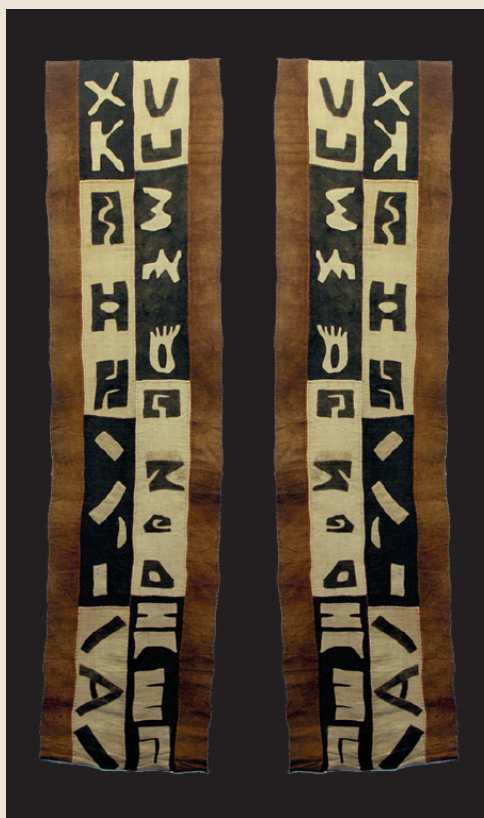


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COVID-19, FOURTH INDUSTRIAL REVOLUTION AND THE FUTURE OF ELECTIONS IN AFRICA

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ABSTRACT

The initial focus of this study was on exploring the potential impact of the Fourth Industrial Revolution (4IR) on future elections in Africa. The Fourth Industrial Revolution is fundamentally changing the way we live, work and relate to one another. In its scale and complexity, 4IR could change humanity and human existence as we presently know it. The suddenness with which the novel coronavirus pandemic has shut down life across the globe, including the cancellation and postponement of scheduled elections, led to a realignment of the research goals. The study thus includes ways in which 4IR and unforeseen global emergencies like pandemics can impact future elections, with specific reference to Africa.

Keywords: elections, electoral management, Fourth Industrial Revolution, novel coronavirus, pandemic

BACKGROUND

The novel coronavirus, COVID-19, has significantly reshaped the way humans interact. The world as we knew it prior to the onset of this disease now seems like a period in a distant past. The resultant pandemic has reoriented people's relationships to government, the outside world, and to each other. Traditional social norms such as hugs, handshakes, and social gatherings, have become socially restricted and are frequently banned by governments attempting to contain the spread of the disease. The future of politics and politicking has also

been affected. Political parties' primaries, electoral campaigns, and elections are first and foremost about people. Given the human nature of political campaigns and elections, and with the emergence of social distancing as a new norm, it becomes pertinent to examine the implications for the future of elections, specifically in Africa.

The central focus of this article is an examination of the manner in which pandemics such as that of COVID-19, and changing advancements in technology as occasioned by 4IR, could potentially have on future elections. The last few decades have seen an upsurge in the number of elections conducted on the African continent. According to a report in 2019 by the Electoral Institute for Sustainable Democracy in Africa (EISA), elections took place in 27 African countries in 2019, confirming the point by Cheeseman and Klaas (2018) that elections have become a regular event on the continent. In 2019, the only poll postponed indefinitely was the constitutional referendum in Burkina Faso scheduled for 24 March 2019. Thirty African countries had elections planned for 2020. Some took place before the global pandemic, such as Togo's presidential election which took place on 22 February 2020, and Mali's parliamentary elections which took place on 29 March 2020. Other polls include Guinea's parliamentary election for the National Assembly which, together with a constitutional referendum, was held on 22 March 2020; the parliamentary elections in Comoros held on 19 January 2020, and elections for the National Assembly in Cameroon held on 9 February 2020 (EISA 2019).

There were 25 elections scheduled to take place on the continent before the global lockdown. It is intriguing to imagine what form the polls would take, given global adjustments in social norms, particularly regarding human gatherings. The reality of the new global regime of social distancing and limited human contact predates the study's research questions, which are: What will characterise political campaigns of future elections? What role will 4IR play in post-COVID-19 elections? What impact will adjustments in social norms and the application of 4IR have on political parties and overall electoral spending?

Unforeseen occurrences like pandemics are reminders of the limited capacity humans have to anticipate the future. In the political realm, the novel coronavirus can potentially provide opportunities for lasting policy shifts that can lead to electoral reforms. Holding elections during pandemics is not an easy task. Government and electoral officials need to balance the need to protect public health with citizens' democratic rights to vote. Some elections conducted during the pandemic have provided pointers to various challenges politicians, governments and electoral management bodies will face. For example, according to Kleinfeld and Kleinfeld (2020), Iran's COVID-19 cases surged after its February 2020 elections, while Spain's infections quadrupled four days after a political rally in March 2020.

Similarly, in Florida's March 2020 primaries, two poll workers contracted COVID-19, one of whom had handled driver's licenses. In Africa, Malawi organised a historic repeat poll after the annulment of its 2019 presidential election due to irregularities. The repeat election was a positive indication of Africa's deepening democratic values. However, in the weeks following the election, excitement dampened after the country witnessed an upsurge in COVID-19 cases. According to Masina (2020), politicians ignored COVID-19 directives and campaigned in crowded public spaces without social distancing. The new president, Lazarus Chakwera, had to scale down his inauguration after a surge in coronavirus cases and fears of increased community transmission.

Pandemics like those triggered by COVID-19 do not last forever. Like previous pandemics, after a short while life often returns to normal, as it did after the so-called Spanish flu epidemic of 1918–1920. The sociopolitical and sociocultural effects of COVID-19 have striking similarities with the worldwide outbreak last century. Klein (2020) avers that in the years leading up to the 1920 general elections in the US, that country had to deal with recovering from the devastating effects of World War 1 which claimed the lives of 100 000 Americans, as well as the global influenza pandemic which claimed 650 000 American lives and those of an estimated 50 million people globally. There were also continual race riots and labour strikes. Despite these crises, Americans went to the polls in the 1920 general elections. Social distancing and all the new norms associated with COVID-19 were in place during the 1918 pandemic. However, in many ways elections of that period succeeded because of technological advancements occasioned by the 2nd Industrial Revolution. As with COVID-19 in 2020, in 1918 governments the world over introduced various levels of lockdown. According to Lado (2020), countries closed establishments like churches and schools. Concerts and any activities that drew large gatherings were cancelled. Thanks to the earlier emergence of printing and telecommunication in the 2nd Revolution, politicians and political parties sought coverage in newspapers or turned to direct mailing.

There are more opportunities for alternatives to the normal process of politicking today than there were in 1920. The Fourth Industrial Revolution differs from the previous three industrial revolutions in the speed with which technology diffuses globally. According to Schwab (2017), organisations across every industry (including political parties and sociopolitical organisations) have reconsidered and readjusted their traditional ways of doing things. This study argues that the confluence of emerging technological breakthroughs covering wide-ranging fields such as Artificial Intelligence (AI), robotics, autonomous vehicles, 3D printing, and quantum computing are gradually amplifying each other. Technology has given rise to a fusion of innovations across the physical, digital and biological worlds. These rapid changes portend wide-ranging possibilities for the political processes of the future, especially from an Africa perspective.

METHOD

The researchers adopted an electoral cycle approach to the study. They undertook an analysis of the potential application of 4IR to the election cycle covering pre-election, election day and the post-election phase. The electoral cycle has no fixed starting or ending points. In theory, one cycle ends when another begins. Suffice to add that some segments of the cycle such as civic education and support for political parties are ongoing, and they cut across the whole cycle. The election cycle recognises elections as continuous processes rather than isolated events.

ELECTIONS AND TECHNOLOGY

Revisiting Habermas's Structural Transformation of the Public Sphere

The world is continually evolving, and humans are continuously adapting to new ways of being and of doing things. There has always been a relationship between technology and elections. As far back as the First Industrial Revolution, technology has played significant roles in the electoral process, impacting both political office seekers and the electorates. According to Anderson (2020), technology can be an important tool for political actors such as politicians and electoral management bodies (EMBs) to identify better, engage with and rally members of the public to their cause, as well as broadcast political messaging. Office automation tools such as optical scanning and geographic information systems have significantly impacted on politicking and the electoral process.

A growing body of scholarship has explored the influence of technology on political communication and participation. This influence is even more significant in terms of what Habermas (2006) describes as the public sphere. Although Habermas' definition of the open space is widely accepted as the standard, scholars have recently challenged it because the concept of the sphere is continually expanding, especially with the advent of information technology and social media.

In *The Structural Transformation of the Public Sphere* (1991), Habermas' focus was on the seventeenth and eighteenth-century institutional changes that gave rise to the public space. Habermas opined that the public sphere was bourgeois-centric, as it excluded the poor and the uneducated. Before the weakening of monarchical powers that culminated in the French Revolution, public affairs were decided mostly at the king's court. According to Stewart and Hartmann (2020, p. 172), the advent of coffeehouses where men (and women) would gather freely to debate literary, political, and economic issues of the day, provided an institutional structure that broke down class and status barriers. It also defied the church and state monopolies on matters of concern and established the ideal inclusive public discussion that broadened public participation.

Stewart and Hartman (2020, p. 174) further argue that the public sphere is no longer a single relationship where an invasive, capitalist, mass culture industry mediates citizens' interactions. They opined, instead, that a new set of organisations, networks, programmes, and institutional actors has come to constitute a new, far more multifaceted and autonomous sphere of social life, each with its own institutional logic. These new arrangements require less focus on normative conditions that support the public space than on the empirical qualities and characteristics that describe it. They further listed what they describe as the institutional infrastructure of the public sphere that supports new structural transformations as new media and technologies of communication, the proliferation of professionalisation, and the rise of new institutions dedicated to the management of the public sphere itself. For this study, the researchers focus on how new media and communication technologies have redefined the open political space and impacted on politics and politicking.

The Third Industrial Revolution, as typified by new media and technologies, have significantly transformed Habermas' conception of the public sphere. To a large extent, the transformative ability of 4IR hinges on the Internet of Things (IoT). For example, social media has replaced coffee shops and salons as venues for public discourse and engagement. They have also gradually started to replace political campaign venues, as politicians can now reach large, heterogeneous, and diverse publics through various live streaming social media platforms. Interestingly, Habermas does not seem to be excited about the potential of the internet to create an equal social sphere. In his keynote speech to the International Communication Association in 2006, Habermas spoke out about the internet in a rather unsatisfying way, especially to 'Habermasians' (Geiger 2009, p. 4), remarking:

The Internet has undoubtedly reactivated the grassroots of an impartial public of writers and readers. However, computer-mediated communication in the web can claim unequivocal democratic merits only for a specific context: It can undermine the censorship of authoritarian regimes that try to control and repress public opinion. In the context of liberal governments, the rise of millions of fragmented chat rooms across the world tends instead to lead to the fragmentation of large but politically focused mass audiences into a vast number of isolated issue publics. Within established national public spheres, the online debates of web users only promote political communication, when newsgroups crystallise around the focal points of the quality press, for example, national newspapers and political magazines.

(Habermas 2006, p. 423)

Although Habermas was not wholly dismissive of the internet as a potentially new social sphere, he suggested that the internet's role in politics and journalism is basically to act as an external reviewer of traditional sources of media. In other words, Habermas believes that the sphere is still under the control of the powerful elite. Thus, it cannot be said to be egalitarian. Geiger (2009) sums up Habermas' postulation of the internet as a public sphere, thus:

...The question, "is the internet (part of) a new public sphere?" takes the existence of the internet as a unified sociopolitical entity for granted. From a computer science standpoint, the internet is a well-defined technological infrastructure of meticulously classified and categorised computers, cables, and code. In any other context, it is a gross category error to invoke the unity of the internet. It has no more potential to become a new public sphere than do the airwaves that made possible the modern mass-mediated public sphere. A better question might be, "what is the role of the internet-based discourse communities in the constitution of the open area? When phrased this way, it becomes clear that the initial version attributes a problematic but widely assumed stability to the internet.

(Geiger 2009, p. 26)

THE FOURTH INDUSTRIAL REVOLUTION AND THE FUTURE OF ELECTIONS IN AFRICA

Thakur (2020) notes that adapting 4IR for elections will improve on speed, immediacy, and digital citizenship. This is practised in Estonia and even an almost instant democracy like Brazil through their electronic voting systems. However, he cautions that swiftness should not replace democratic integrity. He further opines that democracy is about transparency, not speed, although electoral delays can and do unintentionally create problems that heighten suspicion from the electorate, and even contestants, on possible attempts at electoral fraud.

In this section, the researchers discuss how African countries can apply the immense potential of 4IR to the conduct of future elections on the continent. Although, as earlier stated, the adoption of 4IR could potentially transform Africa's electoral management landscape, it nonetheless raises some concerns, especially in developing economies like those in Africa. According to Thakur (2020), the deployment of new technology to resolve a problem sometimes introduces new challenges – some unintended or even unexpected. Schwab (2017, p. 46) noted that past phases of the Industrial Revolution have not yet reached much of Africa. Many Africans still do not have access to electricity, clean water, sanitation and

the many necessary infrastructures taken for granted in developed economies. These challenges notwithstanding, 4IR has the potential to reverse or bridge infrastructural gaps and hasten the process of leapfrogging.

THE PRE-ELECTION PHASE

The pre-election period provides opportunities for EMBs and political parties to prepare for elections. This phase allows ample time to conduct audience analysis and media mapping, as well as message testing and strategy formation. Political party candidates also embark on campaigns during this phase, and 4IR can play an important role in this regard. For example, with the new social distancing regime introduced to inhibit the spread of COVID-19, some options for political campaigns can be adopted using 4IR.

The Prospects of Virtual Electoral Campaigns

Virtual reality (VR) is the creation of a virtual environment presented in a way to allow individuals or group(s) experience as if they were there. It is a complicated technological feat that has to account for human perception and cognition. Researchers believe that VR will play significant roles in sectors such as retail (Bonetti, Warnaby, & Quinn 2018; Van Kerrebroeck, Brengman, & Willems 2017). There is also significant VR influence in education and research.

VR is already influencing elections globally. For example, the 2016 US presidential election gave a glimpse into the future of virtual reality in election campaigns. According to Rogers (2019), VR social network Altspace VR teamed up with NBC News to test the possibility of bringing users together in a positive manner in the lead-up to the election. The team hosted a presidential debate watch party, with a screen for watching live debates. They also had a map for counting states on election night. Users did not have to be physically present. VR ensured that they were able to join live VR events with virtual fireworks.

Similarly, in 2017 Donald Trump's inauguration ceremony employed VR with 360-degree cameras that recorded and live-streamed the event on YouTube. Trump's supporters were able to access the occasion as if they were there, without having to travel (Rogers 2019).

Elections in Africa are expensive. According to Adebayo (2018), Rwanda spent \$1.01 per voter in the election of 2017. Uganda spent \$4 per voter in the 2016 general elections; while Tanzania spent \$5.16 in the 2015 general elections. It cost \$12 per voter in the 2016 elections in Ghana and \$25.4 in the 2017 elections in Kenya. The Kenyan National Treasury estimated that the 2017 election cost 49.9 billion Kenyan Shillings (\$480 million), making it one of the most expensive in

the world. Similarly, the 2016 election in Ghana cost \$182 million, 35 times more than needed to conduct the 2004 elections (Ghana News Agency).

A 2019 study by EISA on political party campaign financing during South Africa's 2019 general elections, found that political parties' campaign events absorbed a substantial part of campaign spending, especially in the lead-up to the 2019 general elections. In KwaZulu-Natal, for example, Vhumbunu (2020, p. 99) reports that political parties spent an estimated R6 720 885 to conduct campaign events alone. Given that the amount is an estimate, the final figures are likely to be significantly higher. Other provinces where the study took place reported similar statistics. The costs of providing transportation for political party delegates, hiring of campaign venues, refreshments and party regalia would have been significantly lower had the process been virtual.

Table 1: Political parties' estimated campaign events expenses for KwaZulu-Natal

Political Party	Total Estimated Campaign Events Expenses (in Rands)
ANC	1 257 005
EFF	1 760 144
IFP	200 326
DA	71 012
SRWP	1 880 816
ATM	144 551
COSATU-ANC (May Day Rally)	1 407 031

Source: Vhumbunu (2020)

While the strength of VR lies in its potential to reduce political parties' campaign costs and encourage social distancing, its weakness lies ironically in the subdual of social interactions. There are concerns about the social impact that immersive environments can have on people, as well as the psychological effects of prolonged usage. According to Mealy (2020, p. 2), VR can be isolating. Social interactions are essential in the political process. Sometimes people reach decisions on the political party or candidate to vote for during face-to-face interactions and deliberations. Mealy posits that:

...the technology for making social interactivity in virtual reality seem real isn't quite there yet. The lack of eye contact and the inability to see a user's true facial expression in most social virtual reality apps

can leave the social experience of virtual reality wallowing in the awkward uncanny valley between no social interaction and real personal connection.

Despite VR's weaknesses, it nonetheless provides opportunities for African nations to upscale on infrastructure and jumpstart readiness for the inevitable application of 4IR in everyday life, including politics.

One of the most common challenges Africa faces regarding the adoption of 4IR is the lack of necessary infrastructure. As Schwab (2017, p. 8) notes, the Second Industrial Revolution has yet to be fully experienced by 17% of the people in the world because nearly 1.3 billion people still lack electricity. For example, Nigeria, with a population of over 200 million people, currently has an electricity generation and transmission capacity of little over 10 000 MW, which is far below the nation's average requirement. The technology required for VR and other technologies relies on the availability of regular and accessible electricity. Inadequate electricity is not just a Nigerian problem, it is a common challenge all over Africa.

Therein lies the opportunity. If the adoption of 4IR depends on an upscale in infrastructure, then it behoves governments to innovate and upscale. It is a win-win-win. According to Christensen, Ojomo and Dillon (2019, p.6), enduring prosperity for many countries will not come from fixing poverty. It will come from investing in innovation that creates new markets within these countries. Market-creating innovation, as catalysed by 4IR, serves as a foundation for creating sustained socioeconomic and sociopolitical development.

ELECTION DAY PHASE

Elections Conducted by Robots?

In the early stages of the COVID-19 pandemic, many nations grappled with the application of innovative methods to combat its spread. One such way was the deployment of robots. Rwanda was amongst the first nations in Africa to deploy robots in a bid to minimise contact between patients infected with the coronavirus and medical personnel. According to Uwiringiyimana (2020), the robots, which were donated by the United Nations Development Programme (UNDP), perform simple tasks such as taking temperatures and administering medications. Other countries, such as Nigeria, soon followed suit and deployed robots in their fight against this coronavirus.

Robotics has already gained traction in personal and commercial use. Although the science of robotics is complex, it is not uncommon to find robot

assistants in homes and fields such as manufacturing, health and safety, as well as a range of human assistance. The rise of robots could potentially change the global political landscape in the near future as robots could conduct future elections. Given the staff size of electoral management bodies in Africa (both ad-hoc and permanent staff), the protracted anxiety about technological unemployment often comes to the fore whenever the issue of a future workforce dominated by robots is discussed.

Apprehension about the possible takeover of human jobs by robots dates back to the Luddite movement in the early days of industrialisation. For example, Keynes (1930) predicted that machines would abolish work within two generations. The 21st century will usher in 'the second machine age' where Artificial Intelligence (AI) will go beyond absolving manual work, to undertaking cognitive and non-routine jobs, especially those once considered to be beyond the reach of mechanisation. The conduct and management of the electoral process is one key area where robots will play increasingly vital roles.

The strength of a robot-conducted election lies in its potential to reduce the cost of conducting elections and improving the integrity of the electoral process. In the era of social distancing as occasioned by COVID-19, it has the potential to limit the number of humans involved in the electoral process, including election observers. Nations like Ghana and Rwanda have already employed robots in the delivery of medical essentials to rural health centres. According to Murray (2019), Zipline, a California-based robotics company, estimates that robots in the form of drone technology will provide essential medical delivery service to an estimated twelve million people in Ghana when fully operational. The company plans to make 600 drone flights daily, delivering blood supplies and life-saving medicines to 2 000 health centres in remote areas around the country (Murray 2019). If robotic drones can supply medical essentials, they can potentially supply electoral materials. For example, if polling units replace health centres, the possibilities of replacing medical supplies with electoral materials become more evident.

The weakness of the application of robotics to elections lies in the possibilities of politicians using robots as tools to undermine the democratic process. Moreira (2018) posits that social media ecosystems are already awash with bots that have the potential to threaten democracies worldwide. In recent elections such as the 2016 US general election and the Chilean general election of 2017, there were claims of a significant involvement of robots in ways that undermined the process. Moreira (2018) avers that robots have the potential to inflate support for a candidate, thereby influencing the outcome of elections. Often, they give the impression that a piece of information is endorsed by many individuals, in so doing wittingly or unwittingly exerting influence on the electoral process. Given Africa's challenging technological landscape, the propensity to use bots as tools for undermining the electoral process is even higher.

There is also a perpetual discourse on the possible takeover of human jobs by robots in the future. A robot-managed election could mean a loss of jobs for thousands of humans. A 2019 study by Oxford University projects that the global stock of robots will increase in the next 20 years, reaching as many as 20 million by 2030, with many of the robots handling service jobs hitherto performed by humans (Oxford Economics, 2019). Africa's share of global robots is, however, still relatively low, mainly due to a lack of necessary infrastructure.

Its weaknesses notwithstanding, robots present enormous opportunities for African governments and EMBs to innovate and seek new ways of conducting elections that have minimal human involvement but can still ensure electoral integrity. The threat to possible robot-conducted elections would be the usual challenge of Africa's infrastructural deficit. In addition, some presidents or heads of state would rather maintain the status quo that encourages irregularities, than effect change.

Improving Electoral Integrity through Digital Identification

In 2014, the Chinese government announced that it would set up a social ranking system to monitor the behaviour of its citizens, and rank them based on what the government referred to as 'social credit'. The goal is to reinforce the age-long Chinese principles of honesty and integrity while also curbing crime (Ma 2018). According to Chengdu and Campbell (2019), China's social credit scoring is best understood not as a single system, but as an overarching ideology of punishments and rewards aimed towards improving governance and stamping out disorder and fraud. Chengdu and Campbell (2019) further remarked:

...And some elements are indeed worthy of dystopian fiction. In certain areas of China, call a blacklisted person on the phone and you will hear a siren and recorded message saying: "Warning, this person is on the blacklist. Be careful and urge them to repay their debts." When a blacklisted person crosses certain intersections in Beijing, facial-recognition technology projects their face and ID number on massive electronic billboards.

The Chinese model uses facial recognition technology to trace, track and recognise every Chinese citizen and/or resident in the database. According to Yang and Madhumita (2019), facial recognition has already started to replace augmented human identity checks in hotels, flights and trains, and at banks and hospitals. The government of China has also put in place regulations for telecom carriers to scan the faces of users registering for mobile phone services. Gertz (2019)

avers that the system has already been tested in several major Chinese cities. Using millions of surveillance cameras linked to supercomputers containing captured biometric databases, people are easily identified through face and voice recognition technology. That way, the government can control behaviour that ranges from dissident political activity to jaywalking.

Facial recognition is part of digital identification, which employs machine learning and big data, key components of 4IR. Facial recognition can potentially reduce or eliminate the protracted challenge of multiple voting. Digital identification machines can easily detect when an individual has voted in an election, thereby eliminating the possibility of voting again, even in a different location. In circumstances where social distancing is required, digital identification can reduce human means of identifying and screening voters.

Digital identification can potentially address Africa's current voting problems such as long queues at polling venues, as well as over-reliance on paper ballots and voting machines. Data identification may possibly improve the prospects of e-voting on the continent. E-voting has the potential to speed up voting registration and ballot counting. Ultimately, e-voting systems would significantly lower the costs of elections in general. When built on a strong identity platform that is rooted in biometrics, technologies such as blockchain can significantly reduce voting issues and tackle health concerns related to human contacts associated with the electoral process. For example, India's Election Commission is considering the possibility of blockchain-based remote voting for future elections. According to Barik (2020), the commission plans to emulate the model used by the government to identify pensioners. The technology will use AI to recognise liveness — 'an AI computer system's ability to determine that it is interfacing with a physically present human being and not an inanimate spoof artifact' (liveness.com), deep learning to do image comparison, and big data to do the demographic matching. That way, voters can be easily identified using a face recognition app linked to existing biometric data banks.

Although the potentials of data identification in the electoral process are exciting, the applications of big data carry significant risks of misuse. The Chinese government has already come under severe criticism for using the technology as part of a security crackdown that has led to the detention and torture of more than 1.8 million Uyghur Muslim minority population in the Xinjiang region (Yang & Madhumita 2019). Ahmadi, Dileepan and Wheatley (2016, p. 290) argue that the collection of big data has enormous privacy implications. They contend that in the healthcare sector, for example, healthcare providers will be under scrutiny to protect private patient data and may be at a greater risk for lawsuits as data are shared and become more readily available. There are also concerns that data that includes personal information that is not protected by legal restrictions and

oversight, can be misused or abused in the hands of state and non-state actors. Individuals and groups can be targets of political oppositions if their voting decisions are easily accessible. This problem is even more worrisome considering the prevalence of political intimidation, violence and even assassinations in Africa.

The weaknesses of adopting data identification in elections notwithstanding, it portends great opportunities for solving many of the challenges that plague the electoral process in Africa. The potential to significantly reduce incidences of multiple voting and ballot-box snatching makes the idea of digital identification a promising one.

THE POST-ELECTION PHASE

The most contentious part of the election cycle is, arguably, the post-election phase. Post-election conflicts are common in Africa, and some of the conflicts have resulted in outbreaks of ethnoreligious conflicts, and sometimes civil wars. Nigeria and Kenya were on the brink of civil war resulting from disputed elections in 2003 (Kenya) and 2011 (Nigeria). Although several sociocultural and ethnoreligious dynamics contributed to the ensuing post-election violence in both countries, disputes over election results were the main reasons (Ojwang 2009; Anyadike 2013). Adopting 4IR to the post-election phase will not only ensure electoral integrity, but can also foster societal peace.

For example, in the 2015 general elections in Nigeria, biometrics were introduced to register and verify voters. Unlike previous elections, results were digitally captured and announced at centralised positions, thereby improving trustworthiness and reliability. The election, though still marked by irregularities, is still widely regarded as one of the most credible elections in Nigeria. It may be argued that the introduction of digital technology played a significant role in the defeat of the then incumbent, President Goodluck Jonathan.

