance generally' (Keefer 2005, p 6) they rely on clientelistic strategies. Both hypotheses are compelling when one seeks to account for the difference in linkage strategies between developed and underdeveloped (or between established and more recent) democracies.

There are, however, other explanations that focus more specifically on Africa. In the context of frequently heterogenous post-colonial African countries the contribution of clientelism to national integration can be significant. Clientelism creates links between the centre of power and the periphery through large broker-mediated networks that channel patronage from the highest levels of the state down to village level. Bayart (1993, p 152) describes the use of state resources to connect the post-colonial elite with local big men as the 'reciprocal assimilation of elites'. This has some major repercussions for political representation, as the relationship between rulers and the ruled becomes reliant on the links among patrons, big men, and their communities (Chabal & Daloz 1999, p 37). Voters usually expect representatives to care for the material well-being of their communities (Chabal & Daloz 1999, p 55). In this way, clientelism can 'reinforce loyalties to kith and kin' (Van de Walle 2003, p 311) by instrumentalising group identities in the competition for material resources.

It should be noted that despite many clichés about ethnic voting in Africa, belonging to one group or another does not, *per se*, structure voting choices. Rather, as Posner (2005, p 91) argues, ethnicity plays a role in voting because it is assumed to convey information about likely patterns of patronage distribution. However, recipients of patronage need not be ethnic groups: Patronage can also be distributed to regions, religious communities, or social groups such as students, the youth, or civil society employees. While the importance of clientelism in African politics is widely acknowledged, some newer studies have raised doubts about the primacy of clientelism as a means of party-voter linkage (Lindberg & Morrison 2008; Young 2009). This suggests that we still lack comparative and well-grounded studies of the extent of the phenomenon in different countries.

Charismatic linkage

Although charisma and clientelism represent two distinct types in Kitschelt's typology, they tend to be conceptualised together in the Africanist literature. As Leonard & Straus (2003, p 2) claim, personal rule is used as shorthand for describing patronage politics. In order to develop a clear understanding of

charismatic linkage and to distinguish it from clientelistic linkage it is useful to recall Weber's concept of charisma. Weber (1978, p 2041) defines charisma as a 'certain quality of an individual personality by virtue of which he is considered extraordinary and treated as endowed with supernatural, superhuman, or at least specifically exceptional powers or qualities'.

The recognition of charisma by followers or disciples arises out of enthusiasm or despair and hope (Weber 1978, p 242) and is always the result of crises or complex social transformations (Weber 1978, p 244). Charisma 'repudiates the past' (Weber 1978, p 244) and is, in its purest form, hostile to formal rules. Therefore, charisma is an 'exceptional mode of linkage' (Hawkins 2003, p 1138). Thus, in party politics, the relationship between the charismatic ruler and his followers is not mediated by a strongly institutionalised party (Hawkins 2003, p 1137). The natural instability of charisma poses a major challenge to leadership succession. Consequently, charisma must be routinised, either in the form of traditionalisation – for example, as hereditary charisma – or by bureaucratisation, in which charisma is ascribed to an office rather than to a person (Weber 1978, pp 246-250).

Combinations and adaptations

In practice, linkages occur in combination (Kitschelt 2000, p 854). What determines the prevalence of one type of linkage or another is related to both the political and social environment of the party (Römmele, Farrell & Ignazi 2005, p 19) and the interaction between parties (Morgan 2011, p 42). While each party may have an individual mix of strategies there are limits to combination. Most programmatic appeals, for example, stand in sharp contrast to the selective benefits distributed by clientelism (see Kitschelt 2000, p 855).

Thus, while programmatic and clientelistic linkages seem to be mutually exclusive, much of the Africanist literature suggests that clientelistic and charismatic appeals can coexist more easily. In patron-client networks, Van de Walle (2003, p 313) argues, very few benefits trickle down to the lower classes and most of the material gains are limited to a small elite. While Van de Walle further assumes that bonds with the wider population are established through politicised identities such as ethnicity (Van de Walle 2003, p 313), it is possible that charismatic linkage performs a similar function: charisma integrates those segments of the society that do not directly receive material benefits, especially in societies in which there has been little politicisation of identities. In the past, some African leaders, in order to compound their clientelistic strategies, have successfully invoked a symbolic repertoire featuring themselves as 'father of the nation' (Schatzberg 2001) or even as endowed with supernatural powers.

However, conflicts between clientelistic and charismatic linkages can arise

in multiparty systems. Because charisma is difficult to sustain in a movement or party (Kitschelt 2000, p 855) personalist leaders 'tend to subjugate middle- and upper-level party entrepreneurs and are hostile to strong intermediary levels, be they clientelistic or bureaucratic' (Gordin 2002, p 531). This contradicts the logic of successful clientelistic integration, which would require binding intermediary levels – local big men, in the African context – to the party by offering them material benefits. The rotation of political personnel to prevent alternative centres of power, as described by Bratton & Van de Walle (1997, p 86), might function perfectly in single-party states. Under conditions of multiparty democracy, however, these expelled big men can form their own political parties and contest elections. As described below, Senegal provides an example of this situation: by eliminating popular politicians who posed potential threats to his supremacy, Wade himself helped to create some of his most serious competitors in later presidential races.

Linkage strategies are also subject to change. As Morgan (2011, p 36) has noted, economic crises, social change and political reform may force parties to adapt their strategies. When they are unsuccessful at adaptation linkage will fail. Such failure can be limited to individual parties, but, in the worst-case scenario, might even lead to the collapse of the party system (Lawson & Merkl 1988; Morgan 2011).

PARTIES IN SENEGAL: A SHORT HISTORY

Senegal achieved independence in 1960 under the country's first president, Leopold Sedar Senghor, the leader of the Union Populaire Senegalaise (UPS). A few opposition parties continued their activities after independence, but they were soon co-opted or suppressed (Diaw & Diouf 1998, p 114), with the result that Senegal became a *de facto* single-party state in 1966.

The process of hegemony-building in the country is a near perfect example of what Bayart (1993, p 152) meant by the reciprocal assimilation of elites: the inclusion of both new and old elites in large patronage networks. The most important power base of the UPS was a unique, broker-mediated system of reciprocal relations between the state and important social groups; in this system a special role was played by the Islamic Sufi brotherhoods. Sufism is a mystical denomination of Islam, in which the religious leaders (*marabouts*) are perceived as holy men to whom their disciples (*taalibe*) owe their allegiance (see Copans 1980, pp 174-199). In exchange for political patronage, the *marabouts* urged the *taalibe* to support the ruling party and even gave voting instructions (*ndigel*) to their disciples.

There are four main Sufi brotherhoods in Senegal: the Tijaniya, the Mouridiya, the Qadiriya, and the brotherhood of the Layenne. Although the Tijaniya is the

largest in numbers, the Mouridiya is more influential in the economic sector, specifically in peanut production and transport. All the orders are dynastically structured, tied to religious centres and led by noble families; for instance, the head (*khalif*) of the Mouridiya resides in the holy city of Touba. At regional and local levels, smaller *marabouts* are hierarchically subordinate to the *khalif*.

The first serious test of the hegemony of the UPS came in May 1968, when students and workers revolted against the authoritarian nature of the government (Fatton 1987, p 61; Diaw & Diouf 1998, p 122). Supported by the French, the army and the *marabouts* Senghor managed to regain the upper hand, but the struggle made it clear that certain amendments would have to be made to his hegemonic style of governing. These adaptations took the form of *multipartisme limité*; implemented in 1976, this new system recognised three parties: a liberal, a social democratic and a communist party. The UPS, now renamed Parti Socialiste (PS), reserved the social democratic option for itself, the Parti Africain de l'Indépendance (PAI) accepted the role of the Marxist opposition and the PDS was registered as the liberal party. Using this strategy of limited and controlled liberalisation Senghor successfully appeased the opposition (see Fatton 1987, p 53).

There can be no doubt that Senghor was blessed with outstanding political intuition. Although he was charismatic and even tended towards strongman rule (Ottaway 2003, p 94), he was a 'princely' ruler (Jackson & Rosberg 1982) who saw himself as an 'arbiter of disputes among leading politicians, lieutenants, and their factions' (Jackson & Rosberg 1982, p 90) and who 'tolerated opposition insofar as it did not threaten his hegemony' (Fatton 1987, p 12). With regard to linkage strategies, Senghor's charisma and the clientelistic system on which state-society relations depended during this era were an effective combination.

Senghor's handpicked successor, Abdou Diouf, took over in 1981. He was a young, uncharismatic, 'three-piece-suit-wearing technocrat' (Foucher 2007a, p 122). In the context of a declining economy Diouf's task of upholding the dominance of the PS was a difficult one. Because the PDS had become a political force to be reckoned with Diouf decided to further fragment the opposition by removing the barriers of *multipartisme limité* (Diaw & Diouf 1998, p 128; Creevey, Ngomo and Vengroff 2005, p 481). However, the economic crisis contributed to an increase in popular discontent and social unrest (Diaw & Diouf 1998, p 133). Wade and his party benefited greatly from these developments. The PDS began to campaign using the slogan '*sopi*', the Wolof word for 'change'.

In the aftermath of a series of strikes and riots during a severe school and university crisis, urban youth began to develop connections with the opposition movement (Diouf 1996, p 239). For this group, *sopi* 'expressed the debasement of political standards, the rise of a new, totally postcolonial generation, and a "crisis of values"' (Diouf 1996, p 244).

The 1980s changed both the relationship between the youth population and party politics and that between religion and politics. In 1988 it seemed possible that the opposition might win the election (Villalón & Kane 1998, p 147). However, the then-*khalif* of the Mourids, Abdou Lahatt Macké, still backed the regime and gave a strong *ndigel* in favour of Abdou Diouf. In the religious centre of Touba a large majority followed this *ndigel*, but in other parts of the country Mbacké's call was widely ignored (Villalón 1999, p 131). This rejection of the *khalif*'s authority spurred a public debate over the political role of the country's religious leaders, and 1998 effectively marked the end of the official *ndigel*.

Returning to the old strategy of co-option, in 1991 and in 1995 Diouf invited Wade to join a government of national unity. Both these governments were very short lived, because Wade felt that his participation in the administration would alienate some of his followers (Moegenburg 2002, p 149). Towards the end of the 1990s the PS's legitimacy crisis was accelerated by the party's internal power struggles. Leading members such as Djibo Ka and Moustapha Niasse left the party to found their own parties. In the first round of the 2000 presidential elections Diouf held a lead over Wade, but in the run-off the entire opposition – including the third-place candidate, Niasse – united behind the PDS candidate. In the subsequent parliamentary elections the PDS-led *Sopi*-Coalition won a landslide victory; the PS did not win a single department.

The initial enthusiasm over the victory of *sopi* soon died down, and the years following the 2000 election were marked by a steady deterioration in the political climate. Power became strongly centralised in the hands of the president, the opposition remained ineffective and engaged in in-fighting and Wade won the first round of the 2007 presidential elections with ease. Although the electoral process was deemed by international observers to have been largely free and fair the opposition accused the president of electoral fraud and boycotted the subsequent parliamentary elections.

The opposition remained fragmented, but the ruling party was also beginning to show the first symptoms of decline. Wade's attempt to make his son, Karim, the party's next presidential candidate was resented by both the party and the wider populace. As a result, Wade decided not only to stand for a third term but also to introduce a constitutional amendment that would ensure his re-election. Although the draft amendment had to be withdrawn after mass demonstrations in June 2011, the legality of Wade's candidacy remained the subject of controversy, as the Senegalese Constitution limits the president to two terms.

The following section will examine in greater detail the linkage strategies the PDS employed, in an attempt to explain how the party lost touch with the electorate.

LINKAGE STRATEGIES OF THE PDS

Programmatic linkage

Political parties were never officially outlawed in Senegal, consequently Wade was able to form the PDS as a legal opposition party in 1974. The original ideological conception of the party was that of *socialisme travailliste*, which was rooted in the work ethic of the Mourid brotherhood and promoted economic development on the basis of agricultural production (see Desouches 1983, pp 52-54). However, under the *tripartisme* scheme there was no place for such a party and a departure from the prescribed ideological orientation was not permitted (see also Fatton 1987, p 7). Hence, the PDS found itself labelled the official liberal party. At first, leading party cadres (including Wade himself) rejected liberalism for fear of being identified with conservative, right-wing policies (Sadji 2006, pp 290 ff).

In later years the PDS fully embraced a liberal ideology, at least rhetorically. The party joined the Liberal International in 1980 and established international contacts – with the German Liberal Party, for example (Sadji 2006, p 289). This international recognition of the PDS and, specifically, of Aboulaye Wade (sometimes referred to as the ‘father of African liberalism’), may have contributed to the growing self-identification of the party with liberalism. As late as 1981, however, when the ideological barriers of *multipartism limité* were lifted, the leadership seriously considered returning to the party’s original conception of *socialisme travailliste* by removing all references to liberalism from the party statutes (Sadji 2006, p 291). Even today, Article 1 of the party statutes identifies the abolition of all forms of inequality, exploitation and alienation as the main objectives of the party (PDS nd).

Party officials interviewed during fieldwork were equally ambiguous on this point. On the one hand, most officials did not fail to insist on their liberal orientation, stressing values such as individual liberty, freedom of expression and private entrepreneurship. On the other, social values such as solidarity and social unity were also mentioned. Using the argument that individual freedom requires a certain degree of social justice the PDS thus represented itself as both a liberal and a social party (Thiare interview 2007). In general, the party seemed to have a very low ideological profile and referred only vaguely to programmatic issues.

In practice, many PDS policies have violated core values of liberalism. Allegations of corruption have been widespread and Wade’s approval of expensive prestige projects like the Monument de la Renaissance in Dakar has attracted criticism (DeJong & Foucher 2010). Critics have also complained about the harassment of opposition figures and of increasing threats to the freedom of the press (Havard 2004, pp 34-36). It is telling that it was under an administration that called itself liberal that Senegal lost its status as a ‘free’ country in the 2008 Freedom House report.

Clientelism

Clientelism has always played a crucial role in Senegalese politics. Beck (2008, p 3) holds that 'clientelism remains the basis for political mobilization and accountability', a view that is shared by many other writers (Gellar 2005, p 158; Dahou & Foucher 2009, p 26). While the overall importance of clientelism is beyond dispute, it is useful to trace the changes and adaptations in this linkage type over time.

The delicate relationship between religion and state power in Senegal has been explored in many classical studies (Coulon 1981; Copans 1980 and others). As far back as colonial times the *marabouts* had served as intermediaries between the rural population and the state. Senghor, although he was himself a Catholic, viewed the religious leaders as intermediaries 'between the "center" of power and the "taalibe-periphery"' (Fatton 1987). The material benefits obtained by the *marabouts* for their cooperation included land, financial benefits (for example, special credit lines) and, in the case of the Mouridiya, the complete autonomy of the holy city of Touba from the state.

In return, the *marabouts* ordered their disciples to support the ruling party. Because of the hierarchical structure of the brotherhoods, the sacred aura of the *marabouts* and the resulting compliance of the *taalibe* with voting instructions the Senegalese variant of state-society relations was an efficient method of stabilising power (Cruise O'Brien 2003, p 193; Fatton 1987, p 97) and also helped to bridge ethnic differences by offering an alternative identification (Cruise O'Brien 1998).

In the 1980s the decline of state resources began to jeopardise the distributive capacity of the government, thus weakening the patronage link between it and the religious authorities. In addition, the brotherhoods were forced to adapt to a long-term process of social transformation marked by urbanisation and migration, democratisation and the decline of the peanut sector (Villalón & Kane 1998; Villalón 1999). The '*Marabouts de l'arachide*' described in Jean Copans's (1980) book have become '*Mourides des champs, mourides des villes, mourides du téléphone portable et de l'internet* [Mourides of the fields, mourides of the towns, mourides of the portable telephone and of the internet]' (Copans 2000). These changes are described succinctly by Cruise O'Brien (2003, p 208):

Mouridism is changing, becoming more associational and in its own way more democratic. At the same time the brotherhood is beginning to blur around the edges, notably in the towns where being a Mouride can be an aspect of one's identity, not as in the village necessarily the major element of self-definition.

Movements such as the Moustarchidina and the Hizbut Tarqiyyah sought to modernise the brotherhoods from within (Villalón 2004, p 64); the Moustarchidina even began to align with the opposition.

In this changing environment the continued support of the *khalif* of Touba for the PS regime in 1988 hurt the credibility of the Mouridiya to some extent (Cruise O'Brien 2003, p 204). The *khalif*'s silence in subsequent elections was a logical consequence that restored his moral authority. However, the end of the official *ndigel* did not lead to the religious authorities' complete withdrawal from politics. Rather, it resulted in a fragmentation of the *ndigel* that gave smaller *marabouts* the opportunity to decide their own positions and to negotiate the price for their support (Audrain 2004, p 104). This development has increased the potential instability in the relationship between politics and religion and has allowed new alliances to form. In 2000 many smaller *marabouts* gave their own voting instructions (Villalón 2004, p 66). However, the *ndigel* of Cheikh Tidiane Sy (of the powerful Sy family) in favour of Diouf was ignored and Modou Kara Mbacké was booed when he set out to give a voting instruction for Diouf in 1999 (Audrain 2004, p 100).

Wade, himself a disciple of the Mouride brotherhood, tried to rebuild old clientelistic alliances in a different fashion (Dahou & Foucher 2009, p 25). Just a few days after his election in 2000 he went to Touba to kneel before the *khalif*. Critics have bemoaned Wade's lopsided preference for the Mouridiya as a departure from the legacy of Senghor and Diouf, who attempted to accommodate all religious groups on equal terms (Mbow 2008, p 161; Dahou & Foucher 2009, p 25).

Mbacké, the department in which Touba is located, became one of Wade's electoral strongholds, even though the PDS had no effectively organised party branch there. The party's success in this department relied on a combination of favours to individual *marabouts* and infrastructure projects in Touba. In 2007, shortly before the presidential election, the *khalif* even gave a sort of indirect *ndigel*, in which he declared openly that Wade, if re-elected, would complete the modernisation of the city's infrastructure. In addition, the PDS tried to buy off many of the smaller *marabouts* who had previously supported the PS. One of these leaders reported that he had been offered a car, a house in Dakar, and a sizeable amount of cash to cross over to the ruling party (Fall interview 2007).

This lavishing of expensive favours on religious authorities is not restricted to Touba and its surroundings, nor is it exclusively practised by the PDS; clientelism is still a commonly used linkage strategy all over the country (Sy Diallo interview 2007; Kane interview 2007; Fall interview 2007). It goes without saying that these practices pose serious challenges to many of the small and under-funded opposition parties that cannot compete with such generous spending. Thus, although *maraboutic* support is, in principle, negotiable, only a few *marabouts*

openly align with the opposition. As one Sy Diallo (interview 2007) stated, '*les marabouts jouent le jeu du pouvoir* [the *marabouts* play the power game]’.

It is not easy to determine to what extent and in which direction voting behaviour is still influenced by the *marabouts*. Some results of an Afrobarometer survey² are very interesting in this regard. A total of 77.7% of Afrobarometer respondents stated that religious authorities had no influence on their political decisions; only 14.6% reported being very influenced.³ Not surprisingly, Mbacké is the only department in which a majority (60.7%) of respondents said they were very influenced. In contrast, 90% of the respondents in Thiès and 84.4% in Dakar said that they did not listen at all to the *marabouts* when making their political decisions.

We must bear in mind that there is a strong trend in public opinion to reject the direct influence of the *marabouts* in the political realm. Therefore, we cannot exclude the possibility of interview effects and self-censorship in the survey responses. On the other hand, the figures are so high that they raise doubts about the ability of the religious authorities to control the votes of their communities. If these doubts are valid it would be dangerous for any party to rely on clientelistic relations with the *marabouts*.

This conclusion was borne out again in 2012. Unsurprisingly, Wade began his campaign tour in Touba but, given the uncertainty about the outcome of the elections, most of the religious authorities shied away from making any definite statements. One of the few to support Wade openly in the first round was Cheikh Béthiou Thioune, who gave the number of his *taalibe* as two million; this could be an extreme overstatement. The pro-Wade *ndigels* increased ahead of the second round: Modou Kara Mbacke, Cheikh Tidiane Sy of the Moustarchidina, Cheikh Ndiguel Fall and Serigne Kosso Mbacke also announced their support of Wade. The fact that Wade lost indicates that *ndigels* are no longer enough to decide elections in Senegal.

Naturally, clientelistic benefits are not directed only at religious communities. As Dahou & Foucher (2009) argue, the improvement of the financial capacity of the Senegalese state led to an expansion of the civil service and an increase in the number of assembly members and ministers. These measures can be seen as attempts to satisfy the patronage demands that arose from within the PDS and its allies. The difficulty of managing intra-coalition patronage was one of the causes of the extreme personalisation and centralisation of the party. As described in the next section, however, the cure was worse than the disease; in the long run

2 Afrobarometer measures the social, political, and economic atmosphere in Africa. See www.afrobarometer.org

3 Afrobarometer question Q88 for Senegal asks respondents to what extent their voting decisions are influenced by other people. Q88A refers to religious authorities.

it was precisely this over-centralisation that presented the greatest obstacle to effective patronage management. In addition to patronising the political class, Wade channelled group patronage to urban sectors (Dahou & Foucher 2009, p 24). This strategy is especially noteworthy for its limited success: in the 2009 local elections the PDS actually achieved its best results in rural areas, not in the densely populated cities. This trend continued in 2012, when Wade's lowest levels of support came from the densely populated urban centres of Dakar and Thiès.⁴

From the perspective of clientelistic linkage a general conclusion can be drawn: although clientelism is still an important strategy for political parties these exchange-based relations produce increasingly uncertain returns on investment. While parties and candidates are still competing for the support of the *marabouts* clientelist relations between the state and the Sufi orders have undergone a profound change. On the one hand, the *marabouts* are no longer exclusively tied to one particular party but can shift parties and negotiate their affiliations; on the other, the disciples' strict obedience to voting instructions is no longer guaranteed and the authority of the *marabouts* in the political sphere is increasingly coming under scrutiny. Religious leaders distancing themselves from the state in times of uncertainty or crisis is, in itself, not a completely new phenomenon (see Fatton 1987, p 99), but in the context of a multiparty system with a large number of competing parties this adds to a general uncertainty over the return on clientelistic investments.

Charisma

Wade tends to be portrayed by friends and enemies alike as an extraordinary character. Lamine Faye (2005, p 9) regards him as one of Africa's most charismatic and popular leaders, holding almost mythical status in the minds of the Senegalese people. The journalist Abdou Latif Coulibaly, one of Wade's most outspoken critics and author of the controversial book, *Wade, un opposant au pouvoir* (2003), depicts the president as an enigmatic character: eccentric, opinionated and unconventional. Amath Dansokho, leader of the small Parti de l'Indépendance et du Travail (PIT), once referred to Wade as a car with no brakes (cited in Coulibaly 2003, p 115) and Mbow (2007, p 158) notes that 'Wade does not govern: he reigns.'

However, Wade's image is not that of a brutal dictator. Nicknamed '*le pape du sopi* [the pope of *sopi*]' or '*le vieux* [the old one]', he has often tried to give the impression that he is down-to-earth and close to the people. One anecdote related in Coulibaly's book is significant in this regard. The president was travelling

⁴ Regional results are available at: africanelections.tripod.com/sn_detail.html - 2012_Presidential_Election_%28First_Round%29

on the road from Dakar to Thiès, with his security force driving in front of him. Suddenly, the security officers realised the president's car had disappeared. When they went back, they found Wade on the roadside, surrounded by cheering market women, having stopped to buy mangos. Such stories fed the myth that Wade was still 'one of the people' (see also Cruise O'Brien 1998, p 46). Foucher's (2007a) observations on Wade's campaign style in 2000 illustrate this point further. Because the PDS at that time could not afford to pay for praise singers or other elements that had traditionally been used in the PS's political campaigns, the party began to organise caravans of cars that came to be known as the 'blue marches' (*marches bleues*). Wade broke with Diouf's political style by speaking in Wolof instead of in French, by wearing traditional *boubous* rather than Western-style suits and by playing Senegalese pop music and reggae at his marches (Foucher 2007a, p 124).

There can be no doubt that Wade was the dominant figure in the PDS, a party with a surprisingly underdeveloped formal organisation.⁵ Party offices were not set up in every region in the country and important activities (such as the annual sale of party membership cards) were not carried out regularly (Dibi Diallo interview 2007). The staffing level was remarkably thin and, in some places, the PDS was virtually absent. Wade himself was the president of the republic and general secretary of the party at the same time, managing to unite all the executive organs of the party under his tight control. In practice, the meetings of the highest executive organs of the party took place only at long intervals and were summoned exclusively by Wade. As one leading party official admitted frankly, 'There is no number two. We are all variables; Wade is the only constant' (Ba interview 2006). During elections the party has relied more heavily on its leader's popularity than on grassroots mobilisation (Ba interview 2006).

The organisational weakness of the ruling party is no secret in Senegal, and even high party cadres have admitted these problems.⁶ In an interview with the journal *Wal Fadjiri* [11 February 2008], El Hadji Ndiaye, a former ally of Wade, claimed that the PDS was not really a political party; it resembled, rather, a 'tribe of which Abdoulaye Wade is the chief': '*... le PDS fonctionne comme une tribu dont Abdoulaye Wade est le chef [...] Le PDS, sous sa forme actuelle, n'est pas un parti politique.*'

To a certain extent these organisational problems were caused by a phenomenon that is referred to in Senegal as political nomadism (*transhumance politique*). The PDS transformed rapidly from a relatively small and urban-based opposition

5 In comparison to the PS, and even the small AFP, the PDS's organisation is weak and unprofessional. For more detail, see Osei 2012.

6 In an interview with *Le Soleil*, Babacar Gaye, Wade's Cabinet director, stated, '*Nous sommes un parti fort, massif, mais dont l'organisation laisse à désirer* [We are a strong party, massive, but our organisation leaves a lot to be desired].' (*Le Soleil*, 15 October 2008).

party into a large national movement, but it was unable to integrate newcomers sufficiently. Overall, the party made little effort to build up an institutionalised party apparatus with functioning branches and clear – or at least calculable – rules for career advancement. As a result, conflicts arose between the old guard, who had followed Wade on his long road to power, and an ambitious new generation (Ba interview 2006).

At first, Wade's strong leadership and the centralisation of the party was attributed to the need to hold the ranks together. In the longer run, however, this strategy contributed to the weakening of the PDS because it contradicted the imperatives of coalition-building through clientelism: instead of integrating big men into the party Wade began to eliminate all possible competitors for party leadership, thereby eroding the party's electoral base.

The examples of Idrissa Seck and Macky Sall – Wade's 'political sons', as they were often called in the Senegalese press – are instructive in this regard. Seck, a former prime minister and mayor of Thiès, was viewed as Wade's most likely successor until he was arrested and charged with treason in 2005. The charges were later dropped and Seck went on to found his own party, Rewmi. In 2007 he contested the presidential elections and was runner up to Wade. Seck's rise not only produced a new political competitor, it totally paralysed the PDS in its former stronghold of Thiès, where two-thirds of party members crossed over to Rewmi (Faye interview 2007). Later, however, Seck lost some popularity because of his various attempts to rejoin the PDS.

After Seck, Macky Sall held the post of prime minister but fell out of favour with the president when he summoned Abdoulaye Wade's son, Karim, to a hearing in the National Assembly in connection with financial irregularities in the Agency for the Organization of the Islamic Conference, which Karim directed (Mbow 2008, p165).

When Sall lost his position in the administration he founded his own party, the Alliance pour la République / Yaakaar (APR). Like Seck, Sall had a significant local following in his home town of Fatick; in contrast to his predecessor as prime minister, however, Sall was able to wage a strong electoral campaign throughout the country and ultimately won the presidency in 2012. These two examples demonstrate that Wade's electoral defeat was, to a certain extent, home-made: He removed from the party two big men with considerable local followings, both of whom were able to present a greater electoral challenge to him than the rest of the opposition.