CONCLUSION

The nature and conduct of elections are changing globally and Africa should not be an exception. The conduct of elections as we know them today will significantly change in the next few years as many countries adopt new technologies in their conduct of elections. The novel coronavirus pandemic further brought to the fore the dearth of infrastructural development on the continent of Africa. Although the low number of infections and death rates have astounded global watchers and defied all scientific explanations, it nonetheless provided an opportunity for African governments to realign their national development objectives with global realities. The lack of healthcare facilities, absence of access roads, potable water and electricity should no longer be tolerated in the future.

As noted by Cheeseman and Klaas (2018), regular elections do not guarantee the entrenchment of democracy. On the contrary, in recent years elections have served as the means through which dictators or authoritarian governments legitimised illegality. Despots and dictators have found new ways of undermining democracy, and one such is by conducting regular elections. They are no longer afraid of conducting elections as they did thirty years ago, as they have devised methods of rigging elections, including the use of technology. The adoption of 4IR in the conduct and management of elections in Africa as advocated in this article is not a fix-it-all solution to the myriad of problems plaguing the electoral process in Africa. It is, however, an important part of a broader process of fostering credible and efficient management of the electoral process.

Deciding on whether using 4IR in the electoral process would reduce flawed elections and engender good governance, or whether good governance would encourage the adoption of 4IR, is like deciding on which came first – the chicken or the egg. The fact is, the Fourth Industrial Revolution is here to stay. Unlike previous industrial revolutions, there are no significant alternatives to emerging technologies. The world of the future will be near-impossible to run with the technology of today. Future elections will be conducted by 4IR-led technologies.

From the perspective of electoral management, investment in the Fourth Industrial Revolution will have a positive ripple effect on the socioeconomic and sociopolitical milieus in many African countries. Technological adoption often leads to sometimes unplanned collaborative innovations that would trigger new operating models, thereby leading to more opportunities and employment. The onus is on African leaders to develop what Schwab (2017, p. 107) calls contextual intelligence – the ability and willingness to anticipate emerging trends and connect the dots. African leaders must possess the capacity and readiness to engage with and adapt the Fourth Industrial Revolution as a mainstream national development plan, as is already the case in many countries.

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PRISONERS' RIGHT TO VOTE IN UGANDA

Comment on *Kalali Steven v Attorney General and the Electoral Commission*

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ABSTRACT

Article 59 of the Constitution of Uganda (1995) provides for the right to vote. Although the Constitution does not prohibit prisoners from voting, the Uganda Electoral Commission has never made arrangements for prisoners to vote. On 17 June 2020, in the case of Kalali Steven v Attorney General and the Electoral Commission, the Ugandan High Court held that prisoners and Ugandans in the diaspora have a right to vote and that the Electoral Commission should put in place arrangements for them to vote. Uganda will have elections in 2021. The purpose of this article is to suggest practical ways in which the Electoral Commission can comply with the High Court judgement. It is argued, inter alia, that there is no need for legislation to be enacted or amended to give effect to the High Court judgment.

Keywords: Uganda; prisoners; vote; *Kalali Steven v Attorney General and the Electoral Commission*; diaspora; elections

INTRODUCTION

Article 59 of the Ugandan Constitution provides for the right to vote and to the effect that:

(1) Every citizen of Uganda of eighteen years of age or above has a right to vote. (2) It is the duty of every citizen of Uganda of eighteen years of age or above to register as a voter for public elections and referenda. (3) The State shall take all necessary steps to ensure that all citizens qualified to vote register and exercise their right to vote. (4) Parliament shall make laws to provide for the facilitation of citizens with disabilities to register and vote.

In order to give effect to Article 59, Parliament enacted various laws which provide for the right of Ugandans to vote at different levels: presidential (the Presidential Elections Act, 2005), parliamentary (the Parliamentary Elections Act, 2005) and local council (Local Governments Act 1997). Uganda has also ratified international and regional human rights instruments which provide for the right to vote. These include the International Covenant on Civil and Political Rights (Article 2) and the African Charter on Human and Peoples' Rights (Article 13). Ugandan legislation does not prohibit prisoners or former prisoners from voting in elections. The drafting history of the Ugandan Constitution shows that its drafters were of the view that there was no need to include an express provision in the Constitution to provide for the rights of prisoners to vote. This was so because, like any other citizen, prisoners have a right to vote (Mujuzi 2017). However, since the coming into force of the Ugandan Constitution, the Electoral Commission has never made specific arrangements for prisoners to vote. It is against that background that in the case of *Kalali Steven v Attorney General and the Electoral Commission* (17 June 2020) the applicants, including former prisoners, approached the High Court and argued that failure by the Electoral Commission to make arrangements for the prisoners and Ugandans in the diaspora to vote was contrary to Uganda's national and international human rights obligations.

The court found in favour of the applicants and ordered the Electoral Commission to make arrangements for prisoners and Ugandans in the diaspora to vote in the 2021 general elections. Because of its importance this judgement attracted wide media coverage in Uganda (Waseka 2020; Namutebi 2020). Although the judgement dealt with the rights of two groups of Ugandans, namely those in the diaspora and prisoners, in this article the author focuses on one group only – that of prisoners. By providing that prisoners have a right to vote, Uganda has joined a list of other African countries such as South Africa, Ghana, Kenya, Nigeria, and Zambia where prisoners have a right to vote (Africa Criminal Justice Reform 2020). This judgement is likely to impact thousands of prisoners because statistics from Uganda Prisons Service shows that as of May 2020, there were 34 274 awaiting trial prisoners (remanded); 29 514 convicted offenders; and 240 civil debtors (Uganda Prisons Service 2020, 29 June). These prisoners are spread in a total of 254 institutions or prisons (World Prison Brief 2019). The Electoral Commission is of the view that for prisoners to vote, there will be a need for legislation to be amended or enacted. In this article, the paper argues, *inter alia*, that this is not the case, and also highlights some of the issues that have to be addressed in giving effect to the court's judgement if the prisoners are to vote in the 2021 presidential and parliamentary elections. The paper starts by highlighting the facts of the case and the court's reasoning before examining the challenges that are likely to be faced in giving effect to the court's ruling.

FACTS AND HOLDING IN *KALALI STEVEN v ATTORNEY GENERAL AND THE ELECTORAL COMMISSION*

The applicants, including two former prisoners, approached the High Court and argued that the failure by the Electoral Commission to make arrangements for prisoners to vote was a violation of their right under Article 59 of the Constitution (Kalali, para 4). They argued that since the promulgation of the Constitution in 1995, the Electoral Commission had 'conducted five presidential and parliamentary elections in 1996, 2001, 2006, 2011 and 2016, in total disregard/exclusion of Ugandan prisoners...who are 18 years and above' (ibid.). They added that the fact that a person has been convicted of an offence or sentenced to prison or remanded (awaiting trial) does not mean that he/she loses his right to vote (ibid.). They added that all Ugandans 'enjoy equal rights under the law' and that prisoners, as is the case with non-prisoners, should also be able to exercise their right to vote and that the Electoral Commission has never made arrangements for prisoners to vote (ibid.). The applicants added that (Kalali, para 5):

Allowing their voting rights ensures that their interests and views are catered for and enhances the incorporation of proper rehabilitation laws and policies. The denial of this right amounts to considering prisoners inhumane and denies them the right to vote, makes them adjudged criminals for life which is unrealistic and illegal. They need to vote to naturally defend their own interests which can improve the prison system.

The applicants argued that Ugandan law does not impose any limitations on the right to vote with regard to Ugandans who have attained the age of 18 years (Kalali, para 7). They asked the court to make the following declarations (Kalali, para 2):

(a) Prisoners in Uganda aged 18 years and above possess the fundamental and inalienable right to be registered as voters and to vote pursuant to Article 59(1) and (2) of the Constitution. (b) The exclusion of these Ugandans by the second Respondent from the voters' registration exercise is illegal and a violation of their fundamental right to be registered as voters and participate in various voting exercises.... (e) The omission and exclusion of these Ugandans from the voting process is an abuse and failure by the second Respondent to perform its duties, amounts to segregation or discrimination hence illegal. (f) Each of the prisons be declared registration polling centers and the second Respondent deploys its officials as returning officials in prisons for the

subsequent 2021 elections and referenda. (g) The Respondents should liaise with prison authorities and governments with Ugandans living in the diaspora to issue national identity cards for purposes of registration as voters and for safe keeping of the voters cards of the prisoners...

(i) A permanent injunction restraining the Respondents and/or their agents from further illegal/unlawful breach and non-observance of their mandate to register qualified Ugandans for electoral process.

(j) A permanent injunction restraining the second Respondent from conducting any elections or referenda in exclusion of these Ugandans.

In response, the Electoral Commission argued that the application should be dismissed because, *inter alia*, it has always organised the elections according to the relevant laws and that '[t]he current legal framework upon which elections are conducted does not encompass the intricacies associated with being incarcerated' (Kalali, para 6). The issues for the court to resolve included whether prisoners have the right to vote and whether the Electoral Commission's failure to put in place measures for them to vote was illegal (Kalali, para 8).

In resolving the above issues, the Court referred to Article 25 of the International Covenant on Civil and Political Rights (Kalali, para 11), Article 13 of the African Charter on Human and Peoples' Rights (Kalali, para 12), to hold that the Electoral Commission's argument that prisoners and Ugandans in the diaspora cannot vote because the electoral laws do not make provisions for them 'sounds disconnected when read against [Article 59] clause 3 [of the Constitution] which requires the state to take all necessary steps to ensure that all citizens qualified to vote register and exercise their right to vote' (Kalali, para 13). The Court added that the Electoral Commission was bound by the Constitution and its activities had to be in line with the Constitution but that it had not taken any effort to put in place measures for prisoners to vote (Kalali, para 14). The Court also pointed out the Electoral Commission failed to adduce evidence showing the 'intricacies related to prisoners voting' which made it impossible for them to ensure that prisoners cast their votes (Kalali, para 15). The court added that it could not 'imagine anything that can take away the constitutional right to vote for prisoners and Ugandans in the diaspora' (Kalali, para 15). The Court added that (Kalali, para 16):

It is disturbing that the second Respondent [the Electoral Commission] cites the absence of an enabling law as some kind of defence for its failure to ensure these groups exercise their constitutional right to vote. The second Respondent [the Electoral Commission] as the government entity vested with this voting mandate, should have raised any issues

of law reform timely. There is however no evidence that this has ever been done since 1995 when the Constitution came into force. Moreover any enabling law would have to mandatorily read from article 59 of the Constitution, the parent law.

The Court added that (Kalali, para 17):

The continued disenfranchisement of these Ugandans is also a violation of Article 25 of the ICCPR and article 13 of the African Charter which guarantee the right to vote for all citizens. Being a prisoner or in the diaspora do [sic] not take away one's citizenship. It follows therefore that these statuses also do not take away the rights, like the right to vote, that result from one's citizenship under the constitution.

The Court added that the failure by the Electoral Commission to make arrangements for prisoners and Ugandans in the diaspora to vote was also discriminatory and contrary to Article 21 of the Constitution which prohibits discrimination on many grounds, including social status. Against that background, the Court held that '[t]he social status of being a prisoner or living in the diaspora must not be used arbitrarily to deprive them of their constitutional right to vote' (Kalali, para 18). The court held further that failure to make arrangements for prisoners and Ugandans in the diaspora to vote was also contrary to Article 2 of the International Covenant on Civil and Political Rights and Article 2 of the African Charter of Human and Peoples' Rights which prohibit discrimination. The Court held further that the right to vote is one of the few non-derogable rights in the constitution (Kalali, para 20) and that (Kalali, para 19):

For the right to vote to be meaningful, there must be access to information regarding who is standing, for what positions, their manifestos and other information relevant to voting. This right of access to information is provided under Article 41 of the Constitution and is only restricted where release of information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any other person.

Against that background, the Court held that a combined reading of various constitutional provisions leads to the inevitable conclusion that prisoners and Ugandans in the diaspora have the right to vote (Kalali, paras 21–25). The Court also stated that the fact that the Prisons Act (2006) does not provide for the prisoner's right to vote 'does not remove the prisoners' constitutional right to

vote' (Kalali, para 28). The Court held that failure by the Electoral Commission to put in place measures for the prisoners and the Ugandans in the diaspora to vote was contrary to sections 18 and 19 of the Electoral Commission Act and that in other African countries such as Kenya, Ghana, South Africa, Nigeria and Zambia prisoners are allowed to vote (Kalali, para 30). The Court concluded by making the following orders (Kalali, para 31):

(i) As citizens, Ugandans of eighteen years and above who are in prison or the diaspora have the right to vote under article 59 of the Constitution. (ii) The second Respondent's [the Electoral Commission] conduct of depriving them of this right is illegal as it infringes their rights in violation of articles 1, 59 and 21 of the Constitution. (iii) The second Respondent [the Electoral Commission] is accordingly directed to comply with its obligation under article 59 clause 3, to wit, take all necessary steps to ensure that as citizens, they register and exercise their right to vote.

This judgement raises very important issues which are discussed in the next section of the article.

ANALYSING THE JUDGEMENT

The first issue which arises from the judgement relates to the category of people deprived of their liberty and who should exercise their right to vote. It has to be remembered that the Prisons Act provides for different categories of people who are under the custody of Uganda Prisons Service. These include awaiting trial prisoners (section 118), civil prisoners (section 2, for the law and procedure that have to be followed before a person can be sentenced to a civil prison, see for example, *Buwembo Sarah Kakumba v Samuel Kiwanuka & Another* 2014) and convicted prisoners (section 2). Although the petitioners included sentenced prisoners at one of the prisons, the facts are silent on the category into which they fell. Irrespective of the category in which they find themselves, all Ugandans of voting age who are in the custody of Uganda Prisons Service have a right to vote. This means that the judgement, if strictly interpreted, does not apply to those Ugandans who are in police custody or who are being detained by other security operatives such as the Internal Security Organisation. A strict interpretation of the judgement also means that it does not apply to police officers who have been convicted by a police court and sentenced to imprisonment in police custody (under section 28 of the Police Act). However, it could be extended to police officers who have been convicted by the police court and confined in police barracks under section 28 of

the Police Act. The best approach would be to extend the spirit of the judgement to all Ugandans deprived of their liberty by government agencies. This would include, for example, those in police custody and in the custody of other security agencies. It would also include those in mental institutions who, irrespective of their mental conditions, are able to exercise their right to vote.¹ However, as the discussion below illustrates, it may be difficult for arrangements to be made for those in police custody to cast their votes. There is no doubt that the High Court's order is applicable to military officers who have been sentenced to imprisonment by a military court. This is because such offenders serve their sentences in civil prisons which are operated by Uganda Prisons (section 222(1) of the Uganda Peoples' Defence Forces Act, 2005). There is nothing preventing the Electoral Commission from making arrangements for service detainees under the Uganda Peoples' Defence Forces Act, that is, military officers sentenced by the military court and serving their sentences in military facilities, from also exercising their right to vote (section 222(2) of the Uganda Peoples' Defence Forces Act, 2005). These Ugandans also have their right to vote and some military barracks are designated polling stations.

The second issue is whether a law has to be enacted or amended for the prisoners to be able to vote. One of the arguments made by the Electoral Commission as the reason why prisoners do not vote is because 'the current legal framework upon which elections are conducted does not encompass the intricacies associated with being incarcerated' (Kalali). However, the Electoral Commission did not inform the Court of the said intricacies, which prompted the Court to observe that the Electoral Commission 'should have pointed more specifically to these intricacies related to prisoners voting' (Kalali, para 15). Implied in this argument by the Electoral Commission is the assumption that the law has to be amended or enacted to empower prisoners to vote. It is argued that the Electoral Commission can make arrangements for prisoners to vote based on the current legal framework. The first step would be to ensure that prisoners who are registered to vote have their cards brought to them in prisons by their relatives or friends. As for those who do not have their voter cards, for whatever reason, they should be issued with duplicate voter cards as provided for under section 27 of the Electoral Commission Act. Section 27 provides that:

(1) Whenever a voter's card is lost, destroyed, defaced, torn or otherwise damaged, the voter shall, at least seven days before polling day, notify

1 If a person with mental health issues is fit enough to stand trial, such a person should also be able to vote if he/she is in a mental institution. For example, in *Uganda v Afeku* (2017), the High Court had 'regard to the infinite degrees of mental health problems' and found that the accused was fit to stand trial for murder 'despite his obvious mental health problems.' The accused was convicted of manslaughter and sentenced to a short term of imprisonment (one year and nine months).

in writing the returning officer or any other officer duly authorised for that purpose by the returning officer, stating the circumstances of that loss, destruction, defacement or damage. (2) If the returning officer or that other officer is satisfied as to the circumstances of the loss, destruction, defacement or damage of the voter's card, he or she shall issue to the voter a duplicate copy of the voter's original voters card with the word "DUPLICATE" clearly marked or printed on it. (3) No person shall issue a duplicate voter's card to any voter on polling day or within seven days before polling day. (4) Any person who contravenes subsection (3) commits an offence and is liable on conviction to a fine not exceeding thirty currency points or to imprisonment not exceeding one year or to both.

For the prisoners who are not yet registered to vote, the Electoral Commission can still make arrangements for them to register. Section 19 of the Electoral Commission Act provides that:

(1) Any person who - (a) is a citizen of Uganda; and (b) is eighteen years of age or above, shall apply to be registered as a voter in a parish or ward where the person - (i) originates from; or (ii) resides. (2) No person shall be qualified to vote at an election if that person is not registered as a voter in accordance with article 59 of the Constitution. (3) Subject to this Act, a voter has a right to vote in the parish or ward where he or she is registered.

Neither the Electoral Commission Act nor the Interpretation Act defines the term residence. However, case law on election petitions in Uganda shows that courts have understood residence to mean the place where the voters ordinarily live (*Nabukenya v Nakate & Anor* 2016; *Ebil Fred v Ocen Peter & Anor* 2016). A prison can therefore be taken as a place of residence for the offenders who are incarcerated therein (see appendix).

Because a person can only vote in a parish or ward in which they reside or originate, prisoners who are detained in their respective wards or parishes should be able to vote from there. However, those who are not being detained in their wards or parishes would have to transfer to the ward or parish in which they are being imprisoned. This option is provided for under section 19(4) of the Act which provides that:

if a registered voter wishes to vote in a parish or ward other than the one in which he or she is registered, the voter shall apply to transfer

his or her registration to the parish or ward where the voter wishes to vote, except that the parish or ward shall be one where the voter - (a) originates from; or (b) resides.

However, section 19(5) imposes a condition on the transfer which is to the effect that '[a] transfer under subsection (4) may only be effected during any period when the voters register is being revised or updated.' Section 19(7) provides that '[w]hen updating the voters register, the commission shall update it to a date appointed by statutory instrument in accordance with subsection (8) as the date on which the updating shall end.' Under section 19(8) of the Act:

Where elections are to be held by the commission, the statutory instrument referred to in subsection (7) appointing the date on which updating shall end shall be made - (a) in the case of all general elections, by the commission; (b) in the case of a by-election for election to Parliament, constituency members of Parliament, district women representatives or representatives of special interest groups, by the Minister; and (c) in the case of a by-election to local government councils or committees, by the commission.

On the basis of section 19 of the Act, the Electoral Commission announced that the exercise to update the general register commenced on 21 November 2019 and ended on 23 December 2019. The Commission that stated that (December 2019):

Accordingly, Monday 23rd December 2019 was appointed as the cut-off date for registration of voters throughout Uganda. Registration as a voter and application for transfer of voting particulars from one polling station to another will not be conducted after today [23rd December 2019].

From 19 February 2020 to 10 March 2020, the Electoral Commission displayed the National Voters' Registers 'at all the 34 344 polling stations in the country' and made it very clear that '[t]here shall be no extension of the Display exercise' (Electoral Commission March 2020). The above discussion shows that the voter registration exercise came to an end several months before the High Court held that prisoners have a right to vote. This then raises the important issue of whether it is still possible for the Electoral Commission to reopen the exercise for the prisoners to register or transfer from the areas in which they were registered to their new places of residence – the prisons.

As mentioned above, section 19(5) of the Electoral Commission Act provides that '[a] transfer under subsection (4) may only be effected during any period

when the voters register is being revised or updated.’ The use of the word ‘may’ as opposed to ‘shall’ implies that the Electoral Commission still has the discretion to effect a transfer even after the voters’ register has been revised and updated. Ugandan courts have held in more than one decision that where the word used in legislation is ‘may’ as opposed to ‘shall’ it means that the court has the discretion whether or not to exercise the power conferred upon (*Muhumuza v Kalyegira & Anor* 2012; *Paskali Juma Wasike & Alex Onyango Situbi & 2 Ors* 2010; *Nsubuga v Kahiire* 2014; *National Social Security Fund v Byamugisha* 2013; *Heritage Oil and Gas Limited v Uganda Revenue Authority* 2011). This same reasoning should be extended to the Electoral Commission. Nothing prevents it from reopening the exercise to allow offenders to transfer and vote from prisons. This will not be a daunting task because as shown above, statistics from Uganda Prisons Service shows that as of May 2020, Uganda Prisons Service was home to 64 028 prisoners spread across 254 prisons.

Nothing in the Electoral Commission Act prohibits the Electoral Commission from registering new voters after the conclusion of the registration exercise. In fact, on the basis of section 50 of the Electoral Commission Act, the Electoral Commission could invoke its special powers to allow prisoners to register or to transfer from their respective parishes or wards to their new places of residence (prisons). Section 50 of the Electoral Commission Act provides that:

(1) Where, during the course of an election, it appears to the commission that by reason of any mistake, miscalculation, emergency or unusual or unforeseen circumstances any of the provisions of this Act or any law relating to the election, other than the Constitution, does not accord with the exigencies of the situation, the commission may, by particular or general instructions, extend the time for doing any act, increase the number of election officers or polling stations or otherwise adapt any of those provisions as may be required to achieve the purposes of this Act or that law to such extent as the commission considers necessary to meet the exigencies of the situation. (2) For the avoidance of doubt, this section applies to the whole electoral process, including all steps taken for the purposes of the election and includes nomination.

In *Amama Mbabazi v Kaguta Museveni & 2 Ors* (2016) the Supreme Court held that ‘Section 50 does not provide for any conditions or criteria that the Commission should first satisfy before it invokes its powers to extend the deadline for doing any act’ (*ibid.*, p. 48). Likewise, in *Musema v Abiriga & Anor* (2016) the High Court referred to section 50 of the Act and held that (*ibid.*, p.33):

This provision of the law gives the 2nd Respondent [the Electoral Commission] powers to improvise in case of any emergencies or mistakes to ensure that the election continues as long as the results will reflect the will of the people. It is envisaged that mistakes will always be there and I can dare say that one cannot expect a perfect election hence the justification of the said provision of the law.

It could be argued that the Electoral Commission could not have foreseen that the High Court would require it to make arrangements for prisoners to vote, and on the basis of section 50 of the Act it can reopen the registration and transfer exercises to enable the prisoners to register and vote. As the Court of Appeal held in *Kawooya v Kabatsi* (2007), the Electoral Commission may invoke section 50 in an emergency by particular or general instructions. In other words, there is no need to amend or enact any law for the prisoners to be able to vote in the upcoming elections. The Supreme Court held that the Commission's powers under section 50 of the Act are applicable to any stage of the electoral process including extending the duration of displaying the voter's register (*Besigye Kiiza v Museveni Yoweri Kaguta and Another* 2001) and the nomination period for candidates (*Amama Mbabazi v Kaguta Museveni & 2 Ors* 2016, p. 45). The High Court held that the Electoral Commission could invoke its powers under section 50 to enable voters to cast their votes if by failure to do so it may disenfranchise them (*Opio v Okabe & 2 Ors* 2016), and also to establish new polling stations (*Musema v Abiriga & Anor* 2016, p. 33).

In light of the above discussion to the effect that there is no need for law to be amended or enacted for the Electoral Commission to put in place measures for the prisoners to vote, the Electoral Commission can invoke its powers under section 50 of the Act to establish new polling stations in prisons where they do not exist. Information from the Electoral Commission shows that it already has many polling stations in different prisons in the country or near prisons, especially at prison schools (see Presidential Elections, Final Results 2016, pp. 45, 58, 99, 149, 234, 298, 354, 572, 817, 829, 987, 1027, & 1415). These polling stations have in the past been used by prison officials and their families and the neighbouring communities to cast their votes. Arrangements could be made by the Electoral Commission and Uganda Prisons Service to put in place security measures for some prisoners to vote at these already established polling stations. Otherwise the Electoral Commission should work closely with the Uganda Prisons Service to establish a new polling station in all 254 prisons in the country. This would be on the basis of section 33 of the Electoral Commissions Act which provides that:

(1) Each returning officer may, with the approval of the commission, establish within each parish or ward within his or her electoral district

as many polling stations as are convenient for the casting of votes, taking into account the distances to be travelled by voters to polling stations, the number of voters in the constituency and the geographical features of the constituency. (2) Where the circumstances require, the returning officer may, under subsection (1), establish a polling centre at which are located more than one polling station; except that in that case, the returning officer shall ensure that steps are taken to inform voters as early as possible of the particular polling station at which they are required to vote, that the polling stations are separated by a sufficient distance and also that the circumstances are such as to guarantee orderly voting without confusion.

If prisoners have been cleared to vote, the next question that arises is the elections in which they can vote. They can vote in presidential, parliamentary, local council elections and referenda. On the issue of campaigns in prisons, these have to be conducted in line with the guidelines laid down by the Uganda Prisons Service. As the High Court held (Kalali, para 19):

For the right to vote to be meaningful, there must be access to information regarding who is standing, for what positions, their manifestos and other information relevant to voting. This right of access to information is provided under Article 41 of the Constitution and is only restricted where release of information is likely to prejudice the security or sovereignty of the state or interfere with the right to privacy of any other person.

These guidelines should strike a balance between the prisoners' right to access information which is guaranteed under Article 41 of the Constitution, and the security concerns of the Uganda Prisons Service.

CONCLUSION

In this article, the author has discussed the Ugandan High Court decision on the right of prisoners to vote, and has demonstrated the practical steps that have to be taken for the prisoners to be able to realise this right.

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APPENDIX

Section 38A of the Land Act (2014) defines 'ordinary residence' for the purpose of that Act to mean 'the place where a person resides with some degree of continuity apart from accidental or temporary absences; and a person is ordinarily resident in a place when he or she intends to make that place his or her home for an indefinite period.' However, this definition may not be applicable to the Electoral Commission Act. This is so because most prisoners (apart from the few sentenced to life imprisonment or lengthy prison terms) will not be in prison indefinitely and prisoners could be transferred from one prison to another for various reasons. Section 4 of the Law Revision (Penalties in Criminal Matters) Miscellaneous (Amendment) Act, 2019 provides that '(1) For purposes of any enactment prescribing life imprisonment or imprisonment for life, life imprisonment or imprisonment for life means imprisonment for the natural life of a person without the possibility of being released. (2) Notwithstanding subsection (1), a person liable to imprisonment for life or life imprisonment may be sentenced for any shorter term of imprisonment not exceeding fifty years.' Section 73 of the Prisons Act (2006) provides for circumstances in which a prisoner can be transferred from one prison to another. It is to the effect that '(1) A prisoner on being sentenced or during confinement, may be removed to any prison established under this Act. (2) A sentence of imprisonment lawfully imposed upon a person may be served partly in one prison and partly in another. (3) The Commissioner General may, by general or special order, direct that a prisoner be transferred from the prison to which he or she was committed or in which he or she is detained to another prison. (4) At the Commissioner General's discretion, a prisoner shall, if practicable be kept in and released from a prison situated in the area to which the prisoner belongs. (5) A prisoner who is being transferred or conveyed from one prison to another prison or place shall, while outside the prison, be deemed to be in the custody of the prison officer.'

COURTS AND THE MEDIATION OF PUBLIC RESOURCE (AB)USE DURING ELECTIONS IN MALAWI

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ABSTRACT

The (ab)use of public resources during elections in Malawi is a recurrent phenomenon. The judicial mediation of the (ab)use of public resources has, however, not been extensive. In instances where courts have intervened, their pronouncements have done little to stem the practice, especially by incumbents. This paper interrogates the judicial regulation of the (ab)use of public resources during elections in Malawi. Among other things, it establishes that state media remains one of the most highly contested resources during elections. The paper demonstrates that the judicial understanding of public resources is narrow and may shield politicians from censure. In addition, political actors in Malawi seem interested in questioning the (ab)use of public resources only in the period immediately preceding polling without concern about any (ab)use during the rest of the electoral cycle.

Keywords: elections, public resources, courts, party funding, civil society, electoral cycle

INTRODUCTION

Elections are a process and not an isolated event. They are often evaluated by whether they are free and fair. There are, however, a myriad of elements that contribute towards the freeness and fairness of an election. Elections are also a resource-intensive activity. For candidates, the chances of success are often related to the resources at their disposal. While access to resources alone may not determine the outcome of an election, it remains a critical influence on the result. The nature of the resources to which a candidate has access may also have a bearing on how free and fair the election is, since access to some resources may distort the playing field for contestants.

Although polling day is the most visible part of the electoral cycle, much happens between, during and after elections that can have a critical bearing on the outcome (Ronceray & Byiers 2019, p. 4). The extent to which an election is free and fair therefore requires a holistic perspective which scrutinises the activities of candidates and their political parties during the entire electoral cycle. Only in this way can it be determined whether or not a candidate or a political party has an unfair advantage by, for example, having illicit recourse to public resources.

The (ab)use of public resources during elections has often been analysed in the context of the advantages and disadvantages that it confers. The advantages that incumbency confers on political actors have been well explored (MacDonald 2014, p. 2). These frequently stem from the access to public resources that incumbents acquire by virtue of their positions. Conversely, incumbency can also be a disadvantage in an election (MacDonald 2014, pp. 1–2). In the Malawian context, for example, Joyce Banda was arguably burdened by the excesses of her regime when she lost the presidency in 2015.

At present, an incumbent's access to public resources is the common precursor to the (ab)use of public resources during elections and is a threat to the integrity of any electoral process (Helle & Rakner 2014, p. 161). The legitimacy and integrity of an election in turn depend on the perception of both the electorate and candidates that the process has been conducted in a manner that does not guarantee specific outcomes in advance (Rakner & Svasand 2005, p. 2). A level playing field is critical for securing the legitimacy and integrity of elections, and this includes guaranteeing fair and equitable access to state resources by all contestants (Mbaya 2004, pp. 85–86).

The (ab)use of public resources during elections must be viewed broadly since it may include any use of public resources in a manner that confers an advantage to a candidate or political party not afforded to other candidates or political parties (Transparency International 2017). Although the (ab)use of public resources tends to acquire prominence in the run-up to polling, this can take place at any time during the electoral cycle. Further, although it is easy to allege such (ab)uses, it is difficult to substantiate them because such incidents manifest themselves in multifarious, sometimes subtle forms. The conflation of official and unofficial duties by incumbents also obscures matters.

The (ab)use of public resources during elections is widespread across the world, including in Africa. Research on the subject, especially within the Southern African Development Community (SADC) to which Malawi belongs, is sparse (Matlosa & Mbaya 2004, p. 47). While acknowledging the continental and global dimensions of the problem, this paper's focus is specifically on the judicial mediation of the (ab)use of public resources during elections in Malawi. Although Malawian case law on the subject is very limited, the paper assumes that for as

long as the legal order established by the Constitution of the Republic of Malawi 1994 (the Constitution) remains in place, Malawi is welded to a democratic system of governance. This commitment to democratic governance demands that Malawi must hold periodic, free and fair elections. The conduct of past elections in Malawi strongly suggests that the problem of (ab)using public resources during elections is likely to be recurrent.

This paper interrogates judicial developments in Malawi relating to the (ab) use of public resources during elections. The following section crafts a framework for understanding the topic and is followed by a situation analysis of this (ab)use and the judicial treatment of such cases. The penultimate section isolates issues requiring further attention, ending with the conclusion.

ELECTIONS AND THE (AB)USE OF PUBLIC RESOURCES

Public or state resources refer to any resources belonging to the government at all levels of the administration (Ohman 2011, p. 1). Although public resources are sometimes understood as being exclusively financial, they can take many forms and are categorised into four broad groups: financial, institutional, regulatory and enforcement resources (Ohman 2011, pp. 1–2). Financial resources cover monetary resources at the disposal of the state, including publicly-owned state institutions. Institutional resources are non-monetary material and personnel resources available to the state, including publicly-owned media and other communication tools. Regulatory resources refer to the mandate to pass laws and regulations that control both permitted and prohibited behaviour; while enforcement resources refer to the state mandate to use security and law enforcement agencies to implement and enforce laws.

Ohman's conceptualisation of public resources finds concurrence in the approach by Matlosa and Mbaya (2004, pp. 13–14), who assert that state or public resources refer to 'capabilities (in the form of institutions, human capital, financial wherewithal, technological inputs or other non-material assets) used to achieve set goals of an organisation or a nation'. These approaches indicate that public resources cover considerable breadth, and it is important to adopt an equally broad perspective. However, the discussion in this paper revolves around the use of public media, state security apparatus, public service and state assets (Mbaya 2004, pp. 67–68).

Insofar as access to public resources during elections is concerned, the danger arises when incumbents manipulate their access in order to remain in power. The abuse of public resources, therefore, is the use of public resources to support or undermine a political actor, be it a political party or a candidate (Ohman 2011, p. 1). This abuse encompasses any use of publicly-owned resources in a way that

affects the operation of political parties or electoral processes to favour certain political actors (Transparency International 2017).

The (ab)use of public resources during elections is commonplace (Speck & Fontana 2011, p. 1) and is one of the most important and recurrent challenges facing many countries (Venice Commission & OSCE/ODIHR 2016). While this (ab)use may be aimed at securing re-election, it is not necessarily limited to the campaign period. It may persist for much longer in order to finance political parties and maintain support networks.

The (ab)use of state resources has a corruptive influence on electoral processes since it introduces or exacerbates power imbalances in favour of incumbents (Ritchie et al. 2017, p. 1). The (ab)use of public resources during elections takes many forms. These include the abuse of public infrastructure, diversion of public funds to political parties, manipulating state communication, politicisation of public servants, trading votes for access to public services, and extorting donations from the private sector (Speck & Fontana 2011, pp. 3–9). While the harmful effects of the (ab)use of public resources during elections are often recognised, few countries have enacted laws for its regulation, and as a result there are loopholes which can easily be exploited (Ritchie et al. 2007, p. 2; Venice Commission 2012). The effect of this (ab)use is to drain the limited funds available for development, infrastructure, or social welfare projects. Conversely, infrastructure projects may be launched around the campaign period to influence voters, rather than being initiated when they are needed (Ritchie et al. 2007, p. 1).

Wahman and Seeberg (2020, p. 4) assert that money matters in an election in multiple ways. For example, in elections with low levels of information, voters tend to support candidates with a higher chance of winning. Candidates need to showcase their viability and credibility if they are to appear to have a fair chance of winning, and this in turn requires them to spend money. Candidates also need money for the logistics of soliciting votes. Money also tends to be more significant in the electoral politics of poor countries like Malawi, with a challenging geography and infrastructure, since candidates will need more resources to manage their campaigns (Helle & Rakner 2014, p. 162).

The influence of money in elections, however, is not all nefarious as money can have an enabling role in elections by enhancing citizen participation (Speck 2013, pp. 13–20). Political parties, a critical component in any democracy, require money to manage their operations – including cultivating active participation of the citizenry in political processes. It is the unregulated role of money in elections that has the potential to distort competition, create an uneven playing field and undermine public trust in the political system (International IDEA 2017, pp. 124–149).

In Malawi political campaigns are heavily dependent on rallies, so candidates must have sufficient funds to pay for transporting supporters, hiring public address systems and buying promotional materials (Wahman & Seeberg 2020, pp. 5). If controlling the state is the only sure way to economic prosperity and power, the incentive to use state resources to remain in office is very high (Helle & Rakner 2014, p. 168). In addition, because economic activity is centred around the state, incumbent parties and their candidates tend to have a disproportionate advantage stemming from their access to various state resources (Ohman 2016, p. 7). Although incumbency tends to create challenges everywhere, these challenges are heightened where the incumbent makes little effort to separate partisan acts from state functions. Persistent (ab)use of public resources during elections threatens the consolidation of democracy because it can deform the expression of the will of the people and undermine the very purpose of holding elections (Helle & Rakner 2014, p. 162).

In the context of an electoral cycle, the regulation of electoral campaigns should guarantee the freedom of all candidates and parties to communicate with the electorate (Rakner & Svasand 2005, p. 7). This has at least three key aspects: first, state-controlled media should present political alternatives in a neutral fashion; second, all contestants should be afforded an equal opportunity to publicly canvass for votes; and third, access to public resources for campaigning should either be equally available to all candidates or not available at all. This helps to level the playing field.

The (ab)use of public resources during elections undermines fundamental democratic values (Council of Europe [CoE] 2018, pp. 7–8). Three imperatives illustrate these dangers:

- First, elections should be organised in such a manner that neutrality and impartiality are not compromised;
- Second, candidates and political parties ought to be treated equally in relation to all public resources; and
- Third, voters must be free to form an opinion and should not be pressured or induced to vote for particular individuals or political parties.

In many countries, the responsibility for dealing with the (ab)use of public resources during elections falls on election management bodies (EMBs). However, this responsibility is often shared with other agencies. While the Malawi Electoral Commission (MEC) bears the primary responsibility for monitoring the (ab) use of resources during elections, this responsibility is shared with the Malawi

Communications Regulatory Authority (MACRA) and in some instances with the Anti-Corruption Bureau (ACB).

The Law and the (Ab)use of Public Resources during Elections in Malawi

Malawian law has standards intended to preserve the integrity of elections. The primary source of such norms is the Constitution, section 5 of which establishes it as the supreme law of Malawi. A reflection on the entire electoral cycle, however, is necessary to understand the relevance of the Constitution to the question of the (ab)use of public resources during elections. Several constitutional provisions are relevant: section 6 of the Constitution provides that the 'authority to govern derives from the people of Malawi as expressed through universal and equal suffrage in elections held in accordance with this Constitution in a manner prescribed by an Act of Parliament'. Further, section 12 of the Constitution highlights key principles that underlie the system of governance in Malawi, including the fact that all legal and political authority of the state derives from the people of Malawi and must be exercised in accordance with the Constitution (section 12(1)(a)). Section 12(1)(c) emphasises that the authority to govern is conditional upon the sustained trust of the people of Malawi which can only be maintained 'through open, accountable and transparent Government and informed democratic choice'. According to the High Court of Malawi in *Saulos Klaus Chilima et al v Arthur Peter Mutharika et al* (Constitutional Reference No. 1 of 2019, HC, LL) 'genuine, credible, transparent, free and fair elections form the solid foundation for [Malawi's] pluralist democratic system. Those vested with the duty to conduct elections, therefore, have a sacred duty and responsibility to all the people of Malawi...'. The Constitution unequivocally confirms the democratic character of the state and also indicates the role that elections must play in preserving democracy. Since the duty to hold free and fair elections stems from the Constitution, it is arguable that any conduct undermining it is unconstitutional.

Section 193 of the Constitution guarantees the independence and impartiality of the civil service. Under section 193(1), members of the civil service must not compromise their independence and impartiality through their exercise of the right to participate in political activities. Further, under section 193(4), no government or political party should cause any civil servant to 'deploy resources, whether they be financial, material or human resources, for the purposes of promoting or undermining any political party or member of a political party or interest group...'. Section 193, although seemingly limited to civil servants, provides a clear indication of the general proscription against the use of any public resources during electoral activities. Additionally, under section 58 of the Parliamentary and Presidential Elections Act (PPEA) 'every public officer and

public entity or authority shall give and be seen to give equal treatment to all political parties to enable each political party to conduct its campaign freely'. The emphasis in this provision is on the neutrality of public officers.

In terms of access to public media, section 63 of PPEA is pertinent. Under this provision, all political parties have the right to have the substance of their campaign propaganda reported on television and radio broadcasts by the Malawi Broadcasting Corporation (MBC). Although the MBC has latitude to professionally determine news content, it must maintain neutrality in its reporting and commentary. The responsibility for monitoring news broadcasts, for purposes of ensuring equality among the political parties, is bestowed on the Electoral Commission.

MACRA has a pivotal role in terms of regulating the media. The Communications Act (2016) requires broadcasters to ensure equitable treatment of political parties and candidates during any election period (Rule 32, Second Schedule). MACRA is also empowered to monitor compliance by broadcasters, with terms and conditions attached to any broadcasting licence and also a code of conduct for broadcasting services. The Communications Act has arguably conferred adequate powers on the MACRA to police the use of the media during elections.

The Political Parties Act (Act No. 1 of 2018) also has relevant standards on the (ab)use of public resources during elections. For example, its section 27(3) states that a political party is not eligible to receive donations from state-owned corporations, and section 41(1) prohibits the use of handouts by political parties or candidates. Under this Act, handouts are defined as 'transactions whereby political parties, bodies, candidates or any other person distribute private goods, cash, gifts and other items to a person as an enticement to vote for the political party or the candidate that shall not include matters or transactions specified in the Schedule'. Under the schedule, campaign materials, unpublicised religious obligations or offerings and facilitation of political party meetings or activities such as transport refunds, meals for entourage or entertainment are excluded from the definition of handouts. Section 41(5) of the Act envisages that the responsible minister, the MEC, political parties and other stakeholders will adopt regulations to govern the prohibition of handouts. However, these regulations have yet to be adopted.

The above survey demonstrates that there are legal standards that can be utilised to regulate the (ab)use of public resources during elections in Malawi. There is also unlimited original jurisdiction conferred on the High Court by the Constitution to hear and determine any civil and criminal matters (section 108 Constitution). The courts are therefore the natural and legitimate arbiters of all disputes pertaining to the (ab)use of public resources during elections.

THE (AB)USE OF PUBLIC RESOURCES DURING ELECTIONS IN MALAWI

The (ab)use of public resources during elections has been a recurrent issue in Malawi (Patel 2010; European Union Election Observation Mission [EUEOM] 2019, p. 5). The prevalence of these allegations points to a deep-rooted problem. In this section, the paper principally relies on selected reports by election observer missions to assess the prevalence of this problem.

The 1994 general elections were the first truly competitive elections in post-independence Malawi. The Commonwealth Observer Group's report (1994, pp. 9–18) paints a fair picture of the situation at the time. Notably, Malawi's media had just emerged from three decades of promoting the government's view and that of the Malawi Congress Party (MCP). The result was that the MBC had become a powerful propaganda tool for the one-party state. Initially, the broadcaster made no effort to give a fair and balanced coverage to all political parties (International Commission of Jurists 1994, p. 13). However, as part of efforts to level the playing field, the MEC adopted guidelines for media coverage which required the MBC to provide fair and balanced coverage to all political parties. As a result, the MBC 'transformed its news and current affairs programmes into a form few Malawians could recognise' (Commonwealth Observer Group 1994, p. 15). The MBC, however, was not always even-handed and it sometimes gave preferential treatment to the MCP. The MCP was also accused by opposition parties of (ab)using public resources for campaigning (Commonwealth Observer Group 1994, p. 18).

Campaigning for the 1999 general elections revealed a situation skewed in favour of the incumbent United Democratic Front (UDF) party (Rakner & Svasand 2005, p. 7). The MEC failed to remedy this biased coverage (Khembo 2005, p. 10). Ironically, less than two weeks before polling day the MEC issued guidelines for the media coverage of elections directed particularly at the MBC. These guidelines were meant 'to ensure that full, fair and balanced coverage is given, without censorship, in all news and other broadcast output relating to the campaigns of all registered candidates and parties during the period of campaigning' (EISA 2002). However, the guidelines were issued late and had negligible effect. Overall, the 'UDF and the State President used state resources, including government vehicles, to conduct its campaign' (Rakner & Svasand 2005, p. 8). The state security establishment was also co-opted in the UDF's campaign.

According to Khembo (2005, p. 20), 'political campaign strategies during the 2004 elections included handing out money, maize, clothing, bicycles, sugar and salt to the electorate'. MACRA and the MEC failed to coordinate their activities, allowing the public media to favour the incumbent UDF without sanction (Khembo 2005, pp. 44–45; Rakner & Svasand 2005, p. 7). Concern regarding the

(ab)use of state resources for campaigning was widespread and ‘it did not end with the ruling party’s monopoly over state electronic media but included the use of government vehicles, including those of the Electoral Commission, for party activities, the use of parastatal funds for campaigning, the deployment of government personnel and the abuse of the police’ (Khembo 2005, p. 47; Rakner & Svasand 2005, p. 8). The African Union Observer Mission also bemoaned the persistent culture of handouts by political parties (2004, p. 15).

In the 2009 general elections there was a glaring imbalance in resources between the incumbent Democratic Progressive Party (DPP) and other political parties. There was evidence of ‘an inordinate exploitation of the incumbency advantage, relating to the use of state institutions, facilities, security services, vehicles and other resources as well as state media’ (Commonwealth Observer Group 2009, pp. 18–19). Public media overwhelmingly favoured the DPP in total disregard of all laws stipulating equality among contestants (EISA 2009, p. 15). In a blatant partisan act, MACRA (a government parastatal corporation) was implicated in the abuse of public resources when it printed posters and T-shirts for the DPP (Chinsinga 2010, p. 65).

The Peoples Party (PP) was in power during the 2014 general elections. Notwithstanding the power turnover, the patterns for (ab)use of public resources during elections continued. For example, the EUEOM (2014, p. 19) noted that ‘the ruling PP clearly had an advantage over the three main opposition political parties as it benefitted from the advantages of the incumbency including more state-owned media coverage’. The PP also engaged in the distribution of handouts such as maize, bicycles, blankets, motorbikes and construction equipment (EUEOM 2014, p. 20). In terms of access to state media, ‘the PP dominated the airtime on both state-owned radio and television’ (EUEOM 2014, p. 23). In addition, the PP made little effort to separate its campaign activities from state functions.

By the time the 2019 general elections were being held a new Political Parties Act was in place, though not fully in force. Notwithstanding the proscription of handouts in section 41 of this Act, the use of handouts by political parties was recurrent (African Union Election Observation Mission [AUEOM] 2019, pp. 17–18). Complaints about unequal media coverage also arose, especially from opposition political parties. As noted by the AUEOM (2019, p. 17) ‘despite the legal restrictions on the use of state resources and bias of state media, these provisions were violated by some political parties without repercussion’. The ‘campaign was marked by the misuse of handouts and the abuse of state resources and incumbency’ (EUEOM 2019, p. 2).

In a judgment delivered in February 2020 the High Court of Malawi nullified the 2019 presidential election which was found to have been affected by irregularities. In May 2020, the Malawi Supreme Court of Appeal upheld the

High Court's judgment confirming that fresh elections had to be held. The new elections, held in June 2020, revealed (ab)use of public resources. Strikingly, this (ab)use was not limited to the incumbent DPP but extended to the opposition Tonse Alliance because the incumbent vice-president ran for office on the same ticket as the then leader of the opposition. The result was that both the sitting president and the vice president had access to public resources in support of their campaigns. The most blatant act of abuse, however, occurred when the DPP formed an alliance with the UDF and accorded the UDF president, the alliance's running mate, privileges akin to those of the state vice-president: government vehicles, state security and a lion's share of the public media coverage.

Despite the turnover of power, the persistent (ab)use of public resources confirms that incumbency tends to precede the (ab)use of state resources in elections. It is also clear that this (ab)use often happens in an environment where it has recurred over decades of elections (CoE 2016). The (ab)use of state resources during elections in Malawi is arguably also a reflection of the enduring effects of neo-patrimonialism where the state is considered a resource to be distributed among loyalists.

JURISPRUDENCE REGARDING THE (AB)USE OF PUBLIC RESOURCES IN MALAWI'S ELECTIONS

While Malawian elections have generated countless judicial determinations, there are few cases dealing specifically with the (ab)use of public resources during elections. Almost all cases on the subject relate to incidents occurring during the campaign period. Under section 57 of the PPEA, 'the period of campaigning in public by every political party ... shall be a period of two months closing forty-eight hours before the opening of the poll...'. Because of this restriction, the advantages of public resource (ab)use tend to become more obvious and thus more readily trigger a reaction from political actors during the campaign. Absent the exigencies of an impending election, political actors have not attempted to challenge the (ab)use of public resources.

One of the earliest cases is *Dr Charles Kafumba et al v Malawi Electoral Commission et al (the Kafumba Case)* (Miscellaneous Civil Cause No. 35 of 1999 HC, PR) which arose in the run-up to the 1999 general elections. The petitioners complained that the MBC had failed to provide equal access to all political actors and had favoured the then incumbent UDF. The petitioners had previously filed the same complaint with the EC which made no effort to resolve their grievances. The Court confirmed that the Communications Act required that political parties be treated equally in terms of their access to public media. After assessing the various mechanisms put in place by the EC to ensure equitable access to the public media,

the Court concluded that the EC had done enough to comply with the law. The Court held, however, that the MBC had failed to accord equitable access to all political actors. It also held that the primary responsibility for ensuring equitable access to public media lies with MACRA. The Court directed the MBC to work with MACRA to ensure non-discriminatory access to public media.

The case of *National Democratic Alliance v Electoral Commission et al (the NDA Case)* (Constitutional Cause No. 3 of 2004, HC, PR) arose during the 2004 general elections. The *NDA Case* was factually so similar to the *Kafumba Case* that the High Court noted: ‘that the present case is virtually just a reincarnation of the *Kafumba case*’. This case was dismissed on procedural grounds. The Court found that the applicant had breached the civil procedure rules by unilaterally abridging the time within which the respondents were meant to respond to the originating summons. The Court also found that the applicant’s affidavit was defective since it did not attach any evidence in support of the claims. Gloppen et al. (2006, p. 36) contend that the Court erred in dismissing the case on technical grounds and it should have adopted ‘a more creative and less formalistic approach’, including taking judicial notice of publicly available documentation. This argument, however, ignores the adversarial character of the court system in Malawi, and surreptitiously places the onus on the court to look for evidence in support of a party’s case. While courts should be urged not to be unduly bogged down by technicalities, especially in matters of public interest, this decision was correct given the rather casual manner in which the plaintiffs framed their case.

Another case that arose during the 2004 general elections was *The Republican Party (representing its members and all of Mgwirizano Coalition Grouping) v Electoral Commission et al (the Republican Party Case)* (Constitutional Case No. 5 of 2004 HC, PR). The court had to determine whether the MEC was correct in referring a complaint on the (ab)use of public resources by the incumbent president to the Office of the President and Cabinet (OPC) instead of dealing with it. The High Court held that by referring the plaintiffs’ complaint to the OPC, the MEC abdicated its duties under the Constitution and the PPEA because the law confers on it wide powers to resolve any complaint related to the conduct of elections.

On appeal to the Malawi Supreme Court of Appeal (MSCA), the findings of the High Court, in relation to the Electoral Commission’s failure to control the abuse of public resources by the incumbent, were confirmed (*The Malawi Electoral Commission and others v the Republican Party* MSCA Civil Appeal No. 14 of 2004). The MSCA held that ‘the 1st Appellant erred in referring the complaint on this aspect to the Office of the President and Cabinet, instead of dealing with it itself as required both under the Constitution and statutory law’.

The last case is *Loveness Gondwe et al v Catherine Gotani Nyahara (the Loveness Gondwe Case)* (MSCA Civil Appeal No. 2 of 2005). This was an appeal from a

High Court decision which had invalidated a parliamentary election (*Catherine Gotani Nyahara v Loveness Gondwe and another* Miscellaneous Civil Cause No. 82 of 2004 HC, MZ). One of the irregularities established by the High Court was that the appellant, who was a first deputy speaker of the National Assembly at the material time, had used her official government vehicle during the campaign. The MSCA held that the appellant was entitled to use her official vehicle, for both official and private business, even after the dissolution of the National Assembly by virtue of both the Constitution and the Parliamentary Service Act (section 10).

The MSCA made two key findings. First, that the respondent had failed to prove 'by evidence what effect the use of the vehicle had on the election result', and therefore failed to demonstrate that the appellant would have lost the election but for the use of the official vehicle. Second, that '...both the Constitution and the PPEA are silent on the use of public resources for campaign purposes... and any judicial findings that such use is unconstitutional ... are not entirely correct...'

Although the MSCA found that there had been irregularities in the conduct of the parliamentary election at issue, it held that these had not affected its outcome, and therefore upheld the appeal and reversed the High Court's order nullifying the result. The MSCA has subsequently modified the position in the *Loveness Gondwe Case* and endorsed an approach that utilises both the quantitative and qualitative aspects to proving irregularities necessitating the nullification of an election – *Prof Arthur Peter Mutharika et al v Dr Saulos Klaus Chilima et al* (MSCA Constitutional Appeal No. 1 of 2020).