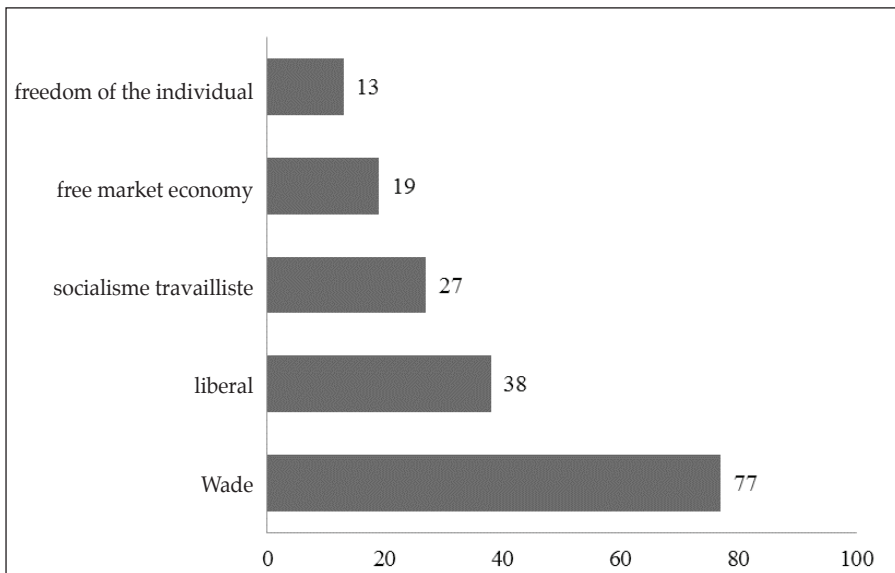
The exclusion of these two talented politicians from the PDS must also be seen in the context of Wade's attempt to create a dynasty. Though he officially denied them, rumours that started in 2006 that Karim would succeed his ageing father spread widely. However, this strategy proved to be disastrous because of

Karim's unpopularity among the Senegalese people. When he ran for the post of mayor of Dakar in 2009 his campaign was a miserable failure. Faced with this widespread popular disapproval of his son, Wade took the controversial decision to stand for a third term himself, despite his initial promise to step down after two terms in office. There was simply no alternative candidate within his party; the rest is history.

A GLIMPSE OF VOTERS' ATTITUDES

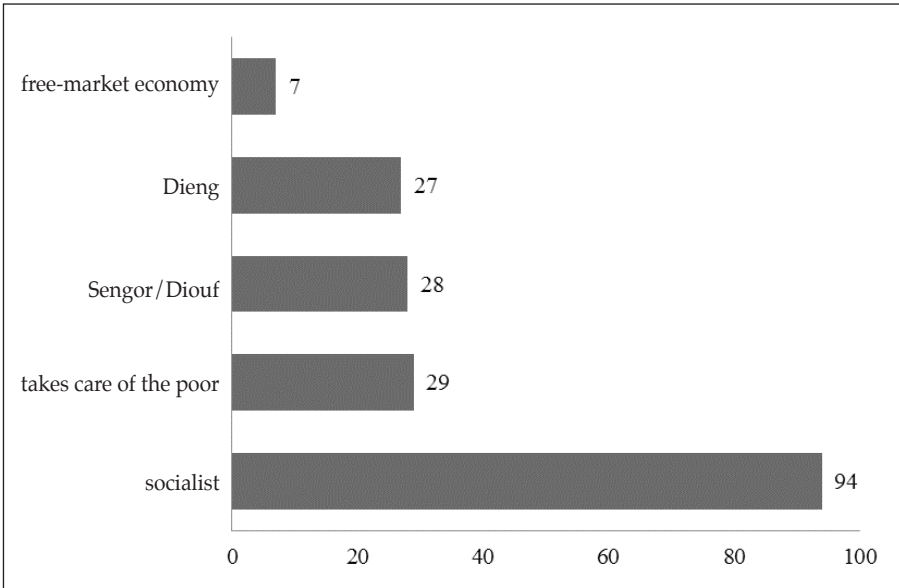
Thus far, this article has examined party-voter linkage from a top-down perspective. Can anything be said about voters' attitudes to political parties in Senegal, especially with regard to the PDS? Unfortunately, there are very few empirical data available to answer this question. However, the results of a survey that complemented the qualitative field work on which this article is based can offer some insight. Survey respondents were asked to assess to what degree Senegalese parties possess certain characteristics derived from the parties' self-perceptions. Although the PS is not the subject of the article, a comparison between the two parties (the PS and the PDS) offers some interesting results, displayed in Figures 1 and 2.

Figure 1
Voters' attitudes to the PDS



Source: Compiled by the author

Figure 2
Voters' attitudes to the PS



Source: Compiled by the author

Only a minority of respondents identified the PDS with the ideology of liberalism or liberal core values, such as the free-market economy or individual freedom. A total of 77% s indicated that Wade was their sole association with the party. In the case of the PS, by contrast, voters were able to identify at least some of the party's core characteristics. This is not to say that the PS's political programme is of greater substance, or that the party has a more clearly defined political vision. The words 'socialist' and 'liberal' are broad labels that are not necessarily reflected in government policies. However, these results illustrate that the PS has an identity as a political party that goes beyond a specific party leader.

Table 1
Trust in political institutions

	2005	2008
President	73.4	45.7
Ruling party	58.0	33.9
National Assembly	56.1	36.1
Opposition parties	47.2	40.0

Table 1 shows the levels of trust that Senegalese Afrobarometer respondents in Rounds 2 and 3 (2005 and 2008) placed in various institutions.⁷

As these results show, about three-quarters of the Senegalese population trusted Wade in 2005. He was far more popular than his own party or the National Assembly. This trust declined sharply in 2008, but it is noteworthy that Wade was still more trusted than the opposition. What these figures also suggest is that the linkage crisis grew between the survey years. The low level of confidence in the ruling party and the opposition alike in 2008 coincides with a remarkable drop in satisfaction with democracy: whereas in 2005, 53.3% were very or fairly satisfied with the state of democracy in the country, only 26.9% reported satisfaction in 2008. This indicates that broken party-voter linkage poses a threat not only to the survival of the party in question but also to democracy as a whole.

DISCUSSION: CONTINUITY AND CHANGE

Many authors have stressed the continuity of hegemonic strategy from Senghor to Diouf and finally to Wade (Dahou & Foucher 2009; Ottaway 2003, p 92). However, the process of adaptation and change should not be overlooked. Senghor, adept in the art of reciprocal elite assimilation (Foucher 2007b, p 188), was certainly charismatic but in terms of his linkage strategies there was an equilibrium between charisma and clientelism. Even though the introduction of *multipartism limité* rested on ideological premises, party programmes never played a significant role. Quite the contrary, the artificiality and inflexibility of the labels that were attached to the registered parties effectively discouraged programmatic linkage.

Senghor's successor, Diouf, lacked charisma and thus relied more strongly on clientelism, but also on the manipulation of the political process. During his term in office Senegal experienced a serious linkage crisis, with changes taking place on three levels: in the relationship between voters and the PS, in the *taalibe-marabout* relationship and (partly as a consequence) in the relationship between religion and the state. In the 1980s a growing number of young voters could no longer be integrated into the clientelistic networks of the PS (Foucher 2007a, p 126). The economic crisis also weakened the patronage link between the PS and the Sufi brotherhoods, which began to distance themselves from the state. At the same time, a process of modernisation was underway within the brotherhoods, which altered the relationship between the *marabout* and the *taalibe*, especially in urban settings. These changes became evident in the unprecedented protests that followed the 1988 *ndigel* and in the *khalif*'s silence in subsequent elections.

7 Afrobarometer question 55 reads, 'How much do you trust the following institutions?' The table displays the combined response levels for the answers 'a lot' and 'somewhat'.

These multifaceted social transformations challenge traditional modes of linkage; they can also create circumstances that are particularly susceptible to the emergence of charismatic linkage. What Villalón (1995, p 345) has noted with regard to the charismatic authority of the *marabouts* applies to the political situation as well:

Two elements are generally recognized as central to the emergence of charismatic movements: (1) the quality of the message which is offered as an alternative to the old order [...], and (2) the social context of the movement in terms of the 'ripeness' of the historical moment, most frequently understood as a perceived popular need for change.

The ripeness of the moment was clearly indicated by the linkage crisis developing in the PS regime. The process was not always unambiguous and suffered some defeats along the way, for example, Wade lost some credibility because of his participation in the government in 1991 and 1995. Despite this, the PDS remained the only feasible alternative and Wade the only politician who could embody 'the new'. Using the 'blue marches', he deliberately distanced himself from the political style of the PS. The quality of his message took the simplest and most all-encompassing form possible: *sopi* – change. In this sense, Wade's charismatic personality and the fatigue with the PS were sides of the same coin: a situation featuring a fault line running between the 'old' and the 'new'.

Once in power Wade tried to rebuild the hegemonic alliances of his predecessors, but he did this at a time when it was already obvious that good relationships with the Sufi brotherhoods were no longer a guarantee of electoral success. The personalisation of politics was thus an attempt to adapt linkage strategies to a changing social environment. For a brief period charisma filled the void that had been left by the erosion of traditional party-voter linkage in Senegal. However, clientelistic linkage never ceased to exist and Wade won the 2007 presidential elections through a successful combination of the two.

It must be said, however, that Wade's victory against a hopelessly divided opposition was not a true test of his popular support. The emergence of Idrissa Seck as the second-place candidate indicates that within the PDS the equilibrium between charisma and clientelism was becoming unbalanced.

Wade's style of rule fits Weber's notion of charisma well: it was erratic, not bound to formal rules and was hostile to intra-party leadership competition. The politician's statement quoted above that all party functionaries other than Wade were nothing but 'variables' (Ba interview 2006) illustrates this point quite well. However, the elimination of threatening variables from the party – a strategy intended to stabilise Wade's personal rule – was precisely what put the 'Wade

system' on the path to self-destruction. With the departure of Seck and Sall (and many others) the already fragile electoral base of the PDS was further weakened.

The years after 2007 saw a rapid erosion of charisma. When the campaign slogan, *sopi*, began to lose momentum, the party seemed unable to replace it with an alternative appeal. It simply had no coherent social project to offer and almost no effort was made to professionalise the party organisation. Thus, the only way forward was the routinisation of charisma in the form of hereditary succession. When this attempt failed, the end of the Wade era was nigh.

In retrospect, both the PS and the PDS were stymied by a linkage crisis to which neither could find a solution. Although the PDS was the party most affected there are indications that the linkage crisis was more generalised. As the results of the Afrobarometer survey of 2008 (shown in Table 1) demonstrate, neither the ruling party nor the opposition enjoyed the trust of even half the population. The opposition, particularly Macky Sall, benefited from the broken link between the PDS and the electorate. This must, of course, be seen in the wider context of the economic and social situation of the country, which is characterised by recurring power failures, commodity price hikes and growing social inequality.

Despite these hardships the Senegalese people appear to be deeply committed to democracy as the preferred form of governance. The desire for more accountable political leaders, better governance and respect for the Constitution was clearly expressed by the opposition movement M23. Against this backdrop, the current administration will have to build its own stable relationship with the populace. Sall is not overly charismatic and a return to the near-perfect Senghor model of reciprocal elite assimilation is highly unlikely.

Two scenarios are possible: on the one hand, there is a growing regionalisation of politics, evidenced by the support for Sall in Fatick, Seck in Thiès, and Niasse in Kaolack. This tendency towards regionalisation, already noted by Beck (2008, p 227) could make patronage distribution more predictable and thereby help parties to build more clearly defined constituencies that could be bound by clientelistic linkage. The flip side of this tendency is that it may lead to a politicisation of identities thus far largely unknown in Senegal, with a negative impact on Senegalese society as a whole. The other possibility would be that parties could start to compete over issues and programmes. As the low turnout in the 2012 parliamentary elections shows, the rebuilding of party-voter linkages is vital for the country's democratic future.

— REFERENCES —

Publications

- Abrahamsen, R. 2000. *Disciplining Democracy: Development Discourse and Good Governance in Africa*. London: Zed Books.
- Ake, C. 2000. *The Feasibility of Democracy in Africa*. Dakar: Council for the Development of Social Science Research in Africa.
- Audrain, X. 2004. 'Du "Ndigël" avorté" au Parti de la vérité'. *Politique Africaine* 96.
- Bayart, J-F. 1993. *The State in Africa: The Politics of the Belly*. London: Longman.
- Beck, L J. 2008. *Brokering Democracy in Africa: The Rise of Clientelist Democracy in Senegal*. New York: Palgrave Macmillan.
- Bleck, J & N van de Walle. 2011. 'Parties and issues in Francophone West Africa: Towards a theory of non-mobilization'. *Democratization* 18(5).
- Bratton, M & N van de Walle. 1997. *Democratic Experiments in Africa: Regime Transitions in Comparative Perspective*. Cambridge: Cambridge University Press.
- Chabal, P & J-P Daloz. 1999. *Africa Works: Disorder as Political Instrument*. London: James Currey.
- Cheeseman, N & M Hinfelaar. 2009. 'Parties, platforms, and political mobilization: The Zambian presidential election of 2008'. *African Affairs* 109(434).
- Clapham, C. 1982. *Private Patronage and Public Power: Political Clientelism in the Modern State*. London: Frances Pinter.
- Copans, J. 1980 *Les Marabouts de l'Arachide: la Confrérie mouride et les paysans du Sénégal*. Paris: Le Sycomore.
- Copans, J. 2000. 'Mourides des champs, mourides des villes, mourides du téléphone portable et de l'internet: les renouvellements de l'économie politique d'une confrérie'. *Afrique Contemporaine* 194(2).
- Coulon, C. 1981. *Le Marabout et le Prince: Islam et pouvoir au Sénégal*. Paris: Pedone.
- Creevey, L, P Ngomo & R Vengroff. 2005. 'Party politics and different paths to democratic transitions'. *Party Politics* 11(4).
- Cruise O'Brien, D B. 1998. 'The shadow-politics of Wolofisation'. *The Journal of Modern African Studies* 36(1).
- Cruise O'Brien, D B. 2003. *Symbolic Confrontations: Muslims Imagining the State in Africa*. New York: Hurst and Co.
- Dahou, T & V Foucher. 2009. 'Senegal since 2000: Rebuilding hegemony in a global age'. In A Raufu & L Whitfield (eds). *Turning Points in African Democracy*. Woodbridge and Rochester: Boydell and Brewer.
- De Jong, F & V Foucher. 2010. 'La tragédie du roi Aboulaye? Néomodernisme et renaissance africaine dans le Sénégal contemporain'. *Politique Africaine* 118.
- Desouches, C. 1983. *Le Parti Démocratique sénégalais*. Paris: Berger-Levrault.
- Diaw, A & M Diouf. 1998. 'The Senegalese opposition and its quest for power'. In A Olukoshi (ed). *The Politics of Opposition in Contemporary Africa*. Uppsala: Nordiska Afrikainstitutet.

- Diouf, M.1996. 'Urban youth and Senegalese politics: Dakar 1988-1994'. *Public Culture* 8(2).
- Erdmann, G. 2004. 'Party research: Western European bias and the "African labyrinth"'. *Democratization* 11.
- Fatton, R. 1987. *The Making of a Liberal Democracy: Senegal's Passive Revolution, 1975-1985*. Boulder: Lynne Rienner Publishers.
- Foucher, V. 2007a. 'Blue marches in Senegal'. In J C Strauss & D B Cruise O'Brien (eds). *Staging Politics: Power and Performance in Asia and Africa*. London: Tauris.
- Foucher, V. 2007b. 'Senegal: the resilient weakness of Casamancais separatists'. In M.Bøås & K C Dunn (eds). *African Guerrillas: Raging Against the Machine*. Boulder: Lynne Rienner Publishers.
- Gellar, S. 2005. *Democracy in Senegal: Tocquevillian Analytics in Africa*. New York: Palgrave Macmillan.
- Gordin, J P. 2002. 'The political and partisan determinants of patronage in Latin America 1960-1994: A comparative perspective'. *European Journal of Political Research* 41(4).
- Havard, J-F. 2004. 'De la victoire du "sopi" à la tentation du "nopi"? Gouvernement de l'alternance et liberté d'expression des médias au Sénégal'. *Politique Africaine* 96.
- Hawkins, K. 2003. 'Populism in Venezuela: The rise of Chavismo'. *Third World Quarterly* 24(6).
- Hicken, A. 2011. 'Clientelism'. *Annual Review of Political Science* 14.
- Jackson, R & C G Rosberg. 1982. *Personal Rule in Black Africa: Prince, Autocrat, Prophet, Tyrant*. Berkeley: University of California Press.
- Keefer, P. 2005. 'Clientelism, credibility and the policy choices of young democracies'. Washington, DC: The World Bank Development Research Group.
- Key, V O. 1961. *Public Opinion and American Democracy*. New York: Knopf.
- Kitschelt, H. 2000. 'Linkages between citizens and politicians in democratic polities'. *Comparative Political Studies* 33(6-7).
- Kitschelt, H, K Freeze, K Kolev & Y-T Wang. 2009. 'Measuring democratic accountability: An initial report on an emerging data set'. *Revista de Ciencia Política* 29(3).
- Lawson, K.1980. *Political Parties and Linkage: A Comparative Perspective*. New Haven: Yale University Press.
- Lawson, K.1988. 'When linkage fails'. In K. Lawson and P. H. Merkl (eds). *When Parties Fail: Emerging Alternative Organizations*. New Jersey: Princeton University Press.
- Lemarchand, R & K Legg. 1972. 'Political clientelism and development: A preliminary analysis'. *Comparative Politics* 4(2).
- Lindberg, SI & MKC Morrison. 2008. 'Are African voters really ethnic or clientelistic? Survey evidence from Ghana'. *Political Science Quarterly* 123(1).

- Leonard, D K & S Straus. 2003. *Africa's Stalled Development: International Causes and Cures*. Boulder: Lynne Rienner Publishers.
- Lipset, S M & S Rokkan. 1967. *Party Systems and Voter Alignments: Cross-national Perspectives*. New York: Free Press.
- Mainwaring, S & M Torcal. 2006. 'Party system institutionalization and party system theory after the Third Wave of Democratization'. In R S Katz & W J Crotty (eds). *Handbook of Party Politics* 11(6).
- Mbow, P. 2008. 'Senegal: The Return of Personalism'. *Journal of Democracy* 19(1).
- Mkandawire, T. 1999. 'Crisis management and the making of "choiceless democracies" in Africa'. In R A Joseph (ed). *State, Conflict, and Democracy in Africa*. Boulder: Lynne Rienner Publishers.
- Moegenburg, I. 2002. *Die Parteienlandschaft im Senegal: tragfähige Grundlage der Demokratisierung?* Münster: LIT Verlag.
- Morgan, J. 2011. *Bankrupt Representation and Party System Collapse*. University Park: Penn State Press.
- Osei, A. 2012. *Party-Voter Linkage in Ghana and Senegal: A Comparative Perspective*. Wiesbaden: VS Verlag.
- Ottaway, M. 2003. *Democracy Challenged: The Rise of Semi-authoritarianism*. Washington, DC: Carnegie Endowment.
- Parti Démocratique Sénégalais (PDS). nd. *Statuts du Parti Démocratique Sénégalais*.
- Posner, D N. 2005. *Institutions and Ethnic Politics in Africa*. Cambridge: Cambridge University Press.
- Römmele, A, D M Farrell & P Ignazi. 2005. 'The prevalence of linkage by reward in contemporary parties'. In A Römmele, D M Farrell & P Ignazi (eds). *Political Parties and Political Systems: The Concept of Linkage Revisited*. London: Praeger.
- Sadji, A B. 2006. *Le Rôle de la Génération Charnière Ouest-Africaine: Indépendance et Développement*. Paris: L'Harmattan.
- Sartori, G. 2005 [1976]. *Parties and Party Systems: A Framework for Analysis*. Colchester: ECPR Press.
- Schatzberg, M G. 2001. *Political Legitimacy in Middle Africa: Father, Family, Food*. Bloomington, IN: Indiana University Press.
- Villalón, L A. 1995. *Islamic Society and State Power in Senegal: Disciples and Citizens in Fatick*. Cambridge: Cambridge University Press.
- Villalón, L A. 1999. 'Generational change, political stagnation, and the evolving dynamics of religion and politics in Senegal'. *Africa Today* 46(3/4).
- Villalón, L A & O Kane. 1998. 'Senegal: the crisis of democracy and the emergence of an Islamic opposition'. In L A Villalón & P A Huxtable (eds). *The African State at a Critical Juncture: Between Disintegration and Reconfiguration*. Boulder: Lynne Rienner Publishers.
- Van de Walle, N. 2003. 'Presidentialism and clientelism in Africa's emerging party systems'. *Journal of Modern African Studies* 41(2).
- Weber, M. 1978. *Economy and Society: An Outline of Interpretive Sociology*. Berkley: University of California Press.

- Wiseman, J A. 1998. *The New Struggle for Democracy in Africa*. Aldershot: Ashgate.
- Young, C. 1999. 'The Third Wave of Democratization in Africa: ambiguities and contradictions'. In R A Joseph (ed). *State, Conflict and Democracy in Africa*. Boulder: Lynne Rienner Publishers.
- Young, D J. 2009. 'Is clientelism at work in African elections?' *Afrobarometer Working Paper* No 106. Accra: Afrobarometer.

Interviews

- Ba, Lamine, Secrétaire Administratif Adjoint, PDS, Dakar, 30 October 2006.
- DibiDiallo, Mamadou, Secrétaire Général de Bakel, PDS, Dakar, 8 December 2007.
- Faye, Lea Christine, deputy mayor of Thiès and local women's organiser, Rewmi, Thiès, 6 December 2007.
- Sy Diallo, Mata, Premier Secrétaire Adjoint de la Délégation Communale de Kaolack, AFP, Dakar, 12 December 2007.
- Fall, Bakhao, Secrétaire de la Coordination Départementale de Mbacké, PS, Mbacké, 10 December 2007.
- Kane, Falilou, Secrétaire Général de la Délégation de Mbacké, AFP, Mbacké, 10 December 2007.
- Thiare, Dib, Secrétaire Perma National, PDS, Dakar, 26 November 2007.

PARTY INSTITUTIONALISATION IN MOZAMBIQUE

'The Party of the state' vs the Opposition

Adriano Nuvunga and Eduardo Siteo

Adriano Nuvunga is a PhD student in the International Institute of Social Studies, Erasmus University, Rotterdam, and lecturer in the Department of Political Science and Public Administration, Eduardo Mondlane University, Mozambique
e-mail: Adrianonuvunga@gmail.com

Eduardo Siteo is Professor of Politics and Governance in the Department of Political Science and Public Administration, Eduardo Mondlane University, Mozambique
e-mail: eduardo.siteo@uem.mz

ABSTRACT

The article probes party institutionalisation in Mozambique and argues that only three of the more than 50 registered political parties there are 'effective', namely Frelimo, which is highly institutionalised; Renamo, which is collapsing organisationally yet has a high level of social rootedness; and an institutionalising MDM. The article concludes that although the opposition parties are partly to blame for their misfortunes, the nature of Frelimo's relationship with society bears the main responsibility for the impoverishment of the opposition parties because it makes it difficult for opposition parties to break in and challenge its control over the state.

INTRODUCTION

There are few published studies on Mozambican political parties and those there are focus on elections. Studies of political parties have covered the following: the Frelimo party ideology (Brito 1988); building opposition (Manning 1998); strengths and weaknesses of multiparty democracy (Nuvunga 2005); the Frelimo-Renamo two-party system (Carbone 2005); the Renamo-UE coalition (Kadima & Matsimbe 2006); The Movimento Democrático de Moçambique (Mozambique Democratic Movement – MDM) as a new force (Chichava 2010a) and the MDM as a new

opposition party (Nuvunga & Adalima 2011). With 'Parties and Political Development in Mozambique, Siteo, Matsimbe & Pereira (2005) have, perhaps, done the most systematic study thus far of political parties in the country, but with a narrow focus on the Mozambique Liberation Front (Frelimo), Mozambique National Resistance (Renamo) and the Independent Party of Mozambique (Pimo).

This suggests little scholarly interest in political parties in Mozambique, which may not be anything new on the African continent as the overwhelming majority of post-independence African polities – that of Mozambique included – embraced the path of the one-party state. Scholarly interest in African political parties and party systems only resumed in the wake of the third wave of democratisation, early in the 1990s, as many African states lifted their bans on political activity, paving the way for the mushrooming of political parties. However, many of the early studies on the continent focused on the democratisation process itself (Mainwaring, O'Donnell & Valenzuela 1992; Diamond 1994; Nwokedi 1995; Diamond & Plattner 1999; Mohamed Salih 2001).

Nevertheless, back in the 1980s there were some systematic studies by Randall (1988) of Third World parties more generally and African political parties in particular. Randall's concern was demarcating and characterising Third World political parties and, importantly, she initiated a trend of studies on political party institutionalisation in this part of the globe. This trend was further developed by Randall & Svåsand (2002); Mohamed Salih (2003) and Randall (2008). This article probes party institutionalisation in Mozambique, filling an important gap in the study of political parties and the party system in that country.

METHODOLOGICAL APPROACH

There are several scholarly definitions of political parties (Duverger 1985; Randall 1988; LaPalombara & Weiner 1996; Moreira 2001; Heywood 2002; Smith 2009) but a more nuanced definition is found in Mohamed Salih (2003), who defines political parties as instruments of collective human action and creatures of political elites – either politicians trying to control governments or government elites trying to control the masses. Mohamed Salih's definition explicitly highlights the role of elites – which is essential for the present article and is possibly well placed to encapsulate the colourful realities of African politics.

Political parties are an integral part of party systems (Lindberg 2007), in other words, they are a central feature of pluralist polities. The implication is that the level of party institutionalisation matters most for the institutionalisation of party systems. While pointing out that institutionalised parties are not necessarily democratic – as this concept is more concerned with order and stability than democracy – Randall (2006) argues that party institutionalisation is key to the

performance of citizen-related roles and to the provision of an effective opposition, the fundamental contribution parties can make to democratic consolidation.

In order better to understand party institutionalisation and its prospects in the African context it is worth starting by looking at the origins of parties. In principle, political parties reflect the historical circumstances that contributed to their emergence. In other words, the substance of political parties mirrors the social, economic and political relations in society (Smith 2009). For instance, whereas political parties in the West emerged from parliamentary institutions, suffrage, ideological movements, unions and churches as well as civil society and social movements (Duverger 1985), most parties in the African context were created by a small political elite to contest elections in preparation for independence or were formed soon after independence, when former liberation movements turned into political parties, and, more recently, in the context of constitutional reforms in the wake of the wave of democratisation in the 1990s (Mohamed Salih 2003).

Mohamed Salih (2003), however, claims that once founded and contesting elections African political parties have assimilated some of the institutional norms and behaviour of their Western counterparts. He points to the difference between the formalist and the substantive definition of the functions of political parties. The formalist definition allows for a generalisation of some universally assumed functions of political parties, whereas the substantive approach allows for the peculiarity of African political parties – as products of the socio-economic and political culture of their respective countries – to be teased out.

Scholarly literature (Randall 1988; LaPalombara & Weiner 1996; Monga 1999; Moreira 2001; Randall & Svåsand 2002; Heywood 2002; Mohamed Salih 2003) has summarised the following formalist functions of parties in a democratic polity: representation, conflict resolution, making government accountable, institutionalising democracy and lending legitimacy to the regime. This delineation of a party's functions corroborates the view that political parties are instrumental organisations for modern politics (Crotty 1993; Lipset 2000; Randall & Svåsand 2002; Mohamed Salih 2003; Burnell 2004; Mozaffar & Scarritt 2005; Kuenzi & Lambright 2005), but, to be able to play such a role, they need to be institutionalised: firstly as organisations and secondly, in relation to society.

From a formalist viewpoint, however, African political parties are generally considered to be a weak link in the chain of elements that together make for a democratic state. Van de Walle & Butler (1999) argue that African political parties are plagued by weak organisation and weak links with the society they are supposed to represent. Randall & Svåsand (2002) take the argument further, arguing that this 'weakness' means that parties fail to contribute to the consolidation of democracy.

Scholarly literature (Randall & Svåsand 2002; Kopecký & Mair 2003; Mohamed Salih 2003) presents several competing explanations for the weakness of African political parties. These include their dependence on direct or indirect government resources, poverty, a background of colonialism and political authoritarianism, the tiny African private sector, which is unable to support a strong and vibrant civil society that is autonomous of the state, control of the state's resources and personnel as a source of elite enrichment and parties as vehicles for the elite to access state resources.

Methodologically, the article is anchored in the concept of party institutionalisation. Randall (2006) notes that this concept has sometimes virtually been used as a synonym for 'organised'. She asserts, however, that organisations are not necessarily institutions, although they may institutionalise over time, and institutions can have organisational aspects and develop within organisational contexts. Huntington (1968) originated the concept as the process whereby organisations and procedures acquire value and stability. Randall & Svåsand (2002), who have provided the most sophisticated theoretical discussion of party institutionalisation, have defined it as 'the process by which the party becomes established in terms of both integrated patterns of behaviour and attitudes, or culture' (p 3).