PUBLIC RESOURCES AND ELECTIONS IN MALAWI

An Analysis of Selected Issues

All elections in Malawi since 1994 have revealed that the MEC and other key stakeholders have been challenged in terms of facilitating fair electoral processes (Rakner & Svasand 2005, p. 7). While the challenges have been multifarious, one of the persistent challenges has been the (ab)use of public resources, especially by incumbents. It must be recalled, however, that 'the underlying principle in respect of the law of elections in Malawi is that elections must be free and fair' and that it is the duty of the MEC to 'not only ensure that elections are free and fair but to adopt measures to guarantee that elections are indeed free and fair' (*Catherine Gotani Nyahara v Loveness Gondwe et al.* HC, MZ). The '[Electoral] Commission, therefore, has the singular duty under the Constitution as well as under all relevant statutes, to conduct elections that are ultimately free and fair' (*Prof Arthur Peter Mutharika et al v Dr Saulos Klaus Chilima et al.* (MSCA Constitutional Appeal No. 1 of 2020)). From a legal perspective, it must be recalled that the law has granted the

MEC considerable leeway in terms of the precise steps that it can take to ensure that elections are free and fair.

The Perennial Contest over Access to State Media

Access to the media is critical in determining whether or not elections are free and fair. Equitable access to the media allows contestants a fair opportunity of conveying their message to potential voters, which in turn allows voters to exercise informed choices. The quality of a democracy is improved when voters exercise informed choices (Centre for Multiparty Democracy 2020, p. 39).

Although all public resources in Malawi are at risk of abuse during elections, state media is the resource most highly susceptible to abuse and has been monopolised by incumbents in all electoral cycles. Ironically, state media seems to have performed better in the 1994 general elections during the transition from a one-party state. After 1994, the situation deteriorated and stagnated. Patel (2009) asserts that the performance of the state media in the 2009 general elections was so glaringly biased that it probably ranked as the worst-ever performance by the state media during an election in Malawi. In the 2004 elections access to state media was also heavily contested, resulting in litigation before the High Court. Access to state media is critical in Malawi since it has huge coverage across the country. The perennial monopolisation of state media by incumbents inevitably creates an uneven playing field, thereby undermining free and fair elections.

In the *Kafumba Case*, the High Court considered whether the MEC had taken due steps to guarantee all political parties equal access to state media, and concluded that ‘...the Commission [had] done everything under their mandate ... the Commission cannot take over the running of Malawi Broadcasting Corporation’. The Court made this finding because the MEC proved that it had made arrangements with the MBC to broadcast campaign messages for all political parties. It also proved that it had convened a meeting with the MBC to impress on them the need to accord equal access for all contestants to state media. The failure, therefore, was due to MBC’s recalcitrance. The Court also noted that the law has not granted the MEC the means to enforce its directives about equal coverage on state media.

The 2004 and 2009 general elections are further proof of the challenges faced by the MEC in ensuring equitable access to state media. In the run-up to the 2004 elections, the MEC established a media monitoring unit. This notwithstanding, state media heavily favoured the incumbent. Further, although a Media Code of Conduct was adopted for the 2009 elections enjoining all media houses to be balanced and impartial, the patterns from 1999 and 2004 were replicated. The MEC failed to enforce the Media Code of Conduct (Commonwealth Secretariat 2009, p. 21).

A critical look at the prevailing regulatory framework reveals that both MACRA and the MEC have a role in ensuring that political actors are granted equitable access to public media. In practice, however, the allocation of responsibilities between MACRA and the MEC is not clear. Coupled with the absence of a clear sanctions regime, the enforcement of neutrality is compromised. This, therefore, is an area in need of law reform.

Public Resources and the Campaign Period

As earlier noted, section 57 of the PPEA prescribes the campaign period as two months ending forty-eight hours before polling, ostensibly the period within which political actors can canvass for votes. The challenge is that 'political campaigns continue to take place, under various forms and guises, even outside the specified campaign period' (Malawi Law Commission 2017, p. 114). Neither the PPEA nor any other law has provided clarity as to whether the MEC, or any other entity, has the power to receive complaints about campaigning outside of the period prescribed by the PPEA (Malawi Law Commission 2017, p. 115). Incidents of (ab)use of public resources tend to increase during the campaign period.

A key contributing factor in the (ab)use of public resources for elections by incumbents in Malawi is the failure to maintain a clear demarcation between state functions and party activities (Centre for Multiparty Democracy 2020, p. 41). This lack of clarity has been exploited by incumbents to arrogate to themselves advantages which other competitors do not have. These include the use of state security and government vehicles and also direct financial support from parastatal corporations. For example, the president could, on paper, undertake a state function such as the commissioning of a road project, and at the same time, address a 'development rally', which would be nothing short of overt campaigning. During such a rally the president would also disburse all manner of merchandise, including cash, to supporters. No clarity has emerged as to the source of the items that presidents have traditionally distributed.

So far, judicial challenges relating to the (ab)use of public resources for elections have been lodged in relation to activities happening during the designated campaign period. For example, the *NDA Case* started about a month before polling in 2004. During these elections the MBC and TV Malawi had been biased since the early stages of the electoral cycle (Gloppen et al. 2006, p. 36). This begs the question as to why the judicial challenge was launched late in the electoral cycle. It appears that the litigants may have assumed that lodging the case before the designated two-month campaign period would be premature and lead to automatic failure (ibid.).

The plaintiffs' conduct in the *NDA Case* is revealing. First, it is clear that the designation of a two-month campaign period is pointless. Political actors

in Malawi actively campaign throughout the electoral cycle. The result is that unfair advantages can be acquired at any point during the electoral cycle and not simply during the two months preceding voting. In principle, therefore, the (ab) use of public resources by an incumbent can be challenged at any point during the electoral cycle. Given the excesses of the regime in 2004, it was ill-advised for the plaintiffs in the *NDA Case* to wait until two months before polling before commencing their action.

Second, Gloppen et al. (2006, p. 36) contend that the failure to act expeditiously by the petitioners in *NDA Case* was also influenced by their pessimism about the ability of courts to change the biased coverage of the MBC. The petitioners may have been reinforced by the MBC's disregard of the 1999 judgment in the *Kafumba Case*. Several reasons explain government non-compliance with court orders (Kanyongolo 2006, pp. 51–54). Sometimes non-compliance is due to a lack of resources but it can also be due to premeditated actions, especially by the executive. Generally, it seems that government's compliance depends on the subject matter of the court order. The government will thus be slow to comply with orders where it stands to lose politically, while it is often more amenable to complying with orders that have limited political repercussions. Considering the centrality of state media to elections in Malawi, it is unsurprising that court orders meant to guarantee equitable access have been ignored by successive incumbents.

Narrow judicial understanding of public resources

The judgment in the *Loveness Gondwe Case*, being a decision of the most superior court in Malawi, deserves special attention. Under the doctrine of *stare decisis*, all courts below the MSCA are bound to apply this judgment unless they can distinguish it. The MSCA found that although the appellant had used her official vehicle during campaigning this did not amount to an abuse of public resources. Gloppen et al. (2006, p. 38) are correct in asserting that the MSCA's judgment could be interpreted as a blanket authorisation for incumbents to utilise public resources for campaign purposes. The MSCA's findings are cast in wide terms suggesting that the use of public resources in elections is not restricted.

The rather bland findings by the MSCA can be explained by its later comments in the same judgment in which it found that both the Constitution and the PPEA are 'silent on the use of public resources for campaign purposes'. The silence that the MSCA alludes to is hard to fathom. In Malawi, free and fair elections are decreed by the Constitution. Abuse of public resources has the potential of distorting the playing field for contestants, which in turn undermines the integrity of elections. On the basis of the Constitution alone, the MSCA could have made an emphatic statement about the impropriety of the abuse of public

resources for campaigning. Additionally, the PPEA provisions meant to guarantee, for example, equitable access to state media (another public resource), should have inspired the MSCA to appreciate the general scheme meant to guarantee free and fair elections.

The MSCA's findings may arguably have been influenced by the nature of the public resource at issue in the *Loveness Gondwe Case* – an official motor vehicle, which is often allocated for the use of a specified individual with latitude to cover both private and official uses. The proscription on the use of public resources during elections, however, must be understood to cover all forms of public resources, with the defining trait being whether or not such use confers an advantage not extended to other contestants.

The MSCA's struggles in the *Loveness Gondwe Case* do not seem to be isolated. The Special Law Commission on the Review of Electoral Laws, which considered the question of the (ab)use of public resources in elections, also struggled with this issue (Malawi Law Commission 2017, pp. 115–117). While the Special Law Commission proposed that the use of public resources for campaigning should be banned, two situations were distinguished. The first scenario was where a public resource, such a car, is given for a public official's use as part of his or her entitlements. The Special Law Commission found that if the official subsequently used such a car for campaigning he or she should not be deemed to have abused public resources. Unsurprisingly, the Special Law Commission referred to the *Loveness Gondwe Case* to buttress its recommendation. The second scenario is where a public official commandeers public resources which are not part of his official entitlements, for campaign purposes. In the latter scenario, the Special Law Commission recommended that sanctionable abuse of public resources should exist.

The judgment in the *Loveness Gondwe Case* and the recommendations of the Special Law Commission are problematic. The MSCA's judgment, because of its blanket language, can be interpreted to suggest that there are no restrictions on the use of public resources for campaigning. The MSCA's failure to explore the nuances as to when an incumbent's use of public resources can cross the line of legitimate use is regrettable. Key here, however, would be the determination of when the use of public resources confers an advantage that other contestants do not have, which advantage cannot rationally be justified as a legitimate consequence of incumbency.

The MSCA in the *Loveness Gondwe Case* also relied on the fact that 'the extent of the use of the official vehicle during campaign was not established'. According to the MSCA, the effect that the use of the vehicle had on the outcome of the election had not been proved. This, however, was tantamount to setting an unrealistic standard. It should be recalled that while it may be easy to spot incidents of (ab)use

of public resources, it is very difficult for would-be petitioners to prove the same (Helle & Rakner 2014, pp. 163–165). This is partly because such abuse is often perpetrated by incumbents, making it very difficult for law enforcement agencies to act, especially in emerging democracies with weak supervisory institutions (Sample 2017, pp. 24–25). Since then the MSCA has partly clarified the issue by adopting both a qualitative and quantitative test in assessing evidence alleging electoral malpractice - *Prof Arthur Peter Mutharika et al v Dr Saulos Klaus Chilima et al.* (MSCA Constitutional Appeal No. 1 of 2020).

The Regulation of Political Party Funding

A sound system for regulating campaign and political party finance is a central tenet for democratic elections and can assist with stemming (ab)use of public resources (The Congress and Council of Europe 2016). In Malawi, however, no framework for dealing with accountability for party funding existed before the adoption of the Political Parties Act of 2018 (Khembo 2005, p. 32). The result was that there was no statutory obligation on political parties to disclose the sources of their funding or to account for the use of party funds. The Political Parties Act requires political parties to declare to the Registrar of Political Parties any donation of at least MK1 000 000 from an individual, and any donation of at least MK2 000 000 from an organisation, within 90 days of receipt (section 27). The Act also requires all political parties that receive private funding to keep financial records which must be audited by a certified public accountant (section 30). State funding of political parties is covered under section 40(2) of the Constitution but extends only to political parties that garner at least one-tenth of the national vote in a general election. In practice, many small political parties are automatically excluded since they are unable to garner these votes.

The improvements introduced by the Political Parties Act notwithstanding, the framework regulating the financing of political parties remains problematic. For example, there are no restrictions on the sources of private funding to which political parties can have access. In practice, Malawian political parties rely on funding from well-wishers, membership contributions and patrons or financiers. The reliance on patrons or financiers, however, exposes them to undue influence by major funders. Additionally, there are no ceilings to campaign expenditure by political parties, which results in major discrepancies in the resources of the various political parties (EUOM 2014, p. 19). These arrangements favour the bigger and more established political parties over the small emerging parties.

Uncontrolled, undisclosed and opaque political financing is a threat to the integrity of elections and has a corruptive influence on the management of political parties (Helle & Rakner 2014, p. 165; Matlosa 2004, p. 8). It provides undue influence to a clique of individuals and obliterates the need to focus on the common good,

while also creating an uneven playing field. Unregulated political party funding poses a triple threat to democracy since it fosters political inequality, engenders corruption and contributes to the loss of democratic accountability (EISA 2014, pp. 8–10). In respect of a political party in power, for example, a murky legislative framework regarding political party funding creates opportunities for the abuse of public resources and conceals detection of the same.

While the innovations introduced by the Political Parties Act 2018 are commendable, it is clear that more needs to be done to bring about transparency and accountability in respect of the funding of political parties. The challenge with regulating political party funding, however, is not simply due to the absence of a governing law; but rather one of implementation (Ohman 2016, pp. 9–11). More, therefore, needs to be done beyond the adoption of the Political Parties Act.

The Role of Civil Society

Civil society organisations (CSOs) have always undertaken critical roles during elections in Malawi. For example, they have collaborated with the MEC to conduct civic and voter education and also provided monitors and observers in elections. The parallel voter tabulation managed by the Malawi Electoral Support Network remains one of the pivotal contributions of civil society in electoral processes.

CSOs can play a critical role in monitoring the (ab)use of public resources during elections, though regrettably, Malawian CSOs have not done very well on this score. This could be due to an over-focus on election day activities such as monitoring and observation at the expense of other activities during the electoral cycle. CSOs, however, can monitor campaign spending by political parties and in the process reveal whether political parties and candidates are adhering to laws on political financing, and also whether the regulatory bodies are objectively enforcing the regulatory framework (TIDE 2013, p. 119). CSOs can also monitor the use of state resources by incumbents to determine abuse. It is important, therefore, to harness the potential of CSOs in order to enhance the integrity of electoral processes.

The *NDA Case*, previously discussed, was originally filed by the Public Affairs Committee (PAC), an umbrella body for religious organisations. Although the PAC subsequently abandoned the case, its initial involvement was an encouraging sign about the role that CSOs can play in monitoring the abuse of public resources during elections. CSOs should, therefore, consider strategic litigation as a tool for levelling the playing field during elections.

Transparency, freedom of expression and information remain important in stemming the abuse of public resources during elections (Venice Commission &

Council of Europe 2012). CSOs can also raise public awareness of the activities of political parties, particularly the ruling party. Availability of information has the potential to undermine the abuse of public resources and dilute the traditional advantage that incumbency confers (MacDonald 2014, pp. 22–23). In addition to raising public awareness CSOs should also be at the forefront in advocating for reforms in the regulatory framework.

CONCLUSION

The major challenge in dealing with (ab)use of public resources during elections is that most of the (ab)use is committed by those in power. Countering this (ab)use, therefore, requires the existence of a clear regulatory framework and robustly independent institutions. The judiciary is a natural option in this regard. In practice, the use of public resources during elections suggests bias in favour of incumbents. Courts in Malawi have traditionally played a critical role in resolving disputes that have arisen during the electoral cycle. However, the judicial pronouncements on the (ab)use of public resources during elections are sparse and uninspiring. Given the rather sketchy legislative framework regulating the use of public resources during elections in Malawi, courts retain a pivotal role in demarcating permissible usage of state resources and also assisting in clarifying the roles of the enforcement agencies. Given the shortcomings by the courts, other stakeholders, such as CSOs, should also take a role in monitoring the (ab)use of public resources during elections.

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CHALLENGES TO THE SINGLE-PARTY DOMINANCE OF THE AFRICAN NATIONAL CONGRESS

Lessons from Kwazakhele

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ABSTRACT

This article explores the challenges to the African National Congress (ANC) in its traditional stronghold of the Port Elizabeth working-class township of Kwazakhele. The authors argue that this area has been the embodiment of single-party dominance for decades. Using exit polling and a post-election survey, the article details the challenges to the ANC from both reduced voter turnout and rising support for the Economic Freedom Fighters (EFF). The article concludes that the end of the ANC dominance in Kwazakhele in coming elections is possible but is not a foregone conclusion.

Keywords: South Africa, elections, voting behaviour, single-party dominance, voter turnout

INTRODUCTION

In South Africa's 2019 general elections the vote totals of the African National Congress (ANC) dipped below 60% for the first time. This, according to Joleen Steyn-Kotze and Narnia Bohler-Muller (2019) marked a watershed in South Africa's political landscape and raised the possibility that the one-party dominance the ANC had held since the first democratic election in 1994 was coming to an end.

This article analyses the voting behaviour and political participation in a long-time ANC stronghold, the Kwazakhele township in Port Elizabeth. The authors seek to provide some insight into that question while making no claim that the Kwazakhele results can be declared a national trend.

The study tracks democratic participation in the working-class black township of Kwazakhele in Port Elizabeth, South Africa from 1994 to the present, documenting the challenges faced by the ANC in attempting to maintain its traditional support base and political dominance in the township. In each of the last two national elections, 2014 and 2019, the researchers surveyed approximately 200 residents of Kwazakhele. Half of the respondents had grown up during apartheid and voted for the first time in 1994. The second group was born as apartheid was being abolished, the so-called 'born free' generation. This paper's researchers participated in a University of Johannesburg project that conducted an exit poll in 2019 of voters in poor townships around South Africa, including 215 voters in two selected voting districts in Kwazakhele. The authors also draw on official voting data for Kwazakhele.

The primary research question this article seeks to answer is the political trajectory of the Kwazakhele community after 25 years of democratic elections. To answer this question several secondary questions are pursued: Who have the residents voted for, and why? Has there been any change in support for the ANC between younger and older voters? Are the Economic Freedom Fighters (EFF), formed in 2013, gaining any traction, especially among younger voters? Has the effort of the Democratic Alliance (DA) to reach out to black voters gained any traction? For those that support the ANC, what is the basis of that support? What is the pattern of participation in the area, the rate of voter turnout over time? Has the traditionally high level of participation by the apartheid-era generation (over 85% voter turnout in national elections) been maintained by the 'born free' generation; and if not, what are the reasons for the decline in voter turnout? Beyond voting, what is the level of political and civil participation and has it remained constant with the current generation?

The data collected in the questionnaires allowed us to examine the significant factors shaping political attitudes, voter choice and party support in the last two elections. This allowed an analysis of whether socio-economic and demographic indicators such as age, gender, home ownership, and employment are significant; or whether the significant indicators are behavioural variables such as political participation, loyalty, civic engagement, and involvement with local government.

Kwazakhele is situated in Nelson Mandela Bay, a metropolitan municipality which has faced devastating levels of corruption and political instability over the past decade. In the context of the allegations of state capture under Jacob Zuma's presidency, the Nelson Mandela Bay metro is an important site of political contestation. Since the 2016 local government election, two important books have been published reflecting on the politics of the Nelson Mandela Metro (Olver 2017; Ndletyana 2020). This article is an in-depth exploration of the political participation in one township of Nelson Mandela Bay.

THE KWAZAKHELE SURVEYS

Research findings in this article are primarily based on two surveys conducted in Kwazakhele in May 2019 following the national and provincial elections. Earlier surveys were conducted by Cherry (2000, 2011, 2017) in the same area following national elections from 1994 forward. In 2019 one survey focused on residents 43 years old and older, that is those who grew up under apartheid and were eligible to vote for the first time in 1994. The second 2019 survey interviewed persons younger than 43, whose adult life has been after the dismantling of the apartheid system, the so-called 'born free' generation. Ninety-seven questionnaires were completed by older adults and 108 by younger adults. Each respondent in the survey completed 36 questions. The questions in the survey first established basic demographics: age, gender, employment status, education level, and spoken home language. It then ascertained whether they had voted in the 2019 election and if so for which party, and why. Researchers also asked whether respondents had voted in the previous two elections (2016 local and 2014 national) and for whom they voted and why. If they did not vote in 2019, we asked the reasons behind their abstention.

The next section of the questionnaire asked about their level of political involvement. Were they party members, did they attend community meetings, did they campaign for a party, and did they participate in public protest activity? The following section explored the question of civic engagement by seeking information about civic organisations in the township and whether they were active in such organisations. A later section of the questionnaire focused on expectations and perceptions of quality of life by asking such questions as: How has South Africa and Kwazakhele changed since 1994? What has changed in your life? Respondents were also asked whether the ANC government had met their expectations, and were asked for concrete examples of expectations met or disappointed. The last question in this section asked what they could do if the government did not meet their expectations.

Interviews were completed by a team of interviewers who conducted 205 interviews in randomly selected households in the seven wards that make up Kwazakhele. The interviewers were residents trained in interviewing techniques by the Transition Township (TT) research project and were isiXhosa-speaking. The map of Kwazakhele was divided into five sections (identified as A, B, C, D, and E) to ensure that respondents were captured in all areas of Kwazakhele. Forty locations in each section were selected using Excel's built-in random function to generate a set of coordinates. A pair of researchers was allocated to each section and they visited the house closest to each of the coordinates on the map of that

section. If no one was available or willing to respond in the first house approached, the next house in the same coordinates was approached. The primary selection criterion was an age requirement, 18–42 for the younger adult survey and 43 and older for the older adult survey. Respondents also had to be Kwazakhele residents, not temporary visitors. The primary language of the area is isiXhosa but the survey was written in English with the interviewers, isiXhosa speakers, able to assist in verbal translation of questions and answers where necessary. All surveys were conducted in the month following the election of 9 May 2019.

This article also draws on additional survey research done in Kwazakhele for the 2019 national elections. The authors and a student research team from Nelson Mandela University conducted exit polling on election day in two selected Kwazakhele voting stations (there are 25 in all in the township). This was in conjunction with a national project of the Centre for Social Change at the University of Johannesburg that polled 28 township voting stations across South Africa. The two Kwazakhele stations were selected to represent the diversity of the township; one was in the old centre while the other was on the edge of the township, including an area of shack dwellers. Ultimately, 215 voters were interviewed with 160 willing to reveal for whom they voted

Election statistics and demographic data are drawn from South African websites for the Independent Electoral Commission and the South African Census 2011. Although the borders of Kwazakhele township do not precisely match the ward boundaries, the data from the seven wards which make up most of Kwazakhele and the voting stations within these wards is used for corroboration of the survey data. These are Wards 18, 19, 20, 21, 22, 24 and 25 of the Nelson Mandela Bay Municipality. Some survey data are analysed for both surveys together (total 205) while for the purpose of comparison between the older and younger residents' political participation, the data of the two surveys are counted separately.

HISTORY, DEMOGRAPHY AND POLITICS OF KWAZAKHELE

The reason for this study of voter participation and voting patterns to focus on Kwazakhele is because this township has a relatively homogenous population, in many ways typical of black urban working-class communities around South Africa. Unlike the newer townships and informal settlements on the outskirts of the city, whose residents have urbanised in the past two decades, much of Kwazakhele's population has been living in the city for generations. With an established and stable population and a long history of political activism, it is an ideal community in which to document voting trends.

Kwazakhele is a former municipal township, with a population of approximately 100 000. It was established in the late 1950s to accommodate urbanised black residents of Port Elizabeth who were living in the mixed-race area of Korsten. In one of the largest forced removals in apartheid's history, 45 000 people were moved from Korsten to Kwazakhele over a period of three years (Cherry 1988). Most of Kwazakhele still consists of the original municipal houses, known as 'matchbox houses'. The area also contains buildings that were originally barracks-style migrant housing renovated for family living, as well as post-1994 government-built 'RDP' housing. There are still a few pockets of informal dwellings without services, which are in the process of being replaced by RDP houses and formal services.

Many of the older residents of the area have a long political history going back to the days of the 1950s when the liberation movements were legal. Before it was banned in 1960 the ANC had a strong presence in the area and in 1976 the youth of the area pursued a militant path of resistance centered on Kwazakhele High School. In the early 1980s a powerful civic resistance movement was organised under the umbrella of the Port Elizabeth Black Civic Organization (PEBCO) leading to a township uprising between 1984 and 1986 that rendered the township 'ungovernable' and apartheid 'unworkable'. The influence of the ANC was present throughout this mobilisation so that when the transition to democracy began in 1990 the hegemony of the ANC was well established and was consolidated in legal ANC branches with high levels of support and participation.

As a result, it is not surprising that the first democratic election, held in April 1994, saw the residents of Kwazakhele participating in great numbers and voting for the ANC. From that election forward turnout remained high, with over 80% of votes going to the ANC. This was only challenged in the 2009 election, when the newly formed Congress of the People (COPE) gained 25% of the vote in the one Kwazakhele ward from previous ANC voters who were dissatisfied with the treatment of former ANC president Thabo Mbeki (Cherry 2009). The subsequent decline of COPE in ensuing elections re-established the dominance of the ANC in the township.

As Kwazakhele is a prime constituency of the ANC, it is not surprising that considerable governmental effort has gone into improving the conditions and developing the township. Houses have been transferred into the ownership of long-term residents, almost all homes are electrified, roads have been tarred, and most homes have proper sewage pipes. Children's playgrounds have been constructed in the area and a modern shopping centre built on the edge of the township. As a result, the ANC retains a strong support base.

In addition to studying party support and the consolidation of electoral democracy, this study is concerned with the depth of political participation and

strength of democracy. The Kwazakhele surveys constitute the only longitudinal study of participation by the South African urban working-class in both formal and informal democratic institutions. Based on the high level of mobilisation in this township during the liberation struggle of the 1980s, it was argued that if democracy requires a high level of participation, if it was going to 'work' anywhere in South Africa, it would be in townships such as Kwazakhele. Participation in civil society structures such as street committees, residents' organisations, and savings clubs or burial societies, and in local government processes such as ward committees and Integrated Development Planning consultations, was surveyed over nearly 30 years.

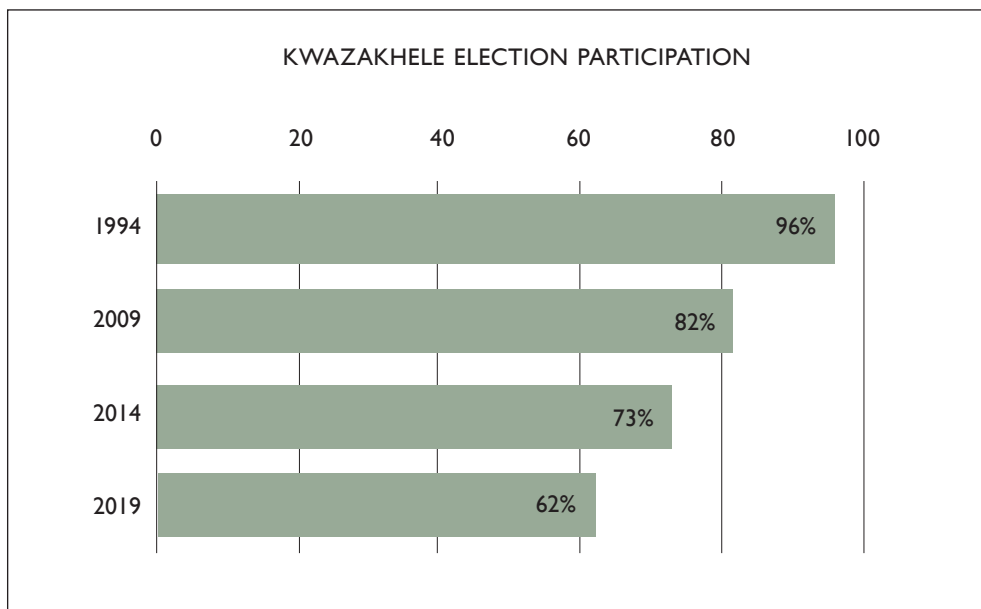
The first survey was conducted in 1992 for the 'civics and civil society' project, and measured participation in the street and area committee structures of the 1980s resistance to apartheid rule; what role such structures served in their neighbourhood; and whether such participation was declining in the transition to democracy. As democracy was consolidated in South Africa in the decades following the 1994 founding election, levels of participation declined. Yet it is argued that the longitudinal study illustrates a citizenry with a remarkably high level of political participation. As levels of frustration with economic exclusion rose in the 2000s, and as networks of patronage and corruption became more entrenched in government at all levels, some residents of Kwazakhele withdrew from such participation. Our previous study following the 2016 local government election (Prevost & Cherry 2017), argued that political pluralism was manifest in the small but significant support gained by new parties, including the EFF. This evidence of pluralism supports the overall argument of the longitudinal study which is that democracy in Kwazakhele has been consolidated and that participation in electoral and other processes is very much part of a democratic political culture.

Does the evidence of the 2019 survey continue to bear this out? The 2019 survey explores the continued dominance of the ANC in Kwazakhele, and interrogates this in relation to the conditions under which dominant parties can be challenged, as well as in relation to arguments about generational changes in voting patterns and growing apathy amongst younger voters.

ANALYSIS OF KWAZAKHELE VOTING TRENDS IN 2019

A review of the 2019 national and provincial voting data for the seven Kwazakhele wards (18–22, 24 & 25) reveals some interesting developments. The ANC remains dominant with 80.5% of the vote compared to 81.1% in 2014. However, this is far from the whole story. The ANC received approximately 6 000 fewer votes as the overall voter turnout in the township fell from 73% in 2014 to just 62% in 2019.

The drop of 11 percentage points, which was consistent with national trends, represented the second consecutive election where turnout in this township had fallen from 82% in 2009 to 73% in 2014.



Source: IEC

Figure 1: Decline in voter participation, 1994 – 2019

In addition to the drop in turnout for registered voters there was also a 3.1% drop in registrations in the seven wards, from 60 492 in 2014 to 58 595 in 2019. The only political party that significantly increased its votes in 2019 was the EFF, which gained 1 100 additional votes and moved from 7.8% in 2014 to 12.6% in 2019. The EFF gain in percentage terms was aided by the collapse of the Congress of the People (COPE) which fell from 1 208 votes in 2014 to just 176 in 2019. The DA had gained minimal traction with black voters in Kwazakhele with modest gains in 2009 and 2014 but lost 170 votes in 2019, sitting at just 2.3%. However, even the DA fared better than other small opposition parties including the United Democratic Movement (UDM) with 1.5% and the newly formed Socialist Revolutionary Workers Party (SRWP) with just 0.6%. The dominance of the ANC remains, but in the context of a significant drop in voter turnout.

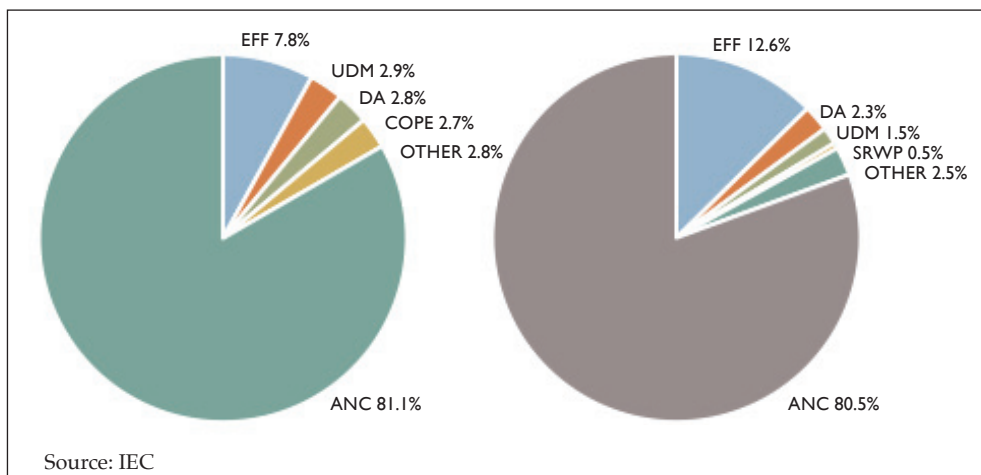


Figure 2: Party support in national elections, 2014 and 2019

Data from 2019 questionnaires of both older and younger adults yielded interesting insights into the voting figures. While the sample slightly overrepresented those who voted, it mirrored closely the vote totals of the competing parties. The survey of voters of 43 years and older showed remarkable continuity with our previous surveys of this cohort which first voted in the 1994 election. They had a high level of voter turnout at 88% which might have been even higher had it not been for bad weather on election day, which seven adults claimed as the reason for their abstention. The 88% is close to the overall Kwazakhele turnout of 96% in 1994. Support for the ANC was also overwhelming in 2019 with 78 of 80 respondents indicating a vote for the ANC and two for the EFF. The remaining voters chose not to reveal for whom they voted. There was little change from the older adult survey in 2014 which had a 95% turnout with 86 ANC voters, one EFF, and the remainder choosing not to reveal their preference.

The survey of the younger adults demonstrated a very different pattern of voter turnout and party preference.¹The older adult participation was 88% but in contrast only 65% of the younger adults in the survey voted. However, that was not the full story because among the younger adults age was a key determinant

1 The Chi-Square test used here is a standard statistical test to determine whether there is an association between two categorical variables, that is, whether the two variables are independent or related. The Chi-square statistic is a result of examining the differences between the observed frequencies in the data and the expected differences. A smaller Chi-square value means that the observed data fits the expected data well, i.e. that there is a relationship. The degrees of freedom in a Chi-square test are the number of levels in the categorical variables; they generally are reported so researchers can understand the number of categories that were examined. P is the probability level; for hypothesis testing, statisticians generally use $p < 0.05$ to infer that a relationship between the two variables is statistically significant.

of turnout. Interestingly, of the 20 respondents aged 18–22 only two persons voted. If that cohort is removed the turnout rises to 77%, much closer to the 88% in the older adult survey. The younger adult survey shows a clear association between age and voting. The older the voter, the more likely he or she is to vote. Another variable that had a clear association was employment status: employed respondents were more likely to vote than those who were unemployed.² Gender was also associated with voting: 76% of the men voted but only 57% of the women voted.³ Three other variables were studied – income, receipt of child support, and receipt of Free Basic Services (ATTP), but no statistically significant associations emerged.⁴

The staunch support for the ANC also diminished among the younger adults, falling to 65% (40 of 62 that reported their choice). Support for the EFF rose to 24%. Four respondents cited support for the DA (6.4%) with one each for the Socialist Revolutionary Workers Party (SRWP) and the Pan Africanist Congress (PAC) and there was one spoilt ballot. Respondents indicated how they had voted in 2014 as follows: 22 were too young to vote in the previous national election but among those eligible to vote (86) the abstention rate was only 25% compared to 36.3% in 2019. Voting preference was also strikingly different in 2014 with 54 respondents; 90% of those stating their voting preference was for the ANC and only five (8.3%) backed the EFF. There was one COPE supporter in 2014 and no support for the DA.

Significantly, seven ANC voters from 2014 shifted their allegiance to the EFF five years later. Only one supporter of the EFF in 2014 returned to the ANC, citing the departure of Jacob Zuma, a key demand of the EFF. Four EFF supporters voted for the party in both elections. The EFF picked up the remainder of its gains with two voters each from first time voters and 2014 abstainers. Three of the four DA voters had abstained in 2014 and one crossed over from the ANC.

PROFILE OF ANC VOTERS

Support for the ANC among those in Kwazakhele that had grown up and lived under apartheid, as documented above, has remained extremely high both in party support and in turnout, at least for national elections. This support is primarily because ANC supporters credit ANC-led local and national government with

2 Age was grouped in three categories; employment and voting behaviour were dichotomous. For age, Chi-square=32.0 with 2 degrees of freedom; p=0.000. For employment, Chi-square=5.3 with 1 degree of freedom; p=0.20.

3 For gender, Chi-square=4.3 with 1 degree of freedom; p=0.04.

4 Income was grouped into three categories. For gender, Chi-square=0.96 with 2 degrees of freedom; p=0.62. Child support and ATTP were dichotomies. For child support, Chi-square=0.97 with 1 degree of freedom; p=1.00. For ATTP, Chi-square=0.80 with 1 degree of freedom; p=0.83.

ending apartheid and bringing tangible improvements to Kwazakhele. Statements representative of this outlook include those of a 63-year-old retired nurse, who said: 'RDP houses were built, we also now have running water and geysers. Our children can go to any school they wish and the education is free'. An unemployed 50-year-old woman added: 'We used to live under apartheid where blacks were not allowed to vote but now we are in parliament and elect our own president'.

An understanding of ANC support among those whose first vote was cast in the period from 1999 to 2019 is more complex. Their reasons for loyalty to the ruling party are many and varied and contain some cautionary notes for the ANC. On one level the younger adults, like the older cohort, cite a strong loyalty to the party that is linked to their parents' ANC support, the achievement of democracy, and practical gains in education, health care, housing, and physical infrastructure in their township. Many respondents specifically cited Cyril Ramaphosa's leadership and the need to fight the corruption that they link to the Jacob Zuma era. Statements representative of this cohort include a 34-year-old unemployed woman who said: 'I love the ANC. There are RDP houses and free education but there are no jobs. My expectations have not been met'. An unemployed 31-year-old woman said: 'I voted for the ANC because of my parents. RDP houses were built and roads were tarred. I expected to get a job but there are no jobs'. Two respondents were 2019 ANC voters now leaning towards the EFF. An unemployed 32-year-old woman said: 'The ANC government has organised public works projects and built houses, but I need both a house and a job. In the next election I may give the EFF and Julius Malema a chance'.

The University of Johannesburg (UJ) exit polling project generally dovetails with the findings of our post-election surveys. In their sample of 215 there were 128 who reported a vote for the ANC, and only 30 voters who were younger than 43 – the post-apartheid generation. The median age of the ANC voter was 46. The UJ poll also identifies similar factors motivating a vote for the ANC falling into the categories of achieving political and social rights for the black majority and concrete improvements in township life. However, the challenge to the ANC was embodied in the ten 2019 EFF voters who indicated that they had voted ANC in previous elections. Conversely, no ANC voters had previously supported the EFF; thus it appears that voting preference is in one direction only, from the ANC to EFF.

The commitment of the ANC voters to political participation beyond voting was also significant. In the post-election survey 41% were dues-paying members of an ANC branch, 22% of the voters campaigned for the party in 2019, a full 57% indicated that they had attended a community meeting during the past year, and 14% also indicated that they had engaged in a street protest. When these activities are tested for age there is a positive correlation between age and dues payment, a negative correlation with attendance at community meetings, and no correlation

for campaigning and protesting. These findings would indicate that younger ANC voters are continuing the tradition of political activity beyond voting that had been well established by their elders. There may be fewer ANC voters among the younger adults, but their political participation remains high.

Given the tenuous hold that Ramaphosa may have on the party leadership ahead of the 2021 and 2024 elections and the slow progress of the corruption investigations, the longer-term hold on those Kwazakhele voters by the ANC could be in question. The key issue of concern to the ANC would have to be the economy and jobs. As noted above, while the younger cohort generally gave the ruling party high marks on government performance, many respondents cited the serious lack of progress in job creation. Several respondents noted their personal long-term inability to find stable work in spite of a higher level of education than their parents' generation. These unmet needs may not lead ANC voters to abandon the party in 2021 or 2024 but the ANC cannot be guaranteed their vote at a time when the younger generation of Kwazakhele residents becomes a large percentage of the electorate. The next section will document how some of this younger cohort is gravitating toward of the EFF.

PROFILE OF EFF VOTERS

What is the profile of the Kwazakhele EFF voter based on the survey data? As noted earlier only two of the eighteen EFF voters came from the older adult survey. The median age was 30 compared to the ANC figure of 46, a significant difference. Of these 64% were women and 36% men, roughly matching the balance of the male/female respondents in the two surveys. Further, 53% of the EFF voters were unemployed, and the rest were evenly divided between employed and students. Among all survey respondents 50% were unemployed so the employment profile of the EFF voters was similar to respondents as a whole and the ANC voters in particular.

The reasons for supporting the EFF cited in both the post-election survey and the exit polling can generally be grouped into three categories: a generalised desire for change from the status quo (ANC government), support for the ideology of the party (pro-worker, pro-poor), and agreement with specific policy proposals of the party, primarily on education, land, and jobs.

There was relatively equal weight in more than one category from some EFF supporters. A 32-year-old unemployed woman who had voted for the ANC in both 2014 and 2016 said: 'I had voted for the ANC by habit, but they have not met my expectations. The EFF is led by vibrant young people'. An unemployed 33-year-old man who had previously voted for the ANC said: 'I was tired of voting for the ANC, old people making promises. The EFF is for positive change'. A 21-year-old

female student and first-time voter focused more on policy, saying: 'I am voting for land and free education'. The EFF has also been credited with introducing free tertiary education for first-year students from families that earn less than R350 000 per year through the 'Fees must Fall' campaign of 2016–17. As one 18-year-old Grade 12 pupil said: 'Children have their own rights now; education is free now thanks to the EFF; there is nutrition in our schools for those who are poor; you can choose any school you want to attend'. Another EFF voter, an unemployed 26-year-old man who has always supported the EFF, cited 'fighting corruption' as his primary reason. A 42-year-old, long-standing EFF supporter voted for this party 'to bring about change and fight corruption'.

Not unlike the ANC voters in the 2019 post-election survey, a substantial majority of the EFF voters were political activists over and above just voting. In a survey questioning whether they paid party dues, campaigned for their party, attended community meetings, or participated in protest activities, 67% of EFF voters indicated that they paid party dues and 56% indicated that they campaigned for the party in the 2019 elections. Both numbers show a statistically significant higher proportion compared to ANC voters. Unsurprisingly, given the EFF's reputation for street protest, 28% indicated that they had taken part in a protest in the last year. This number was not statistically significant when compared with ANC voters, but suggested that EFF voters are more likely to protest than their ANC counterparts. Finally, 61% of EFF voters participated in community meetings matching the ANC supporters' 57%.⁵

The UJ exit poll data provided some additional insight into the 2019 EFF voters. Of the 215 voters surveyed there were 26 who indicated a vote for the EFF. Their median age was 29, 17 years younger than the ANC voters at 46, with 13 under the age of 30; 15 reported that they had voted previously for the EFF but 10 of the 26 had voted previously for the ANC. One person was casting a first vote. The reasons for their vote were coded along the lines stated above: change, policy, and ideology, and they broke down in a roughly equal manner with seven citing the need for change, eight citing specific policies, and ten in sync with the ideology of the party.

Overall, both the number of EFF votes – which has almost doubled since the last national election – and their relative youth seem to set the party up for future growth as the traditional ANC electorate ages and passes from the scene. Unlike previous breakaway parties from the ANC such as the UDM and COPE, who peaked in their first election and then began to fade away, the EFF began its

5 Political and civic participation measures were yes/no dichotomies. For party dues, Chi-square=4.4 with 1 degree of freedom; p=0.04. For campaigning, Chi-square=9.4 with 1 degree of freedom; p=0.007. For street protests, Chi-square=2.2 with 1 degree of freedom; p=0.16. For community forums, Chi-square= 0.107 with 1 degree of freedom; p=0.80.

electoral journey with decent support in 2014. It has increased its voter share in Kwazakhele and is likely to be a factor in future elections.

THE ROLE OF SMALLER PARTIES

In the previous analysis of Kwazakhele by Prevost and Cherry (2017) there seemed to be a developing trend toward political pluralism in the township. ANC support in the 2016 local election fell to just 75.3% of the vote with six opposition parties gaining between 0.9% and 9.7%. The latter vote total was for the EFF, up from 7.8% in 2014. However, other parties also showing gains were led by the DA which garnered 4.5%, up from 2.8% in 2014, the UDM with 4.0% and two new parties, the African Independent Congress (AIC) and the United Front of the Eastern Cape (UFEC) gaining 3.0% and 2.6% respectively. COPE, which had 2.7% in 2014, fell sharply but retained 0.9%. However, this pluralistic trend did not sustain itself in the 2019 national elections as every one of the smaller parties except for the EFF lost significant ground. Only the DA stayed (barely) above the 2% level with 2.3%. The UDM lost more than half of its votes, down to 1.5% and SWRP, successor party to the UFEC, fell to 0.6%. With a combined vote total of 93.1% the ANC and the EFF seem to be on the path towards making Kwazakhele a two-party dominated township. In 2014 the EFF and ANC had finished in the two top positions but with a combined vote total of 88.9%. The only caution regarding this assessment is that the 2021 local elections could produce a more pluralistic dynamic reflecting the proportional representation system employed in local elections.

PROFILE OF NON-VOTERS

Equally important to an analysis of the preferences of those who voted is a review of the data on those who did not vote, given the trend of greater abstention in Kwazakhele. To do this analysis it is necessary to look at the two surveys separately. A review of the turnout pattern of the older adult survey for 2019 reveals that in all probability only bad weather on election day prevented a turnout of close to 95% (as it was 88% voted), a remarkable commitment to the democratic process by Kwazakhele's apartheid-era population. Even though there may have been some disappointment in their material lives, the importance of the vote as a previously-denied democratic right remains paramount. However, it is the analysis of the non-voter in the younger adult survey that is more interesting. Of the young adults surveyed 37 indicated that they did not vote, an abstention rate of 34.7%. Interestingly, of the 20 respondents aged 18–22 only two persons voted. If that cohort is removed the abstention rate falls to 22% but even that number is higher than the 12% rate among older adults. How is the higher abstention

rate to be explained? Looking first at the 22 years and under cohort, most of the group indicated that they did not vote because they were not registered, including one person turned away at the polls. This respondent and four others indicated that they would register and vote in the 2021 local elections. None gave specific reasons why they did not register in 2019. There were highly visible registration campaigns carried out in the township by the Independent Election Commission (IEC) and the political parties ahead of the election. One student indicated support for the DA but gave no reason for not voting. Beyond the cohort described above who may well become voters in the next election, there was no clear pattern in the remainder. Some offered no reason for not voting, only two expressed clear disappointment with the system and a lack of desire to get involved in politics. It may well be that their non-voting was most emblematic of their young age and that from age 23 forward they will probably join the ranks of the voting public in the 70+% range, similar to the 23- to 42-year-olds in our survey who voted at a rate of 78%. Follow-up research will be necessary to ascertain if this judgment is correct.

This somewhat positive data on the voting patterns of younger adults does not seem to reveal either widespread alienation or apathy in the younger population in Kwazakhele. In our previous work (Prevost & Cherry 2017) we identified that, based on our 2014 national election surveying, there was a definite trend of a lower level turnout among younger adults compared to those that first voted in 1994. Our 2019 survey work seems to indicate that while there remains a significant gap in turnout between the two groups, the gap has not grown wider. The older part of the younger adult population has retained a level of participation that is reasonable (in the 70% arena) though lower overall registration levels make that number less impressive. We also cannot be sure that very low level of voter participation in the 18- to 22-year-olds will be reversed as they grow older. We could have been more definite about their reasons for not voting had that cohort's sample size been larger.

Of the 37 respondents who did not vote in 2019, 12 were previous ANC voters, emblematic of the 6 000 fewer votes that the ANC received in Kwazakhele in the last election compared to 2014. The reasons for walking away from the ANC included unfulfilled promises, nepotism in the ruling party, lack of job creation (cited by four respondents), and projects benefiting a limited number of people. Ironically, many of those defecting from the ANC stated that overall life in their township was continuing to improve. More 2014 ANC voters abstained in 2019 than switched their vote to another party, as only four 2014 ANC voters crossed over to the EFF in 2019. The overall political dominance of the ANC in Kwazakhele remains in place (80.5%). However, the combination of growing abstentions and defections to the EFF complicates the ability of the ANC to win back control of the

Nelson Mandela Bay Municipality (NMBM) in 2021 with a better performance for proportional representation (PR) seats. The ANC's shock at losing control of the NMB Council in 2016 was due in part to its lack of understanding of the calculation of PR seats; its overwhelming support in townships such as Kwazakhele led it to assume incorrectly that it would retain control over the Council. The subsequent instability in the NMB Council has been a result of this mixed election result and has had serious consequences for good governance in the Metro. Rampant corruption and ongoing factional struggles within the ANC (Ndletyana 2020; Steyn-Kotze 2018; Olver 2017) have contributed to further disillusionment since 2016 and may result in an even higher level of voter abstention in 2021.

One of the remaining abstainers voted for COPE in 2014, while the other 16 are more typical abstainers that have never voted: 13 expressed no interest in politics while three expressed discouragement that the political system could ever deliver for them. Of 37 non-voters 26 were women indicating a 57% voter turnout compared to 76% for men. The size of the sample does not permit declaring statistical significance, but it is strongly suggestive that at least among the younger adults where there is a significant abstention rate, men are more likely to vote. Among the non-voters, two persons were employed (5.5%), 8 were students (21.6%), and 27 were unemployed (69.9%). For the overall survey, 75% of the respondents were unemployed, 10% were students, and 15% were employed. The overrepresentation of students among the non-voters can be partly explained by the fact that they are concentrated in the 18–22-year-old age group, which as previously explained abstained at a much higher rate.

MEASURING SINGLE-PARTY DOMINANCE

In their October 2019 article in the *Journal of Comparative Politics*, Mary Tudor and Adam Ziegfeld explored the circumstances under which a single party dominant system breaks down. They drew on lessons from India where the once-dominant Indian Congress Party – a party with some similarity to the ANC – eventually lost its dominant position. They define a dominant party as one governing for at least 20 consecutive years over multiple elections that are judged to be free and fair. They define the end of dominance once achieved to have truly ended when an opposition party serves at least one full term in office. Tudor and Ziegler argue that single-party dominance often persists because the opposition consists of multiple ideologically different parties, and they examine the circumstances under which opposition parties overcome that challenge and unite to take power. They argue further that single-party dominance is less likely to occur when one of the opposition parties possesses a long-standing and robust party organisation and there is a single social cleavage dividing the political class into two main cleavage

groups. If these conditions are present the opposition can unite behind a single large party and end the single-party dominance.

We use the lenses of Tudor and Ziegler to evaluate whether single-party dominance may be under challenge in Kwazakhele township, while making no claim that it may be generalised to apply to South Africa as a whole. Up to the present time the dominant social cleavage in South Africa has been race, with nearly 80% of the population identifying as black. Up until the 2019 elections the DA has been the official opposition, capturing the overwhelming majority of white votes and a substantial majority of votes from the coloured community. In recent elections the party reached out to black voters as the ANC laboured under the flawed leadership of Jacob Zuma. The DA gained some traction, leading to 22% of the national vote in 2014 and a small but potentially important increase in votes in Kwazakhele in both 2014 and 2016 (Prevost & Cherry 2017). However, DA hopes for further inroads into the black community were dashed in 2019, as clearly demonstrated in Kwazakhele where their support remained below three percent. The DA, as a classic liberal party with strong party organisation, has staked out an ideological position clearly to the right of the ANC but that has not resonated successfully within the black community which sees the DA primarily as a 'white party'.

That leads to the question of whether the Economic Freedom Fighters (EFF) are positioning themselves to become that challenger to the ANC that could end their single party dominance in Kwazakhele. To answer that question, it is necessary to look at both the ANC and EFF and their potential trajectories. As our research over time in Kwazakhele has shown, the ANC, in spite of its internal and leadership issues, retains a strong level of support in black working-class communities. That support is most powerful in the apartheid generation and while that group is growing older it will remain a key part of the electorate for many years to come.

As our surveys demonstrate, ANC support in the post-apartheid generation lags behind that of its elders in level of support, but it is still strong at over 60%. The basis of that support among all ages is tangible and based on both real and perceived improvements in their daily lives that are ascribed to the ANC government. As noted earlier in the article the ANC faces real challenges in convincing the electorate that the problems of corruption and mismanagement that plagued the Zuma era are being rectified and will not be repeated in the future.

Whether or not the EFF can be the party that engineers the end of single-party ANC dominance is not yet clear. With only one-fifth of the votes of the ANC the EFF has a long way to go to become that party. Using Tudor and Ziegfeld's criteria, how do we assess their chances? The party may seem to some to be

simply a vehicle for the personal ambitions of its leader Julius Malema, but there is evidence from our survey that the party is building the necessary party structures to increase its voting totals in the future. As we described in the voter profile section, EFF voters fared very well in their level of political participation beyond voting, with high levels of dues-paying membership, participation in protest activities, campaigning for the party, and attendance at community meetings. In so doing it ranked better than its ANC counterparts in all four categories.

The second criterion on which the EFF would need to succeed would be to exploit a social cleavage to grow their vote totals. For the EFF that would need to be social class, as their appeal in the Kwazakhele context is aimed at the same racial constituency as the ANC, the black majority. The EFF is positioning itself clearly to the left of the ANC, arguing that the ANC has abandoned its radical roots and become in practice a neoliberal party (Mbetse 2015). As demonstrated in our surveys most ANC voters do not see the ANC in that light, but the EFF is appealing to both those ANC voters who have become discouraged by the failure of the ANC to deliver on its progressive promises, and also to first-time voters who see a need for radical change. Our surveys and the exit polling bear out this appeal of the EFF. Some EFF voters simply favour them to bring about change in a generic sense, but the majority cite the specific radical proposals of the EFF on land and other issues or explicitly support the socialist, pro-poor ideology of the party.

The EFF is the first serious challenge to the ANC from the left, as previous challengers like COPE had no ideological position clearly different from the ruling party, and the labour-aligned UF has been unable as yet to translate the support of the black working-class in the motor industry into electoral support. The growing class polarisation within South Africa's black population offers the potential for a party like the EFF with its pro-poor ideology to grow and challenge the political dominance of the ANC. The growing support among younger South Africans witnessed in our surveys gives the EFF the most hope for future success, which is defined in the short term as forcing a still dominant ANC into coalition governments.

The instability in Nelson Mandela Bay creates a strong possibility that parties on the left will hold the balance of power after the 2021 local government elections, as the ANC loses further township support and the DA is unable to gain a clear majority. However, a new contender has emerged at the time of writing, to contest the local government elections from an ideologically neutral, anti-corruption and pro-good governance discourse. This party, led by the charismatic businessman Mkhuseleli Jack, may well challenge the left as well as the ANC and could end up holding the balance of power in the Council.