Randall & Svåsand (2002) suggest the need to distinguish between internal and external aspects of this process. Internal aspects refer to developments within the party itself and external aspects refer to the party's relationship with the society in which it is embedded, including other institutions. They make it clear that party institutionalisation is a complex process and that different dimensions of institutionalisation might not be developing simultaneously or to the same extent. Building on Randall & Svåsand (2002), Basedau & Stroh (2008), who define party institutionalisation as a process in which individual political parties that participate in elections experience rising organisational stability and value, have developed an index for measuring party institutionalisation.

The above definition offers good criteria for selecting the sample, as it explicitly limits the concept to the parties contesting elections. The article borrows from the framework of the Index of Institutionalisation of Parties (IIP) to qualitatively assess party institutionalisation in Mozambique. The IIP is an insightful framework on which to build the narrative of party institutionalisation, in a context of democratisation, as it puts parties at the crossroads of the political and social spheres in society while probing critical organisational aspects of political parties and therefore offering a substantive account of the landscape of political parties as integral parts of party systems.

Table 1
Dimensions of Party Institutionalisation

	Stability	Value-infusion
External	Roots in society	Autonomy
Internal	Level of organisation	Coherence

Source: Basedau & Stroh 2008, p 9

For each of the IIP sub-indices, that is, roots in society, autonomy, organisational level and coherence, there are specific questions to be addressed (see Table 2). Recognising that party institutionalisation is a complex process in which different dimensions of institutionalisation might not be developing simultaneously, and also taking into consideration that Mozambique's multiparty system is only 20 year old, the authors focus more on the 'stability' dimension of party institutionalisation both internally (level of organisation) and externally (roots in society), with the 'level of organisation' carrying the greater weight in relation to the conclusions presented in the article. In the context of an embryonic democratic culture, of widespread illiteracy in rural areas where most people live and widespread political intimidation in electoral epochs, it is of significant political importance that opposition parties are at least able to achieve meaningful levels of organisation and perform some political and electoral activities.

Table 2
Dimensions and Indicators of the Index of Party Institutionalisation

	Indicators
Roots in society	Party age relative to independence
	Party age relative to the start of the multiparty period
	Changes in electoral support between last and second ¹ elections
	Links to civil society organisations
Autonomy	Number of alternations in party leadership
	Changes in electoral support after alternation in party leadership
	Decision-making autonomy from individuals and groups
	Popular appreciation of a particular party

Organisation	Membership strength
	Regular party congresses
	Material and personal resources
	Nationwide organisational presence, activities beyond electoral campaigns
Coherence	Coherence of parliamentary group (no defections or floor crossing)
	Moderate relations between inter-party groupings (no dysfunctional factionalism)
	Tolerance vis-à-vis intra-party dissidence

Source: Basedau & Stroh 2008

The political landscape in Mozambique is dominated by Frelimo and Renamo, both of which have military origins. Apart from these two, the landscape is also home to dozens of parties with no such origins. By 1994, the year of the democracy-founding elections, there were only 10 officially registered parties, with the number increasing to 26 just before the second general elections, held in September 1999. Today there are about 50. Using the definition of 'effective parties' used by Sartori (1976), that is, main parties as well as those with coalition leverage, or the Index of the Effective Number of Parties (N) devised by Laakso & Taagepera (1979), which focuses on seat share, this article focuses on the 'relevant' parties, those with seats in Parliament, namely Frelimo,¹ the former rebel movement, Renamo, and the party that broke away from Renamo, the MDM.

Table 3
Distribution of Parliamentary Seats in the 1994, 1999, 2004 and 2009 Elections

Party	1994	1999	2004	2009
Frelimo	129	133	160	191
Renamo	112	117	90	51
UD	9	0.0	–	–
MDM	–	–	–	8

Source: Author's compilation from official results published by CNE/STAE

1 In parts of this article the name Frelimo is written in upper and in other parts in lower case. This differentiates between FRELIMO (the acronym of the *Frente de Libertação de Moçambique*, the broad movement that led the armed national liberation struggle) and Frelimo (the name of the political party resulting from the transformation of FRELIMO in 1977, two years after independence).

Table 3 highlights Frelimo's dominance.² When analysing party systems in Africa scholarly literature has documented a trend towards declining political competitiveness and the entrenchment of ruling parties and presidents (Van de Walle & Butler 1999; Bogaards 2000; 2004; Sanches 2010) with the parties that ushered in independence and/or the former one-party state enjoying prolonged periods in government to the point of becoming the parties of government. Van de Walle & Butler (1999); Bogaards (2000; 2004); Mohamed Salih (2003); Kuenzi & Lambright (2005); Manning (2005); Mozaffar & Scarrit (2005) and Carbone (2007) have reached similar conclusions that 'the spread of multi-party politics in the 1990s has given rise to dominant parties' (Bogaards 2004, p 173).

As the above picture mirrors the reality in Mozambique – and assuming that party dominance entails many of the aspects of party institutionalisation – this article will first analyse Frelimo's relationship with society and then examine the impact of that relationship on the prospects for the institutionalisation of (the opposition) political parties. The article is based mainly on qualitative research. In-depth semi-structured interviews were conducted with key informants, that is, political and civil society actors; party leaders and party officials, from national to district branches.

FRELIMO-SOCIETY RELATIONSHIP

One of the longest-serving political parties in Africa, the Mozambique Liberation Front (FRELIMO) was founded in Dar-es-Salaam, Tanzania, in 1962, when three regionally based nationalist movements: the Mozambican African National Union (Manu)³, the National Democratic Union of Mozambique (Udenamo)⁴ and the National African Union of Independent Mozambique (Unami)⁵ 'merged' into one broad-based guerrilla movement. Brito (2009) and Siteo (forthcoming) question the idea of 'unification' of these three pre-existing movements to refer to the foundation of FRELIMO on the grounds that their leaders subsequently

2 A ruling party overcomes the dominance threshold when it wins more than 60% of the vote in two consecutive elections (Van de Walle & Butler 1999).

3 Manu, whose leaders were Mateus Mole and Malinga Milingo, was a movement formed essentially by Makonde migrants in Kenya and Tanzania.

4 Udenamo's founders were Mozambican emigrants in the former Southern Rhodesia, most of whom were from the former colonial district of Manica and Sofala, apart from its president, Adelino Gwambe, who was born in Inhambane, Southern Mozambique and worked in Beira, the old capital of Manica and Sofala district before emigrating to Southern Rhodesia.

5 Unami, led by Baltazar da Costa Changonga from the then district of Tete, was formed in 1961 mainly by natives of the same district.

abandoned FRELIMO⁶ and attempted to re-launch their former organisations, with differing degrees of success.

Later, another wave of desertions hit FRELIMO when a sizeable number of key leaders abandoned the liberation movement following deep political and ideological confrontations within the FRELIMO leadership in the mid-1960s. This paved the way for the formation of a hegemonic bloc at the helm of FRELIMO, fairly cohesive, firmly bound together and somehow immune to outside influence (Sitoe forthcoming). So, although throughout the transitional government from the Lusaka Agreement in September 1974 to Mozambique's independence in 1975 other political groups appeared⁷ intent on participating in the national independence process, they were banned and independence was proclaimed on 25 June 1975, leaving FRELIMO as the only representative of the Mozambican people (Serra 1993; Jossias 2007; Brito 2009).

As was the case with liberation movements in the other Lusophone African countries, the liberation struggle, and later the proclamation of independence, gave FRELIMO a source of legitimacy to claim the leadership of the country and its political project of state construction and modernisation as a Socialist People's Republic (Lundin 1995; Brito 1988, 2009; Sitoe 2004; Carbone 2005; Sitoe 2011). This *Estado Novo* (new state) was depicted by the historian Newitt (1995) as having epitomised an unquestionable power over the masses and as acting according to its own reasoning. The 'state's reason' and its representatives, institutions, symbols, public holidays and so on, were portrayed as virtually sacred.

Defined as the vanguard of the revolution, initially FRELIMO, and later Frelimo, created and ran a constitutional one-party socialist state from 1975 to 1990, banning the formation and activity of political parties. Frelimo's leading role in society was shaped by its victory in the 10-year liberation struggle and particularly by the proclamation of independence in 1975 (Lundin 1995; Brito 1988; Sitoe 2004; Carbone 2005; Brito 2009). In other words, it was moulded, on the one hand, in the context of liberating the 'land' and 'the people' from colonial rule and on the other, by the nature of the post-independence state subordinated

6 Eduardo Mondlane, a Changana from Manjacaze in Gaza province, Southern Mozambique, was elected president of FRELIMO and Uria Simango, vice-president. FRELIMO experienced internal tensions along tribal and regional divides, with people from the Central and Northern provinces alleging southern-tribe-based exclusion. Following tensions and expulsions from the movement a separatist movement was formed in 1968: the National Union of Rombézia (UNAR). According its leaders – who sought independence for the region from the Rovuma to the Zambezi (Cabo Delgado, Niassa, Nampula, Tete and Zambézia) – the southern leaders of FRELIMO were using the northerners as 'cannon fodder' – keeping themselves in offices or going abroad to study – while waging the war only in Northern Mozambique, harshly punishing the people of this region (Chichava 2010b).

7 Grupo Unido de Moçambique (Gumo), Comité Revolucionário de Moçambique (Coremo) as well as others that existed underground during the fight for independence (Adalima 2009).

to Frelimo as the vanguard of the revolution. Substantively, Frelimo's ideological programme, which aimed to provide social justice, basic services (education and health) and political and social equality without any ethnic, religious or racial discrimination was the justification for controlling the masses.

However, almost two years after independence Renamo appeared as a rebel movement, initially backed by the Rhodesian regime then, after Zimbabwe's independence in 1980, much more vigorously by the South African apartheid regime. Although it did not collapse the state, the 16-year civil war created a crisis in the relationship between Frelimo and society as it challenged the leading role claimed by Frelimo in relation to the masses. Frelimo had to negotiate with the rebel movement. First, in March 1984, Frelimo negotiated and signed an agreement, the Nkomati Accord, with the South African regime. In terms of the agreement South Africa would stop providing material support to Renamo in exchange for the Mozambican government's neutrality in relation to the African National Congress (Mazula 1995).

The Nkomati Accord reflected Frelimo's difficulty in recognising the rebel movement as a relevant participant in the Mozambican political process, not just an instrument of externally-supported political and economic destabilisation (Mazula 1995). However, as the war continued there had to be negotiations between the warring parties and these led to the 1992 General Peace Agreement. Before this, however, Frelimo promulgated the 1990 Constitution that inaugurated the democratisation of the country (that is, lifted the ban on political parties) and provided for freedom of the press and freedom of association. The Constitution gave Frelimo priority over the other parties with a statement in its preamble that democracy should not jeopardise national unity and that Frelimo, which had fought for national independence and 'brought together all patriotic sectors of Mozambican society in a single ideal of liberty, unity, justice and progress' (Article 31), was the guarantor of this national unity.

As Mazula (1995, p 350) writes, this 'implied that the unitary state and the country's sovereignty corresponded to hegemony by the Frelimo party'.

Frelimo wanted to end the war, while, at the same time, defending the political and state power it had been consolidating since independence. This had been the main tone of the Fifth Frelimo Congress, held in 1989, which had proposed amnesty for Renamo guerrillas and suggested that they be integrated into the state machinery. Renamo, in turn, needed official government recognition. The government recognised Renamo as an important actor in the Mozambican political process and signed with it the General Peace Agreement (*Acordo Geral de Paz* – AGP). Before this, however, it had skilfully established democratisation

from above,⁸ giving Frelimo the privilege of remaining in power⁹ and thus implementing the various protocols that included Renamo's integration into society and its transformation into a political party.

Renamo controlled 25% of the country (*Mozambique Political Process Bulletin* 1 & 2 2003) and claimed the fatherhood of democracy and this had an impact on the relationship between Frelimo and society: firstly, Frelimo had to admit to the existence of other political groups; secondly, it had to compete with these groups, of course, trying to impose itself as the legitimate political group to lead the country and, thirdly, it had to direct part of its capacity to thwarting Renamo's ascendancy. This context shaped Frelimo's politics and its relationship with society in the subsequent 20 years of democratisation in Mozambique.

It did this by undermining the political importance of the General Peace Agreement (AGP), subjecting it to the approval of the then (single-party) People's Assembly and subsequent promulgation by the president of the republic, who was also a signatory to the AGP. This not only enabled Frelimo to position itself above Renamo with regard to the AGP but also to interpret multiparty politics as its own initiative (emanating from the 1990 Constitution), so the parties, mainly Renamo, had to conform to it.

Frelimo's victory in the 1994 democracy-founding elections gave it the privilege of not only using history (Brito 2009) but also of re-writing and appropriating the history of the liberation struggle as its own. So the FRELIMO (liberation movement) founding myths, its heroes and symbols were not only appropriated by Frelimo (political party) but were also made those of the state. Since 1994 Frelimo has not only successfully removed Renamo from the 25% of territory it controlled in 1992 but has also worked to thwart Renamo's links with its strongholds. For example, traditional authorities were abolished soon after independence and throughout the civil war they sided with the former rebel movement and supported Renamo in the 1994 and 1999 general elections. So, from 2000 onwards, Decree 15/2000 integrated them into local political-administrative structures together with local Frelimo party representatives, thus manipulating and co-opting them into the political and administrative system (Forquilha 2006; Forquilha & Orre 2012). Another example is the removal and destruction, apparently by the Frelimo administrative machine, of opposition

8 The distinctive feature of democratisation from above is that an authoritarian regime or military dictatorship undertakes the democratisation process, albeit under pressure from its opponents in civil society. The emphasis is normally on the reform of the constitution and the existing institutions of government through the normal reform process; the opposition may or may not provide input for the reform (Nwokedi 1995).

9 In a meeting in Gaborone on 4 July 1992, preceding the signing of the AGP, Renamo president Afonso Dlhakama, stated that he accepted that the current Frelimo government would remain in power until the 1994 elections (Della Rocca 1998).

party flags, particularly those belonging to Renamo and the Mozambique Democratic Movement.

Independent media speak of a *de facto* rather than a *de jure* one-party state or a scenario of a state captured by Frelimo. Its Tenth Congress, in September 2012 in Cabo Delgado, was the ultimate demonstration of state institutions in the service of Frelimo. In this connection Joseph Hanlon (2012) described Frelimo as 'the party of the state', referring to the fact that 57% of the 2000 delegates at that congress were state employees. Moreover, one of the key party founders and ideologists, Marcelino dos Santos, made a telling statement about Frelimo-society relations when he said 'the history of Mozambique is Frelimo's history' (*Noticias* 19 June 2007) and that 'whoever stands in an election on the Frelimo ticket will be elected' (STV May 2005). These statements reveal Frelimo's claim to 'own' Mozambique's history and society.

Frelimo's relations with society were also shaped by the 1987 introduction of a structural adjustment programme at the behest of the Bretton Woods institutions. This initially represented a crisis within the party and its relations with society as it meant a major paradigm shift (from socialism to a market economy, previously considered an arm of imperialism in post-independence Mozambique). Frelimo leaders grabbed at the opportunity to build a political economy (institutions, policies, incentives and resources) that it could not only use to its advantage but which would also inhibit other political groups from entering the economy.

Frelimo implemented economic liberalisation and a politically controlled privatisation at a time when the rebel movement was busy fighting the regime. So the Frelimo elite found that they could not only transform the socio-economic base of the state but also benefit from privatisation by taking over former state companies as born-again entrepreneurs (Pitcher 1996; Bowen 1992; Sumich & Honwana 2007; African Peer Review Mechanism – MARP – 2010). They assumed that society would accept this as it was they who had liberated 'land' and 'man'.

Frelimo-society relations also have their seeds in civil society. Interest and pressure groups are free to register and agitate, but there is widespread Frelimo control (MARP 2010). Several interviewees were unanimous in saying that it took courage to establish and run an independent civil society organisation. To counteract critically vocal civil society organisations Frelimo either sets up organisations with a similar name¹⁰ to confuse the public, or disqualifies the leaders of these organisations, stating that they are serving foreign interests. Interviews in three provinces, namely Zambézia, Inhambane and Gaza, revealed that critically

10 The Association for Human Rights and Development (DHD) was established so people would confuse it with the vocally critical Human Rights League (LDH) (Guiliche 2011); similarly, the Parliamentary Youth Office (*Gabinete Parlamentar da Juventude*) may be confused with the Youth Parliament (*Parliament Juvenil*).

vocal organisations outside the capital, Maputo, cannot survive political control ‘...one has to be careful with words’, say Carlos Mula and Armando Guambe, civil society leaders in Gaza. While Frelimo virtually banned religion after independence, today its leaders participate in the events of all churches and church leaders are co-opted for several state missions, mainly the electoral administration.

In conclusion, Frelimo’s relationship with society is shaped by its victory in the 10-year liberation struggle and, in particular, by the proclamation of independence in 1975. It has been moulded in the context of liberating the ‘land’ and the ‘people’ from colonial rule; by commanding the heights of the political economy produced by economic liberalisation and a politically controlled privatisation; by the re-writing and privatisation of the liberation struggle; by thwarting the ascendancy of the opposition, mainly Renamo, but more recently the MDM. All in all, Frelimo has problems accepting that other political groups can mobilise support among the people in the land it liberated from colonial rule.

THE LANDSCAPE OF OPPOSITION PARTIES IN MOZAMBIQUE

The notion of ‘political party’ is novel in Mozambique. It entered the political vocabulary only in 1977 when FRELIMO transformed itself into a political party two years after independence. After the political *abertura*¹¹ and the 1990 Constitution, which lifted the ban on political activity, dozens of non-armed parties emerged. They were dubbed emerging or non-armed opposition political parties, to distinguish them from the rebel movement, Renamo, which became a political party in 1993 in the context of the 1992 General Peace Agreement (Nuvunga 2005).

Interestingly, the most outspoken parties that emerged between the introduction of the Constitution in 1990 and the first multiparty election in 1994 were formed by or linked to personalities who had either deserted or were expelled from FRELIMO before independence. They included the Mozambique Nationalist Movement (Monamo)¹², the Mozambique United Front (Fumo)¹³, the

11 A Portuguese term that has entered comparative political discourse as a description of Brazil’s gradual transition from military to elected government (Joseph 1999).

12 Monamo was founded by Maximo Dias in the then Rhodesia in 1979. Before returning to Mozambique after the approval of the Constitution in 1990 Dias lived in Portugal for many years.

13 Fumo was founded by Domingos Arouca, a lawyer arrested by the Portuguese colonial authorities in the 1960s for allegedly having radio contact with FRELIMO in Tanzania. He went into exile in Portugal and said he formed Fumo in 1976. He dropped out for health reasons in 1980 (*Mozambique Peace Process Bulletin* October 1993).

National Democratic Party (Panade)¹⁴ and the National Convention Party (PCN)¹⁵. Monamo and Fumo were also linked to political groups that appeared throughout the transitional government that preceded Mozambique's independence.

The remaining parties were formed by individuals who deserted Frelimo in the 1980s for various reasons (Table 4), including marginalisation and / or failure to progress in the hierarchy (Sitoe, Matsimbe & Pereira 2005); parties formed by leaders who split from Renamo during the civil war (Unamo/Udemo); parties resulting from breakaways¹⁶ within the newly formed non-armed opposition parties (Table 5) and parties set up by political entrepreneurs pursuing individual fortunes or increased personal prestige in the run-up to the 1994 elections and mainly motivated by the financial support provided by the 1994 UN Trust Fund to support parties and candidates contesting national elections¹⁷ (Table 6). There has also been a strong trend towards coalitions in party structuring activity.

14 Panade was founded by Jose Massinga, who had been a member of Frelimo during the independence war but became a dissident while studying abroad. He returned to Mozambique soon after independence and was appointed director of research and personnel in the Ministry of Foreign Affairs but was arrested in a crackdown on alleged CIA operations and, at an international news conference in Maputo in 1981, confessed to having been recruited by the CIA in 1975. He was never publicly tried but spent some years in jail before receiving amnesty and going into exile again (*Mozambique Peace Process Bulletin* October 1993).

15 The PCN was formed by a group of intellectuals (Vasco Campira, Inacio Chire, Abel Mabunda, Bernabe Nkomo) including Lutero and Deviz Simango, the sons of Uria Simango, who was FRELIMO's vice-president in the 1960s, was disgraced and expelled in 1970, arrested just before independence in 1975 and secretly executed some years later (Nuvunga & Adalima 2011). The abbreviation PCN was first used by Uriah Simango for a party he created in 1974 after the overthrow of Marcelo Caetano in Portugal and which was essentially challenged by the Lusaka Accord, which recognised and legitimised Frelimo as the only representative of the Mozambican people (Lundin 1995; Chichava 2010 b).

16 A breakaway group or party can be defined as one where, due to irreconcilable differences among the party's leaders and some of its officials or members, the latter decide to resign and form another group or party. In many instances those perceived to be a threat to party leadership are purged, forcing them to form parties of their own to settle old scores. However, the circumstances that lead to breakaway groups can often be found in the nature of the African parties themselves, in particular the entrenched authoritarian and undemocratic tendencies of most parties in the region (Simutanyi 2009, p 6).

17 As part of the peace process the United Nations Operations for Mozambique (Onumoz) established a Trust Fund to support the non-armed parties and candidates contesting the first multiparty elections. The trust provided about US\$3.5-million, a little over US\$200 000 for each of the 17 parties involved (Nuvunga 2007).

Table 4
Parties formed by leaders who deserted Frelimo in the 1980s

Party name	Founders/history
Mozambique People's Progress Party (PPPM)	Padimbe Kamate, exiled in Lisbon
Mozambique Democratic Party (Pademo)	Wehia Ripua, a Frelimo commander during the liberation struggle in the 1960s
Mozambique Liberal Party (Palmo)	Martins Bilal, a Frelimo commander in the 1960s

Source: Authors' compilation

Table 5
Parties formed as breakaways within the non-armed opposition

Party name	Founders/history
Social-Liberal Democratic Party (SOL)	Casimiro Nyamitambo, a breakaway from Palmo
Democratic Congress Party (Pacode)	Vasco Campiro Momboya, a breakaway from the PCN
Nationalist Federalist Party (Panafe, later Panamo)	Marcos Juma, a breakaway from Pademo
Mozambique National Union (Unamo)	Initiated by Gimo Phiri, a former Renamo commander, who broke away in 1986. He disagreed with Carlos Reis and left the party, which Reis took over.
Mozambique Democratic Union (Udemo)	Gimo Phiri founded Udemo in April 1992 as a breakaway from Unamo
Labour Party (PT)	Miguel Mabote, a breakaway from Padimbe Kamati's Mozambique People's Progress Party (PPPM)

Source: Authors' compilation

Table 6
Parties formed by political entrepreneurs in pursuit of personal fortunes

Party name	Founders/history
Patriotic Action Front (FAP)	Jose Palaço. Founded in February 1991 by students and former students of Eduardo Mondlane University
Mozambique Independent Congress (Coinmo)	Victor Marcos Saene. Coinmo became the second opposition party to hold its founding congress inside the country, but there were only five delegates plus Saene's wife and the man in whose house the couple was living.
Mozambique Independent Party (Pimo)	Yaqub Sibindy. Claims to be a former soldier and his deputy claims to be a Renamo dissident
Chiefs and Peasants of Mozambique (Recamo)	Arone Fijamo in Zambézia province. Fijamo wants to restore traditional authority.
Liberal Federal Progressive Party of Mozambican Religious Communities (PPLFCRM, later PPLM)	Neves Serrano. He claims he previously held a senior post in the Criminal Investigation Police
Democratic Party for the Liberation of Mozambique	Joaquim Jose Nyota
Mozambique Federal party (Pafemo)	Manuel Palange and President Mariano Janeiro Pordina. They claimed to have had an army, the Mozambican Federal Army, (Exefemo), in 1991, although it has never been seen.

Source: Authors' compilation

Ministry of Justice records suggest that there are more than 50 registered political parties but the reality of party activity is very different. As it stands, the mapping of the non-armed opposition parties suggests five major trends:

- Parties that faded away after the death of their founders.¹⁸
- 'Suitcase parties' that retired altogether with their founders.¹⁹
- Parties that disappeared after merging with other parties.²⁰

18 Mozambique National Union (Unamo); Mozambique United Front (Fumo); Mozambique Democratic Party (Pademo), Mozambican People's Progress Party (PPPM); Social-Liberal Party (SOL).

19 The most notable are the Democratic Liberal Party of Mozambique (Padelimo); United Congress of Democrats (CDU); Party for Liberal Progress of Mozambique (PPLM); Mozambique Nationalist Movement (Monamo).

20 The PCN did not formally merge but its founding leaders left the party moribund and joined the MDM.

- Parties that succumbed to/or were co-opted by Frelimo, particularly after the 2009 general elections, with some of their leaders being granted positions as board members in public companies.²¹
- Party breakaways that gave birth to parties with substantial mobilisation capacity.²²

At present, there are no reliable data on how many non-armed opposition parties are still in existence, but realistically very few meet the minimum criteria for a political party.

With the exception of Frelimo, Renamo and the MDM, the Labour Party (PT) is the most consistent as it has contested all four legislative elections to date, but with inconsequential electoral support. It is followed by Pimo and SOL, with three elections each, and Padelimo, PAZS, PVM, Parena, PDD, Palmo, Panaoc and PECMT, with two elections each, all with negligible electoral support. The electoral landscape shows that none of the political parties established between 1990 and 1994 made it to the second and third general elections. Although most had articulate leaders they were no more than platforms for political elites – mainly returning to the country from exile after it opened up politically – to participate in the political arena. Most of these elites established their parties to resolve past grievances relating to their expulsion from or marginalisation within FRELIMO / Frelimo, thus the parties did not outlast their founders.

In the early 1990s most of the non-armed opposition parties appeared to have nationwide coverage, as their leaders could move quickly across the country, but in reality they were only based in Maputo. Over time, and without any kind of financial support, the non-effective parties, with the exception of the PDD and Panade, closed their offices. They exist mainly as virtual organisations expressed in the person of the leader. Party leaders confirmed that the addresses they provide are their own homes in the outlying neighbourhoods of Maputo City.

With the exception of Pasomo, the Ecologist Party, UDF, Parede, PSDM and PLDM, which have supported the newly formed MDM, the overwhelming majority of non-effective parties have succumbed to co-option by Frelimo (Nuvunga & Mohamed Salih 2010).

Following their exclusion from the 2009 legislative elections the PT, PIMO, Parena, Panamo, MPD, ADACD, SOL and PECMT declared their *unconditional* support for Frelimo and its presidential candidate, Armando Guebuza. In both

21 The most visible are the following: the Independent Party of Mozambique (Pimo); Labour Party (PT); Ecological Party-Land Movement (PECMT) and the Mozambique Nationalist Party (Panamo).

22 The Party for Peace, Democracy and Development (PDD) and the Mozambique Democratic Movement (MDM), both breakaways from Renamo.

cases, however, this support was essentially symbolic, as they are tiny parties with an inconsequential share of the vote (Nuvunga & Mohamed Salih 2010). For instance, in the 2004 general election, the PT won 0.47% of the parliamentary vote and the Ecologist Party did even worse, with 0.4%.

In 2007 the PT, Pimo, Parena, Panamo, MPD, ADACD, SOL and PECMT established the Constructive Opposition Bloc. Although the concept of a 'loyal opposition' is not novel to parliamentary systems, the Constructive Opposition Bloc is an odd Mozambican innovation. Since it was established, its leaders, Pimo's Yaqub Sibindy,²³ the PT's Miguel Mabote²⁴ and PEC-MT's João Massango²⁵ have been frequent guests at presidential banquets and important invitees to official state and Frelimo events, including the Tenth Frelimo Congress held in September 2012. In 2006 Pimo made a public financial contribution to the Ninth Frelimo Congress but two years later the party was evicted from its offices for non-payment of rent. With tickets provided by the Ministry of Foreign Affairs leaders of the Constructive Opposition Bloc toured Zimbabwe, Malawi, Zambia, China, Brazil and Sweden to explain their new model of party activity.

Overall, of the non-effective parties only the PDD conforms to our concept of a political party. It was formed in 2004 as a breakaway from Renamo by Raul Domingos, who had headed the Renamo delegation to the peace negotiations in Rome and also the Renamo parliamentary group in the first multiparty Parliament. The PDD appeared on the national political chessboard displaying capacity and resources that are rare among opposition parties. It was luxuriously put together throughout the country, rivalled the two main parties and had the advantage of a leader with political management experience. Over time, however, it became clear that it was merely an instrument for its leader to attain power. Unfortunately, its electoral failure in 2004 and the drying up of its funds withered the party's dynamics and it is now reduced to its leader.