It is too early to know if Steyn-Kotze and Bohler-Muller are right about the possible end of ANC dominance, and our conclusions about Kwazakhele cannot be generalised to South Africa as a whole. Detailed research similar to ours is needed in similar townships across South Africa if any such judgments are to be made.

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THE IMPACT OF CROSS-BOUNDARY ELECTORAL DEMARCATION DISPUTES IN SOUTH AFRICA AFTER 1994

The Case Study of Moutse

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ABSTRACT

The article investigates the impact of cross-boundary electoral demarcation disputes between the Mpumalanga and Limpopo provinces after 1994. The article further examines how the electoral demarcation disputes can be resolved by negotiating with the dissatisfied communities. Moutse is located within a community that straddles north-western Mpumalanga and southern Limpopo provinces in South Africa. In 2005 the community members of Moutse wards 5 and 6 were dissatisfied by the decision of the South African national government, Limpopo and Mpumalanga provincial governments for relocating them under a newly demarcated administrative boundary without hearing the views of the community. The article used community dialogues for its research. This approach is explained predominantly by qualitative and quantitative approaches to indicate processes of data collection, to explain the nature of the problem and explore the findings of community-based research. The study reveals that violent disruptions and protests by community members can be avoided if community voices are taken into consideration. The article recommends that state institutions that support constitutional democracy need to show the administrative and political will to transform electoral demarcation challenges and implement effective democratic principles. In conclusion, advanced institutional planning and its transparent application must be emphasised.

Keywords: African dispute resolution; cross-boundary disputes; electoral demarcation; community dialogues; constitutional democracy; Moutse community

INTRODUCTION

Public participation is paramount in settling disputes between the government and the community. Failure to facilitate community dialogue leads to the suppression of rights, of access to basic amenities, and resultant disputes. Electoral Dispute Resolution (EDR) refers to the remedial methods used to address challenges encountered during the election period. The choice of appropriate EDR method depends on the specific rights abridged. There is an interaction between the electoral process, judicial system and the courts, mediated principally by the right to a fair and impartial hearing (The Carter Center 2009). This interaction can best be understood through the aid of the disgruntled community, the voices of the marginalised, and political will.

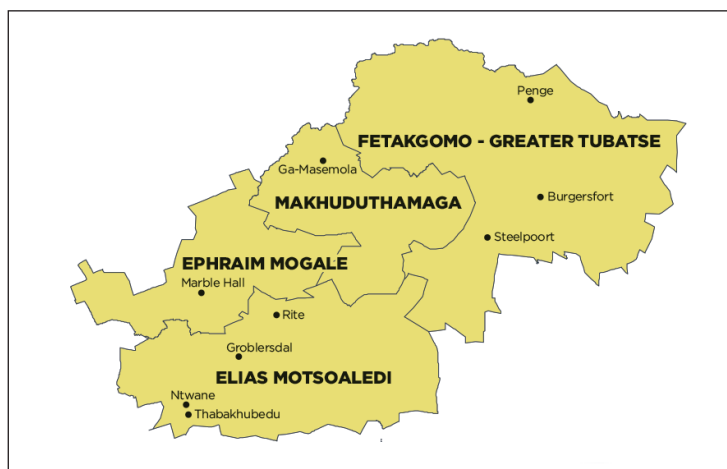
The research seeks to investigate the challenges the judiciary faces in the Ephraim Mogale municipality in adjudicating disputes over the border demarcation of land and EDR in the Moutse area. Moutse is located within a community that straddles northwestern Mpumalanga and southern Limpopo provinces in South Africa. The Moutse community members of wards 5 and 6 protested against forced relocation as public participation was excluded. In its response, the judiciary supported public participation in these communities by allowing addresses that existed before 17 December 2003 to be acknowledged and used in the voter's role, the voting process and during community dialogue on cross-boundary demarcation issues. The use of recognisable addresses by the community in the electoral process, was allowed until 30 June 2018. Section 118 of the Constitution binds provincial legislatures to facilitate public participation in the legislative process. The emphasis of community dialogue is on community knowledge of the electoral process, procedure and community input in the decision-making process. The Institute for Dispute Resolution in Africa (IDRA) under the College of Law at the University of South Africa (UNISA) conducted a research study in an attempt to capture and hear the voices of this embattled rural community in South Africa (Nzewi & Zakwe 2009). The main aim is to allow community voices to speak out on the challenges the community faced during the elections and the best possible solution to these challenges (*ibid.*). IDRA explored the role of the Constitutional Court, the legislature and traditional courts in involving public participation and democracy in the adjudicating process when electoral disputes occurred. The aim is to show that violence can be prevented and legitimacy enhanced (IDLO 2017).

The main problem this research intends to address can be split into two parts: a) the challenges of adjudicating land demarcation disputes in domestic courts in South Africa, and b) the viability of using community dialogue as an alternative adjudicating process as a remedy for EDR in rural villages of South Africa. The analysis of the viability of establishing the community dialogue method as an

EDR mechanism will further inquire about the practicability of establishing, or rather, integrating the proposed supranational adjudication mechanism into the existing South African judicial framework. In light of the growing trend of establishing common African democratic standards and seeking a collective solution, this research will attempt to explore the viability of establishing a community dialogue mechanism for resolving disputes on elections and border demarcation in Ephraim Mogale.

HISTORICAL, GEOGRAPHICAL AND DEMOGRAPHIC PERSPECTIVES OF MOUTSE

Moutse falls under the Sekhukhune District Municipality (SDM) and was established in December 2000. Sekhukhune consists of five local municipalities of which Ephraim Mogale is one.¹ Modern-day Sekhukhune is located in the Limpopo province in northern South Africa and covers approximately 13 264 square metres. Most of this land is rural and lies north west of Mpumalanga and south of the Limpopo. Sekhukhune is located about 200km north of Pretoria/Tshwane, about 150km east of Nelspruit and approximately 180km north of Polokwane, and is serviced by the Olifants, Tubatse and Elands rivers. The economy of Sekhukhune is driven largely by agriculture, mining and tourism. About 5.3% of the population is urban and 94.7% is rural. The map below captures the geographic realities.



Source: municipalities.co.za

Figure 1 Moutse and its disputed municipalities

1 Sekhukhune municipalities comprise Elias Motswaledi, Ephraim Mogale, Greater Tubatse, Fetagomo and Makhuduthamaga.

Current census statistics indicate that SDM has 1 076 840 people in 217 000 households (with an average of four people per household) in the municipal areas. Half of the population are below 18 years of age, the male-female ratio is equal and 60% of the female population over the age of 18 are working. Marble Hall municipality, in which Moutse is situated, had 133 115 residents by 2009.

The community of Moutse has occupied the area since 1780 (StatsSA 2011). The occupants are predominantly Sepedi speakers. Their neighbour is an isiNdebele-speaking community occupying the area known as Siyabuswa. In accordance with the apartheid government's legislation (the Promotion of Bantu Self-Government Act 46 of 1959, now repealed) that promoted the policy of separate development, ethnically-based homelands were established for Africans who were classified into eight ethnic groups according to language and culture. In terms of the Bantu Homelands Citizenship Act 26 of 1970 (now repealed) Africans were later assigned citizenship of a homeland established for the ethnic group under which they were classified. Under this scheme, the homeland of Lebowa was established for Sepedi-speaking people, and in 1972 Moutse was incorporated into Lebowa.

It is in view of the foregoing background that this research sought to investigate the challenges facing the judiciary in Ephraim Mogale municipality in adjudicating border demarcation and EDR disputes. In light of the growing trend of establishing common African democratic standards and seeking a collective solution, this research will attempt to explore the viability of establishing a community dialogue mechanism for resolving disputes on elections and border demarcation.

UNDERSTANDING THE PROBLEM OF CROSS-BOUNDARY DISPUTES IN MOUTSE

Public participation and consultation are paramount in settling disputes between the government and the community. Participation implies that the voices of all parties are given equal hearing, rather than top-down consultations to resolve disputes, which is likely to foment the further breakdown of dialogue. Failure to facilitate community dialogue may lead to a sense of resentment and the suppression of rights, undermining service delivery and prolonging the processes of problem-solving. The net result might not achieve an outcome that satisfies both parties. In this context the emphasis on community knowledge is critical for the conflicting parties to 'own' the processes of interpreting their own problems so as to actively participate as agents implementing plans of action and dispute resolution.

Emphasis on Community Knowledge and the Voices of Wards 5 and 6 on Elections and Disputes

The emphasis of the study is on community knowledge and giving a voice to the community members of wards 5 and 6 of Ephraim Mogale on their lived experiences during election disputes. Involving the community in the adjudicating process is a democratic right which promotes peace and stability in the country. The article aims to explore the challenges that rural communities undergo during electoral and land boundary disputes in rural South Africa, and to recommend possible solutions.

This research follows an ethnographic approach whereby the community has to share its lived experiences of cross-boundary electoral demarcation disputes. The research method is based on ethnographic theory which focuses on community dialogue as a method of engaging the community in policy making, how community violence can be prevented and the legitimacy of the electoral process enhanced if the community is part and parcel of the adjudication process (IDLO). The research adopts both qualitative and quantitative approaches to community dialogue as techniques to investigate the causes of violent clashes in cross-boundary municipalities and development (Nzewi & Zakwe 2009). Qualitative methods are used in questionnaires to assess the different responses to a particular question. Community dialogue through radio announcements, drama, role play, public meetings, poetry and dance helps the community to express their thoughts and fears during the electoral process. A case study approach is used to expose in-depth understanding of the cross-boundary electoral demarcation dispute. The frameworks and tools applied are suitable for the analysis and evaluation of the municipal boundary demarcation process. Court cases are also used as primary sources to compare different incidents of community involvement and the courts in EDR and land demarcation disputes. Literature review is used to explore and conceptualise the role of the Constitutional Court, the legislature and traditional courts in public participation, democracy, and the adjudicating process when electoral disputes occurs.

The main findings indicate contrasting views between the community and the municipality, in particular regarding the role of the community in prioritising needs and in decision-making. This results in several municipal demarcations negatively affecting basic developmental services to the community.

Community Dialogue Harnessing the Voice of the Community on Electoral Disputes and Land Demarcation Disputes

Research ethics and compliance, and reading the informed consent details to participants were conducted by IDRA researchers and community leaders.

Community leaders officially welcomed village members and IDRA researchers to the gatherings. The main objective of the community dialogue was to try and understand the challenges community members face in local, provincial and national elections. Community members were asked for suggestions on how best to tackle these problems and possible solutions. Of major importance was the community members' proposed solution or preferred method for handling community electoral disputes and crisis. Research objectives were explained and research questions were read and explained in the chosen local language by a member of the community dispute resolution committee (CRC).

Research compliance procedure is crucial as it puts IDRA officials and community members at ease and they feel free to discuss their problems. It also enables community members to focus on research objectives and engage in pre-planned community methods to assess whether the aims were fulfilled.

Theoretical Perspectives on Electoral Boundaries and Demarcation

Different ways in which electoral boundaries in South Africa are drawn up include the cadastral, topographic and census information (Electoral Commission 2018). Whatever method is followed, the drawing of electoral boundaries and the method of allocating voters should not affect either the electoral process or provision of basic services to the communities. Geographical criteria and administrative, or even historical, boundaries may be included. The Constitution of South Africa, in particular Chapter 7, s155 (3) (b) states, 'National legislation must establish criteria and procedures for the determination of municipal boundaries by an independent authority' (*The Constitution of South Africa Act 108 of 1996*, supported by the *Municipal Demarcation Act of 1998* and the creation of the Municipal Demarcation Board).

The *Municipal Demarcation Act* also provides the legal basis for the determination of boundaries in South Africa (*Constitution of South Africa Act 108 of 1996 Sections 21-24*). For the purpose of our investigation, relevant provisions will be quoted extensively to establish the theoretical framework and basis for demarcation.

OVERVIEW OF DISPUTE RESOLUTION IN AFRICA

The rationale for using customary courts arises out of the realisation that the formal system of justice excluded rural black South African communities from forming and executing legislation (Carpenter 1996, pp. 110–122). The law was largely perceived by black South Africans to be an instrument of oppression. The inability to meet the needs of the ordinary citizens was, however, due not

only to the content of the substantive law, but also because the structure and procedural requirements of the courts meant that many people were denied access to the courts (Grant & Schwikkard 1991, pp. 304–316). For many, a dominant, foreign, Western-based legal system was seen as being superimposed on an intuitive, indigenous legal system (Van Niekerk 1994, pp. 19–30). Many of the peculiar problems facing the black community stemmed from the ineffective administration of the justice system in black areas. The legal problems as well as problems of social adjustment encountered by urban black people were not being solved. It was understandable that people resorted to self-help in the form of unofficial or folk institutions. In urban areas, different forms of community courts were instituted.

The new Constitution of South Africa (1996), and its Bill of Rights, is based on the principle that all people are equal before the law. The problem is that the equality thus achieved will be more of a facade than a reality if people are still *de facto* excluded from representation, due to past injustices. Most black people do not have the economic, social or cultural ability to make use of those rights or to participate meaningfully in the administration of justice in EDRs when official administration manipulates the powers. The most common general complaint about the current justice system in South Africa is the prohibitive cost of litigation, which prevents meaningful access to courts and even those with access are often victims of delay. For most litigants, delay means added expense and for many people justice delayed is justice denied. Delay combined with the cost of litigation has put justice beyond the reach of the ordinary citizen. The incomprehensibility and adversarial nature of the process with a resulting lack of control (parties can only participate in an indirect manner) furthermore leads to a sense of frustration and disempowerment. Courts offering only trials are furthermore limited in their response to a legal dispute. Litigation often creates winners and losers and even winners may feel like losers given the limited nature of many legal remedies imposed from a limited range of win or lose options.

What is necessary therefore is an attempt to add a social dimension to the formal courts in terms of which even the disadvantaged and poor will be entitled to representation and information. In this setting consideration may be given to alternative remedies and processes, which may make justice fair and more accessible. Community courts have an important role to play even in the new dispensation. In short, alternative dispute resolution (ADR) is a conceptual approach that refuses to oppose customary law to formal modern legal system, and instead prefers to harness traditions in the context of a modern regulatory legal framework. Using these systems of resources to law, the research proceeded to sample the views of village elders on electoral disputes.

Theoretical Foundations for Community-Based Traditional Conflict Resolution

In traditional Rwanda, the basic and most important unit of socialisation was the extended family. Status within the society was divided along gender and age lines (Ingelaere 2008, p. 33). After the Rwandan genocide of 1994, the Rwandan government institutionalised Gacaca courts as a means to obtain justice and deal with most of the genocide cases that the formal courts and International Criminal Tribunal for Rwanda (ICTR) could not handle. In Botswana, among the Tswana, customary dispute resolution runs parallel to the formal justice system (Myer & Shihh 2010, p. 6). Dispute resolution by community elders in South Africa has a pluralistic legal system. These traditional methods of dispute resolution are informed by the theories of community participation debated below.

Before colonialism, most, if not all African societies lived communally and were organised along clan, village, tribal and ethnic lines. Being part of a community was important, if not essential due to the vicissitudes of life in primal or communal societies. Social ties, values, norms and beliefs and the threat of excommunication from the community provided elders with legitimacy and sanctions to ensure their decisions were complied with. Consequently, social theories try to explain why the elders were able to resolve disputes in such contexts. The social capital theory explains the formation of communal societies and the attendant social ties, networks, bonds, reciprocal duties and trust that bind people together and enable them to coexist (Putnam 2000; Kenyatta 1965). This theory also explains the restorative nature of dispute resolution by emphasising the social ties or social capital that had been broken by wrongs, committed or omitted.² Putnam emphasises the importance of the social solidarity theory proposed by Durkheim (1933), who explains society in terms of social order and social facts. In this theory, individuals in society are social actors who are restrained by functionalist social facts. These exist only if society can derive utility or benefits from them.

The optimal psychology theory uses culture to explain how people view reality, live and resolve disputes (ibid.) and argues that while dispute resolution in African societies is aimed at repairing social ties and restoring harmony, 'the received' justice systems are mainly retributive with a winner-loser ideology. This theory is important in understanding the resilience of traditional dispute resolution in modernised and westernised African societies.

2 In an interview with the author, the Kipsigis Council of elders emphasized how it was difficult, for example, for a couple to undergo divorce in the community. They said that the elders had to give the couple time to ensure that they amend the situation and encouraged them not to divorce.

*Opinions and Experiences on Cross-Boundary Electoral
Demarcation Disputes*

The village elders at Moutse put forward their own views regarding electoral disputes and challenges in their communities in South Africa. The community felt that traditional authorities should be involved in findings ways to resolve electoral disputes. Involving the consent of the community empowers it to feel that it owns the process of demarcating boundaries. If the community is not involved there is confusion about who is in charge or responsible for the demarcation processes and this creates further tension within the affected communities. The traditional way of resolving electoral disputes accommodates the indigenous people, encourages cooperation and gives everyone a chance to participate in the election process. Community elders feel that the traditional method is fairer to the older generation and to those who do not have formal education. The use of traditional methods and the participation of elders brings peace and harmony to the embattled and disjointed fabric of the community. The community also responded to the methods used in researching the problem of straddled communities. After offering their appreciation of the significance of community engagement, elders also aired their perceptions of the role of the IEC and EDR.

The community of Ephraim Mogale complained that during elections there were no given dates or places to meet and discuss issues that concerned the community. The community lamented the fact that promises are not carried out or fulfilled in terms of arranging meetings for their own good. There is no independent public platform to air their grievances due to this lack of commitment and follow-up. Electoral issues are a concern. The community needs outside independent and impartial assistance to help adjudicate electoral issues. Universal freedom of adult suffrage is denied the elderly as they told who to vote for and are threatened with losing their pension funds if they choose the wrong candidate. Intimidation is rampant as electoral rules are flawed when various political parties wear T-shirts indicating their party allegiance at the polling stations during voting time. Votes were rigged as voters were psychologically and physically threatened if they did not vote for a certain candidate. There was no transparency in these voting stations.

Although there are threats during both local and national elections, the traditional council is supposed to lead dispute resolution in such chaotic situations. Whenever there are challenges, the people can consult with their traditional authority. Some community members pointed out that the traditional council frequently creates chaos in the community because council members seem to absolve themselves from matters which are of great importance to the community. Because of corruption, traditional authority is no longer trusted;

even when a gathering is called, there is no commitment, as members do not turn up. People have lost hope and trust in traditional authority. There is a feeling that traditional council leaders are used as pawns and have been replaced by self-appointed leaders, and this is of great concern. The community feels that it should be sufficiently empowered to help the village, so the IEC should clarify its responsibilities. Anyone who tries to support the embattled community is afraid of being killed. Some community members feel that where the traditional council fails, the police and courts should step in as the IEC and the police can provide security in electoral disputes. However, there is no unity and no one wants to endanger their lives.

Within the community, there were also different voices putting forward sometimes contradictory statements. One member wanted to see people unified around the traditional system of dispute resolution, asking why the community used this foreign system when the community had its own methods of resolving disputes. In this member's own words: 'The foreign system does bring a lot of challenges as it keeps the community in the dark. We are scattered around as community members because of demarcation. Therefore, we are not able to meet whenever there are issues which must be resolved'. Furthermore, the member summed up his view by saying 'Divided you cannot stand but together you can, and that's my opinion' (IDRA 2014), emphasising the importance of traditional African dispute resolution.

Another member saw the role of the IEC differently, remarking:

As farm and plot owners, it would be best to meet and appoint our own representatives as in this manner, we can achieve a common purpose. Plot owners are different from other common villagers. As a result our needs should be attended as a means of urgency and patience. We do not have chiefs here or headman, as a result we see no need to subject ourselves to traditional rulings as we do not abide or live under such contexts. From what I gather, we are a special community and our needs are different from others, why are we associated with these that are different from us?

There is a considerable distance from one plot to the next, so transport is a very valuable commodity. Even when a loud speaker is mounted on a motor vehicle advertising the meeting, the driver and announcer have a long way to go. Lots of petrol and energy are needed, more so for those who walk to the meetings. Matatadibeng, Mokwaneng and Mamaneng should have their own councillor. This statement shows the importance of owning private property. The MBD should consider the challenges faced by plot owners as different from those of

high-density rural areas. The people want to select someone from their own community as a separate councillor chosen by that community and who lives in the same community. Radio announcements, posters and flyers are very effective methods of publicising the meetings.

A plot owner continues:

A councillor cannot stay far away from his or her ward. We prefer if we had one of our own members selected as councillor in Mamaneng and not Ga Matlala'a Ramoshebo village. Sometimes we lack information and the resources to tackle certain issues. It is that we need the MEC or the Sekhukhune district to intervene. I think this formal system can work for us. We have registered for the RDP houses at the same time as other villages but the other villages have surpassed us. I think Limpopo Province is too slow in responding to peoples' needs. It is better if we are returned to Mpumalanga. We are having an unknown counsellor who stays far away from us. He cannot help us when we have a crisis, we do have ward committees but they do not have the proper knowledge on how to assist us because they hardly receive any briefing from the counsellor.

Some community members have strong views on home-based care:

We now have home-based care in this village but this is the third year and we are not getting any cent from the government. We cannot see the councillor to discuss the matter. We cannot receive proper services because our councillor resides in another area. I doubt if we are accommodated in these national budgets. We do not know where Ward 5 begins. It would be a good idea to give a seven-day notice prior to a community meeting. The lack of service delivery is indeed a challenge. I think we do not have access to valuable information, especially in terms of development within our community. We need a proper protocol through which our complaints are or will be addressed. We should also implement structures that accommodate the elderly, the sick and disabled people of our community. They too deserve to know what is happening in their community.

The above comment highlights the need for accessible primary health care facilities.

We do not really meet as we live in plots. It is difficult to know what is happening in the next plot. We are in the dark. To be frank with you,

we do meet as different members, who belong to different political parties, but this only happens amongst members of the same political party. As a community, we do not really meet, except in voting stations.

The above comment shows the importance of community dialogue in that it cuts across tribal and political lines. Disputes and challenges faced by members require community members to provide solutions from within and not from outside the residential area.

Members expressed their expectations of what the IEC should do for them. One member commented:

People who reside in plots feel that they need to be given voter education as some of the community members do not know their rights when it comes to votes. When voting comes, we should gather as a community and see to it that we try to have a fair election process. The IEC should get involved in such a process whereby we would be given community workshops and trained to be observers during that time. We should move away from tea-party politics and address issues that affect the whole community.

Voter education is necessary for all community members in a language they understand, and voters should be educated about their rights and duties as South African citizens. Another member appreciated the importance of research into the problem of Ephraim Mogale's straddled borders:

Your research questions are thought-provoking and this makes me happy and I hope I can speak for the community members as well. We are pleased to know that we have the knowledge and that it can be valuable during the election dispute. To see that an academic institution does take the initiative and engage with the people is a very important lesson to all of us and we appreciate such efforts. Municipalities must get involved in election disputes. I support the previous speaker. I agree with her views. Sometimes we vote and we don't know who won. The government departments which are responsible for various issues should be consulted as well such as the demarcation board. The elderly people should now rest and it is now up to the youths to bring about meaningful positive change. We should share ideas and help each other grow.

The above comment indicates that the community members are aware of the importance of research and feedback. Neutral research enables different

community members to communicate freely with each other about their challenges and suggestions for possible solutions with fear, intimidation or discrimination. Judging by the views of community members, there is a sense in which they feel that they should be involved in tackling the problem in Mogale for the community to feel that they own the process of resolving their problems. One member commented as follows:

This is our project and we feel proud to participate in it together as one. The presence of researchers in these villages will enlighten us even further. The traditional authority mainly concerns itself with native issues because issues such as conflict can be complicated for them to resolve. It is then that the police and the courts can step in to resolve such matters. The appointment of counselors should be based on proper leadership and not based on unknown interests. A Community Research Committee will have to be the voice of this community. They should report to us and serve as our voice in these matters. If a child has erred, it is the parent's responsibility to teach and build the child ... the same policy should be adhered to in our disputes as well. We are one people.

It is important to establish recognised structures to help members in resolving disputes, and that the community take ownership of the project and process of resolution.

THE ROLE OF GOVERNMENT INSTITUTIONS AND AGENCIES IN ELECTORAL DEMARCATION DISPUTES

The Electoral Commission of South Africa (IEC) and the Municipal Demarcation Board (MDB) need to educate people about the election and demarcation procedure and ensure that everyone votes freely and participates in redrawing the boundaries. The IEC is the custodian of voting rules and regulation. It has an electoral court to solve disputes after the election process, can make use of the traditional courts to adjudicate electoral disputes, and challenges the use of conventional (legal) or traditional courts. The IEC conducts pre-election voter education, publicises the elections, organises voting during the election and continues to participate after the election until all matters are resolved. Objectives of the demarcation board are established in the 1996 Constitution and include determining municipal boundaries, upholding Chapter 7 constitutional legislation and publishing the boundary demarcation in the provincial gazette (see appendix).

*Constitutional Cases involving Electoral Demarcation Disputes
in South Africa*

Some municipalities have been demarcated in such a way as to straddle provincial boundaries. The Twelfth Amendment removed cross-border municipalities but community dialogue was needed in the procedure. The community voice was the deciding factor, as change in administration would affect social, political and economic life. Adjacent provinces were then forced into a geo-political arrangement to settle local government projects. This has led to time-consuming and labour-intensive bureaucratic consultations between local and district municipalities as well as provincial departments. Examples of this kind of demarcation problem are found in Merafong, Matatiele and Moutse. The Tlokwe case concerns the failure to provide correct voter addresses and lack of public participation in the recording of these address.

THE MOUTSE DEMARCATION FORUM CASE

The residential community of Moutse was moved from Mpumalanga province to Limpopo under the Twelfth Amendment of the Constitution. The Moutse community believed they had been transferred to a dysfunctional province and took their grievance to the Constitutional Court to try and reverse the matter (*Moutse Demarcation Forum and Others v President of the Republic of South Africa and Others* (CCT 40/08) (2011)ZACC 27;2011(11) BCLR 1158 (CC). The Court ruled against the community and argued that proper procedures were followed on the amendment and the case was dismissed. The community, however, was not involved in the decision making-process. They felt abandoned and sought redress of the situation.

Before these laws were passed, the areas of Moutse 1 and Moutse 3 fell under the province of Mpumalanga, as part of separate local municipalities located within the Greater Sekhukhune District Municipality. Sekhukhune Municipality is seen as a straddled or cross-border municipality located between the provincial boundaries of Limpopo and Mpumalanga. The purpose of the challenged laws was to abolish these cross-boundary municipalities by altering provincial boundaries.

The challenge was brought by a community organisation and opposed by the national government, the provincial legislatures and governments of the provinces of Mpumalanga and Limpopo respectively. The Moutse Demarcation Forum challenged the validity of the Twelfth Amendment, whether or not the procedure set out in section 74(8) of the Constitution had been complied with and whether or not section 118 (1) (a) of the Constitution was engaged. First, the applicants argued that the laws were irrational because they perpetuated boundaries drawn by the apartheid-era government in pursuit of its policy of separate development. Second,

they contended that the Mpumalanga Provincial Legislature was required to and had failed to consult reasonably with the residents of Moutse 1 and 3, the people most pertinently affected by the changes. This, they said, was because they were given too little notice of the hearing, the hearing itself was too brief and because the report of the Portfolio Committee to Parliament did not sufficiently reflect the objections of the community.

Reasonable consultation may not take whatever form chosen by a legislature but it should involve the norms and values of the community affected. It is the rural people (i.e. those most affected by this legislation) who should choose the form of consultation, not the legislature. The enforcement seems to be contiguous with that of the apartheid era. In this case the provincial legislature opted for public hearings. A hearing was held in Moutse 1 but not in Moutse 3 until the community held a protest march to the Union Buildings in Pretoria on 6 December 2005. Following the march, a hearing was held in Moutse 3 on 8 December 2005 at which the community, through its representatives, voiced its opposition to the transfer of the area to Limpopo. The Portfolio Committee recorded this but recommended to the provincial legislature that the laws be supported. The recommendation was endorsed by the provincial legislature.

THE KHUTSONG DEMARCATION CASE

A small portion of the southern area of the Merafong Municipality fell into the North West Province under Khutsong, with the rest of Merafong in Gauteng. Faced with the challenges of poor service delivery in cross-border municipalities, the people of Khutsong took their grievances to court in 2005. The Merafong community challenged the validity of the Twelfth Amendment in *Merafong Demarcation Forum and Others vs President of the Republic of South Africa and Others* (CCT 41/07 [2008] (10) BCLR (CC)). The Khutsong community's argument was that the Gauteng provincial legislature failed to comply with section 118 of the Constitution of 1996 in its obligation to facilitate public involvement in the processes of approving the Twelfth Amendment Bill. The standoff between Gauteng and the community of Merafong highlighted complex constitutional arguments, which prompted constant action from the courts. When their request was refused, the Khutsong community engaged in violent protests.

Borders should probably be redrawn only after consultation with affected communities. Laws should be drafted with the people in mind and not forced upon them. Protests occur when grievances of the masses are not addressed amicably. A swifter method of solving disputes should be followed and legal education is necessary for the ordinary people, and while it is necessary to prevent violence, the law should protect the people and not punish them.

MATATIELE

The issues before the court included the validity of the Twelfth Amendment, whether the procedure set out in section 74(8) of the Constitution had been complied with and whether section 118(1) (a) of the Constitution was enforced in the decision-making process and lack of community engagement in the procedure.

In 2006 the Matatiele Municipality challenged the constitutional validity of the Twelfth Amendment and the Cross-Boundary Municipalities Laws Repeal and Related Matters Act (*Matatiele Municipality and Others v President of the Republic of South Africa and Others*. CCT 73/05. Decided on 27 February 2006). They argued that proper procedures for transfer were not followed. The Matatiele Local Municipality was transferred from KwaZulu-Natal to the Eastern Cape due to the creation of new municipal boundaries. The applicants argued that these laws changed the boundary of Matatiele Municipality and its composition and transferred it to the Eastern Cape without complying with the procedure set out in the Constitution. Parliament took over the functions which the Constitution had reserved for an independent authority, the Municipal Demarcation Board. The respondents argued that in passing the Twelfth Amendment, Parliament had complied with the procedures set out in the Constitution. In addition, they argued that Parliament was entitled, in the exercise of its powers, to alter provincial boundaries, and to interfere with municipal boundaries if this was necessary to re-draw provincial boundaries.

The Court gave its judgment on whether the procedures set out for passing the Twelfth Amendment were complied with by the KwaZulu-Natal Legislature. The Court found that the Municipal Demarcation Board is an independent authority which is vested with the power to draw municipal boundaries. By entrusting this power to an independent authority, the Constitution seeks to guard against political interference in the process of creating municipal boundaries. For this reason, the Board should be able to determine municipal boundaries without being constrained in any way by the national and provincial governments. However, the power of the Board to determine municipal boundaries is limited by the authority of Parliament to re-draw provincial boundaries. The Court concluded that the Twelfth Amendment did not violate the Constitution in interfering with municipal boundaries in the course of redrawing the provincial boundaries.

The idea that the Twelfth Amendment is not invalid on the grounds relied upon by the community is worrisome. It suggests that there are grounds but the community should raise them and not the judges. The idea is that it is not in the interests of justice to postpone the case for the purpose of investigating whether the procedure set out in section 74(8) of the Constitution has been complied with and whether section 118(1) of the Constitution is engaged. There seems to be no

separation of powers between the judiciary and parliament. The laws and the community appear disconnected with no prospects of a convergence. The court holds that the likelihood of the applicants benefiting from this course is far too small to justify further investigation and consequent delay. The people protest as they feel rejected and used by the government they had elected to power. Legal technicalities and unfathomable legalese choke the trust between the people and the courts.

It is important to resolve the issue of redrawn provincial boundaries and not leave it undetermined. The conduct shown by the government concerning the objective served by relocating Matatiele to the Eastern Cape, indicates that the legitimacy of legislation comes not from awe but from openness.

TLOKWE CASE

In 2016 a group of independent candidates in Tlokwe brought a case against the IEC regarding the common local voters' roll and other allegations of electoral misconduct.³ This was a constitutional law case between the IEC and independent candidates. Several independent candidates had lost the 2016 by-election held in the Tlokwe Local Municipality and challenged the freeness and fairness of the elections due to a flawed and defective voters' roll. These candidates argued that voters' addresses were not recorded and most voters were registered in the wrong districts. The question was the date from when addresses are to be recorded before the elections? And if the IEC is unable to correct the voters' roll before the elections are held, should the elections be postponed or proceeded with even if the voters' roll is defective?

The IEC went to the Constitutional Court to have the Electoral Court's decision set aside because addresses used by the voters were invalid as the IEC was not obliged to record invalid addresses on the voter's roll. The IEC wanted the elections to proceed regardless. In the event that the appeal should fail, the IEC sought direct access to the Constitutional Court asking that it be absolved from the obligation to provide voters' addresses.

The IEC's appeal was rejected because they had failed to record recognised or available addresses on the voter's roll from 17 December 2003, as required according to section 16(3) of the Electoral Act. Recognised addresses could be used in the upcoming elections until 30 June 2018. Tlokwe was therefore to be excluded from taking part in the August 2016 elections. Direct access to the Constitutional Court was granted.

3 The issue was heard at the Constitutional Court Of South Africa between the *Electoral Commission of South Africa and Aaron Pasela Mhlope and Others* . CCT 55/16 Date of hearing: 9 May 2016 Date of judgment: 14 June 2016.

The first judgment differed from the majority judgment in only two respects: firstly, that section 16(3) of the Electoral Act obliges the IEC to record all addresses that are objectively available, even for voters who registered before 17 December 2003. Use of addresses which predated 17 December 2003 shows a commitment by the judiciary to involve community members in the legislative decisions that affect the day-to-day running of local municipalities. Secondly, the IEC's failure to record the addresses on the voters' roll, where available, was in breach of section 190 of the Constitution and resulted in the exclusion of the public from the electoral process. Suspension of section 190 by the judiciary empowered the community by allowing the same addresses to be used in upcoming elections until June 2018.

CONCLUSION AND RECOMMENDATIONS

The aim of the article was to investigate the nature of border disputes in Moutse community with the intention of hearing the voices of the people. The article used both qualitative and quantitative approaches to indicate data collection processes in order to explain the nature of the problem and capture the research findings. The study revealed that violent disruptions and protests by community members could have been avoided had community voices been taken into consideration in deciding the best possible solutions on adjudication methods. The research discovered that ADR methods were favoured by the community, using the knowledge of the elders in the community. The article debated the concepts of EDR and focused on the appropriate remedy for the abridged right. The article argued that the ADR embraces the pluralistic nature of African legal systems and recommends harmony between the courts and the community demanding remedy. It was observed that the community members of Moutse had different views on electoral demarcation issues. Most people preferred the customary system as it involved traditional culture and norms of dispute resolution. Traditional leaders played an important role in resolving disputes and maintaining the cultural stability between young and old. However, other members, particularly those with plots, believed that the IEC had an important role to play.

In light of the points raised in the conclusion, this article recommended that:

- Traditional authority be involved in dispute resolution;
- The IEC should continue seeking lasting solutions to the problem of straddled communities;
- Research into straddled communities needs to capture the voice of those communities;
- The government needs the political will to implement what is agreed upon in customary and modern courts; and

- Institutes of dispute resolution need to put pressure on the South African government to be proactive and not wait for other problems in the straddled community to become violent before acting.

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APPENDIX

Determination of municipal boundaries ss 21 and 22.

21 Determination of boundaries

- (1) The Board-
 - (a) must determine municipal boundaries in the territory of the republic; and
 - (b) may redetermine any municipal boundaries determined by it in terms of paragraph (a).
- (2) Any determination or redetermination of a municipal boundary must be consistent with this Act and other appropriate legislation enacted in terms of chapter 7 of the Constitution: Provided that section 26 does not apply where the board redetermines a municipal boundary in respect of which the MEC of local government and all the municipalities that are affected by the redetermination have indicated in writing that they have no objection to such redetermination.
- (3) The board must publish its determination or redetermination of a municipal boundary in the relevant *Provincial Gazette*.
- (4) Any person aggrieved by a determination or redetermination of a municipal boundary may within 30 days of publication of that determination submit objections to the Board.
- (5) The Board must-
 - (a) consider any objections;
 - (b) either confirm, vary or withdraw its determination; and
 - (c) publishing its decision in terms of paragraph (b) in the relevant *Provincial Gazette*.
- (6) Any person may, subject to the Promotion of Access to Information Act, 2000. (Act 2 Of 2000), request the Board to provide reasons for its decision in terms of subsection (5) (b).

22 Work programme

- (1) The Board performs the functions mentioned in section 21(1)-
 - (a) on its own initiative;
 - (b) on request by the Minister or a MEC for local government; or
 - (c) on request by a municipality with the concurrence of any other municipality affected by the proposed determination or redetermination.
- (2) The Minister may, after consultation with the MEC's for a local government and the Board, determine priorities and reasonable time-frames for a determination or redetermination.

- (3) Where the Board performs the function mentioned in section 21(1) on its own initiative as a result of receiving a request from a member of the public, the Board may-
 - (a) require that member of the public to furnish the Board with such information as may be required by the Board; and
 - (b) solicit the views of the persons and institutions referred to in section 26 (3) on the matter before the Board.
- (4) Where the Board has solicited the views of persons and institutions as provided for in subsection (3) (b), the Board does not need to comply with s26 when it considers, the determination and redetermination of municipal boundary under the circumstances referred to in subsection (3).
- (5) Where the Board performs functions the function mentioned in section 21(1) request by a municipality, the Board may require that municipality to furnish Board with such information as may be required by the Board.

CAMPAIGN COMMUNICATION IN NIGERIA'S 2019 GENERAL ELECTIONS

Unfulfilled Party Pledges and Voter Engagement without a Social Contract

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ABSTRACT

Broken campaign promises challenge the sanctity of the electoral process in Nigeria. Six decades after political independence and six electoral cycles in the last two decades of the Fourth Republic, there are inadequate legal frameworks and a lack of political will to change the narrative. Ambushing the voters with plans of action on the eve of every election remains a constant ritual to legitimise party campaigns in both digital media and at heavily mobilised rallies, often with limited substance. The general purpose of this study is twofold. First, to provide analysis of campaign communication and the extent to which it influences the participation of citizens in the electoral process. Second, to investigate the electorate's understanding of policy issues inherent in the 2019 election manifestos of the two dominant political parties, All Progressive Congress (APC) and People's Democratic Party (PDP), and how other elements shape perception and trust in elected representatives/government. The research design relies on sample surveys and in-depth interviews, and seeks to identify, within the context of an electoral cycle, why conversations between public office seekers and voters do not translate into a concrete social contract or generate time-bound inclusive policies.

Keywords: social contract, elections, democracy, campaign communication

INTRODUCTION

Political campaign communication encapsulates three important areas in political campaigns: providing reasons for voters to retain faith in the political

system; providing citizens the freedom to select their leaders; and providing the opportunity to evaluate how their interests can be best served while conferring legitimacy on those elected to govern (Trent & Friedenbergs 2004). In many parts of the world, the issues and debates of electoral campaigns provide insight into societies' priorities and aspirations (Svetlik 2018). Seeking voters' support during election campaigns should be an open debate with reasoned arguments about which particular political candidates are most competent for the office sought (Heywood 2007). This is better done by 'presenting programs of public good to stake out competitive positions by persuading the median voter at the centre of the political spectrum' (Nichter 2008, p. 42).

A crucial factor in the legitimisation of modern democracies is the degree to which policies presented to the public before an election translate into tangible end results once a political party wins power (Brouard et al. 2018). This is because 'periodic and genuine elections are generally seen as a key component for enhancing the legitimacy of a government and strengthening the social contract between the government and the governed' (UNDP 2016, p.12). The primary reason for the existence of parties is to contest and capture state power – ideally through peaceful means – in regular multiparty elections (Matlosa 2007) where pledges are made to the electorate. Existing empirical work indicates that campaign promises are important for voter evaluations, both prospectively and retrospectively (Bonilla 2017). Suffice to say that party campaigns provide a platform for exposing the electorate to competing ideas about how to run the country for their wellbeing. This may be done through open rallies and organised debates among contestants for public office (*The Guardian* 2019).

Thus, the extent to which government actions fulfil election promises has continually raised an important scholarly debate (Petry & Collette 2009). While a manifesto may give government a mandate for its policies, it is likely to contain a host of commitments and most voters will be aware of only a small number (Bogdanor 2015). Even politicians assume that manifestos are often not well suited for distribution to voters (Eder et al. 2017). The percentage of voters that reads party manifestos is negligible, perhaps because voters are frequently cynical about politicians' promises.

In Nigeria, electoral promises are often not kept, which is an obvious challenge to the sanctity of the electoral process. Unfulfilled campaign promises remain a seemingly intractable challenge, perhaps because the process itself is vulnerable to manipulation. Nearly six decades after independence, there seems to be an inadequate legal framework and political will to change the narrative. Ambushing voters with plans of action on the eve of every election year remains a constant ritual to formally legitimise party campaigns in the digital media and at heavily mobilised rallies, often with limited substance. Each election precipitates

a mobilisation of the people but the promised social contract is ephemeral. Hence, successive ruling parties project policy blueprints but continually fail to represent Nigerians' concerns or meet their needs. The citizens too seem unable to hold government accountable while there is no reliable system to anchor activism. Electoral brigandage that has gone unpunished has created disillusion and elections are approached cynically. When disillusioned voters are courted by parties and politicians only on the eve of a general election, it is doubtful whether such periodic engagement can engender more democratic and people-driven party politics and credible electoral processes in the country.

In the 2019 general elections, presidential candidates unveiled policy documents less than three months prior to scheduled polls, and even with organised presidential debates there was little to provoke electoral change among voters. In reality, the voters were not presented with making a choice among viable candidates, but with choosing the lesser of two evils. The contest narrowed down to the incumbent – seen by many as ineffective but honest and well-meaning – and the main opposition candidate, seen as corrupt and buccaneering.

Previous studies by Hampshire (2016) and Bogdanor (2015) have found that the positive effect of an electoral manifesto possibly misconstrued or misinterpreted the peculiarities of Nigeria's political environment and misunderstood the character of Nigerian politicians. This study, therefore, recommends a significant investment to rebuild the social contract and broaden the democratic focus from a merely 'successful' transition (from one administration to another, or from one faction of the ruling elite to another) to a sustainable democracy that delivers on promises. This would involve the constructive engagement of citizens to engender greater transparency in public affairs; promote government accountability; and enhance trust in the political process.

RESEARCH

From a theoretical perspective, fulfilling electoral pledges is an important aspect of the envisaged congruence between the pre- and post-electoral policy contents of political parties' manifestos. Political party manifestos – the key policy statements of political parties in an election – have become a research interest to many scholars in Africa. Research on whether voters understand electoral programmes or trust their implementation is very 'limited because data is scarce, for example, the consumption and knowledge of electoral manifestos is rarely addressed in election surveys' (Rölle 2002, p.43). Political parties, which exist to channel political frustration in other countries, are historically weak in Nigeria, particularly after the First Republic. They 'have little institutional structure and often maintain superficial connections with communities' (Campbell 2011). The differences

between them are more in nomenclature, size, and geographical spread. There is almost no clear-cut difference in the vision and mission of Nigerian political parties, and party manifestos reflect a drab similarity. However, there is no alternative institution to usurp the role of political parties in a representative and multiparty democracy. Hence, in the absence of ideological differences among the political parties, aspiring public office-holders identify with party platforms based on which could best help them achieve their ambitions. This is one reason for the frequent defections that have plagued the system.

In most African states, political leaders often sign election and pre-election pacts, codes of conduct, agreements or even peace pledges, 'promising to safeguard peace and the interests of their supporters and voters before and after elections' (Maphunye 2016, p.15). Such pacts, usually drawn up at the instance of international organisations and civil society coalitions, are designed for candidates to accept election results, or not to instigate their followers in the interest of the country; but significantly they are not a binding contract meant to commit parties/candidates to honour campaign pledges after election. A chronic decline in the political system's capacity for self-organisation seems to have set in, with the media, political parties, civil society activists and trade unions unable to hold career politicians accountable and prevent them from pursuing naked self-interest.

Research Questions

Twenty years after Nigeria terminated military authoritarianism and resumed civilian rule, the country held its arguably most competitive presidential election in February 2019. President Muhammadu Buhari and former Vice President Atiku Abubakar, both of whom are from Northern Nigeria, were the two most popular presidential candidates in an election that paraded 73 candidates for the country's highest office. The two major contenders offered the electorate contrasting visions on the economy, corruption, security, and federalism (Devermont 2019, p. 21). With this background, the current study seeks to address the following research questions:

- Under what circumstances do campaign communications, through rallies and digital platforms, engender increased levels of engagement among citizens?
- How can public institutions deliver on the mandates of their offices and provide public goods and services through transparent and responsive governance?
- What are the mechanisms that guarantee that government measures up to the public trust by delivering on its promises?

- What are the usual responses of voters to the mobilisation techniques of political parties and candidates?
- While campaign promises may not be regarded as a binding contract, and thus not enforceable, how can prospective voters meaningfully engage candidates to make commitments?

Objectives of the Study

The general purpose of this study is twofold. First, to provide analysis of campaign communication and the extent to which it influences the participation of citizens in the electoral process. Second, to interrogate the electorate's understanding of the policy issues inherent in the 2019 election manifestos of the two dominant political parties, All Progressive Congress (APC) and People's Democratic Party (PDP), and to understand how other important elements shape people's perception and trust in elected representatives/government.

The research design, relying on sample surveys augmented by qualitative research and in-depth interviews, seeks to identify factors within the context of an electoral circle as to why conversations between public office seekers and voters do not translate into concrete social contracts or generate time-bound inclusive policies. Other specific objectives of this study are:

- To examine voters' understanding of political parties' manifestos and their level of trust in office-seeking candidates;
- To assess if political communication through rallies and digital platforms can lead to enhanced levels of engagement among Nigerian citizens;
- To interrogate the strategies employed by political parties and candidates to disseminate messages and influence voters, focusing on the responses of voters to these mobilisation techniques;
- To examine the voters' perception of post-election policy implementation by parties and candidates; and
- To explore practicable modalities of committing political parties and candidates to a social contract with the people.

Methodology

This study is designed to provide an overview of current and recent research on election campaigning and party-political communication, using desk study, surveys and participant-observation methods of data gathering. The integrity and accuracy, or otherwise, of the debates held during the campaign become

critical. The study is grounded in engagement with people of concern and relevant stakeholders, through an online survey (356 respondents) and key interviews (11 respondents) in South Western Nigeria with a view to eliciting information regarding the subject matter. Information from secondary sources include library and archival documents, monographs, journals, materials from the Internet, government publications, newspapers, magazines and periodicals.

Significance of the Study

Ideally, elections serve as a 'major source of political recruitment, a means of making government, and of transferring government power, a guarantee of representation, and a major determinant of government policy' (Heywood 2000, p.75). More importantly, a well-conducted campaign and election showcase the vitality and quality of a democracy because communications by political parties and discussions among citizens lie at the heart of electoral campaigns. For this reason, deeper, more comprehensive and reliable analyses are required for a better understanding of how the process works, and how it could be modified for the best outcomes.

A considerable body of literature is concerned with the electoral manifesto and political party communication. However, a novel aspect of this study is that it will provide rigorous evidence regarding policy assessment and trust in implementation from the perspective of voters and politicians during campaign and post-electoral periods. Election pledge research is imperative given that only some of the policy proposals discussed before elections by political parties end up in election manifestos. While there has been some research into party communication during elections, there has been little on how to measure Nigerian voters' understanding of, and trust in, election pledges by political parties. Taking into account that public trust in government depends largely on the success or failure of its policies and how accountable electoral representatives are, the knowledge of this aspect can inform both the academic study of party politics and political practice.

PARTY POLITICS, CAMPAIGN PROMISES AND VOTER EXPECTATIONS

Politicians seeking office make promises they intend to implement if elected in the belief that such promises will engender voters' trust in their capabilities (Aragonès et al. 2007). Due to the improvement in information and communication technology, digital and multi-media are used to inform and persuade the public. During special events such as election campaigns, politicians and political parties spend fortunes on advertising slogans such as 'make Nigeria work again', 'put

smile on the poor faces', 'make life meaningful for our people', 'take Nigerians to the next level', or 'bring back our lost glory'. Such slogans are largely platitudes not backed with ideological or policy development contents. On capturing state power, these politicians felt no obligation to implement vague statements of intent; nor did the electorate call them to account. Vaguer promises and vituperative comments about opponents were made by political parties in the next round of elections in what had become a periodic ritual. A cynical electorate tried to get the dividends of democracy upfront by demanding gratification at every step of the process. Needless to say, political parties in Nigeria today are among the least trusted institutions. Van Reybrouck's (2016 p. 7) submission in this regard is apt:

Since we have reduced democracy to selecting representatives, and reduced representative democracy to mean simply voting, a valuable system is now mired in deep difficulties. Winning the next election has become more important than fulfilling the promises made in the last.

In developing democracies, electoral campaigns tend to involve electing political leaders on the basis of personal characteristics. Another significant driver 'in electoral dynamics can be identity-based backgrounds that link competing parties to groups of voters on grounds other than issues, such as patrimonial relationships (inheritances) or clientelism (patronage)' (Jansen et al. 2016, p. 38). In Africa, where accountability in governance processes remains elusive, many political leaders may overlook or ignore their electoral mandate once they are elected into office (Maphunye 2016). Politics in Nigeria specifically is dominated by personality, not by issues, and politicians frequently and easily shift from one party to the other (Campbell 2018). The social media space in the country is vulnerable to manipulation by influential politicians who are ready to deploy their agents on social media in order to confuse and divide the people along ethnic, religious or other fault-lines to serve their vested interests (Hassan 2018).

PRESIDENTIAL CANDIDATES AND PARTY CAMPAIGN STRATEGIES

Ordinarily, election manifestos should represent values and opportunities for progress and change in the society. Manifestos 'are ideally a product of a negotiated process by different actors and groups within each political party and offer an official statement of a party's policy proposals' (Mubanga 2016, p.32). Manifestos should also outline the problems and issues which a political party presents to the public during the elections. But on close examination, the manifestos of political parties in Nigeria are not distinctive from each other in their approach to the core issues, policies and programmes.

Nigerians were bombarded with pledges, slogans and social media messages months before the 2019 general elections. Candidates attempted to present their different programmes through rallies, statements to the media and in televised debates. After the party primary conventions in September 2018, millions of party members and supporters embarked on a massive social media campaign that galvanised support in a country where social media usage and activity have become a household obsession.

The two leading candidates of the APC and PDP dominated the political space and campaigns. Apart from the presidential debate that featured three other parties and scanty media interviews, the remaining candidates operated on the periphery. Indeed, the reluctance of the big parties to physically get in touch with grassroots electorate, relying mostly on electronic and newspaper advertisements, made it difficult for undecided, rural voters, to feel confident about them. Where these dominant parties organised public campaign rallies, effective communication could not be said to have taken place. The field experience below sums up the dominant narrative of citizen engagement in political mobilisation/campaign communication and the gradual decline in the quality of participatory democracy and legitimacy in Nigeria:

Along the dusty road that sunny afternoon, just as we were trying to catch up with people at the venue of a political rally, we met a young man – obviously a party loyalist judging by his customised T-shirt and cap and the enthusiasm with which he spoke to us. Having introduced ourselves as researchers, we requested to know the happenings around the venue, particularly about his party manifesto and its possible efficacy as an instrument of mobilisation. His smug response was: *This (rally) is just to show them that we are in town; the election is won already even without manifesto*. Two hours after the rally, we questioned an old woman/retiree about what she thought about the message of the politicians, being one of the attendees. She said: *The politicians spoke on our behalf as if they knew our minds. They all made many promises without bothering to know our agitations. Thank God, my tenant delivered their message by giving me transport fare*.

(Personal communication, 22 January 2020)

While unveiling his manifesto, President Buhari promised to sustain the anti-corruption war, provide more infrastructures and rebuild the economy. According to him: 'We are committed to deepening the work we started this first term such that the nation's assets and resources continue to be organised and utilised to do good for the common man' (Mumbere 2018, p. 4). In his campaign document entitled, *The Next Level: Working for the Greatest Number*, Buhari said 'actions like

placing all government revenues and funds recovered in corruption investigations into the Treasury Single Account (TSA), have cushioned the country from oil dependency' (Mumbere 2018, p. 4). The president also planned to re-double the anti-insurgency war, build one industrial hub per geopolitical zone and one value processing plant in each senatorial district (Ajaja 2018). He further promised to 'engage one million N-power graduates and to skill up 10 million Nigerians through agriculture and industrialisation' (Oladesu 2019, p.7).