ANALYTICAL NARRATIVE OF PARTY INSTITUTIONALISATION

Using the concept of 'effective parties' defined by Sartori (1976), or the Index of Effective Number of Parties (N) devised by Laakso & Taagepera (1979), which focuses on the share of seats, this section looks at the 'relevant' parties, that is, those with seats in Parliament. The parties are Frelimo, Renamo and the Renamo breakaway, the MDM. With reference to the IIP framework, these parties are

23 Yaqub Sibindy was made a member of the National Commission for Honorary Titles and Decorations and is on the payroll of the Ministry of Foreign Affairs as an adviser to the minister.

24 Miguel Mabote, the leader of PT, was made a member of the board of the Maputo Transport Company (TPM) and confirmed his allegiance to Frelimo in an interview with TVM on 4 October 2012.

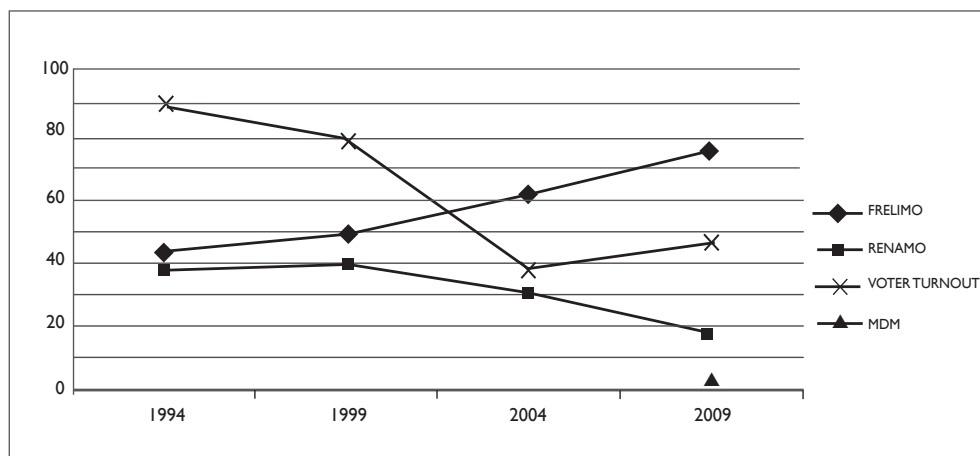
25 João Massango, the leader of PEC-MT, was appointed to the board of STEMA, a public company.

analysed in both their internal ('level of organisation' and 'coherence') and external ('roots in society' and 'autonomy') dimensions of institutionalisation in light of the relations between Frelimo and society. This section uses the data from the interviews to analyse the three parties according to the various sub-indicators in each of the four dimensions of party institutionalisation.

Roots in society

Frelimo is the oldest party in the country. It was formed in 1977 as a result of the transformation of the former liberation movement – FRELIMO – into a political party. Renamo is the former rebel movement that began fighting the Frelimo government a few years after independence in 1975 and is the second-oldest party. The MDM, formed in 2009, is the newest party. Although formally it is a Renamo breakaway party, the MDM is also linked to the Partido de Convenção Nacional (National Convention Party – PCN)²⁶ founded in 1992 by young intellectuals, including Lutero Simango, one of Uria Simango's sons. Formally, only Frelimo existed prior to the multiparty system but Renamo also existed substantively at that time and transformed itself into a political party to contest the democratic elections. The MDM only appeared on the eve of the country's fourth general elections, held in 2009.

Figure 1
Percentage of Voter Share of Effective Parties



²⁶ The abbreviation PCN was first used by Uriah Simango for a party he created in 1974 after the overthrow of Marcelo Caetano in Portugal. It was challenged by the Lusaka Agreement, which recognised and legitimised Frelimo as the only representative of the Mozambican people (Lundin 1995; Chichava, 2010 b).

In the context of a declining voter turnout, Figure 1 shows a failing Renamo, while Frelimo not only managed to maintain but actually increased its electoral support. Frelimo claims to have three million members, which is consistent with its average electoral support in the four elections to date. However, there have been procedural irregularities, including ballot box stuffing, orchestrated by Frelimo groups in all elections except the first democratic elections in 1994 (Nuvunga & Mohamed Salih 2010).

Senior Frelimo figures have acknowledged the difficulty of mobilising all the party's members and supporters to vote. For instance, in the 2011 by-election in Quelimane Frelimo won only 13 000 votes despite its claim to have 40 000 members in the town '... just because people felt obliged to join the party and as such they do not vote ... so there are many people in the party who are not of the party'.²⁷

As the former single party Frelimo has influence in almost all spheres of society, from the private sector and businesses (Nuvunga & Hout forthcoming) to segments of civil society organisations. Elsewhere in this article it is argued that Frelimo is creating civil society organisations (Rønning 2010) and that in some cases it co-opts leaders of civil society organisations by giving them positions in government (Guiliche 2011). There are also, however, cases of leaders who use civil society organisations as platforms to project themselves publicly in order to achieve space within Frelimo.

At the time of the 1994 and 1999 elections Renamo not only still controlled parts of the national territory it also had alliances with traditional authorities and so had a substantial electoral support base. However, with the government's use of Decree 15/200 to co-opt traditional authorities (Forquilha 2009; Forquilha & Orre 2012) and the arrival of Armando Guebuza as the president of Frelimo and his revitalisation of the party's grass roots, much of Renamo's political and electoral support base fell away (Brito 2009).

When it emerged from the bush in 1992 after the General Peace Agreement, Renamo distrusted all cities, and Maputo, the capital, in particular, because they were allegedly Frelimo strongholds (Manning 1998; Nuvunga 2005; Carbone 2005). The distrust between Renamo and Frelimo was such that Renamo was unable to establish constructive relations with civil society groups. 'Renamo always behaved like an organisation under siege,' says João Ulrich, director of an international organisation that worked closely with Renamo for many years.

While Renamo is correct in saying that Frelimo exercises influence over civil society organisations, mainly those involved in electoral activities (*Mozambique Political Process Bulletin*, July 2005, p 9), its own pitiful relationship with civil

²⁷ Interview with professor Lourenço do Rosário, Rector of the Polytechnic University and Chairman of the MARP Forum in Mozambique and one of the most senior Frelimo members who is an academic.

society organisations is partly due to its poor strategic vision, arguably because the most vocal civil society organisations (for example, the Centro de Integridade Publica – CIP; the Observatorio do Meio Rural; the Instituto de Estudos Sociais e Economicos – IESE) are independent organisations which are labelled as pro-opposition by the government, but Renamo has failed to build on that and establish plausible relationships with them.

For most scholars (De Tollenaere 2013; Forquilha and Orre 2012; Rønning 2010, 2011; Nuvunga & Mohamed Salih 2010; Pereira 2008) this is an indication of Renamo's failure to make an institutional transformation from a military movement to a political party.

Consequently, in the two decades of Mozambique's democracy Renamo has never abandoned military language. Through its attitude and behaviour, as well as constitutionally, Renamo, as a political organisation, has always had two distinct faces: that of a legal political party with seats in Parliament and a seat on the council of state for the leader of the parliamentary party, but, at the same time, it is an armed group that claims to have hundreds of armed men at its former central military base at Gorongosa Mountain (Sofala province) and which has several times resorted to non-democratic means to achieve its goals.

In the past two years there have been press reports about Renamo attacks on police officers. For instance, on 22 April 2011 there was a clash between the riot police (FIR) and Renamo fighters in Maringwe, which resulted in the death of 13 FIR officers (Da Silva 2011). On 4 April 2013 Renamo attacked a FIR camp in Muxungue, killing four FIR officers. The MDM, in turn, emerged at a time when Renamo's electoral performance was in sharp decline. Its leader, Daviz Simango, inflicted two local election defeats on Frelimo candidates in Beira, the country's second city and the 'capital' of anti-Frelimo sentiment, and in so doing galvanised sympathy among various social groups (Nuvunga & Adalima 2011; Chichava 2010b).

The MDM's partial exclusion from the 2009 elections agitated the country and generated waves of support within civil society. This gave the impression that the party had strong roots/relations with civil society (Nuvunga & Mohamed Salih 2010). However, the interviewees suggest that civil society organisations were against the MDM's partial exclusion from the electoral process (Nuvunga & Mohamed Salih 2010) although people sympathised with the MDM because, in the context of a desire for political change, it had the potential to challenge Frelimo. As the MDM has only participated in one general election it is not yet possible to assess its electoral support, although it did obtain an overwhelming victory in the Quelimane town local elections (see below).

In summary, as a former single party that has been in power since independence, Frelimo has roots in all segments of society in both rural and urban

areas. However, it is nevertheless interesting that in a country of 10-million voters it only wins three million votes. This suggests that its roots in society have much to do with the fact that it controls the political economy of the country, which, in the case of Mozambique, means the power to determine 'who gets what' and is less related to party identification on the basis of ideology.

Although Renamo has lost many of its electoral social bases, mainly the traditional authorities, it is still deeply rooted in society, mainly in rural communities. However, as the next section shows, it is approaching institutional and organisational failure, which makes it impossible for it to mobilise its voters. The MDM is growing rapidly. In its first general election, in 2009, it obtained two seats in Parliament, representing Maputo city. No other party in Mozambique has ever done this, which is telling evidence of the growing level of its support.

Organisation

Frelimo has a long tradition of holding congresses. Since it was founded in 1962 it has held 10 – the tenth being in September 2012. The party spent \$8-million on the logistics of its tenth congress, for which it built a town. In the Mozambican context Frelimo is a wealthy party. It has a company, SPI – Gestão e Investimentos, Lda,²⁸ as its financial arm. Through this company Frelimo controls important economic and financial sectors in the country (Nuvunga & Hout forthcoming). But it is mainly by controlling the state that Frelimo maintains high levels of wealth (AfriMAP 2009; MARP 2010). The state is clearly at the service of Frelimo (Forquilha & Orre 2012): many events, from congresses to election activities, take place with the help of state resources (Nuvunga 2012). With the arrival of President Guebuza in the party leadership Frelimo has significantly improved its organisational structure along the lines of democratic centralism. From the grassroots to the top, a cell system ensures that Frelimo is highly organised and hierarchical.

With the support of the United Nations Operations in Mozambique (Onumoz), which, *inter alia*, had to establish a US\$15-million UN-managed Trust Fund for the transformation of the former guerrilla movement into a political party, Renamo has also built a hierarchically functional party structure, from its headquarters in Maputo to remote villages in the rural areas, mainly benefiting from its massive presence in the rural areas. Moreover, it had strong links with the international community based in Maputo. However, the internal erosion of

28 SPI – Gestão e Investimentos, Lda was created in December 1992. According to the online news service Canal de Moçambique, SPI has 35 entries in the company register and corporate objects that include commerce and industry through direct investment, shareholding management and financial intermediation. Canal de Moçambique also reports that SPI has partnerships with groups in Hong Kong, Kuwait, South Africa, Brazil, Portugal, China and Canada. According to the same source, SPI also has partnerships with state companies.

the party from 2004 onwards, due in part to the authoritarianism of the party leadership (Forquilha & Orre 2012) and the reduction in funding because of its declining share of seats in Parliament (former Renamo MP) dictated the closure of almost all local party offices, with most of its provincial and district leaders joining the MDM. The only Renamo offices that are active are those in Quelimane, Beira and Nampula, although Renamo flags are still massively visible in the homes of their local leaders in the central and northern provinces of Sofala, Manica, Tete, Zambezia and Nampula.

... there have never been decisions ordering the closure of Renamo provincial and district offices in the country, but in practice many of them are no longer functioning, mainly the ones in the southern region (Gaza, Inhambane, Maputo city and Maputo province). There is a logistical factor, because the reduction of the number of seats in Parliament resulted in a reduction of funds for the maintenance of offices. Therefore members had to look for other alternatives instead of devoting themselves to the party. Membership contributions are not enough to maintain party offices

Senior Renamo MP 2013

Renamo has no tradition of holding party congresses. After several postponements it held its third congress in October 2001 and for the first time it seemed that the party leader was being elected. However, what happened there had nothing to do with what is understood as internal party democracy. Three candidates ran for election: Dhlakama, Manuel Pereira and Agostinho Murrial. Whilst Pereira was best known for his threat to expel the Changana people (originally from the south) from the central and northern regions of the country, he was then not yet one of the party stalwarts. Murrial was unknown to most of the public at large (Lalá & Ostheimer 2003). This led observers to say that the internal party presidential election was a democratic façade (Senior Renamo MP).

This situation substantiated the suspicion that Dhlakama does not tolerate competition within the party. The expulsion of Raul Domingos in 2000 because of dubious allegations was seen as an indication that Dhlakama wanted to manage the party his way. Many others were expelled from the party after revealing thinking that differed from that of the president (Renamo MP). Lalá & Ostheimer (2003, p 26), who have worked with Renamo, argue that Renamo's internal party democracy frustrated most of the senior party members, mainly those who thought differently but remained silent, fearing vengeance '... in the long run, this stagnation of the party will cause more people [with political ambitions] to leave the party or it may lead to an internal party uprising'.

Ten years later, members abandoning the party and expulsions are a key institutional pattern within Renamo. The victims include Daviz Simango (elected mayor of Beira on a Renamo ticket in 2003); Maria Moreno (former head of the Renamo parliamentary group) and two former senior Renamo MPs, Luís Boavida and Manuel de Araújo.

With the exception of Raul Domingos, all these people are potential key MDM leaders. This pattern has weakened Renamo internally and externally. Internally it has destroyed the technical capacity and cohesion to counter overwhelming Frelimo dominance and externally it has enabled the creation of strong breakaway parties – firstly, the Party for Development and Democracy (PDD) and, more recently, the MDM – which have taken away much of Renamo's electoral and popular support, as shown in its dramatic loss of votes.

Without regular congresses important decisions (for example, the replacement of the party's secretary general) are taken at meetings of the political committee. This was the case with the replacement of Viana Magalhaes by Ossufo Momade in 2005 and of Manuel Ossufo by Momade Bissopo at a meeting held on 17 July 2012. In its heyday Renamo tried to institutionalise internal structures in the form of a shadow government, consisting of 15 shadow ministers, but ten years later only the military side, namely defence and security, led by Hermínio Morais, who had been a Renamo general during the civil war, and the ministry for veterans, led by Ossufo Momade, a Renamo veteran of the civil war, are active. The remaining shadow ministries disappeared without delivering anything substantial: '... the very centralised management of the party does not allow other figures to surface ... thus the existence of a Shadow Government does not make any sense because it never holds meeting nor is it referred to,' says Eduardo Namburete, advisor to the Renamo president.

This situation is not new to Renamo. Its political structure during the war was little more than an off-shoot of its military command structure (Vines 1996). It was supposedly formalised as the 'National Council' at Renamo's first Congress in May 1982. This Council was described in September 1982 as an 'Executive Council' comprised of 12 men with specific portfolios. However, it was described in early 1984 as a 'very basic structure' (Vines 1996) in which members did not have portfolios, but were given specific tasks by the president from time to time.

The post of general secretary was abolished at the party's second congress, in 1989, with its functions absorbed into the previously unknown presidential cabinet. In March 1983 another Renamo structure was set up following a meeting held in Geneva. This was the 'government in exile', otherwise called the 'shadow cabinet'. This structure was said to be distinct from the National Council (Vines 1996) but appears to have had little impact as it was never heard, even during the peace talks in Rome. This depiction suggests a continual moving of the goalposts,

the abolition and creation of new ones, changes in the composition, and so on. While there is nothing wrong with innovating organisational structures, the more it happens the more it appears to suggest a lack of organisational consistency.

Organisationally, Renamo is nearing paralysis. At the end of 2011 Afonso Dhlakama left the capital, Maputo, going firstly to Nampula and more recently returning to Renamo's old main military base at Gorongosa Mountain, from where he calls for direct negotiations with the government for power sharing, ignoring the party's representation in Parliament. While Dhlakama claims to be in full control of the party, recent public statements of high ranking party leaders reveal that his authority is systematically disregarded in key party decisions, with the military wing prevailing over the party leader. An example is Dhlakama's return to Gorongosa. In an interview, Herminio Morais said the decision that Dhlakama should return to Gorongosa was a military, not a political one (Canal de Moçambique October 2012).

In another interview, Ossufo Momade stated that '... Renamo's glorious military force will attack the capital city Maputo without authorisation of its leader, Dhlakama' (Renamo 2013). While this may be a political and tactical strategy, it is a politically and structurally bizarre statement as it reveals a lack of internal cohesion.

In 2005 and 2009 Renamo MPs publicly flouted Dhlakama's authority when they took up their seats in Parliament, despite his public decision to boycott parliamentary activity, alleging electoral fraud. While Dhlakama intended to show he had control over the party he shocked the public when, at a press conference in Gorongosa, he claimed to have ordered an attack on the FIR camp that had killed four policemen on 4 April 2013.

Renamo is failing to live up to one of the key elements of the notion of a political party: contestation of elections. It has either boycotted or failed to put up candidates in recent elections. After boycotting the first local government elections in 1998, it also boycotted the by-elections in Pemba, Quelimane and Cuamba in 2011 and the by-election in Inhambane in 2012. It has also declined to take up its seats on the National Electoral Commission because of its objections to the results of the 2013 local government elections.

The MDM held its first congress in December 2012. It was well organised, with delegates coming from across the country in an attempt to show that the party is national not regional. Although there was only one candidate for party president, with the incumbent standing unopposed, the party held an election for its leaders, which could establish a precedent. However, the extent of internal democracy is still to be demonstrated because, as recently as 2010, its leader, Daviz Simango, usurped the powers of the congress when he dissolved the party's political commission on the grounds that he wanted to instil new dynamism in

the way the party worked, although the real objective was ‘... to remove Ivete Fernandes [a former Renamo general secretary who left the party to participate in the formation of the MDM] ...’ (Chichava 2010a, p 19). At the time it was felt that Simango was using the same methods as Dhlakama.

Recent developments within the MDM following its first congress suggest a rapidly growing organisational structure. The president is at the centre of power, but both the secretary general and the provincial delegates have formal positions and power. It has operational offices all over the country and holds regular press conferences. Its actions conform to the Constitution and ordinary laws, even when faced with extreme cases of political intolerance, apparently on the part of Frelimo members, such as setting fire to its offices and partisan behaviour of state institutions, including the police. For instance, after the 2012 by-elections in Inhambane MDM members were charged with political disorder and sentenced to a year in jail. Since the accused were not present at the trial the MDM, instead of hiding its members, handed them over to the court to be imprisoned.

Autonomy

Frelimo has had three changes of leadership in its history, but the most significant in terms of the institutionalisation of the party occurred in 2005, when Joaquim Chissano stood down and Armando Guebuza became the party leader. The significance is that the other changes followed the death of an incumbent leader so this was the first democratic leadership change within the party.

Renamo was created by André Matsangaia as a guerrilla movement, fighting the Frelimo government. Matsangaia died in combat in the early 1980s and, following his death, Afonso Dhlakama took over. In 1992, after the peace agreement was signed, Dhlakama turned Renamo into a political party. Since then there have been no changes in its leadership.

After the leadership change Frelimo substantially increased its percentage of electoral support albeit with a small absolute decline in the 2004 elections (see Figure 1). In 2009 Frelimo received three million votes. All respondents expressed the opinion that the party had shown marked improvements in its organisation in terms of democratic centralism following the rise to power of President Guebuza, giving examples of such internal procedures as internal elections serving the interests of the leadership.

Former freedom fighters have veto power within the party, but the leadership has decision-making autonomy. By contrast, Dhlakama, with his authoritarian style, has shown that the party is as he conceived it, but he is increasingly losing power to Renamo’s growing military arm. The MDM has received considerable support from the so-called donor community based in Maputo, although they have never interfered in party affairs (Nuvunga & Adalima 2011).

The independent media, mainly the *Mozambique Political Process Bulletin*, have, since the first democratic elections, documented several instances of electoral intimidation by both Frelimo and Renamo social organisations and supporters, but increasingly by Frelimo social groups and supporters (Nuvunga 2012).

Renamo is best known to most of the world for its grotesque campaign of terror against Mozambican civilians (Manning 1998), for its status as an army of captives, and of guerrillas-turned-party-members. It carries the stigma of the massacre of innocent people, of thwarting the consolidation of independence, of destruction of economic and social infrastructure throughout the civil war and the fact that to this day its leaders are members of the former rebel group (MARF 2010). However, it is still well regarded in the central region of the country, where it originated, with its roots in the representation of anti-Frelimo sentiment (Lundin 1995; Brito 1995; Manning 1998; Tollenaere 2004; Nuvunga 2005; Carbone 2005).

However, although Renamo projects itself as the party that fought for democracy, thus claiming the fatherhood of democracy, the loss by 1999 of the territories it controlled, the emergence of the MDM – as a breakaway from Renamo – and the recent militarisation of the party have eroded much of its popular support, as shown clearly by its loss of votes and its political isolation. So, while Frelimo tends to attract supporters in urban areas and in the provinces in the north (Niassa and Cabo Delgado) and south (Inhambane, Gaza and Maputo), Renamo's dwindling popular support is related to regional politics and the areas it controlled as a result of the civil war. The burgeoning MDM is expanding its party activity nationwide, but it was originally a Beira phenomenon (Nuvunga & Adalima 2011).

Coherence

The proportional electoral system, based on closed lists, gives primacy to political parties over members of Parliament as individuals (Nuvunga 2005; Siteo, Matsimbe & Pereira 2005; Brito 2009). Parliamentary candidates are more concerned about pleasing party leaders than potential voters. This is reflected in the behaviour of members of Parliament who remain faithful to the party in the name of party discipline. The problem is exacerbated by the internal regulations of the Assembly of the Republic, whereby floor crossing is punished by losing one's seat. In order to remain in Parliament the member who abandons his/her party must not join another party. This results in a high degree of coherence on the parliamentary benches, albeit with more discipline in Frelimo as it controls the country's political economy.

Mozambican political parties never admit to the existence of internal factions. Following the departure of Joaquim Chissano and the arrival of Armando Guebuza

it was clear that there were at least two factions within Frelimo, but these were never acknowledged publicly. There were instances of tension within Frelimo that gave the impression that there could be a political break, but it all ended well and the tenth congress demonstrated party cohesion. This can be explained by the fact that there are no opportunities to accumulate wealth outside the party, or even to defend wealth already acquired. So it is in everyone's interest to maintain party cohesion at all costs.

Frelimo uses its control of the economy and international employment to accommodate the various groups and thus dissipate internal tensions (MARF 2010). Renamo and the MDM do not have this facility and, in a context where the only source of revenue is the state funding for parties with parliamentary seats and the only source of patronage is the eligible places in lists for Parliament, this triggers internal conflicts in the form of disputes over scarce resources.

Dissidence and expulsions marked the formation of Frelimo. There was no tolerance in these processes, which, in some cases, culminated in the loss of lives (Nuvunga & Adalima 2011). But in the multiparty context Frelimo has accepted and lives with political parties formed by former dissidents. As observed above, recent history has shown that no-one leaves Frelimo. Intolerance and power struggles led to two party-shaking expulsions from Renamo, those of Raul Domingos and Daviz Simango, which produced two opposition parties, namely the PDD and the MDM. Renamo does not accept invitations to attend ceremonies held by other parties and does not participate in public state ceremonies, claiming that they are partisan events. In Renamo's language members of the other parties are 'thieves' (Frelimo) and 'traitors' (MDM) (Renamo 2013). The MDM's relationship with the other parties has, thus far, been cordial, for example, it invited and welcomed Frelimo party members to its first congress, held in Beira.

CONCLUSION

This article has probed party institutionalisation in Mozambique. Its starting points were, on the one hand, the theoretical understanding that the institutionalisation of parties is fundamental for them to perform citizen-related roles and provide effective opposition, the primary contribution parties can make to democratic consolidation. On the other hand, it demonstrated empirically that African political parties are plagued by weak organisation and weak links with the society they are supposed to represent. The article found that the notion of 'political party' is something new in Mozambique, with the first party arising from the transformation of FRELIMO, the former liberation movement, into a political party.

The second wave of party formation was enabled by the constitutional reform in the wake of the democratisation process that arrived on the African

continent in the early 1990s, giving birth to myriad political parties, including the transformed former rebel movement.

The article also argues that the landscape of the effective parties shows a highly institutionalised Frelimo; a collapsing Renamo, after 10 years of considerable institutionalisation; and an institutionalising MDM. Although Frelimo performs well at all levels of party institutionalisation, it is much more highly regarded as a solidly organised party. It is coherent and has deep roots in society, but it is not yet clear to what extent these roots would resist the test of a term in opposition, arguably because they are dependent on Frelimo commanding the heights and on the fact that it has the state machinery at its service. Renamo, once a serious contender for political power, has collapsed in organisational terms, but keeps considerable roots in society, in the rural areas of the central provinces of the country. Nevertheless, it is incoherent. The MDM has proven to have strong organisational leadership and signs of considerable roots in society.

Finally, the article concludes that although the opposition parties are partly to blame for their misfortunes, the nature of Frelimo's relations with society bears the main responsibility for the impoverishment of the opposition. Shaped by its victory in the 10-year liberation struggle and, in particular, by the proclamation of independence in 1975; moulded in the context of liberating the 'land' and 'the people' from colonial rule; commanding the heights of the political economy, enabled by economic liberalisation and politically controlled privatisation and having recaptured the state due to democratisation from above, Frelimo's relationship with society makes it difficult for newcomers to break in and challenge its control over the state.

Frelimo has difficulty accepting that other political groups can mobilise support among 'the people' and on the 'land' it liberated from colonial rule. Hence its efforts to thwart the ascendancy of the opposition – mainly Renamo, but lately also the MDM. So its relationship with society makes it difficult for the opposition parties to develop.

— REFERENCES —

- Adalima, J. 2009. 'Espaços criados ou inventados? Uma análise da participação em Moçambique'. *Economia, Política e Desenvolvimento* 1(1).
- AfriMAP. 2009. Mozambique: Democracy and Political Participation. Open Society Institute, South Africa.
- Basedau, M & A Stroh. 2008. 'Measuring Party Institutionalisation in Developing Countries: A New Research Instrument Applied to 28 African Political Parties. GIGA Working Articles Series 68.
- Bogaards, M. 2000. 'Crafting Competitive Party Systems: Electoral Laws and the Opposition in Africa'. *Democratisation* 7(4).
- Bogaards, M. 2004. 'Counting Parties and Identifying Dominant Party Systems in Africa'. *European Journal of Political Research* 43.
- Bowen, M L. 1992. 'Beyond Reform: Adjustment and Political Power in Contemporary Mozambique'. *The Journal of Modern African Studies* 30(2).
- Brito, L. 1988. 'Une relecture necessaire: la genese du parti-Etat Frelimo'. *Politique Africaine* 29.
- Brito, L. 1995. 'O Comportamento eleitoral nas primeiras eleições multipartidárias em Moçambique'. In M B Eleições (ed). *Democracia e Desenvolvimento*. Maputo: Embaixada do Reino dos Países Baixos.
- Brito, L. 2009. 'O Sistema Eleitoral: Uma Dimensão Crítica da Representação Política em Moçambique'. In L Brito, C N Castel-Branco, S Chichava & A Francisco (eds). *Desafios para Moçambique 2010*. Maputo: IESE.
- Burnell, P. 2004. *Building Better Democracies: Why Political Parties Matter*. London: Westminster Foundation for Democracy.
- Canal de Moçambique, 31 October 2012
- Carbone, G M. 2005. 'Continuidade na renovação? Ten years of multiparty politics in Mozambique: Roots, evolution and stabilisation of the Frelimo-Renamo party system'. *Journal of Modern African Studies* 43(3).
- Carbone, G. 2007. 'Political Parties and Party Systems in Africa: Themes and Research Perspectives'. *World Political Science Review* 3(3).
- Chichava, S. 2010a. *Movimento Democrático de Moçambique: uma nova força política na democracia moçambicana?* Maputo: Cadernos IESE nº 2.
- Chichava, S. 2010b. 'For a socio-historical understanding of ethnicity in Mozambique'. *Paisagem da Democracia* 1. Maputo: NIMD Moçambique.
- Crotty, W. 1993. 'Notes on the study of political parties in the third world'. *American Review of Politics* 14.
- Da Silva, A. 2011. 'At least 13 FIR agents may have died in Maríngué'. Canal de Moçambique ed. Available at: macua.blogs.com/moambique_para_todos/2011/05/relatos-dos-confrontos-com-homens-da-renamo.html?cid=6a00d83451e35069e201538e6dbe6b970b
- De Renzio, P & J Hanlon. 2009. 'Mozambique: Contested Sovereignty? The Dilemmas of Aid Dependence'. In L Whitfield (ed). *The Politics of Aid: African*

- Strategies for Dealing with Donors*. Oxford: Oxford University Press.
- Della Rocca, R. M. 1998. *Mozambique: Da Guerra à Paz. História de uma Mediação Insólita*. Maputo: Livraria Universitária, Universidade Eduardo Mondlane.
- De Tollaenere, M. 2004. 'Democracy and Elections in Mozambique: Theory and Practice'. In B Mazula (ed). *Mozambique: Ten Years of Peace*. Maputo: Centro de Estudos de Democracia e Desenvolvimento.
- Diamond, L. 1994. *Political Culture & Democracy in Developing Countries*. London: Lynne Rienner Publishers.
- Diamond, L & M F Plattner (eds). 1999. *Democratisation in Africa*. Baltimore, Md: Johns Hopkins University Press.
- Dos Santos, M. STV, May 2005
- Dos Santos, M. *Noticias*, 19 June 2007.
- Duverger, M. 1985. *Os Grandes Sistemas Políticos, Instituições Políticas e Direito Constitucional*. Coimbra: Almeida.
- Erdmann, G & M Basedau. 2007. 'Problems of Categorizing and Explaining Party Systems in Africa'. Working Articles. Hamburg: German Institute of Global and Area Studies.
- Forquilha, S C. 2006. 'Des "autoridades gentílicas" aux "autoridades comunitárias"'. Le processus de mobilisation de la chefferie comme ressource politique. Etat, chefferie et démocratisation au Mozambique. Le cas du district de Cheringoma'. Doctoral thesis, Bordeaux: Université de Bordeaux.
- Forquilha, S C. 2009. 'Governança Distrital no Contexto das Reformas de Descentralização em Moçambique: Logicas, Dinâmicas e Desafios'. In L Brito, C N Castel-Branco, S Chichava & A Francisco (eds). *Desafios para Moçambique 2010*. Maputo: IESE.
- Forquilha, S C & A J Orre. 2012. 'Conselhos Locais e Institucionalização Democrática em Moçambique'. In B Weimer (ed). *Moçambique: Descentralizar o Centralismo – Economia politica, recursos, resultados*. Maputo: IESE.
- Guiliche, J M. 2011. 'Governança Eleitoral e Democratização em Moçambique: Análise do Desempenho da CNE na Supervisão das Eleicoes (1999-2004)'. BA Hons dissertation, Political Science, Universidade Eduardo Mondlane.
- Haggard, S & R Kaufman. 1995. *The Political Economy of Democratic Transitions*. New Jersey: Princeton University Press.
- Hanlon, J. 2012. MOZAMBIQUE 202 – news reports & clippings, 1-8 October.
- Heywood, A. 2002. *Politics*. London: Palgrave.
- Huntington, S P. 1968. *Political Order in Changing Societies*. New Haven: Yale University Press.
- Joseph, R. 1999. 'Africa, 1990 – 1997: From Abertura to Closure'. In L Diamond & M F Plattner (eds). *Democratisation in Africa*. Baltimore, Md: Johns Hopkins University Press.
- Jossias, E. 2007. 'Entre a Colónia e a Nação: moçambicanos deficientes físicos das forças armadas portuguesas', Master's Dissertation, Lisbon.
- Kadima, D & Z Matsimbe. 2006. 'Renamo União Eleitoral: Understanding the

- Longevity and Challenges of an Opposition Party Coalition in Mozambique'. In D Kadima (ed). *The Politics of Party Coalitions in Africa*. Johannesburg: EISA and Konrad-Adenauer-Stiftung.
- Kopecký, P & P Mair. 2003. 'Political Parties and Government'. In M A Mohamed Salih (ed). *African Political Parties: Evolution, Institutionalism and Governance*. London: Pluto Press.
- Kuenzi, M & G Lambright. 2001. 'Party System Institutionalisation in 30 African Countries'. *Party Politics* 7(4).
- Kuenzi, M & G Lambright. 2005. 'Party Systems and Democratic Consolidation in Africa's Electoral Regimes'. *Party Politics* 11(4).
- Laakso, M & R Taagepera. 1979. 'Effective' Number of Parties: A Measure with Application to West Europe'. *Comparative Political Studies* 12.
- Lala, A & A E Ostheimer. 2003. *Como limpar as nódoas do processo democrático: Os desafios da transição e democratização em Moçambique (1990-2003)*. Maputo: Konrad-Adenauer-Stiftung.
- LaPalombara, J & M Weiner. 1996. 'The Origin and Development of Political Parties'. In J LaPalombara & M Weiner (eds). *Political Parties and Political Development*. Princeton: Princeton University Press.
- Lindberg, S. 2007. 'Institutionalisation of Party Systems? Stability and Fluidity Among Legislative Parties in Africa's Democracies'. *Government and Opposition* 42(2).
- Lipset, S M. 2000. 'The Indispensability of Political Parties'. *Journal of Democracy* 1(11).
- Lundin, I B. 1995. 'Partidos Políticos: a leitura da vertente etnico regional do processo democrático'. In B Mazula. *Eleições, Democracia e Desenvolvimento*. Maputo: Embaixada do Reino dos Países Baixos.
- Mainwaring, S., G O'Donnell & J S Valenzuela (eds). 1992. *Issues in Democratic Consolidation: The New South American Democracies in Comparative Perspectives*. Notre Dame, In: University of Notre Dame Press.
- Mair, P. 2007. 'Party Systems and Alternation in Government, 1950-200: Innovation and Institutionalisation'. In S Gloppen & L Raker (eds). *Globalisation and Democratisation: Challenges for Political Parties*. Bergen: Fagbokforlaget.
- Manning, C. 1998. 'Constructing Opposition in Mozambique: Renamo as Political Party'. *Journal of Southern African Studies* 24(1).
- Manning, C. 2005. 'Assessing African Party Systems after the Third Wave'. *Party Politics* 11(6).
- Mecanismo Africa de Revisão de Pares (MARP). 2010. 'República de Moçambique: Relatório de Revisão do País', July.
- Mazula, B. 1995. 'As Eleicoes Mocambicanas: Uma Trajectoria da Paz e da Democracia'. In B Mazula (ed). *Moçambique: Eleições, Democracia e Desenvolvimento*. Maputo: Inter-Africa Group.
- Meleshevich, A. 2007. *Party Systems in Post-Soviet Countries: A Comparative Study of Political Institutionalisation in the Baltic States, Russia, and Ukraine*. New York: Palgrave.

- Mohamed Salih, M A. 2001. *African Democracies & African Politics*. London: Pluto Press.
- Mohamed Salih, M A. 2003. *African Political Parties: Evolution, Institutionalism and Governance*. London: Pluto Press.
- Monga, C. 1999. 'Eight problems with African politics'. In L Diamond & M F Plattner (eds). *Democratisation in Africa*. Baltimore, Md: Johns Hopkins University Press.
- Moreira, A. 2001. *Ciência Política*. Lisboa: Almedina.
- Mozaffar, S & J Scarritt. 2005. 'The puzzle of African party systems'. *Party Politics* 11(4).
- Mozambique Peace Process Bulletin* 6, October 1993.
- Mozambique Political Process Bulletin* 1, January 2003.
- Mozambique Political Process Bulletin* 2, March 2003.
- Mozambique Political Process Bulletin* 29, 15 July 2005.
- Newitt, M. 1995. *A History of Mozambique*. Indiana: Indiana University Press.
- Nuvunga, A. 2005. *Multiparty Democracy in Mozambique: Strengths, Weaknesses and Challenges*. EISA Report No 14.
- Nuvunga, A. 2007. *Post-war Reconstruction in Mozambique: The UN's Trust Fund*. London: TIRI.
- Nuvunga, A. 2012. 'Tendências nas Eleições Municipais de 1998, 2003 e 2008'. In B Weimer, (ed). *Moçambique: Descentralizar o Centralismo – Economia política, recursos, resultados*. Maputo: IESE
- Nuvunga, A & J Adalima. 2011. 'Mozambique Democratic Movement (MDM): An analysis of a new opposition party in Mozambique'. *Studies on Political Parties and Democracy*. Maputo: Friedrich Ebert Foundation.
- Nuvunga, A & W Hout. Forthcoming. 'Mozambican Multiparty Politics and the Market Economy: Assessing the Role of Frelimo'. Submitted to *The Journal of Modern African Studies*.
- Nuvunga, A & M A Mohamed Salih. 2010. 'Mozambique's 2009 Elections: Framing Democratic Consolidation in Context'. *Journal of African Elections* 9(1).
- Nuvunga, A. & M A Mohamed Salih. Forthcoming. 'Party Dominance, Electoral Instruments and Institutions: Framing Frelimo's Dominance in the Context of Electoral Governance'. Submitted to *Africa Review*.
- Nwokedi, E. 1995. *Politics of Democratisation: Changing Authoritarian Regimes in Sub-Saharan Africa*. Hamburg: Demokratie und Entwicklung.
- Pereira, J G. 2008. 'Antes o "diabo" conhecido do que um "anjo" desconhecido': as limitações do voto económico na reeleição do partido FRELIMO. *Análise Social* XLIII (2).
- Pitcher, M A. 1996. 'Recreating Colonialism or Reconstructing the State? Privatisation and Politics in Mozambique'. *Journal of Southern African Studies* 22(1).
- Rakner, L & N van de Walle. 2007. 'Opposition Parties in Sub-Saharan Africa'. *Working Parties Series* No 12-07. Centre for International Studies.

- Randall, V (ed). 1988. *Political Parties in the Third World*. London: Sage Publications.
- Randall, V. 2006. 'Party Institutionalisation and its Implications for Democracy'. Article for Session MT 07.239 Political Parties and Democratisation, IPSA Congress, Fukuoka, July 9-13.
- Randall, V. 2008. *Case Study One: Political Parties, Their Social Ties and Role in Political Change*. Oxford University Press.
- Randall, V & L Svåsand. 2002. 'Party Institutionalisation in New Democracies'. *Party Politics* 8(1).
- RENAMO. 2013. Available at: www.renamo.org.mz/index.php/o-presidente/80-news/168-conferencia-de-imprensa-sobre-a-posicao-da-renamo-14-03-13
- Rønning, H. 2010. *Democracies, Autocracies or Partocracies? Reflections on what happened when Liberation Movements were transformed to Ruling Parties, and Pro-Democracy Movements Conquered Government*. Maputo: CMI and IESE.
- Rønning, H. 2011. 'The FRELIMO State'. Conference organised by the Department of Political Science & Public Administration, Makerere University, Uganda, and the Christian Michelsen Institute (CMI), Norway, on Legitimacy of Power – Possibilities of Opposition, 30 May-1 June, Jinja, Uganda.
- Rosário, D M. 2012 'Alternância eleitoral do poder local – os limites da descentralização democrática: O Caso do Município da Ilha de Moçambique, 2003-2008'. In B Weimer (ed). *Moçambique: Descentralizar o Centralismo – Economia política, recursos, resultados*. Maputo: IESE.
- Sanches, E R. 2010. 'The dynamics of party competition in Africa: A theoretical approach'. ECPR Graduate Conference, Dublin, 31 August-1 September.
- Sartori, G. 1976. *Parties and Party Systems: A Framework for Analysis*. Cambridge: Polity Press.
- Serra, A M de Almeida. 1993. *Moçambique: da Independência à actualidade. Evolução económica e social, 1975-90*. Lisboa: Centro de Estudos sobre África e do Desenvolvimento
- Simutanyi, N. 2009. 'Impact of Breakaway Groups on Parties and Political Systems: Recent Development in Southern Africa'. Article prepared and presented to the Frelimo Party School and Friedrich Ebert Stiftung Policy Forum on the 'Impact of Breakaway Groups on Parties and Political Systems: Analyzing Root Causes – facing a Democratic Challenge', Hotel Avenida, Maputo, 17-19 May.
- Sitoe, E, Z Matsimbe & A Pereira. 2005. *Parties and Political Development in Mozambique*. EISA Research Report No 22.
- Sitoe, E J. 2004. 'Making Sense of the Political Transformations in Angola and Mozambique from 1984 to 1994'. PhD thesis, Essex University, UK.
- Sitoe, E J. 2011. *Post-Colonial Political Transformations in Angola and Mozambique: Dynamics of the Processes of Democratisation Taking Place from 1984 to 1994*. Saarbrücken, Germany: Lambert Academic Publishing, GmbH & Co.
- Sitoe, Eduardo J. Forthcoming. 'State & Society: Structure & Process of Governance in Mozambique'. *African Governance Report III, AGR III – Elections and Diversity Management*.

- Smith, B C. 2009. *Understanding Third World Politics: Theories of Political Change and Development*. Hampshire, UK: Palgrave Macmillan.
- Sumich, J & J Honwana. 2007. *Strong Party, Weak State: Frelimo and State Survival Through the Mozambican Civil War: An analytical narrative on State-Making*. London: Crisis States Working Papers Series No 2.
- Van de Walle, N & K S Butler. 1999. 'Political parties and party systems in Africa's illiberal democracies'. *Cambridge Review of International Studies* 13(1).
- Van Cranenburgh, O & P Kopecky. 2004. *Political Institutions in New Democracies: (Not so) Hidden Majoritarianism in Post-apartheid South Africa*. Leiden: Palgrave Macmillan Lda.
- Vines, A. 1996. *RENAMO: From Terrorism to Democracy in Mozambique?* Centre for Southern African Studies, University of York.

Interviews

- Professor Lourenço do Rosário, Rector of the Polytechnic University and Chairman of the MARP Forum in Mozambique and one of the most senior Frelimo members who is an academic.
- João Ulrich, director of an international organisation that worked closely with Renamo for more than 10 years.
- Senior Renamo MP and a previous Renamo general secretary, 10 April 2013. The MP requested anonymity.
- Former Renamo MP who requested anonymity.

INTERNATIONAL JUSTICE vs PUBLIC OPINION?

The ICC and Ethnic Polarisation in the 2013 Kenyan Election

Thomas P Wolf

Dr Thomas P Wolf is Public Affairs Research Analyst for IPSOS-Synovate,
Nairobi, Kenya¹
email: twolf@wananchi.com

ABSTRACT

This article examines a perennial factor in Kenyan politics, that of communal identity, and how it was mobilised in the context of the March 2013 elections. Using survey data it tracks attitudes regarding a unique feature of these elections: the (still-expected, if bitterly challenged) International Criminal Court (ICC) cases of Uhuru Kenyatta and William Ruto, of the Kikuyu and Kalenjin communities, respectively, for their alleged roles in the widespread violence that followed the disputed 2007 election. Remarkably, notwithstanding this ethnic divide at the time, their ‘defendant’ status provided, first, the personal, and subsequently, the communal foundation for their political union and ultimate triumph over then prime minister Raila Odinga, becoming Kenya’s new president and deputy-president, respectively. In exploring this success, the paper uses nationally-random survey data which also reveal the degree to which Kenyans became increasingly polarised as the elections drew nearer. In addition, qualitative material from media coverage and personal interviews suggests just how such polarisation occurred. The conclusion raises several questions about the way various possible scenarios involving the ICC issue could yet reconfigure the ethnic alliances evidenced in this recent and controversial election, and about the salience of ethnic identity in Kenya’s electoral politics more generally.

INTRODUCTION: ETHNIC IDENTITY VS ISSUE POLITICS?

A rumour that Eldoret North MP William Ruto was to be appointed internal security minister circulated in Mt Kenya at the height of March 2008 coalition-Cabinet negotiations between President Mwai Kibaki and Prime Minister Raila Odinga unsettled many residents.

1 The views expressed in this paper are those of Dr Wolf, and not of IPSOS-Synovate.

Amid the hostility between the Kikuyu and Kalenjin, some Mt Kenya residents could not reconcile themselves to the idea of Ruto as the minister in charge of police. Many Central Kenya residents whose relatives had been killed during the 2007/8 violence in the Rift Valley were hostile to Ruto, in whose constituency the Kiambaa church massacre occurred.

On Sunday thousands of them will flock to Nakuru Afraha Stadium – the same venue that for months hosted victims of the post-election violence – to rally support for a pre-election coalition deal involving Mr Ruto as Mr Uhuru Kenyatta's running mate in the next elections.

Sunday Nation 2 December 2012

... Three sure things happen at the polls every five years – people are killed, Kenyans vote along tribal lines, and the same crooks are returned to power ...

Why do Kenyans allow themselves to be manipulated by elites with whom they've nothing in common? Why is the average voter so gullible and easily tricked and bamboozled with the predictable tribal card?

Mutua 2012

Notwithstanding the considerable 'democratic gains' that have been made with regard to African elections since the onset of the 'Second Liberation' in the early 1990s – starting, in most countries, with the end of one-party or military political monopolies – there remain significant deficits in their conduct (Essoungou 2011). Indeed, the recent introduction of 'hi-tech' instruments, supposedly aimed at reducing the opportunities for 'rigging', have had, at best, a very chequered impact (Wrong 2013). Critical, of course, are the perceived 'stakes' involved in the competition for power in such countries, and especially for incumbents, who – having had the benefits of rule without well-entrenched rule-of-law regimes – must often contemplate exits from office with considerable trepidation (Southall & Melber 2006).

Despite these flaws, or rather, to the extent that such failings do not obscure actual voting patterns, the study of such elections also encompasses the more mainstream topics of research and analysis: political party formation and function, campaign strategies, and – at the end of it all – voter behaviour.

In this context, a 'typical' African election is often said to be little more than an 'ethnic census', where voters line up behind candidates with whom they identify on that basis, at least at the national level, where contests between

major candidates of the same ethnic group are less likely to occur (Posner 2005; Nnoli 1998).² Or, to put it another way, 'identity politics typically trump ideology' (Van de Walle 2006, p 84), even if the way in which such communal identities are expressed tends to reflect the particular electoral systems that structure the competition for power (Bogaards 2006).

Ethnicity, clearly exacerbated by the country's 'first-past-the-post' system, has long been recognised in Kenya as the most salient factor in how political support is organised. Criticism of this fact is often coupled with a lament about the general absence of more 'rational' issue-based choices. Writing in the aftermath of the bitter (and violently) divisive 2007 contest, for example, Oloo (2010, p 56) argued that:

Ethnic groups are mobilized around ethnic leaders, whether in mono parties, coalitions or pacts. The ultimate goal is to either capture the presidency for the ethnic community or belong to a power sharing formula that caters for particular communities.

For their part, with the same (2007 election) context in mind, Kanyinga, Okello & Akech (2010, pp 24-5) were more critical in addressing this issue, while setting it within broader, structural parameters:

[E]thnicity and how it is expressed in Kenya's electoral politics is the toxic waste from a political economy of inequality, centralized state power and a majoritarian electoral system' [while] 'political elites appropriate political discourses for personal gain' [as they] turn to ethnicity ... to advance their personal interests.

At the same time, any substantial treatment of ethnicity as an explanatory variable must begin with a recognition of its twin aspects: purely emotive factors that generate non-material, psychological rewards (and suffering), and contrasting instrumental ones, where 'belonging' itself is perceived as a means to access tangible 'goods' (or to avoid losses of a similar nature).³

Yet however persistent ethnic identity has been in Kenyan political life, the 4 March 2013 election was a substantial break with the past. While such identity was certainly again subject to elite 'appropriation', this occurred in an atmosphere that was highly issue-based, and over an extended period of time.

2 The Kenyan contest of 2002 was an exception in this regard, when both major candidates, Mwai Kibaki and Uhuru Kenyatta, were from the same (Kikuyu) community.

3 The interplay of the two in historical terms, though with greater emphasis on the latter, is explored from the (mainly) Luo and Kikuyu perspectives in Kenya by Atieno-Odhiambo (2004) and Muigai (2004), respectively.

Also entirely novel, the central issue – the judicial fate of those ‘most responsible’ for the violence that followed the 2007 election – took on a profound international dimension: the forthcoming trials of Uhuru Kenyatta, then one of two deputy prime ministers, and William Ruto, MP and formerly a Cabinet minister, at the International Criminal Court (ICC) in The Hague.

Stemming from the failure of the political class to establish a domestic judicial process by which those most responsible for that post-election violence (PEV), which nearly tore the country apart (Human Rights Watch 2008), could be held accountable, this agenda was subsequently ‘globalised’ by Kenya’s ‘domestication’ of the Rome Statute of 1998 that created the ICC and led to its subsequent intervention there (ICG 2012; Brown & Sriram 2012; Arieff, Browne, Rhoda & Weed 2011).

Contrary to widespread expectations both within Kenya and elsewhere, however, these two prominent political figures – among the six initially named by the ICC’s chief prosecutor as suspects, and subsequently as among the four defendants confirmed for full trial – were able to use their international ‘criminal-indictee’ status for two remarkably successful purposes. First, they overcame stubborn resistance within their respective inner circles and wider communities to forge, initially, a *de facto* and ultimately, a formal electoral (‘Jubilee’) alliance, built mainly on the foundation of Kenyatta’s The National Alliance (TNA) and Ruto’s United Republican Party (URP).

Secondly, they chipped away at and eventually erased an apparently unbridgeable lead enjoyed by their main rival, Prime Minister Raila Odinga, emerging triumphant against him and his Coalition for Reform and Democracy (CORD) running-mate, then vice-president Kalonzo Musyoka,⁴ if only by a highly contentious ‘whisker’.⁵ In doing so, they largely transformed their status from that of ‘suspects’-‘perpetrators’ into that of maligned ‘victims’, primarily of foreign ‘forces’, with whom their domestic political opponents were allegedly aligned.

But the foundation for such success is the country’s ethnic demography, of which two facts are most relevant:⁶ no single ethnic group could aspire to obtaining the 50%+1 votes the new Constitution requires to achieve a first-round

4 CORD was the product of his own Orange Democratic Movement (ODM) and Musyoka’s ODM-Wipe, among others.

5 The full official results may be found at: docs.google.com/spreadsheets/d/ccc?key=0AtBHjBYCnIEFdFJtbTU0RDdfUkhZWwxfbmNrUURpN3c#gid=1. Kegoro (2013a; 2013b) reviews the IEB’s technological failures, while Sharma (2013a) documents key anomalies in the (several) voters’ registers, and separately critiques the ‘passing grade’ given to the election by several international election observation groups (2013b). The Odinga petition is available at: www.kenya-today.com/facing-justice/raila-odinga-cord-election-petition; that filed by the African Centre for Open Governance (AFRICOG) is available at: www.africog.org/category/election-petition.

6 It should be noted that these groups vary significantly in terms of their degree of cultural and economic homogeneity in both historical and contemporary terms.

presidential vote victory,⁷ and the five-largest (Kikuyu, Luhya, Kalenjin, Luo, Kamba) comprise nearly three-quarters of the population, so that, in terms of selecting both a presidential and a deputy-presidential running-mate candidate, it makes little sense to go outside these main groups in terms of a viable presidential ticket, other things being equal.

In addition, members of only two of these groups, the Kikuyu and Kalenjin, each associated with a quite distinctive governance style reflecting a particular (if changing) constellation of cross-ethnic alliances, have occupied the presidency. Consequently, many Kenyans have quite specific perceptions of the implications of having a future leader from either of them at the apogee of state power, notwithstanding the unfolding uncertainties of the impact of the country's new Constitution.

ORIGINS OF THE ICC CASES AND ODINGA'S EVAPORATING POLL LEAD

The emerging cracks in the alliance between Ruto and Deputy Prime Minister Uhuru Kenyatta may be a blessing for Raila because there is a growing feeling within the Rift Valley region that the community might just have to do with Raila in 2012 because they will not be comfortable backing another presidential aspirant from Central Kenya.⁸

Majority of our people are yet to clearly decide how they will vote in 2012. But with Kibaki as outgoing President it will be difficult to sell another Central Kenya candidate in this region. If Raila will be in a run-off against someone from Central then the PM stands a good chance to attract the Rift Valley votes,' said Engineer Tom Murgor.

The Star 4 June 2011

The next election will be very different from all those that came before. It will be Kenya's first single-issue election. The one wedge issue that will divide the politicians and by extension the electorate will be this: What is the candidate's position on International Criminal Court (CC) action and will the candidate, if elected into office, cooperate with or block the handing over of the Ocampo Six to face international justice?

... Mr Odinga will ... seek to win the support of the two thirds

7 It also requires obtaining a minimum of 25% of the vote in at least half of the country's 47 counties, which both the main candidates in this 2013 election achieved.

8 Kalenjin constitute some 40% of the population of this region; Kikuyu are its next largest group, about 25%.

of Kenyans that opinion polls say back trials at The Hague, as he seeks to build a cross-ethnic alliance that might help him ascent [sic] to the presidency.

The Nairobi Law Monthly April 2011, pp 51-52

... [T]he bedrock support for Mr Uhuru Kenyatta's TNA frowns upon an alliance with Mr Ruto. Similarly, the DNA of Mr Ruto's URP is against TNA. But Mr Ruto's supporters have a clear message for their man: please take us into power or to power. They are also telling Mr Ruto that he does not have to be president in 2013.

Opanga 2012

The 9 March official announcement of the election results by the Independent Election and Boundaries Commission (IEBC), gave Kenyatta a first-round victory by the slimmest of margins (notwithstanding obtaining some 800 000 more votes than Odinga – a figure also challenged in his election petition): 50.5%, based on a vote-margin of 62 907 out of some 12 220 000 valid votes (excluding the 'rejected ballots'), or only 50.07% – a margin of only 8 449 votes – if the rejected ballots are included in the calculation (which the Supreme Court ruled should not have been the case). Between them, the other six candidates received just under 6% of all votes (2% less than all the final polls had indicated).⁹

One of the factors that fed suspicions about the IEBC's declaration was that not one of the last set of four voter-intention polls conducted some two weeks before the election put either Kenyatta or Odinga within 5% of the 50% mark, though IPSOS-Synovate's did give the former the narrowest of leads (and within the survey's margin-of-error), as shown in Figure 1 (Wikipedia 2013).¹⁰

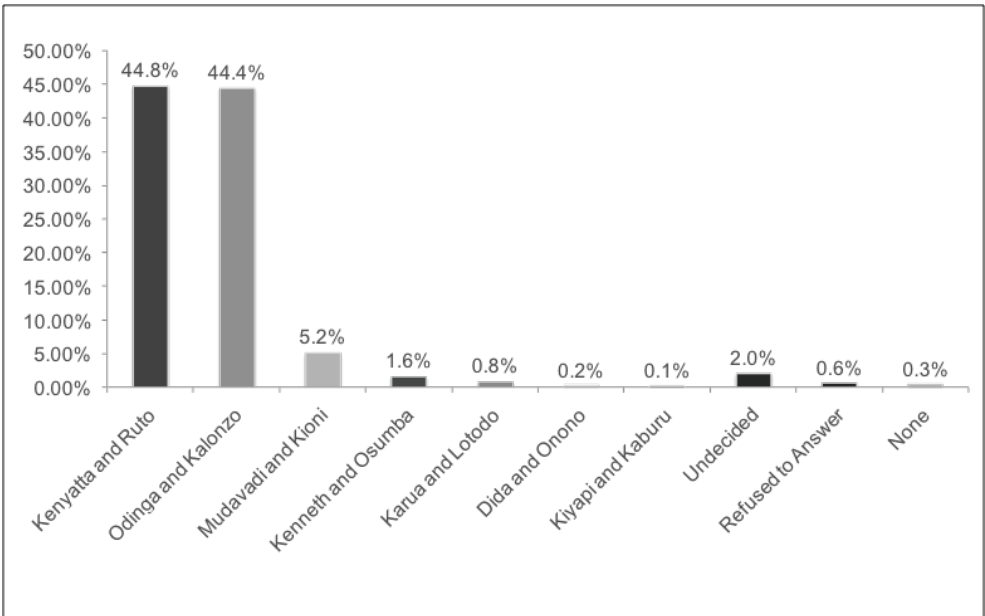
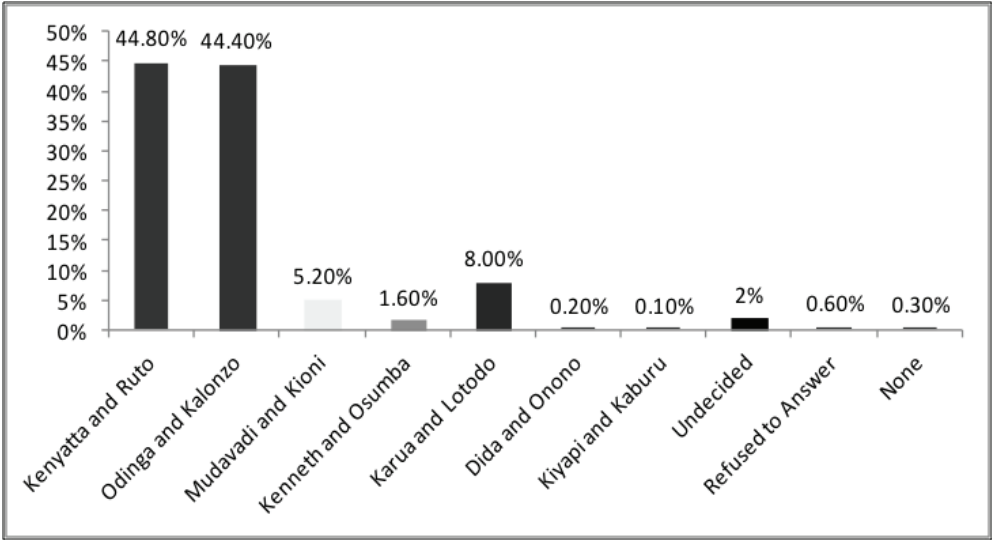
Based on the IEBC's figures, the main factor that accounted for this major 'discrepancy' between the polls and the official results – aside from the gains accruing to the visibly more effective Jubilee campaign (*Sunday Standard* 12 May 2013; Muluka 2013) – was differential voter turnout in the stronghold areas of the two main competitors, predicted by IPSOS's research analyst a week before the election (Wolf 2013).¹¹ This largely reflects the fact that, as was revealed by

9 Maina (2013c) provides a highly critical initial appraisal of the Supreme Court's procedural and evidentiary reasons for upholding the declared result. *Africa Confidential* (2013) recently raised serious questions about Kenyatta's overall victory margin.

10 Earlier surveys generally used samples of 2 000, which entail an error-margin of +/-2.2%. For sub-groups of the sample for this and earlier survey results, such error-margins are correspondingly larger. In all cases, the confidence-level is 95%.

11 This, indeed, turned out to be the case (again, discounting claims of serious irregularities, noted above). IPSOS-Synovate (2013c) interrogated the official results in these terms in a media presentation released on 15 March and found a 6% turnout advantage for Kenyatta in 15 of his largest 'vote-basket' areas, compared to that of Odinga. Likewise, Kenyatta won a larger share of the vote in Odinga's strongholds than vice-versa.

Figure 1
Expressed presidential/deputy president voting intentions (February 2013)



Source: IPSOS-Synovate 2013a

data from the same February IPSOS poll, while more than three-quarters of those prepared to vote for Jubilee were from the combined Mt Kenya-Kalenjin communities, as represented by the two candidates at the top of their ticket, fewer than half of CORD's intended voters were from communities represented by Odinga and Musyoka – the Luo and Kamba – notwithstanding their statistical tie in the polls (as shown in Figure 1). Given the salience of ethnicity in motivating voters, therefore, the latter alliance would have needed a considerably greater turnout effort to make up for this inherent gap.¹²

Yet in view of the antagonism in recent Kalenjin-Kikuyu relations it was the very emergence of this alliance that was so unexpected. Here it was the ethnic dynamics associated with the ICC cases which accounts for this, eventually allowing Jubilee to contemplate a first-round victory.

These dynamics stemmed from the violent crisis – leaving more than 1 000 dead and at least 500 000 displaced – that followed the abrupt announcement of incumbent President Mwai Kibaki as the 2007 election winner over then opposition leader Raila Odinga, and his furtive swearing-in ceremony immediately thereafter (Human Rights Watch 2008; Miguna 2012, especially 'In the Trenches', pp 199-262; Mueller 2008; Branch & Cheeseman 2009). To resolve it, a Grand Coalition Government was established, by which power was shared between them (Mwagiru 2008; Lindenmayer & Kaye 2009).

Together with the National Accord and Reconciliation Act (2008) that created this fractious but ultimately durable arrangement, the Kenya National Dialogue and Reconciliation agreement mandated various reforms aimed at preventing any such future crisis. These included the establishment of the Commission of Inquiry into the Post-Election Violence ('Waki Commission'), whose commissioners submitted their report in October 2008.

Among the commission's recommendations was that the Kenyan government create a Special Tribunal to investigate and prosecute those 'most responsible' for the crimes that had been committed. Failing this, such responsibility would be transferred to the ICC, which had become part of the Kenyan judiciary through Parliament's ratification of the Rome Statute in 2005 and promulgation of the International Crimes Act in 2008, itself a product of this crisis-resolution effort (International Commission of Jurists-Kenya 2010, p 8).

12 Specifically, Kenyatta's 'Mt Kenya' communities (Kikuyu, Embu, Meru, Mbeere, Tharaka) comprise about 30% of the country's population and Ruto's Kalenjin 13%. By contrast, CORD's Luo and Kamba comprise only about 12% and 11% respectively. Such a calculation assumes uniform voting within these communities, an issue which generated heated pre-election debate (ictville.com 2013; Maina 2013a; 2013b).

In the event, three attempts by Parliament, the first of them on 6 February 2009, to enact the required legislation for this purpose failed, thus opening the doorway to the ICC's intervention.¹³ This began with the African Union's chief mediator during the National Accord negotiations, retired UN Secretary-General Kofi Annan, handing over a confidential list of 21 individuals to the ICC's Chief Prosecutor, Luis Moreno-Ocampo, on 9 July 2009. The latter then used his prerogative on 26 November 2009 to seek permission from the Pre-Trial Chamber to open an investigation, which was granted on 31 March 2010, and he arrived in Kenya shortly thereafter, on 8 May, to do this.

Based on his investigations¹⁴ he constructed two cases, each with three suspects, whose identities were announced on 15 December 2010. In addition to Kenyatta, these were Francis Muthaura, secretary to the Cabinet/head of civil service, and Hussein Ali, the commissioner of Police (members of the Meru and Somali ethnic groups, respectively).

Whatever the evidentiary basis for his choices, however, achieving a 'political balance' also appeared to be critical. Thus, one case involved the 'first phase' of the PEV, from late December 2007, in which pro-ODM Kalenjin 'warrior-youth' were the aggressors and certain vulnerable Kikuyu residents of the Rift Valley the victims. The other case stemmed from the 'retaliation attacks' on members of pro-ODM ethnic groups (mainly more logistically accessible Luo and Luhya), also in the Rift Valley, by a pro-Party of National Unity (PNU) Kikuyu youth militia, at the end of January 2008.

But if achieving such a balance was the chief prosecutor's intention, he erred, as the political realities on the ground had shifted considerably by the time of his announcement. Specifically, among the three Kalenjin suspects in the first case, only one, Henry Kosgey, MP for Tinderet, Industrialisation minister and ODM party chairman, remained close to Odinga, as Ruto, initially minister of agriculture, had, by mid-2009, 'migrated' to the Kibaki/PNU side of the partisan divide, taking with him most ODM Kalenjin MPs.¹⁵

This Odinga-Ruto split is central to the scenario that subsequently unfolded.

13 Brown and Sriram (2012, p 253) explain the contrasting – if complementary – reasons why it proved impossible to obtain the required two-thirds majority for this proposal. Ironically, in retrospect, it was Ruto, Kenyatta, and their parliamentary allies who led the resistance to such a local tribunal and instead supported The Hague option (with the refrain, 'Don't be vague, go to Hague'). For an example of Ruto's position, see: www.kenya-today.com/opinion/william-ruto-for-icc-trials.

14 In addition to the Waki Report (which generated the 21 names in the 'Waki envelope'), his efforts also reportedly relied on investigations conducted by the Kenya National Commission of Human Rights (2008).

15 The third suspect on the ODM side, vernacular radio journalist/presenter Joshua arap Sang (accused of propagating hate-speech that led others to commit human rights crimes), while a strong Ruto supporter, held no formal political position.

While various other issues contributed to it,¹⁶ at its heart lay the potential criminal cases that emanated from the Waki Report, which went beyond Ruto as an individual to the wider Kalenjin community. As a local analyst pointed out shortly after Parliament's first unsuccessful attempt to establish a special tribunal:

So far, power tussles and partisan interests among Kenya's power elite have frustrated efforts to establish the special tribunal, which was voted out [sic] in parliament. Some leaders whose names have been mentioned in the report have raised questions relating to the integrity of Justice Waki, who was suspended as a judge in 2003 on corruption allegations and only reinstated on a technicality, and by extension the integrity of the entire report. For instance, Rift Valley parliamentarians have cited high level lobbying and bribery as the reasons 'why [the report] has clearly avoided implicating Raila in even one riot in Kibera' ... The report has not only created splits within and between the parties to the National Accord, [but also] its chances of ending a condition of impunity have become slimmer by the day.

Kagwanja 2009, p 383

Two key issues were involved here. One was police treatment of Kalenjin youths involved in the PEV, many of whom were allegedly tortured and 'disappeared' (*Daily Nation* 15 August 2009). Although Odinga had sought to defend these youths early in 2008 during the African Union-led mediation process (while he continued to call for the prosecution of those responsible for 'bungling' the election) (*Daily Nation* 15 August 2009), he fell silent on this issue almost immediately after becoming prime minister, suggesting to many Kalenjin that he no longer cared about their fate.

The other issue was Odinga's repeated backing for the investigation and prosecution of those responsible for the PEV as the 'only way to end impunity', while publicly ignoring the fact that his / the ODM's share of power was largely a

16 Relevant here were the contrasting political careers of the two leaders, especially Ruto's origin as a Moi youth-winger in 1992 while Odinga was a long-term Moi-era detainee; his support for Kenyatta's first presidential bid in 2002 (when Odinga backed Kibaki), and his association with Musyoka during the latter's struggle with Odinga for the ODM nomination in 2007. More recent issues include: Ruto's resentment that Musalia Mudavadi rather than he became the ODM's deputy; his defence of the Mau Forest 'squatters' that government policy – most forcefully articulated by Odinga – aimed at removing / relocating after 2008; the opposition of Ruto's ODM faction to the Odinga-backed new Constitution prior to the 2010 referendum and Ruto's patronage-competition with Odinga during his tenure as minister of agriculture (Muluka 2011; *The Star* 16 February 2013).

product of it.¹⁷ Moreover, given that Kosgey was among the few Kalenjin leaders who remained aligned to him, such calls made Odinga appear even more disloyal than did his treatment of the now-‘wayward’ Ruto. Such was the case, for example, when Odinga repeatedly disassociated his ODM side of the Grand Coalition Government from the ‘shuttle diplomacy’ efforts of then vice-president Musyoka to gain support from African governments and the UN Security Council to have the cases returned to the Kenyan judiciary, which had come to be viewed as a much ‘safer’ option once the ICC process materialised (*Daily Nation* 26 January 2011; *The Standard* 19 February, 2011). The same applied to MPs from his region, whose identical position was assumed to reflect their leader’s wishes.¹⁸ Such considerations were thus reflected in the ‘partisan interests’ and the ‘splits within and between the parties’ noted above, exemplified by the accusations by ‘Rift Valley parliamentarians’ [that is, Kalenjin] that ‘high level lobbying and bribery’ had allowed Odinga himself to escape the very ‘accountability’ measures that he was championing.

Such bitterness among the Ruto ODM faction about the immunity Odinga appeared to enjoy was underscored in one of the periodic reports of the consultants employed by the Kofi Annan Foundation to monitor the country’s reform process. In particular, they noted how the pre-trial hearings in September-October 2011

... have deepened fissures within the coalition government ... [T]hey have introduced new perspectives about levels of culpability of the suspects and reinforced the view that the list of suspects [compiled] by the ICC was ‘incomplete’ because it does not comprise leaders from some of the ethnic communities. These discourses have continued to imbue the investigation with political undertones, which overshadow debate about the question of impunity. In effect, focus on ‘who else should be investigated’ obscures the question of why investigations are taking place and reinforces notions of victimisation for political ends.

South Consulting 2011, p 48

17 This stemmed in part from the fact that it proved impossible to revisit the actual ballot count or vote tally, leaving the ‘real’ winner of the election to (largely partisan) speculation. Thus, even if the ODM leadership always distanced itself from the PEV (as opposed to the ‘mass action’ protests it repeatedly encouraged) (www.youtube.com/watch?v=WUeuRd94MIw), it was clear to everyone that without it, the Kibaki side could never have been cajoled / forced – mainly by Western actors, in concert with the AU mediation team – into conceding even a minimal share of real power (see, eg, Mwagiru 2008, pp 82-86, 135-136).

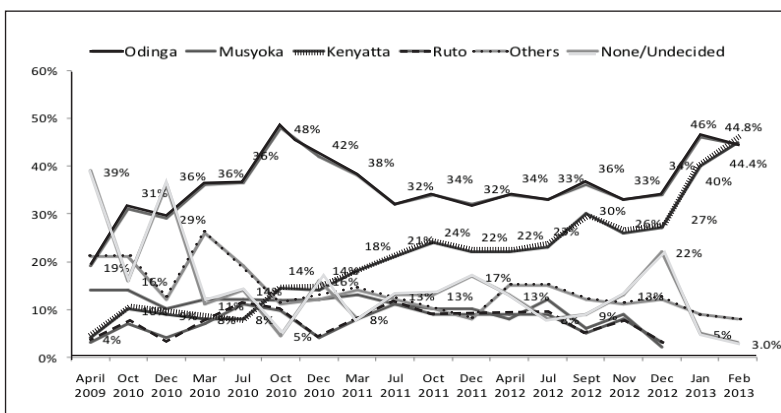
18 For example, as was reported early in 2011: ‘During the parliamentary debate on whether Kenya should bail out of the ICC, a pattern that emerged was that of Nyanza politicians being pro-ICC while everyone else appeared to be sceptical about the path the process has taken’ (TOPIX 23 April 2011).

But there was also significant 'motion' on the PNU/Mt Kenya side of the political-communal divide: consolidation of the community's 'moral defence' of key leaders purportedly involved in the 'retaliatory violence' phase that had generated the second case. Here, however, the issue was less a reaction against any leader or group of leaders perceived as having gained political mileage from it (as was clearly the case with regard to the Ruto-ODM faction) than a rejection of the 'justice' agenda itself. Such a development was described by Mghanga (2010, p 87) just as the reality of the ICC's entry into Kenya's judicial space began to sink into the public's consciousness towards the end of 2009:

... [M]any people do not really condemn the 2007-2008 post-election violence with sincerity ... I have heard some people saying openly that the violence would not have stopped, had some leaders not organised, armed and sponsored their youth to attack members of other ethnic groups in Naivasha, in order to avenge the violence that was targetting [sic] their own group in the Rift Valley and elsewhere ...

So deep [sic] entrenched is the problem of negative ethnicity that people, including some MPs and top politicians, whose names are likely contained in Justice Waki's envelope for prosecution either in Kenya or at The Hague, are considered as heroes by a considerable number of members of their ethnic groups, mostly for participating in these horrendous acts. After all, that is why they still hold leadership positions.

Figure 2*
Support for potential/actual (main) presidential candidates: 2009-2013**



Source: IPSOS Synovate 2013a

* For reasons of visual clarity, percentages are only shown for the top two candidates, their eventual running-mates, and those still undecided

** The verbatim question, through the end of 2012, was: 'If the next election were held now, aside from President Kibaki, who would you vote for, if that person was a candidate?' For the last two (2013) polls the question was: 'Which pair of presidential and deputy-presidential candidates do you intend to vote for?'

In sum, then, by the time the 'Ocampo Six' were named, the country's political – and moral – terrain had already undergone a major reconfiguration, and one that over time Odinga's main rivals in the forthcoming election put to extremely effective use, enabling them to whittle away at his long-standing lead in the opinion polls.

That this was achieved, ultimately putting Kenyatta/Ruto at least within 'striking distance' of the 'magic' 50% mark, is shown in Figure 2, which presents expressed presidential voting intentions among Kenyans of voting age over the previous two years:¹⁹

Two additional fortuitous factors related to the unfolding ICC and electoral calendars had an impact on these poll results and on the election itself. First, a High Court judgement on 17 March 2012 pushed the election date from December to March 2013.²⁰ While this change gave all participants more time for election preparations it was more beneficial to Ruto and Kenyatta, both of whom had first to create new political vehicles (URP and TNA, launched on 15 January and 20 May 2012 respectively), and then work out the vote- and expected parliamentary seat-sharing strategies and agreements that their Jubilee alliance, launched in November, necessitated.

Secondly, in July 2012, following numerous procedural delays engineered by the defence teams, the ICC set the Kenyan cases for April 2013, dashing the Odinga campaign's hopes that his main rivals' mandatory court appearances would remove them – at least geographically – from the race (*Daily Nation* 9 July 2012).

Yet it still required a leap of the imagination for many that a leader of the 'victim' community that had suffered so much death, destruction and displacement could unite with the top leader of the community whose warrior-youths had wreaked that violence upon them, whether for an electoral or any other purpose. Writing in 2010, for example, Lynch (2011, pp 211-212), who has had long research experience in the Rift Valley, captured the lingering cleavage between the Kikuyu and the Kalenjin, who, according to her interview respondent,

19 Note here that only in the last two polls were deputy presidential running mates known, whereas prior to that all these individuals (among about a dozen others) had 'marketed' themselves as presidential contenders, and that following completion of the one-month voter registration exercise on 18 December the samples for the January and February polls were allocated according to its figures (which gave Kenyatta/Ruto an estimated 'boost' of 2-3% due to higher proportions in their strongholds), as opposed to the official census. Further, regarding this second point, nearly 97% of those selected for interviews claimed to be registered voters, when only 13.4-million of some 22-million eligible adults were, suggesting that more than one-third of all such respondents lied. Such a proportion is similar to that found in Kenyan surveys related to previous elections and constitutional referenda, both prior to and after those events, though it does not appear that such 'lying' biased the results in one direction rather than another.

20 The new Constitution sets the election date as the second Tuesday in August of every fifth year, but the High Court ruled in January 2012 that Parliament should serve out its full five-year term, which began in March 2008.

‘physically beat us, burned down our houses, and killed our friends and relatives’. She then added, ominously:

More worrying still is evidence of a proliferation of small arms and a pervasive sense that people should be prepared for the worst. As one Kikuyu of the troubled Molo area surmised, ‘If it happens again, it will be much worse ... People are prepared to fight, so there’ll be resistance ... and as election day approaches, people will continue buying [weapons].’²¹

In the same vein, as late as February 2011, a member of Odinga’s parliamentary ‘inner circle’ could claim that ‘the Kikuyu have no real political interest in Ruto; they are only using him to allow for the re-settlement of their displaced people in the Rift Valley’ (Personal Interview, Nairobi, 18 February 2011).

Yet such an assertion appears somewhat disingenuous given the active efforts Odinga and his aides were making at the time to win back Kalenjin support, using councils of elders from both the latter and his own community to do so, however dim were the realistic prospects of success. As was pointed out at the time: ‘A major grievance for the Kalenjin elders is the ODM letter to the ICC reinforcing the case against the Ocampo Six and stating they should be tried at The Hague and not locally’ (*The Star* 4 June 2011).

Yet for most observers – including especially, perhaps, those committed to an accountability agenda – the political-electoral potential of this budding ‘political romance of the accused’ was easy to underestimate. Thus, while alluding to it, the appraisal of Brown & Sriram (2012, p 257) was, in retrospect, unrealistically sanguine:

Even though the various attempts to establish a special tribunal have failed, the debates have fed demand for accountability and have unwittingly provided a great civic education programme among Kenyans on the ICC and other justice mechanisms. In 2011, when asked their preferred means to deal with the alleged perpetrators, 61 percent of the 2 000 Kenyans polled chose trials at the ICC, compared with 24 percent for a hybrid tribunal and only 8 percent for the regular courts. Still, a sizeable number of individuals can be mobilized in opposition to ICC involvement. When Ruto and Kenyatta returned to Nairobi in April 2011, after their initial hearings in The Hague,

21 Indeed, this author points out that she was still hearing comments of this nature in December 2012 (Personal Interview, Nairobi, 3 June 2013).

they were given a public heroes' welcome. Accused of crimes against humanity and other serious charges, they have cast themselves as political victims of national and international plots against them and retain a significant public support in their own ethno-regional communities.

In this connection, a more detailed consideration of such survey results over time, incorporating ethno-political dimensions as well, suggests how such ICC indictee status offered a lifeline, if not necessarily to acquittal, at least to votes.

GETTING INSIDE THE 'JUSTICE' vs 'POLITICAL OPPORTUNITY' NUMBERS

Homegrown justice systems and instruments had failed. Kenyans had turned their eyes to the international community and especially to one man, called Luis Moreno-Ocampo.

[M]ake no mistake: Moreno-Ocampo is bringing his tool kit to Kenya. Masters of impunity beware! Moreno-Ocampo is not a small boy ... Kenyans have waited for justice for far too long

Muluka 2010

... [O]ur definition of justice is not always what lawyers describe on the basis of fact and evidence. That is also why often we shift the goalposts, to realign with our tribal radar.

Tanui 2011

The great majority of Kenyans (more than eighty per cent) support the ICC process as the most credible method to fighting [sic] the culture of impunity in Kenya. Surveys by leading institutions in the country have repeatedly confirmed this position.²²

Orange Democratic Movement 2011

Two seemingly contradictory messages emerged from a recent survey of public opinion in Kenya. The first is that Kenyans overwhelmingly support the International Criminal Court (ICC) at The Hague, where

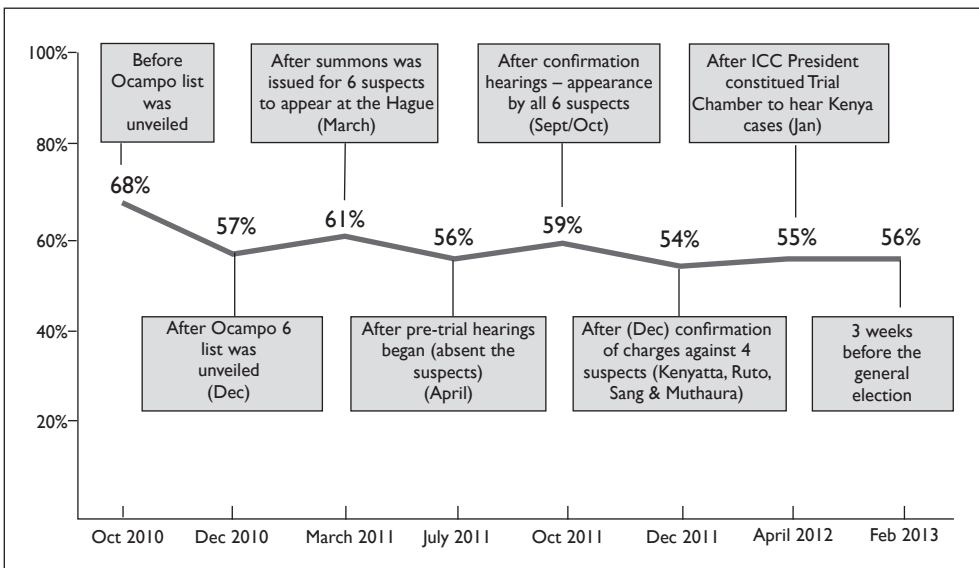
22 As shown in Figure 3, at the beginning of March 2011, when the ODM issued this document, the figures produced by 'leading institutions in the country' were actually about 20% lower than the figure quoted here.

the alleged ringleaders of the violence that followed the country's disputed election in 2007 are due to be tried next year. The second is that in the presidential elections scheduled for March, the majority of voters intend to support either a candidate who is among those the ICC has indicted, or one who plans to save them from being put in the dock at The Hague.

The Economist 10 October 2012²³

Support for the ICC process for the country as a whole, covering the entire period from the time of the ICC's entrance up to the election, was remarkably stable, as shown in Figure 3. Still, a few shifts of note occurred.

Figure 3
Support for ICC Trials (Showing Key Events) Oct 2010 - Feb 2013



Source: IPSOS-Synovate survey data, October 2010-February 2013

The largest one is the first: an 11% drop in support for the ICC process (from 68% to 57%) just after the six initial suspects were named at the end of 2010, apparently making the country's formal commitment to the Rome Statute all too real for some Kenyans. Subsequently, after rising by 4% (to 61%) in March 2011, it fell by 5% by July (to 56%) following the pre-trial hearings, which, again,

23 It is unclear on what basis *The Economist* concluded that Odinga was indeed committed to 'saving' them.

seemed to increase the possibility of forthcoming trials. But support rose by 3% following the confirmation hearings in September-October 2011, perhaps due to the procedural fairness exhibited by the ICC officials and the impressive performance by the accused and their legal teams, inspiring confidence that even if the trials went forward the chances of acquittal were high. Next, it fell by 5% (to 54%) in December of that year, following a succession of prayer-peace rallies led by Kenyatta and Ruto, starting with their first massive one, held at the main public stadium in Eldoret, the epicentre of the 2008 violence, almost immediately after their return from The Hague, where the charges were confirmed (*The Standard* 28 January 2012).

Only minor fluctuations occurred thereafter, with a clear, if very modest, majority continuing to support the process through the immediate pre-election period (56% in February, 2013).

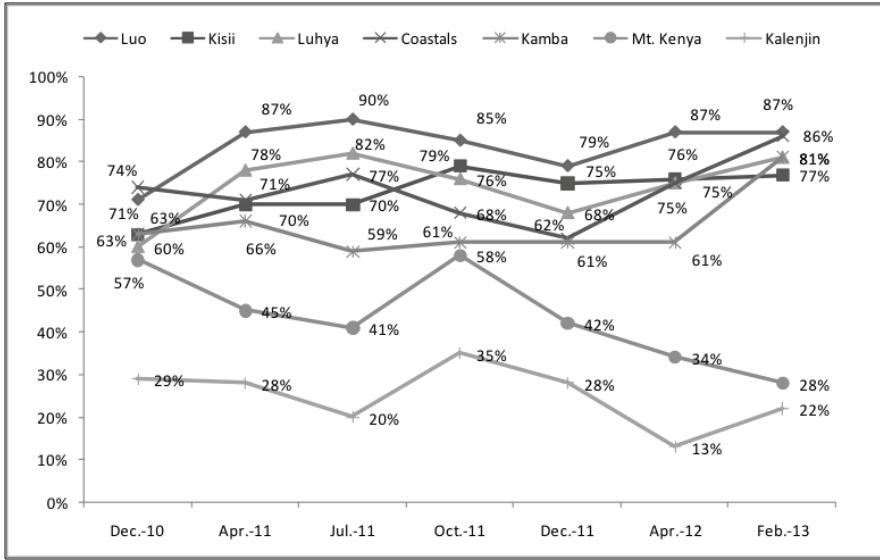
However, such statistical stability in national terms occludes significant ethnic group variations, as shown in Figure 4.²⁴ While attitudes among members of these larger communities diverged only modestly at the beginning of this period – aside from the Kalenjin, whose level of support for the ICC process was 28% lower than the next least supportive group, the Mt Kenya cluster, at 57% – the gaps between the ‘defendant’ and other communities widened immediately thereafter (from April 2011), though narrowing somewhat by late October. Coming just after the confirmation-of-charges hearings (when, in national terms, support for the ICC increased by 3%, as noted above), optimism within the defendants’ Mt Kenya and Kalenjin communities regarding their legal teams’ capacity to protect the defendants from the ICC’s threatened ‘tsunami’ appears to have been buoyed (if only temporarily), more than compensating for the drop in support expressed by the Luo, Luhya and Coastals, in particular. Thereafter (as from December of that year) the gap widened again, and dramatically so, as the election approached.

Another stable gap in support for the ICC also stands out: that between the Mt Kenya community and the Kalenjin, averaging nearly 20% over the December 2010-April 2012 period, which narrowed only on the eve of the election in February 2013, to just 6% (based on a 6% drop among the Mt Kenya community and a 9% upswing by the Kalenjin).

Several factors could account for it. One was the widespread belief that the case against Ruto, given his association with ‘aggressive’ violence (among other factors), was stronger in both moral and evidentiary terms from the outset, thus putting him in greater danger than Kenyatta.

24 Kenyan survey firms refrain from releasing results with such ethnic group correlations, though there is no legal restriction on doing so.

Figure 4
Main Ethnic Groups' Support for the ICC's Involvement (December 2010-February 2013)²⁵



Source: IPSOS-Synovate surveys December 2010-February 2013

Also, in contrast to Ruto, having a fellow-Kikuyu in State House (Kibaki), and a co-accused (Muthaura) known as a long-time Kibaki confidant, may have suggested to some a higher level of state protection for Kenyatta. Further, given the moral approval that many attached to his alleged 'crimes' (associated, as they were, with 'defending' the community), 'his' people may have found it more difficult to imagine that any 'fair' judicial process could actually result in a conviction. Finally, in political terms, the absence of any other remotely viable alternative Kalenjin presidential (or even deputy presidential running mate) candidate may also have contributed to a higher level of anxiety about the ICC threat among members of Ruto's own community over this period.

It is notable, though, that at no time did Kalenjin support for the ICC process approach zero, with more than one in five supporting it from the outset, aside from the April, 2012 survey results, though it regained most of this 'lost ground'

²⁵ In five of these surveys, the question was a preference-choice between the ICC, a local tribunal, or forgiveness-amnesty (December 2010, April 2011, July 2011, October 2011 and February 2013), while in the other two it was simply one of being 'happy' or 'unhappy' with the ICC's involvement (December 2011, April 2012). These surveys used one of two types of sampling methodology: household / face-to-face (April 2011, July 2011 Oct. 2011, December 2011, April 2012 and February 2013; and mobile phone interviews (December 2010).

in the final pre-election poll.²⁶ However modest, this 'late hour' upswing could reflect the fact that a Kenyatta presidency held the promise of a reduction (if not the elimination) of the ICC threat for Ruto, especially given Jubilee's steadily rising poll numbers – and their repeated claims of confidence in a first-round victory.²⁷

A similar contrast is seen in another finding from the July 2011 survey (a full six months after the 'Ocampo-6' were named): nearly three times as many Kalenjin as Mt Kenya respondents (30% vs 12%) preferred the 'cases-dismissed-with-amnesty' option, even if the latter figure still far exceeds that for each of the main ethnic supporters of the Odinga side of the political divide: the Luo (3%), Luhya and Kamba communities (4% each).

Altogether the survey results suggest that notwithstanding the ICC prosecutors' repeated assertions that their task was 'a criminal investigation and not a political analysis' (see, eg, Reuters 12 May 2010), and that the 'accountability targets' were 'individuals rather than communities' (*The Standard* 26 October 2012), the Court's involvement was perceived in highly partisan-communal terms throughout this period, just as the PEV itself had been.

MOVING TOWARDS THE FINISH LINE: THE WEST'S ICC 'GODSEND'

If Uhuru wins, the ICC will just disappear, but if Raila wins he'll be sure to arrest both Uhuru and Ruto ...

The ICC is a tool of the West, used just to oppress Africa. Why not charge President Bush and those other Western leaders instead of only targeting Africans?

Personal Interview, Limuru, 4 March 2013

26 Examination of such demographic variables as age, religion, education level and income did not reveal any basis for this contrast, but sub-ethnic identities were not captured. Significant here, however, is the fact that among Mt Kenya/Kalenjin respondents who reported that they were not intending to vote for Jubilee, 33% cited the encumbrance of the ICC trials as the main reason; next most frequently cited was an association with corruption, by only 8%, while 29% declined to answer the question (IPSOS-Synovate 2013a). Yet based on the official results, this disinclination to vote for Jubilee weakened somewhat as election day approached.

27 This was seen, for example, in Mukurwe-ini MP Kabando wa Kabando's boast that Jubilee would win with 55%, notwithstanding all the opinion polls to the contrary (K-24 News 23 January 2013). It should also be noted that Kenyatta and Ruto did not announce their joint candidacy until 19 October. Earlier, in August, Musyoka claimed that he and Ruto had agreed on a joint ticket (*Sunday Standard* 19 August 2012) and just a week before the Kenyatta-Ruto announcement Odinga had attempted to strike a similar deal with the latter (*Daily Nation* 12 October 2012).

President Obama clearly stated that the choice of who will lead Kenya is up to the Kenyan people, but it is also important to note that choices have consequences. We live in an interconnected world and people should be thoughtful about the impact that their choices have on their nation and on the world.

Carson February 2013

It was a Godsend! I mean, here were foreign powers dictating to Kenyans on how to vote. We were shocked that a junior officer [sic] in the US government could contradict his boss. It also made Raila look like a project of Western powers and we loved it. Jubilee went into overdrive.

Sunday Standard 26 May 2013

Throughout 2012, when it was still assumed that the elections would take place during that year, attention to – and tensions over – the ICC issue increased due to a combination of the approaching election and the progress of the cases themselves. As indicated in Figure 3, on 23 January charges were confirmed against four of the six original suspects, including Kenyatta and Ruto. (The cases against Kosgey and Ali were dropped on the grounds of insufficient evidence; the ‘numerical balance’ in the original ODM-PNU distribution of cases remained, however.) A mobile-phone poll conducted the following week revealed that fewer than half of all respondents (48% and 47%, respectively) felt that Kenyatta and Ruto remained legitimate presidential contenders. Just over two months later these figures had slipped to 44% and 42% (with 49% and 51% holding the view that they should retire from politics until they were cleared and 7% having no opinion (IPSOS-Synovate Poll Release 1 May 2012)). Yet, as shown in Figure 2, expressed presidential voting intentions in this period (the 12 months from October 2011) were nearly constant, with Odinga getting about a third of such expressed support, and Kenyatta around a quarter.

The results of the April 2012 poll – just under a year before the election – reflect this pattern, with Odinga leading Kenyatta by 12% (34% to 22%), with 9% expressing support for Musyoka and 8% backing Ruto (and 10% ‘undecided’). Combining these still-hypothetical choices gives Odinga/Musyoka a 13% ‘lead’ over Kenyatta/Ruto (43%-30%) (IPSOS-Synovate SPEC Barometer 1 May 2012). The remainder was divided among the several minor candidates. Significantly, this gap also reflected the fact that within Kenyatta’s own Central Province only 72% affirmed their support for his candidacy ‘now that the charges against him at the ICC have been confirmed’. But while such figures seemed to have bolstered

the Odinga campaign's confidence, they also indicated that a first-round victory for him was highly unlikely.

Such a conclusion is reinforced by the results of another question included in this survey: 'Who would you vote for if neither Kenyatta nor Ruto were candidates?' Ominously for Odinga, this scenario gave him no measurable gain, as most of the ICC defendants' survey votes were 'inherited' by three other potential candidates, first among them being Musyoka, who thereby gained 10% (from 9% to 19%). (The other main 'beneficiaries' were Mudavadi – up 5% to 10% – and Martha Karua – to 9% from 5% – with most of the balance accruing to the 'undecided' category.) This was partly a consequence of his numerous 'shuttle diplomacy' visits on their behalf (noted above) and his earlier close association with both Kenyatta and Ruto in the so-called 'KKK' (Kikuyu, Kalenjin, Kamba) alliance (*Daily Nation* 24 January 2011). This, along with the general role he had played as Kibaki's dutiful (and largely 'anti-Odinga') vice-president since the last election, meant that many of the ICC defendants' supporters apparently viewed him as a 'safe' alternative in the event that their candidates could not stand. As late as December, shortly before he joined Odinga as his running-mate, Musyoka revealed that Kenyatta and Ruto had agreed to support his presidential candidacy but had subsequently 'betrayed' him (*The Star* 3 December 2013, pp 1, 6).

During this entire period, however, while the two ICC suspects continued to pursue their individual presidential ambitions, their often in-tandem public appearances underscored their associated judicial and electoral fates, even if Ruto was always the junior partner.²⁸ Moreover, as the election approached, hopes among Odinga's backers for a presidential contest absent the ICC indictees slowly evaporated, as their trial dates were repeatedly pushed back (as noted above), and several local challenges to their candidacies based on the integrity-requirement provisions of the new constitution were dismissed by both the judiciary and the IEBC.²⁹

Towards the end of 2012, however, CORD's fading hopes were nearly reversed by a new scenario: that Kenyatta would pull out of the race in favour of Mudavadi, who had formally broken ranks with Odinga on 2 May of that year

28 Beyond Ruto's smaller home-ethnic base (and hence, lower poll numbers), certain personal negatives (such as several corruption cases still in court) and several other factors fed into this understanding, including: Kenyatta's earlier presidential bid in 2002 (for which Ruto was an enthusiastic campaigner), a close association with key members of the incumbent Kibaki regime, and his family's apparently limitless wealth. (In 2011, *Forbes* magazine ranked him the 26th-richest individual in Africa.)

29 On 15 February 2013 the High Court rejected the petition filed by a local NGO with this objective (*Kenya Law Reports* 19 March 2013). Earlier, the IEBC had claimed that only it had the authority to determine this issue, and only after nomination papers had been filed, but when the Jubilee team did so, on 30 January, no objections were raised.

(having alleged a democracy 'deficit' within ODM³⁰) in order to campaign for the presidency on his own (*Kenya Daily Post* 6 December 2012). Given his minimal poll ratings at the time, even in his own Western region, as compared to Odinga's, as well as the presence of several 'minor' Kikuyu candidates in the race, who might help split Kenyatta's 'orphaned' votes, this prospect was welcomed by the CORD campaign.

Two factors had encouraged Kenyatta to contemplate this exit option. One was the perception among some senior State House officials that there were simply not enough Kenyans prepared to support the succession of one Kikuyu president by another. The other was the increasing anxiety among senior figures within the business community (many of them Kikuyu) about the likely impact of damaging sanctions should Jubilee win (*Daily Nation* 16 December 2012). But the 'deal' collapsed within a week of its crafting (*The Star* 18 December 2012; *The County Weekly* 7-13 January 2013),³¹ leaving the Kenyatta-Ruto pair in mid-December to finalise their campaign strategy, under the eye-catching banner of 'UhuRuto'.

The responses to several other questions about the (possible) ICC trials included in IPSOS-Synovate's final pre-election survey shed additional light on how this issue was influencing the dynamics of the campaign during its final phase.³² They reveal a nearly even split (49% vs 46%) between support for Hague – as compared to Kenya-based – trials, assuming they were to proceed. At the same time, as shown in Figure 5, whereas 56% wanted them to proceed in any location (as also shown in Figure 3), 39% preferred that they be 'dismissed with amnesty.' By comparison, two years earlier only 3% supported this latter option, an indication of how much the issue had been politicised (IPSOS-Synovate SPEC Barometer Release 15 April 2011).

30 Having been Odinga's de facto running-mate in 2007, it was generally assumed he would again assume that role until this startling announcement.

31 Several hypotheses were offered as to why the deal collapsed, the most convincing being Kenyatta's failure to overcome the resistance among members/candidates in his own party who were dependent on his ethno-partisan coattails to win. Eventually taking nearly two-thirds of the vote in Mudavadi's home region, it appears that Odinga was the main beneficiary of this deal-gone-bad, however, since it made the former look gullible and weak – and Kenyatta duplicitous – at least to many of Mudavadi's fellow Luhya.

32 By this time, just over 93% of all respondents could name at least one of the four remaining defendants (with 90% and 87% being aware of Kenyatta and Ruto, respectively). The comparable figures obtained in an IPSOS-Synovate survey conducted within a week of the naming of the 'Ocampo-6' in December 2010 were 81% and 86%. Only respondents who could name at least one of the four defendants were asked these ICC-related questions.

Figure 5
ICC Options: By Total, Main Presidential Candidates' Supporters

'The ICC cases should ...'	Total (n = 5 580)	Odinga/ Musyoka (n=2 437)	Kenyatta/Ruto (n=2 568)
... go forward	56%	84%	26%
... be dismissed with amnesty	39%	12%	68%
Not Sure	3%	2%	3%
RTA	2%	2%	3%

Source: IPSOS-Synovate SPEC Survey February 2013

But the impact of this issue on the campaign is even more evident when these results are correlated with supporters of the main candidates. Among CORD's, it was more than three times greater than among supporters of their Jubilee-indictee rivals (84% vs 26%), even if just over a quarter of the latter's supporters also favoured this option, suggesting that such a yearning for accountability had not been entirely extinguished, even among those prepared to vote for them. Though two other factors may also have been involved here: a conviction that either or both defendants would emerge unscathed after their trials – thus enhancing their status – and a realisation that at this stage such a 'dismissed-with-amnesty' option no longer existed.

Nevertheless, had these indicative figures held through to election day, Jubilee might well have failed even to approach a first-round victory. Instead, an attempt by 'Westerners', apparently aimed at influencing the Kenyan electorate, backfired, providing the Jubilee campaign with a 'godsend' that it was able to exploit adroitly.

Such 'neo-colonial' claims had been part of the anti-ICC narrative well before the formal emergence of the Jubilee alliance. Early in 2012, for example, visiting British Foreign Minister William Hague (his surname being perhaps an unfortunate coincidence) echoed numerous past statements by resident and visiting Western officials when he called for 'justice for the post-election violence victims' and 'an end to impunity'.

This triggered a swift rejoinder from Kenyatta and a group of aligned MPs that the ICC cases were 'part of a foreign scheme to influence the outcome of elections' (*Sunday Standard* 5 February 2012). Yet despite Odinga's vehement denial (*Daily Nation* 8 February 2012),³³ Ruto repeated the allegation shortly afterwards,

³³ In his denial, Odinga reminded his critics that he had supported the establishment of a special tribunal to hear all the major post-election violence cases, but that this had been rejected by those closest to Kenyatta and Ruto (*Daily Nation* 6 February 2012).

describing the instigation of the cases as part of a (Western) 'plot' to install a more pliant individual in office (*Daily Nation* 7 March 2012). He took the same stand in response to similar comments by visiting US Secretary of State Hillary Clinton the following August (*Daily Nation*, 7 August, 2012).

Claims by such figures as British MP Ian Paisley in March that Britain and other 'foreign governments' were indeed using the ICC to 'clear the way for Prime Minister Raila Odinga to ascend to power' only served to strengthen such perceptions (*Daily Nation* 20 March 2012).

It was at this time that several anti-Odinga MPs sought to 'document' such interference (though the documentation was later described as fraudulent by a parliamentary Select Committee), as one local analyst reminded his readers early in 2013, and which highlighted how Odinga and his supporters unwittingly bolstered the very claims that were being made against them:

The Prime Minister often plays into the hands of the two suspects who have often attacked him in public. The height of it was in March [2012] while responding to claims in Parliament from MPs allied to Mr Kenyatta and Mr Ruto who tabled suspicious documents alleging that the British government was working with the ICC to have President Kibaki indicted over the violence after he leaves office.³⁴ The office of the Prime Minister released a scathing statement on the suspects.³⁵

'Crimes against humanity are worse than murder. Yet these suspects of crimes against humanity remain free to traverse the country holding "prayer meetings" while Kenyan suspects of the lesser crime of murder conduct their prayers only behind the forbidding walls of Kimiti Maximum Security Prison, often for years before their cases are heard,' said a statement from the Raila Odinga Secretariat. 'The guilt or innocence of suspected perpetrators is proved through trial, where the facts of the case are examined. No one becomes innocent through public grand-standing and shouting from rooftops "I am innocent".'

From this, the two, who have packaged themselves as victims of persecution by power [sic] foreign forces who are intent on killing their political dreams, got the ammunition needed to paint Odinga

34 An investigation by Parliament's Defense and Foreign Relations committee eventually determined the documents were fake (*The Star* 14 December 2012).

35 Raila Odinga Secretariat 12 March 2012. As the secretariat put it: 'It is clear that the present posturing against the ICC, complete with weaving in of the PM's name and that of the British Government, is a dress rehearsal for non-cooperation with the ICC. It is clear that the foundation is being laid for the accused to refuse to attend trials of the cases against them.'

36 *The Standard* 28 March 2012.

as working with these forces. They roped in their communities, effectively alienating the PM from their regions

Wanjala 2013, p 42

This is not to say that Odinga and his allies were entirely consistent on this matter, occasionally questioning the moral logic of this 'accountability' process themselves. Such was the case during Ocampo's first visit to Kenya, in May 2010, when Odinga suggested that those responsible for mishandling the 2007 election should also be subjected to ICC scrutiny, and early in 2012, when Odinga's wife released a 'personal statement' advocating that the cases be 'handled here in Kenya', while expressing sympathy for the defendants' families (*Weekly Citizen* 13-19 December 2010; *Daily Nation* 27 January 2012).

Nevertheless, it was the 'interference' on the eve of the election itself that appears to have had the greatest impact. This began with Kofi Annan, who, during one of his reform progress update visits to Kenya, in October, made it clear to Kenyans that a Kenyatta or Ruto government 'would have grand implications, which everyone needs to ponder', a message he repeated two months later in a BBC interview (*The Standard* 21 October 2012; BBC 4 December 2012). Moreover, given that this second 'message' came just as negotiations between Kenyatta and Mudavadi had reached their most sensitive stage, it may be asked whether Annan was aware of this situation and, if so, had hoped to influence its outcome.

Next, British High Commissioner Christian Turner, during a Rift Valley tour in January, 2013, remarked to journalists that while 'Kenyans are free to elect the leaders they want', the British government does not have contact with ICC indictees 'unless it is essential' (*The Standard* 16 January 2013).

Evidently in response, a few days later Kenyatta told an Al Jazeera interviewer that he believed it was Kibaki and Odinga who should be on trial at The Hague since they, not he, had been electoral adversaries in 2007, while recalling that when he was declared the loser in the 2002 contest he quickly conceded defeat (*Daily Nation* 24 January 2013).

However, this issue only became a Jubilee campaign centrepiece after US President Barack Obama's video message to Kenyans on 5 February 2013. In it, he emphasised the need for a 'free and fair' election, while adding that '[t]he choice of who will lead Kenya is up to the Kenyan people' (Obama 5 February 2013). Since he made no mention of the ICC cases, it appeared that Obama's main concern was that the election be peaceful, given American/Western security interests in the region, yet the remark was immediately clasped by the Jubilee candidates, who proclaimed at subsequently rallies that it 'should send a clear message' that 'Kenyans have the right to elect a leader of their choice', and thus

their rivals 'should now change tack and engage us on issues and not on the basis of sanctions or the ICC' (*The Standard* 7 February 2013).

But this message was evidently not entirely the one that Obama had intended to convey. Thus, his out-going Assistant Secretary of State for African Affairs (and former ambassador to Kenya), Johnnie Carson, quickly arranged a teleconference with Kenyan journalists to insist that such election choices 'have consequences', even if he mentioned no names (Carson February 2013), a position immediately echoed by the French and Swiss envoys, who underscored their own governments' commitment to upholding the Rome Statute in terms identical to those used earlier by the British High Commissioner (*Daily Nation* 8 February 2013).

For their part, CORD leaders, seeing this confrontation as an electoral opportunity, encouraged the public to consider the practicality of running the government from abroad, while warning of the economic damage that such 'consequences' would entail. FORD-Kenya leader and former foreign minister, Moses Wetang'ula,³⁶ told a CORD rally a few days later:

You must know what the international community says about this country. We must watch carefully because we can't dismiss what they say as malice. We cannot afford to be isolated by our partners.

The Standard 11 February 2013

But such statements were, likewise, grist for the Jubilee mill, as 'defending Kenya's sovereignty' – with Odinga linked to those assaulting it (*Hard Talk Kenya* 4 March 2012).³⁷ This was so despite the fact that Ruto's trial was then set to begin on the very day of a possible second round (10 April), and Kenyatta's on the next, forcing Kenyatta on occasion to downplay the issue,³⁸ while giving CORD hope that such a calendar coincidence would help drive home the point to both Jubilee and the remaining (if few) 'undecided' voters that theirs was, in the end, a lost cause.

Several additional findings from IPSOS-Synovate's final pre-election survey suggest how Kenyans' views on these issues largely reflected their partisan alignment. Two-thirds (66%) of Odinga's/Musyoka's supporters agreed that

36 Along with Musyoka, he had been among the most intransigent PNU leaders during the 2008 post-election crisis, demanding that Odinga/ODM 'go to court' if they had any complaints about Kibaki's highly irregular victory (Miguna 2011 p 217).

37 The fact that Odinga had reportedly offered to 'push' the ICC for the cases to be brought to Kenya during his futile attempt to woo Ruto back to his side nearly a year before the election lent additional credence to this claim (even if others close to Odinga denied that he had made any such promise) (*The Star* 5 May 2012).

38 For example, in falsely stating during a campaign meeting with the Visa Oshwal (Hindu) business community in Nairobi at the end of January that their cases would not run concurrently (*Daily Nation* 31 January 2013) and in asserting in the second presidential debate that his ICC responsibilities were just a 'personal matter'.

‘representatives of foreign governments should tell Kenyans how their relations with foreign countries will be affected if the ICC indictees are elected’, whereas exactly the same proportion of Kenyatta’s/Ruto’s supporters opposed such pronouncements. Regarding the perceived damaging economic ‘consequences’ resulting from a Jubilee win, only 9% of CORD supporters thought this unlikely, compared with 48% of their Jubilee counterparts, even if nearly as many of the latter (41%) foresaw either major or moderate negative effects following a Kenyatta-Ruto victory.³⁹

It may thus be concluded that Western interference had the opposite effect of its intention – helping Jubilee both to mobilise its existing support base more energetically and to win over a limited but critical number of additional voters. As *Africa Confidential* (7 June 2013) put it:

On balance, the cases helped the indictees: some electors said they wouldn’t vote for Kenyatta and Ruto because of the charges but many more said they would, as a way of asserting national sovereignty ...

Actual constituency-level election results confirmed such ‘hero’-status, revealing a level of ethnic polarisation even greater than that of the final polls. Voters in the Mt Kenya region gave the Jubilee presidential ticket over 95% of their vote, with Kalenjin areas of the Rift Valley doing likewise at just a slightly lower level (about 92%). (These figures compare with about 99% of the vote for CORD among Odinga’s fellow Luo, though falling to about 85% among Musyoka’s Kamba community.) Evidently more voters than not took to heart Kenyatta’s assertion that a vote for Jubilee was ‘a vote of no-confidence in the ICC’ (*Daily Nation* 31 January 2013), as he became the first such indictee to be elected head of state.

CONCLUSION

‘The I.C.C. was definitely a factor in this election, but not necessarily the factor you would expect,’ said Maina Kiai, a prominent Kenyan human rights defender. ‘It got people out. People were saying, “They’re our boys, they’re our sons, we need to protect them.”’

New York Times 7 March 2013

[Jubilee is best described as] a strange beast, consisting of two such different parts that had been thought to exist only in fantasy

Waweru 2012

³⁹ Indeed, the fact that nearly half of Jubilee supporters expected that such damage would occur suggests just how steadfast was their commitment to ‘UhuRuto’.

Going into this election two related questions occupied particular attention: who will win (whether in the first or second round) and what will be the winner's position with regard to the ICC cases. Whatever doubts remain – and whatever future (if unofficial) investigations reveal – about whether Jubilee did, in fact, get more than the mandatory 50%+1 threshold,⁴⁰ it is now the second question that has riveted national and international attention.

Notwithstanding the African Union's /Heads of State conference's controversial decision at the end of May 2013 to seek 'referral' of the Kenyan cases to some regional or national judicial institution (*Daily Nation* 27 May 2013; Kipkorir 2013), it is unclear how this could be done, based on the court's legal procedures, and the UN Security Council's repeated refusal to intervene, most recently in declining to respond to Kenya's Permanent Representative to the UN, who sought to have the charges dropped altogether (*Daily Nation* 9 May 2013; *The East African* 25-31 May 2013, pp 8-9; *Daily Nation* 27 May 2013).⁴¹ Thus, even with the recent postponement of their trial dates, first to 9 July and then to 12 November for Kenyatta (*The Star* 20 June 2013) and to 10 September for Ruto and Sang (*Daily Nation* 3 June 2013),⁴² and notwithstanding the request by the defendants' lawyers that their courtroom appearances take place via video link,⁴³ it remains likely that both trials will eventually go ahead, even if the case against the president is said to be the weaker of the two.

In this regard, myriad scenarios are possible. One, if perhaps the most unlikely, is that, despite their protestations to the contrary, either or both of them will fail to appear in The Hague when their trials begin. This could trigger the issue of warrants for their arrest. But since these could not be effected nationally (or now, presumably, regionally), both the president and his deputy would become fugitives from justice, in turn triggering certain (if unknown) 'consequences' from Kenya's most important development partners (aside from China).

Another scenario would unfold if they do attend their trials at the stipulated times. In that case, however, because of their expected lengthy – and overlapping – duration, the president and his deputy could face major challenges in attempting to perform at least some of their official duties from abroad (Mue 2013).

40 *Africa Confidential* (21 June 2013) recently raised serious questions about the official IEBC result.

41 Note, however, Kenyatta's reaffirmation of his commitment to co-operate with the ICC in a post-election BBC interview (*Daily Nation* 14 May 2013).

42 They also recommended that certain formal sessions of the trial be held in Kenya or Tanzania (Arusha), but this must be affirmed by two-thirds of the 16 ICC judges. Local human rights groups have protested, however, saying any hearings in the region would lead to the further intimidation – and attrition – of witnesses; indeed, it was this issue that led the ICC to drop the Muthaura case (Reuters/AFP 4 June 2013).

43 While the Trial Chamber subsequently ruled that Ruto will be allowed to be absent during 'some sessions' of his trial, it rejected the video-link proposal (*Daily Nation* 18 June 2013).

Neither of these scenarios, however, is likely to undermine the ethnic coalition that underpinned their electoral victory and which now provides a solid working majority in both houses of Parliament and the basis for ongoing executive branch appointments. Nor would one in which the ICC ‘blinks’ and both cases are terminated (Wrong 2013).

But it could be severely tested in a situation where Kenyatta’s case is dropped while Ruto’s goes to full trial. And the same could occur if both trials go forward, but only one results in a conviction.

The political impact of such varied possibilities underscores the pragmatically fluid nature of ethnic mobilisation and alliances in Kenya generally, and in this election in particular. As Mutua, (2013), a US-based Kenyan analyst (and an openly bitter critic of the winners) could conclude in the wake of Jubilee’s triumph:

If the International Criminal Court is right, the two funded death squads to kill, maim, and loot each other’s folks. Mr Ruto only subordinated himself to Mr Kenyatta because he couldn’t win on his own. Nor did he have good options after falling out with ODM’s Raila Odinga. Only a victorious partnership with Mr Kenyatta – a fellow ICC indictee – could possibly save the pair from The Hague. It was a strategic alliance.

Indeed, the newly sworn-in deputy-president made the same point in his impromptu remarks during the inaugural ceremony on 9 April, 2013:

In 2002, many people did not believe it was possible for people from Nyanza [ie, the Luo] to vote for Kibaki, [yet] they voted almost to a man for him. In 2007, many people did not believe Rift Valley [ie, the Kalenjin] would vote for Raila Odinga, [yet] they did it almost to a man. In 2013, many people did not believe that Kalenjins would vote for Uhuru [a Kikuyu, yet] they indeed voted [for him] almost to a man.⁴⁴

As the survey data presented above have suggested, the dramatic rise and success of the ‘UhuRuto’ campaign is best understood as a conflation of a numerically robust ethnic alliance with a national-‘sovereignty’ agenda and one which, in order even to approach an overall electoral majority, needed to submerge the initial ‘accountability’ agenda of justice for the PEV victims of 2008.

⁴⁴ In this context Ruto evidently did not deem relevant the fact that Kenyatta had won a majority of votes in all Kalenjin-dominated constituencies in the 2002 election.

In the circumstances, even if this election was unique in the unprecedented 'international' nature of a major part of the campaign's content – and indeed, that a substantive issue assumed such prominence – both voter registration and voting patterns underscore the reality of (near-unanimous) solidarity in such ethnic terms, even for most voters from outside the communities of the presidential candidates themselves. Whether this 'novelty-within-continuity' was simply a one-off 'fluke' that opens the door to a more durable issue-oriented basis for electoral competition, or, rather, constitutes nothing more than old ethnic 'wine' in a new international-issue 'bottle', remains to be seen.

— REFERENCES —

- Africa Confidential* 54(12), 7 June 2013.
- Africa Confidential* 54(13). 2013. 'The Long, Long Vote Count', 21 June.
- Arief, A, M Browne, M A Rhoda & M C Weed. 2011. *International Criminal Court Cases in Africa: Status and Policy Issues*. Washington, DC: Congressional Research Service.
- Atieno-Odhiambo, E S. 2004. 'Hegemonic Strategies & Instrumentalities of Survival: Ethnicity and Democracy in Kenya'. In B Berman, D Eyoh & W Kymlicka (eds). *Ethnicity & Democracy in Africa*. London: James Currey.
- BBC. 2012. 'Kofi Annan urges Kenyans not to vote for indicted politician', 4 December.
- Bogaards, M. 2007. 'Electoral Systems, Party Systems, and Ethnicity in Africa'. In M Basedau, G Erdmann & A Mehler (eds). 2007. *Votes, Money and Violence: Political Parties and Elections in Sub-Saharan Africa*. Scottsville: University of KwaZulu-Natal Press.
- Branch, D & N Cheeseman. 2009. 'Democratization, sequencing, and state failure in Africa: Lessons from Kenya'. *African Affairs* 108(430), January.
- Brown, S with C L Sriram. 2012. 'The Big Fish Won't Fry Themselves: Criminal Accountability for Post-Election Violence in Kenya'. *African Affairs* 111(443).
- Carson, J. 2013. 'Briefing on the Upcoming Kenyan Elections', Africa Regional Media Hub. Available at: janakcommunicationsupdates.blogspot.com/2013/02/uproar-in-kenya-over-us-johnnie-carsons.html
- County Weekly, The*. 2013. 'How MPs shot down Uhuru, Mudavadi pact', January.
- Daily Nation*. 2009. 'Kenya: ODM Says Will Back Kenya Tribunal Bill', 15 August.
- Daily Nation*. 2011. 'KKK alliance draws more criticism', 24 January.
- Daily Nation*. 2011. 'Raila Disowns VP's Diplomatic Offensive Over ICC', 26 January.
- Daily Nation*. 2012. 'Ida calls for local trial for ICC suspects', 27 January.
- Daily Nation*. 2012. 'They voted for Hague but are now praying with ICC suspects', 6 February.

- Daily Nation*. 2012. 'Raila Denies Role in Uhuru, Ruto ICC Cases', 8 February.
- Daily Nation*. 2012. 'Ruto links ICC case to State House bid', 7 March.
- Daily Nation*. 2012. 'British MP says West plotting Raila win', 20 March.
- Daily Nation*. 2012. 'ICC sets trial dates for Kenya's cases', 9 July.
- Daily Nation*. 2012. 'Ruto accuses Clinton of meddling', 7 August.
- Daily Nation*. 2012. 'Secrets of Raila meeting with ex-ODM ally', 12 October.
- Daily Nation*. 2012. 'Why OP officials want Mudavadi for president', 6 December.
- Daily Nation*. 2013. 'Kibaki, Raila should be on the ICC list, says Uhuru', 24 January.
- Daily Nation*. 2013. 'Uhuru allays fears of power vacuum over Hague trial', 31 January.
- Daily Nation*. 2013. 'ICC will not affect my regime, says Uhuru', 31 January.
- Daily Nation*. 2013. 'France to have only "essential contact" with Jubilee leaders', 8 February.
- Daily Nation*. 2013. 'Kenya asks UN to end trial of Uhuru, Ruto', 9 May.
- Daily Nation*. 2013. 'President Kenyatta promises to cooperate with ICC', 14 May.
- Daily Nation*. 2013. 'African leaders back plea to halt ICC trial', 27 May.
- Daily Nation*. 2013. 'ICC sets Ruto, Sang trial date for September 10', 3 June.
- East African, The*. 2013. 'Kenya's quest to end cases at The Hague enters crucial stage', 25-31 May.
- Economist, The*. 'Public opinion in Kenya: Politics and justice', 10 October.
- Essoungou, A-M. 2011. 'African elections: works in progress: Trends are encouraging, but some polls still fall short'. *Africa Renewal*. Available at: www.un.org/africarenewal/magazine/august-2011/african-elections-works-progress.
- Hard Talk Kenya*. 2012. 'Telling It Like It Is: "Raila Odinga behind the ICC Conspiracy!" – Rift Valley MPs', 4 March. Available at: hardtalkkenya.wordpress.com/2012/03/14/raila-odinga-behind-the-icc-conspiracy-rift-valley-mps/
- Human Rights Watch. 2008. '*Ballots to Bullets: Organized Political Violence and Kenya's Crisis of Governance*'. New York: Human Rights Watch.
- Ictville.com. 2013. 'The Tyranny of Numbers (Hypothetically); Mutahi Ngunyi Predicts a Jubilee Alliance Win'. Available at: ictville.com/2013/02/video-the-tyranny-of-numbers-hypothetically-mutahi-ngunyi-predicts-a-jubilee-alliance-win/
- International Commission of Jurists-Kenya Section. 2010. 'ICJ Kenya Position Paper on the Crime of Aggression and Articles 8 & Article 124 of the Rome Statute and the Stocktaking issues at the ICC Review Conference'. Kampala, Uganda, 31 May-11 June.
- International Crisis Group. 2012. 'Kenya: Impact of the ICC Proceedings'. *Africa Briefing*, 9 January.
- International Crisis Group. 2013a. 'Kenya's 2013 Elections'. *Africa Report* 197, 17 January.

- International Crisis Group. 2013b. 'Kenya after the Elections'. *Africa Briefing* 54, 15 May.
- IPSOS-Synovate. 2011. SPEC Barometer Release, 15 April.
- IPSOS-Synovate. 2012. SPEC Barometer, 1 May.
- IPSOS-Synovate. 2013a. SPEC Barometer, 24 February.
- IPSOS-Synovate. 2013b. Post-Election Analysis, 19 March.
- K-24 News. 2013. 'Kabando: Jubilee will win on first round', 23 January. Available at: www.news24.co.ke/MyNews24/Kabando-Jubilee-will-win-in-first-round-20130129
- Kagwanja, P. 2009. 'Courting genocide: Populism, ethno-nationalism and the informalisation of violence in Kenya's 2008 post-election crisis'. *Journal of Contemporary African Studies* 27(3), July.
- Kanyinga, K, D Okello & A Akech. 2010. 'Contradictions of Transition to Democracy in Fragmented Societies: The Kenya 2007 General Elections in Perspective'. In K Kanyinga & D Okello (eds). *Tensions and Reversals in Democratic Transitions: The Kenya 2007 General Elections*. Nairobi: Society for International Development and Institute for Development Studies, University of Nairobi.
- Kenya Daily Post, The. 2012. 'Uhuru and Ruto to step down for Mudavadi and Kosgey', 6 December. Available at: www.kenyan-post.com/2012/12/uhuru-and-ruto-to-step-down-for.html.
- Kenya Law Reports. 2013. Petition No 552 of 2012, 19 March. Available at: www.kenyalaw.org/newsletter1/Issue072013.php
- Kenya National Commission of Human Rights. 2008. 'On the Brink of the Precipice: A Human Rights Account of Kenya's Post-2007 Election Violence', 15 August.
- Kipkorir, D. 2013. 'African leaders back plea to halt ICC trial', *Daily Nation* 27 May'.
- Kipkorir, D. 2013. 'In Yoweri Museveni Africa has a false prophet on ICC and justice'. *Sunday Standard* 2 June.
- Lindenmayer, E & J L Kaye. 2009. 'A Choice for Peace?: The Story of Forty-One Days of Mediation in Kenya'. New York: International Peace Institute, March.
- Maina, W. 2013a. 'Investigating Ngunyi's Tyranny of Numbers', *The Star*, 26 February.
- Maina, W. 2013b. 'Kenyans Don't Always Vote Tribally'. AFRICOG, 25 February.
- Maina, W. 2013c. 'Five key reasons Kenya's Supreme Court failed crucial election petition test'. *The East African* 20-26 April.
- Mghanga, M. 2010. *Usipoziba Ufa Utajenga Ukuta: Land, elections and conflicts in Kenya's Coast Province*. Nairobi: Heinrich Boll Foundation.
- Miguna, M. 2012. *Peeling Back the Mask: A Quest for Justice in Kenya*. Gilgamesh Africa.
- Mue, N. 2013. 'Addressing the Elephant in the Room: Implications of an Uhuru/Ruto Presidency for Kenya in light of the ICC trials'. Seminar Presentation, 'Kenya's 2013 Elections – Issues, Actors and Scenarios', Institute for Strategic Studies, Nairobi, 28 February.

- Mueller, S. 2008. 'The Political Economy of Kenya's Crisis'. *Journal of Eastern African Studies* 2(2), July.
- Muigai, G. 2004. 'Jomo Kenyatta & the Rise of the Ethno-Nationalist State in Kenya'. In B Berman, D Eyoh & W Kymlicka (eds). *Ethnicity & Democracy in Africa*. London: James Currey.
- Muluka, B. 2010. 'Welcome, Moreno-Ocampo, to slay the dragon of impunity coiling around us'. *Saturday Standard* 3 April.
- Muluka, B. 2011. 'Was the Rift Valley ever behind a Raila presidency?'. *Nairobi Law Monthly* 2(4), April.
- Muluka, B. 2013. 'Sins that killed a campaign strategy'. *Nairobi Law Monthly* 4(4), May.
- Mutua, M. 2012. 'Why are Kenyans so easily manipulated by tribal elites?'. *Sunday Nation*, 28 October.
- Mutua, M. 2013. 'Is there too much Ruto at President Kenyatta's side?'. *Sunday Nation*, 14 April.
- Mwagiru, M. 2008. *The Water's Edge: Medication of Violent Electoral Conflict in Kenya*. Nairobi: Institute of Diplomacy and International Studies.
- Nairobi Law Monthly, The. 2011. 'The ICC elections', April.
- New York Times. 2013. 'Leader of Vote Count in Kenya Faces U.S. With Tough Choices', 7 March.
- Obama, B. 2013. 'President Obama's Message to the People of Kenya', The White House, 5 February. Available at: www.whitehouse.gov/photos-and-video/video/2013/02/05/president-obama-s-message-people-kenya.
- Oloo, A. 2010. 'Party Mobilization and Membership: Old and New Identities in Kenyan Politics'. In K Kanyinga & D Okello (eds). *Tensions and Reversals in Democratic Transitions: The Kenya 2007 General Elections*. Nairobi: Society for International Development/Institute of Development Studies.
- Opanga, K. 2012. 'Alliances are not about peace, they are about power'. *Sunday Nation*, 21 October.
- Orange Democratic Movement. 2011. 'Petition To The Members Of UN Security Council Regarding The Kenyan Cases At The ICC', 11 March.
- Raila Odinga Secretariat. 2012. 'Press Release on the Coming General Election', 12 March.
- Republic of Kenya. 2008. *Report of the Commission of Inquiry into Post-Election Violence*. Nairobi: Government Printer.
- Reuters. 2010. 'INTERVIEW-ICC: Prosecutor Targets Up to Six Kenyans', 12 May.
- Reuters/ AFP. 2013. 'Fears for Witness Protection as Transfer of ICC Kenya Trial Mooted', 4 June. Available at: allafrica.com/stories/201306050519.html?aa_source=slideout.
- South Consulting. 2011. 'Progress in Implementation of the Constitution and other reforms'. *The Kenya National Dialogue and Reconciliation (KNDR) Monitoring Project Review Report*, October.

- Southall, R & H Melber (eds). 2006. 'Introduction'. In *Legacies of Power: Leadership Change and Former Presidents in African Politics*. Cape Town/Uppsala: Human Sciences Research Council/Nordikafrika Institut.
- Standard, The. 2011. 'Shuttle diplomacy over ICC cases escalates', 19 February.
- Standard, The. 2012. 'Show of solidarity as ICC suspects attend prayer meeting in Eldoret', 28 January.
- Standard, The. 2012. 'Raila Odinga Secretariat Press Release on the Coming General Election', 12 March.
- Standard, The. 2012. 'Conspiracy against The Hague?', 28 March.
- Standard, The. 2012. 'Bensouda jets in as Uhuru, Ruto intensify campaigns', 21 October.
- Standard, The. 2012. 'Bensouda comes face to face with IDPs' misery, 26 October.
- Standard, The. 2013. 'UK to avoid contact with ICC suspects', 16 January.
- Standard, The. 2013. 'Jubilee hails Obama's call, exudes confidence', 7 February.
- Standard, The. 2013. 'CORD warns against electing Uhuru, Ruto', 11 February.
- Star, The. 2011. 'Raila woos back Kalenjin', 4 June.
- Star, The. 2012. 'What Raila promised Ruto', 5 May.
- Star, The. 2012. 'An investigation by parliament's Defense and Foreign Relations committee eventually determined the documents were fake; "ICC 'dossier' not authentic, committee says', 14 December.
- Star, The. 2012. 'Uhuru agreed to step down and back me – Mudavadi', 18 December.
- Star, The. 2013. 'West's dilemma over Uhuru, Ruto', 16 February.
- Star, The. 2013. 'TNA, URP betrayed me – VP', 3 December.
- Sunday Nation. 2012. 'How ICC and Raila created "coalition of the accused"', 2 December.
- Sunday Standard. 2012. 'Uhuru, Ruto allies hit out at UK minister', 5 February.
- Sunday Standard. 2012. 'Kalonzo, Ruto to form coalition for easy win', 19 August.
- Sunday Standard. 2013. 'When ICC, land cases became a major headache for Uhuru and Ruto', 26 May.
- Tanui, K. 2011. 'In ICC prayers, be careful what you wish for'. *The Standard*, 4 August.
- Throup, D. 2012. 'Reading the Tea Leaves on the Kenyan Elections: Patterns of Violence and Political Alliances'. Centre for Strategic and International Studies, 16 November. Available at: csis.org/publication/reading-tea-leaves-kenyan-elections-patterns-violence-and-political-alliances.
- TOPIX. 2011. 'ICC complicates Raila's 2012 Kenya presidential bid', 23 April. Available at: www.topix.com/forum/world/kenya/TLLOFIFT4RSJ3ASHD
- Van de Walle, N. 2006. 'Tipping games: When do opposition parties Coalesce?'. In A Schedler (ed). *Electoral Authoritarianism: The Dynamics of Unfree Competition*. Boulder: Lynne Rienner.
- Wanjala, D. 2013. 'Big race shapes up'. *The Nairobi Law Monthly* 4(2), February.
- Waweru, D. 2012. 'The Rise of the 'UhuRuto''. *African Arguments*, 5 December.

- Available at: africanarguments.org/2012/12/05/kenya-the-rise-of-the-%E2%80%98uhuruto%E2%80%99-by-daniel-waweru/
- Weekly Citizen*. 2010. 'Raila's swift reaction to Ocampo bound to raise queries'.
- Wikipedia. 2013. 'Kenya Presidential Election'. Available at: en.wikipedia.org/wiki/Kenyan_presidential_election,_2013#Opinion_polling.
- Wolf, T. 2013. 'Opinion Polls: Factors that might influence outcome'. *Sunday Nation*, 24 February.
- Wrong, M. 2013. 'Indictee for President!', *International Herald Tribune – Latitude*, March 11.

BRIEFING

CONTINUITY OR REFORM IN ZIMBABWEAN POLITICS?

An overview of the 2013 referendum

Lloyd M Sachikonye

Lloyd M Sachikonye is an Associate Professor at the Institute of Development Studies, University of Zimbabwe
e-mail: sachi@zol.co.zw

INTRODUCTION

In the first post-independence constitutional referendum, held in February 2000, fewer than half the country's registered voters participated. The outcome of that referendum was that about 54% of voters voted against the draft constitution while 45% voted for it. The referendum proved to be a major watershed in Zimbabwean politics, partly because it signalled a decade-long slide into authoritarianism. It would take more than another decade for political parties to negotiate a fresh draft.

Relatively speaking, the 2013 referendum, held on 16 March, was, therefore, more successful in engendering greater participation and generating a positive result. An estimated 60% of the electorate participated, with an overwhelming 93% endorsing the draft constitution. What explains the upsurge in levels of voter participation in 2013 compared to 2000, and the different outcomes? Does the 2013 outcome signify a significant shift towards reform in Zimbabwean politics? These are the salient issues that this briefing seeks to address.

The briefing begins with a presentation of the highlights of the referendum results then chronicles the constitution-making process itself, reflecting on the key provisions contained in the draft. This forms the background for the reflections on whether these processes and the outcome signify a trend towards reform rather than a continuation of authoritarian politics.

HIGHLIGHTS OF THE 2013 REFERENDUM RESULT

The high expectations of voter apathy were not borne out by a turnout of approximately 60% compared with the 26% turnout for the 2000 referendum.

Indeed, the 2013 turnout was a 'surprise' to some politicians and the media (Cross 2013).

Both urban and rural areas experienced a reasonable turnout and similar voting patterns. However, the turnout in Bulawayo and the two Matabeleland provinces was relatively lower, perhaps signifying less interest in the referendum. In total, some 3.07-million voted 'yes', while some 179 000 voted 'no'. There were 56 000 spoilt ballots.

Several factors contributed to the relatively higher turnout in the 2013 referendum. First, the rules about where to vote were relaxed and voters were simply required to produce a valid identity document before voting. Second, the balloting itself was straightforward: it was a simple 'yes' or 'no' to the draft. Third, the major political parties, the Movement for Democratic Change-Tsvangirai (MDC-T) and Zanu-PF had endorsed the draft and urged their members to do the same. Fourth, although low key, the campaigning itself had been comparatively free from intimidation and violence. Fifth, since the adoption of the draft was a prerequisite for holding general elections within the context of the Global Political Agreement (GPA), the electorate understood the significance of the referendum vote.

Distribution of the Vote in the 2013 Referendum

Province	Yes vote	No vote	Spoilt ballots
Harare	468 176	41 060	8 222
Manicaland	388 297	22 586	6 802
Midlands	378 445	22 139	6 938
Masvingo	376 713	20 717	7 459
Mashonaland East	374 045	15 405	7 377
Mashonaland West	340 597	17 662	5 365
Mashonaland Central	340 290	9 703	6 980
Matabeleland North	162 236	11 663	3 378
Matabeleland South	129 959	10 040	2 577
Bulawayo	121 108	8 514	1 529
Total	3 079 866	179 489	56 627

Source: *The Herald* 20 March 2013

The turnout was all the more impressive in view of the limited amount of time (only a little over one month) devoted to campaigning, sparse advertising of the issues in most media, and a paucity of copies of the draft constitution. Turnout could have been higher still if parties had campaigned more vigorously to persuade voters to come out, and if civil society organisations had not been subjected to suppression several months before the referendum. For instance, in the Kenyan referendum on a draft constitution in 2010, the turnout was 72%. Finally, Zimbabwean citizens in the diaspora were denied the right to vote.

THE CONSTITUTION-MAKING PROCESS 2009-2013

The constitution-making process was chequered. Originally expected to last 18 months, as envisaged in the GPA, it took almost four years. Inter-party bickering and posturing delayed the start and the subsequent outreach programme as well as the drafting process itself. Some levels of intimidation were experienced during the First Stakeholder Conference in Harare, and sporadic violence during the outreach meetings. This was largely an outcome of a tacit strategy by Zanu-PF and its war-veteran allies to coerce speakers during outreach meetings to follow the 'party line' on such issues as presidential powers, checks and balances and devolution. A major constraint was that free expression and frank debate were discouraged, even penalised, by these elements. Furthermore, threats by a fringe of Zanu-PF, state media and securocrats that elections could be organised outside the terms of a new constitution raised the political temperature and spread confusion. The state media, especially radio and television, but also some newspapers, were partisan in their reporting on the process, broadly espousing a Zanu-PF position.

The financing of the exercise was contentious. In the face of enormous budgetary constraints, supplementary funding had to be sought. The United Nations Development Programme provided about \$21-million, nearly half of the total budget for the exercise. The conditions and expectations of accountability and frugality were a source of contention between donors and the state.

The key coordinating force in the constitution-making exercise was the Select Committee of Parliament on the new Constitution (Copac). In the 1999-2000 exercise this role was played by a presidential commission answerable directly to the incumbent president. Copac, which consisted of 25 members drawn from all three parties represented in Parliament, was co-chaired by an MDC-T representative, Douglas Mwonzora, an MDC-Ncube representative, Edward Mkhosi, and a Zanu-PF representative, Paul Mangwana. Although somewhat unwieldy, Copac managed to navigate the constitution-making process from mid-2009 to January 2013. The three co-chairpersons were often put under intense pressure from the three parties to deliver at every stage of the process. Stalemates

occurred around contentious issues such as devolution, citizenship, the right of Zimbabweans in the diaspora to vote and the electoral system, among others. At one point, Zanu-PF reportedly proposed as many as 200 amendments to the draft.

As the clock ticked towards 2011 and then 2012 the pressure grew, especially from Zanu-PF, war veterans and the military, for elections 'with or without a new constitution'. However, Southern African Development Community mediation was instrumental in keeping the constitution-making process on course, or at least ensuring that it was a prerequisite for the 2013 election. With the deadline of the end of Parliament's tenure fast approaching inter-party agreement on the Constitution was reached on 31 January 2013. As it turned out, the government of national unity (GNU) and Parliament, which had originally been envisaged to run for between two and three years, eventually ran to a five-year term.

The interval between the agreement on the draft constitution and the referendum was very short. There were only six weeks in which to distribute copies of the draft and for voters to study them before the referendum on 16 March. There was limited time to debate the contents of the Constitution and the distribution of draft copies was inadequate.

One regional observer mission stated that:

some members of the public in remote areas decried not having had access to the actual COPAC draft constitution on which they were supposed to decide during the referendum. COPAC distributed about 70 000 copies of the Constitution as against more than 5 million voters. Some members claimed that most of the information in the Draft Constitution had not been translated into their vernacular languages ...

SADC 2013, p 11

The criticism that insufficient draft copies were distributed and there was not enough time to study and debate the contents rests on strong grounds. The bulldozing of the process reflected the paternalistic attitude of the parties to the voters, a paternalism at variance with the spirit of constitutionalism. Clearly, in spite of an extensive outreach exercise to canvass views about what the draft should contain, this latter stage fell short of consultative democratic practice.

CONTENTS OF THE DRAFT CONSTITUTION: SOME SALIENT ISSUES

Although this briefing does not provide a comprehensive summary of the contents of the draft constitution several salient issues stand out. These issues, which are contained in specific provisions, played a part in convincing voters to vote the

way that they did. They relate to provisions concerning presidential powers, the electoral system, devolution, the role of security institutions, land reform and various specialist commissions.

In the draft constitution the powers of the president remain undiminished. The draft retains the executive presidency, which has the power to appoint and dismiss public figures, including Cabinet ministers, ambassadors and security chiefs, as well as to declare war or states of emergency. The president has the final say in the appointment of all judges and commissions. Furthermore, the president is entitled to absolute immunity from prosecution for any acts of commission or omission while in office, and after leaving office, can plead that such acts were committed in 'good faith'. There was a strong push by Zanu-PF to retain this type of 'imperial presidency' and against the retention of the position of prime minister. In addition, because the provisions on the presidency will not be retrospective, Robert Mugabe will be at liberty to contest this year's election at 89 and also that in 2018, when he will be 94! In other words, the limit of two five-year terms will not apply to Africa's oldest long-serving leader.

Another key provision in the draft constitution relates to changes in the electoral system. There will be a mixture of first-past-the-post (FPTP) and proportional representation (PR). The FPTP system will apply to elections for the 210-member House of Assembly, while the PR system will apply to the 80-member Senate. Some 60 members of the Senate will be elected on the basis of PR. Six will be elected from each province, while 18, including the president and deputy president of the National Council of Chiefs, will be chiefs and two members will represent people with disabilities. The 60 members of the Senate will be elected under a party-list system based on the votes cast for candidates representing political parties in each of the provinces in a general election, and in which 'male and female candidates are listed alternately, every list being headed by a female candidate' (Draft Constitution 2013, s 120).

The draft constitution dwells on the centrality of the Zimbabwe Electoral Commission (ZEC) to the running of the electoral system. The ZEC is enjoined to ensure that appropriate systems and mechanisms are put in place to 'eliminate electoral violence and other electoral practices'. There should be a code of conduct for parties, candidates and other persons participating in elections or referenda.

The draft contains specific provisions concerning devolution. It states that 'whenever appropriate, governmental powers must be devolved to provincial and metropolitan councils and local authorities that are competent to carry out those responsibilities efficiently and effectively. Among the objectives of this devolution are:

to give powers of local governance to the people and enhance their

participation in the exercise of the powers of the State and in making decisions affecting them; to recognize the right of communities to manage their own affairs and to further development ; and to ensure the equitable sharing of local and national resources.

Draft Constitution, s 264.

Before a compromise was struck Zanu-PF had strenuously opposed devolution, which it viewed as a threat to its propensity for centralising power in an authoritarian presidency.

The props of authoritarianism in Zimbabwe are rooted in the 'deep state', which includes the police, military and intelligence services as well as a partisan public service. In the past decade the top echelons of these services have publicly expressed their membership of Zanu-PF and thus their allegiance to it.

Between and during elections these services have displayed partisanship which has been expressed in the repression of other parties on political grounds. The draft constitution requires security services to discharge their duties on neutral and non-partisan grounds. The provisions are quite explicit on this matter in that they specify that:

neither the security forces nor any of their members may, in the exercise of their functions, act in a partisan manner; further the interests of any political party or cause; or violate the fundamental rights or freedoms of any person; and members of security services must not be active members or office-bearers of any political party or organization.

Draft Constitution 2013, s 208

If these provisions are followed strictly they will undermine the cosy relationship between Zanu-PF and the security services.

Other constitutional provisions of interest relate to the land reform and specialist commissions. It is specified that the Constitution will not allow compensation to be paid for land compulsorily acquired for resettlement under the agrarian reform of 2000 except 'for improvements effected on it before its acquisition'. However, there is still no finality on the land issue as issues of compensation are bound to arise in future discussions on bilateral and multilateral investment as well as on freehold ownership.

The draft provides for the setting up of 'independent commissions', whose objectives will be to support and entrench human rights and democracy, to promote constitutionalism, to promote transparency and accountability in public institutions, to secure the observance and principles by the state and all institutions

and agencies of government and to ensure that injustices are remedied (Draft Constitution, s 233).

Although these are laudable objectives, the real test is whether these commissions have sufficient resources, will and autonomy from the government of the day to carry out their mandates. In recent years commissions such as the Zimbabwe Electoral Commission, the Zimbabwe Human Rights Commission and the Zimbabwe Media Commission have been starved of the resources, rendering them ineffective and depriving them of credibility.

Finally, one of the commissions to be established within the framework of the new Constitution will be a National Peace and Reconciliation Commission which will, among other functions: ensure post-conflict justice, healing and reconciliation, develop and implement programmes to promote national healing, unity and cohesion in Zimbabwe and the peaceful settlement of disputes and bring about national reconciliation by encouraging people to tell the truth about the past and facilitate the making of amends and provision of justice (Draft Constitution 2013, s 252). While these aims are laudable, the commission's success will depend largely on the cooperation and commitment of the institutions of Zimbabwe's 'deep state' to own up to the excesses they perpetrated in the post-independence period.

CONCLUSION: CONTINUITY OR REFORM?

How significant is Zimbabwe's new Constitution to progress towards political reform? Or is the Constitution essentially a landmark in continuity with the country's authoritarian past and political culture? These are germane but difficult questions. There are two main positions on the issue. The first is based on a reading of past and present trends in Zimbabwean politics. It is a position that argues that the 'zanufication of the state has been so entrenched that it is unlikely that the values and principles normally associated with a democratic constitutional order will automatically emerge' with the adoption of the new Constitution (Mawere 2013). 'Zanufication' here refers to the process whereby Zanu-PF's authoritarian values and tendencies permeate the practices and outlook of the state bureaucracy, police and army as well as political discourse in state media. For instance, a wave of arrests of human rights leaders and harassment of civil society organisations since January 2013 smacks of planned intimidation and political destabilisation in the run-up to the elections in mid-2013. Within hours of the announcement of the results of the referendum the apparatus of the 'police state' was at work detaining staff from the prime minister's office and from the Zimbabwe Anti-Corruption Commission, who were investigating alleged corruption by some government ministers. A human rights lawyer, Beatrice Mtetwa, who represented the detainees, was refused bail and incarcerated for a week in jail.

Furthermore, a generation of politicians and public servants has been nurtured under the Zanu-PF ideology of pseudo-socialism, a liberation-war ethos and personality cultism and patronage. Other political parties have known no other alternative party or economic model. Unless there are substantive security reforms to dismantle Zimbabwe's police state or 'deep state', a formidable threat to democracy and constitutionalism will remain.

A second related position is that while a good constitution is *necessary* for reform, it is not a *sufficient* condition. In this context, although the draft constitution represents a qualitative advance over the Lancaster House Constitution, the litmus test will be how it will be implemented. Some regimes have simply ignored their constitutions or have torn them up as soon as the ink was dry. As one analyst put it: 'although it is important to recognise that constitution-drafting is part of a broader democratic process and that, no matter how plausible the new charter may be, it is not self-implementing ...' (Dzinesa 2013).

Thus, it remains to be seen whether constitutionalism will take root and whether there will be consensus about its interpretation and implementation.

The first series of tests will be *whether* and *how* the new Constitution facilitates the holding of credible, fair and transparent elections in mid-2013. If there is no obstruction by institutions of Zimbabwe's 'deep state' and no partisanship by the electoral commission or political violence in those elections the Constitution will have passed this early test. That will lay the foundation for more substantive reforms and viable constitutionalism. It remains to be seen whether that will, indeed, be possible.

— REFERENCES —

- Cross, E. 2013. 'Referendum: a commitment to democracy'. Harare: *Zimbabwe Independent*, 22 March.
- Draft Constitution. 2013. Harare: Government Printers.
- Dzinesa, G. 2013. 'Constitution has vote but little backup'. Johannesburg: *Mail & Guardian*, 22-28 March.
- Mawere, M. 2013. 'Citizens hungry for credible change'. Johannesburg: *Business Day*, 15 March.
- SADC Parliamentary Forum Election Observation Mission. 2013. *Interim Mission Statement on the 2013 Zimbabwe Constitution Referendum*. Harare.

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Southall, R & T Petlane. 1995. *Democratisation and Demilitarisation in Lesotho: The General Election of 1993 and its Aftermath*. Pretoria: Africa Institute.

Edited collections

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