PDP candidate Atiku, on the other hand, sought to boost investment in the country's oil sector if he became president in 2019. In a document titled, *Let's Get Nigeria Working Again*, Atiku promised to privatise the nation's four refineries, partially privatise the Nigerian National Petroleum Corporation, restructure the economy, and increase the country's Gross Domestic Product to \$900bn by 2025. The PDP candidate promised to attract investment that 'would create a minimum of 2.5 million jobs annually and lift at least 50 million people out of extreme poverty by 2025' (Ajaja 2018, p.5). Atiku assured Nigerians that he would be a better economic manager than Buhari, citing that when he chaired the National Economic Council the Obasanjo administration gave the country its highest and most consistent gross domestic product (GDP) growth of over six percent per annum.

Overall, the manifestos of the two candidates were neither novel nor captivating. The campaigns also focused on geopolitics, devoting attention to creating a winning geopolitical formula. Two leading party leaders from the same presidency, Babatunde Fashola (Works and Housing Minister) and Boss Mustapha (Secretary to the Government of the Federation (SGF)) were both said to have promised the post-2019 presidency to the South West and South East. Buying into this narrative and sensing the enthusiasm of the southern region to succeed the incumbent in 2023, the PDP presidential candidate, during his pre-convention vote-seeking, also committed himself to serving for just four years, thus clearing the way for the Igbo to actualise their presidential ambitions as early as 2023. He did promise, through his media handlers, that he was out for a single term, and by inference that either the South West or South East could have their turn at the end of his first term in 2023. However, his post-convention campaign was silent on that sentiment. But in a zone where separatist sentiment was quite fevered in recent times, Atiku's restructuring rhetoric played equally well with a section of the South East's political elite (Eriye 2018).

FAKE NEWS, DEFECTIONS AND CACOPHONOUS HUSTINGS AS DIVERSIONARY STRATEGIES

As Nigeria prepared for the elections, the proliferation of fake news through Facebook and its WhatsApp messaging platform exacerbated tense ethnic,

political, religious and social divides. Many of these were created by politicians, and/or ignorantly or deliberately by the media, interest groups. The problem became so acute that the government warned that misinformation could be the biggest threat to credible elections (Wexler 2019). Throughout the campaign, there was a high level of negative speeches and frivolous debates indicating a mudslinging race that served only to distract the voters. Through Whatsapp, Facebook and Twitter, people shared propaganda videos, made-up quotes, and fabricated articles. The incumbent, President Muhammadu Buhari, and his main rival, Alhaji Atiku Abubakar, became the target of online videos containing shady or ambiguous information. As the campaign heated up, 16 media outlets formed a coalition, *CrossCheck Nigeria*, in a fact-checking initiative to investigate doubtful election claims circulating online. Two of these issues are presented here.

Given that Nigeria's historical, religious and ethnic fault-lines are often deployed during election seasons, false stories and rumours became more prominent with a view to swaying votes (Kazeem 2018, p. 4). Political parties and candidates did not stop at wooing voters, they also attempted to pull down the opposition. Fake news became a handy tool in achieving their mission (Adetayo 2019). For instance, one of the most frequently accessed rumours spread online was that President Buhari had died in a London hospital, having spent months receiving treatment in 2017. Supporters of pro-Biafran separatist leader, Nnamdi Kanu, had also claimed that Buhari was replaced by a lookalike from Sudan. This became a talking point in several newspaper columns, with commentators speculating on the scientific possibilities of cloning a human being. Opposition politicians sought to capitalise on the rumours for political gain (Akinwotu 2019). As absurd and unthinkable as it sounds, the planted 'clone' or 'double' narrative achieved its objective and dominated media space, occupied intellectual discourse and ensnared civil society organisations. As expected, the presidency devoted precious time to defending this absurdity.

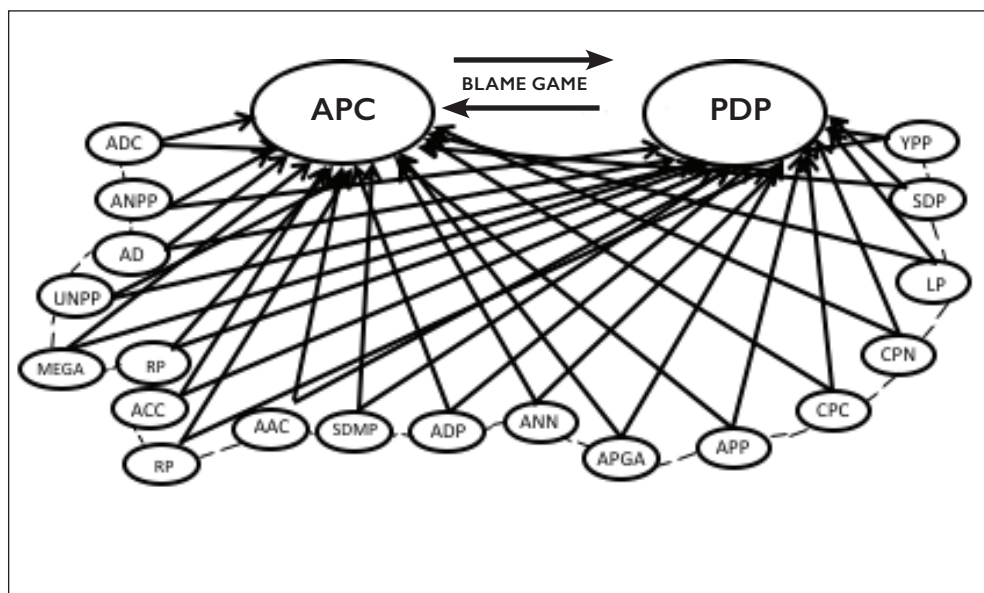
Another incident involved a Special Adviser on Social Media to President Buhari – Laretta Onochie, who posted a video on Twitter which showed his supporters at a large rally when in reality the images were from a religious gathering the previous year. She also posted a photograph of a major road construction, citing it as an example of the president's public works. She was later forced to issue an apology after discovering that the road was actually in Rwanda, saying: 'My big mistake, apologies to all, friends and wailers alike. It won't happen again' (Anderson 2019, p. 34). Months later, it did so in a tweet that accused Alhaji Abubakar of sharing food and money during his campaign. It was accompanied by a photograph of food packs with money attached and a caption saying: 'Keep them in poverty, then give them handouts. Atiku in Sokoto yesterday' (ibid.).

Stories that *CrossCheck Nigeria* discredited included allegations that the first lady wanted Nigerians to vote against her husband, as well as a suggestion that US President Donald Trump endorsed opposition candidate Atiku Abubakar. Such allegations usually appeared on social media and were sometimes published by news websites (VOA 2019). False reports spread on social media so fast and so frequently that some of those who were the subjects simply had to laugh it off. Indeed, the spread of disinformation was used to promote hate speech and stereotypes. A few months before the election, the cacophony of fake news distracted citizens' attention from the real issues affecting them – widespread discontent over unemployment, insecurity and poverty, the high cost of living, and perceived marginalisation across the country.

Another distraction during the election was the number of personalities defecting to and from the two main parties. Because political parties in Nigeria lack ideologies and explicit messages that distinguish them from one another (Barnes 2018), politicians merely view political parties from the lens of temporary platforms to contest and win elections, rather than ideological platforms where they can present a responsible opposition or responsive government. Thus, months before the 2019 general elections, the two dominant parties witnessed major and unprecedented defections. Between 2017 and early 2019, there were mass defections from the ruling All Progressives Congress to the People's Democratic Party involving members of the National Assembly and prominent members in some states. The excuses for these mass defections were in most cases identical to those that precipitated PDP defection to the APC in 2014 when the struggle to wrest power from the then ruling PDP was considered 'imperative' by some of the defectors. The strategy had weakened the PDP, leading to its defeat in the 2015 elections. The defectors, who included key figures of Buhari's APC, were largely motivated by their personal ambitions and interests rather than any higher ideal.

Ironically, and for the first time in decades, both ethnic and religious considerations that would have dominated the electoral campaign were conspicuously absent. Ordinarily, 'there is an unwritten rule between the two major parties that the presidency should alternate every eight years' (Campbell 2018, p.3) between the predominantly Muslim north and the predominantly Christian south. In the 2019 presidential elections, the two frontline presidential candidates shared the same ethnic and religious affinities – Muslim and Fulani from the North.

Nigeria's Independent National Electoral Commission (INEC) had 91 parties on its register in 2019, 73 of which took part in the general elections. Most of the small parties failed to convince the electorate that they were competing seriously in the elections (Nigeria Civil Society Situation Room 2019) while the two main parties, the ACP and PDP, embarked on a blame-game electoral outing despite their early commitment to an issue-based campaign.



Source: Mike Omilusi 2019

Figure 1: 2019 Campaign Blame Game

Every public discourse involving their spokespersons was reduced to trading words on the mess one party had caused for sixteen years and the failure of the other party to change the narrative as promised

In a similar vein, the parties on the fringes focused their campaigns on getting the voters to reject the APC and PDP on the grounds that both had failed the country in power. Catch phrases used at rallies and in the electronic media included: 'We need a third force to liberate Nigeria from the present mess' and 'APC and PDP have failed Nigerians'. Despite the rhetoric, these minor parties were weak. Their multiplicity worked against them because they could not present a united front.

KEY RESEARCH FINDINGS

In this section, basic findings from the survey are graphically presented to show the perception of Nigerians concerning the 2019 general elections in relation to the dynamics, efficacy or otherwise of the two major political parties' campaign communication and how respondents feel about policy implementation after election. The questions are phrased as diagram titles for clarity.

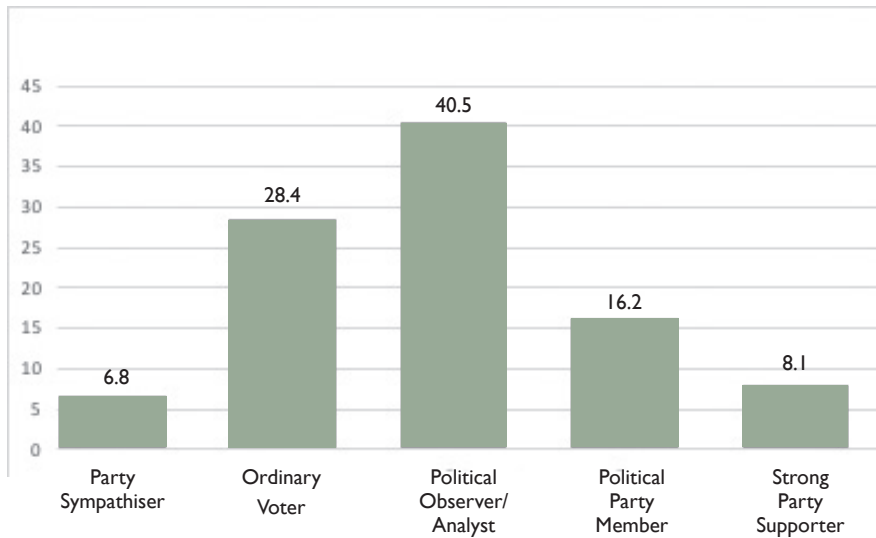


Figure 2: Political categorisation of respondents

Figure 2 above portrays categories into which individuals are likely to fall. About 6 percent of the respondents categorise themselves as mere party sympathisers, about 28 percent as ordinary voters, about 40 percent as political observers/analysts, about 16 percent as politicians or party members, and about 8 percent as strong party supporters. It is obvious from the statistics that there are more political observers than any other category.

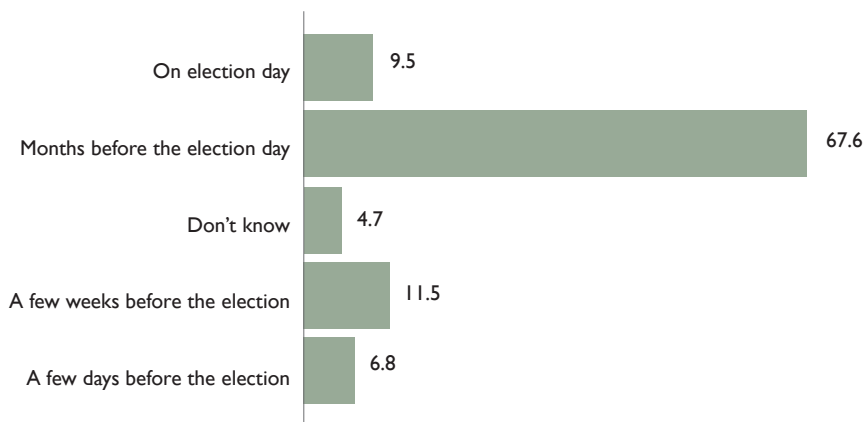


Figure 3: When respondents decided to vote for a party/candidate

Figure 3 above indicates when people decided to vote for or support any party. About 6 percent of the respondents revealed that they decided to vote a few days before the election day, about 11 percent that they decided a few weeks before the election, about 67 percent revealed that they made up their minds on parties/candidate to align with months before the election, and about 9 percent revealed that they took the decision on election day.

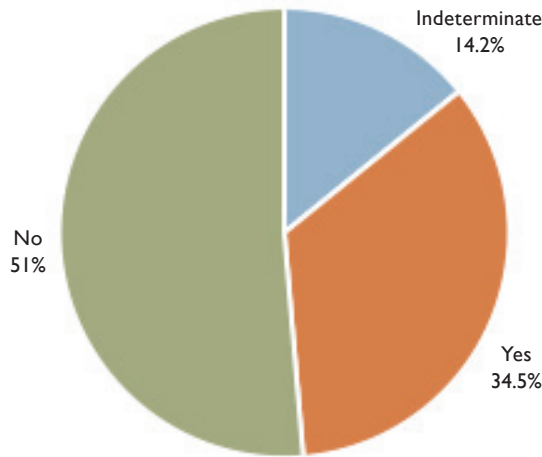


Figure 4: Extent to which respondents were influenced to vote for candidates based on issues discussed at rallies and through the media

Most people did not know whom to vote for based on the limited information they had on the available political parties. Some were undecided until near to the election while others supported the candidate most favoured by the media. Figure 4 above shows that about 34 percent of the respondents were influenced to vote based on issues discussed at rallies and through the media, whereas about 51 percent revealed that they were not influenced by political rallies or media campaigns.

There are many ways through which political parties and candidates reach their target audience. Figure 5 below shows the five major media and the extent to which they serve as information server for people.

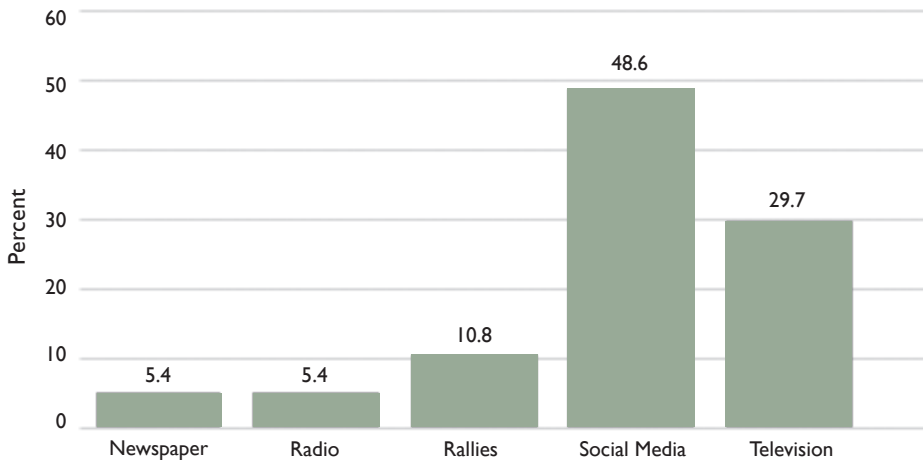


Figure 5: Medium through which the presidential campaign was monitored

About 5 percent of the respondents revealed that they monitored the presidential campaign through newspapers, 5 percent through the radio, 10 percent through campaign rallies, 48 percent through social media such Facebook, Twitter and Google connect, and 29 percent through television (including cable services). People make more use of social media as it is faster and readily accessible. Likewise, most cable TV stations are expanding their services and making their subscriptions more accessible, thereby gaining a larger audience more cheaply and thus making it second in usage, as Figure 5 above reveals.

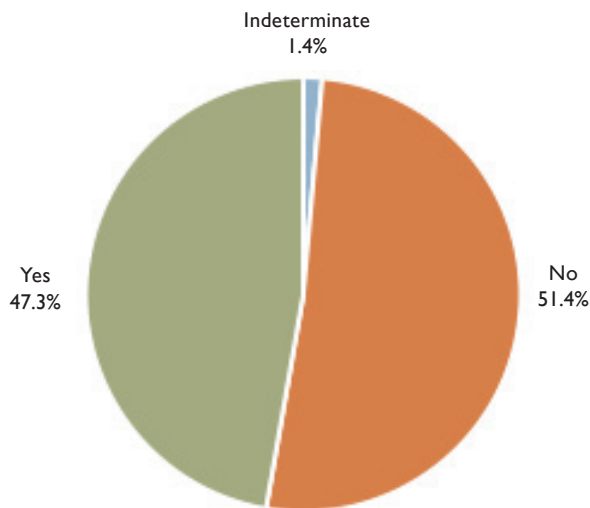


Figure 6: Level of contact by candidates or canvassers for a political party

Some candidates do visit prospective voters in their communities, persuading them through their manifestos or by gifts. House-to-house campaigns, meeting people one-on-one are considered a sign of humility and respect. Figure 6 above shows that about 47 percent of the respondents were visited by party members seeking their votes, while about 51 percent said they had no such experience.

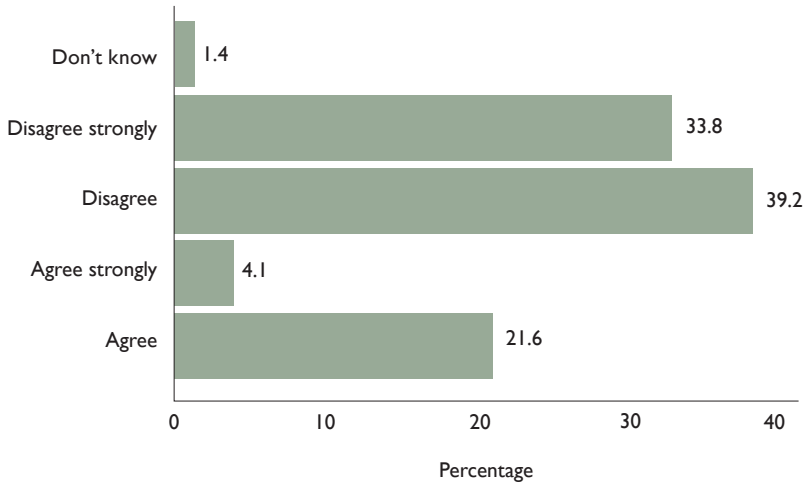


Figure 7: Whether democracy in Nigeria delivers development and bridges the gap between government and citizens

Figure 7 above shows the perception of Nigerians concerning the effectiveness of democratic governance in delivering development, and whether democracy bridges the gap between government and the citizens. Curiously, about 73 percent of the respondents see democracy in Nigeria as a total failure; however, 25 percent still see democracy in Nigeria delivering development and bridging the gap between government and the citizens. As one of the respondents observed:

Ordinarily one would expect that our votes should influence electoral outcomes and ultimately bring about the desired change in the polity. However, every form of participation in the electioneering seems to be alienating the people further from governance deliverables and decision-making process. Indeed, the most ardent believers in this democracy today are getting frustrated with the pitiable living the system has guaranteed them.

(Personal communication, April 23, 2019)

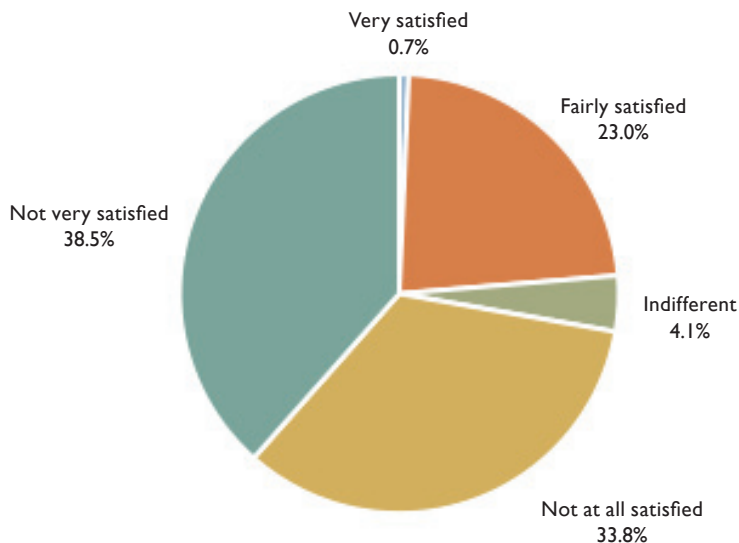


Figure 8: Level of satisfaction with the way successive governments have run Nigeria since 1999

Nigeria has faced ever-increasing economic and political challenges since the emergence of democracy in 1999, and Figure 8 above depicts the level of satisfaction towards government. The figure indicates that 23 percent of the respondents are fairly satisfied with the way and manner successive governments have been running the affairs of the country, 33 percent are not at all satisfied, 38 percent are not very satisfied, and only a minute segment of the population (0.7 percent) admitted satisfaction regarding the political management of the country. According to a respondent (Personal communication, 4 May 2019):

Successive administrations have continually failed us. That is why, apart from freedom of expression, we cannot specifically identify other dividends of democracy in the country. Therefore, Nigerian politicians, particularly those at the helms of affairs, should commence rebuilding trust with the ordinary voters through effective communication and service delivery.

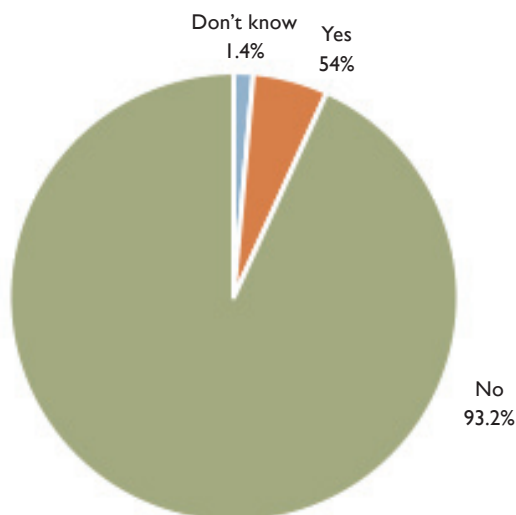


Figure 9: Respondents' perception of social contract during the presidential campaign

Figure 9 above depicts the responses regarding any form of social contract with candidates or political parties during the presidential campaign, particularly if an agreement was reached with the people on the basis of programmes-for-votes. The statistics revealed that about 93 percent of the respondents did not believe there was any concrete pact with candidates or political parties. Only 5 percent of the respondents believed such took place during the presidential campaign.

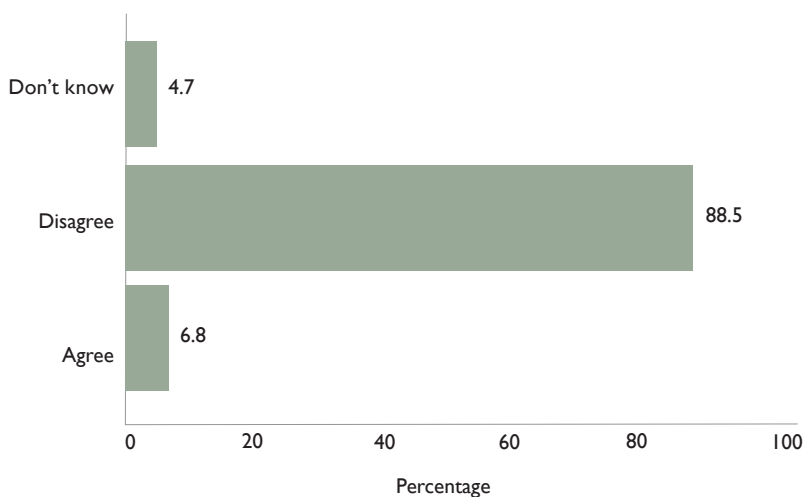


Figure 10: Rating politicians' trustworthiness in Nigeria

As shown in Figure 10, the majority of the respondents (over 88 percent) do not consider Nigerian politicians to be trustworthy. Also, drawing from in-depth interviews and focus group discussions, it appears that citizen trust in Nigerian politicians in particular and all levels of government in general, is fast eroding:

How does one trust a political class that has not hidden its disdain for the common men and women? It is a pathetic case of less than one percent of the population making life miserable for the rest of us. We bear the brunt of the struggle for power without commensurate obligations after election. They are totally disconnected from the needs of their constituents.

(Personal communication, 23 April, 2019)

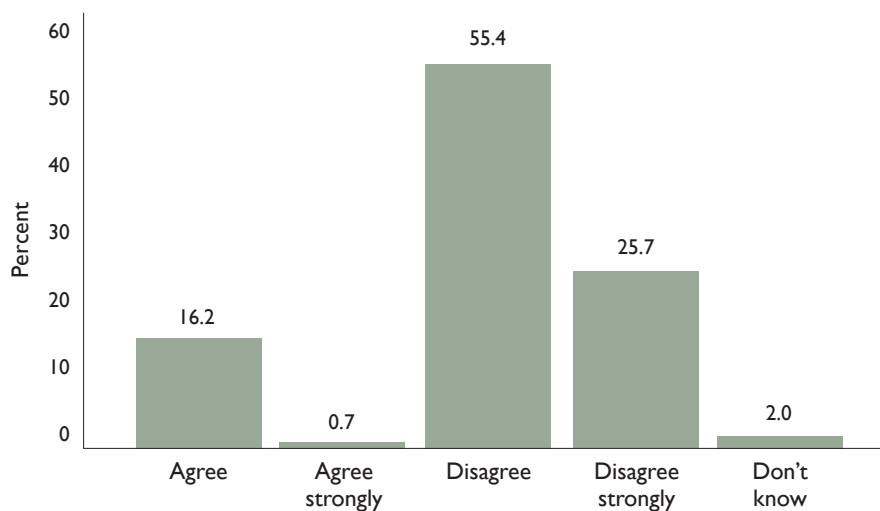


Figure 11: Whether the APC and PDP candidates addressed issues affecting Nigerians

Figure 11 above reveals that 80 percent of the respondents strongly agree that both the APC and the PDP failed to address issues affecting Nigerians. Conversely, very few believe that both parties did address issues affecting Nigerians. A respondent who claimed to have monitored the electioneering campaign through electronic and print media commented that:

There is little or no difference between the two dominant political parties. Their campaigns were largely rhetoric about good governance

and provision of social amenities which we have ceaselessly heard from political leaders since independence without fulfilment. I am beginning to suspect that voters are also fed up with such monotonous promises.
(Personal communication, 23 April 2019)

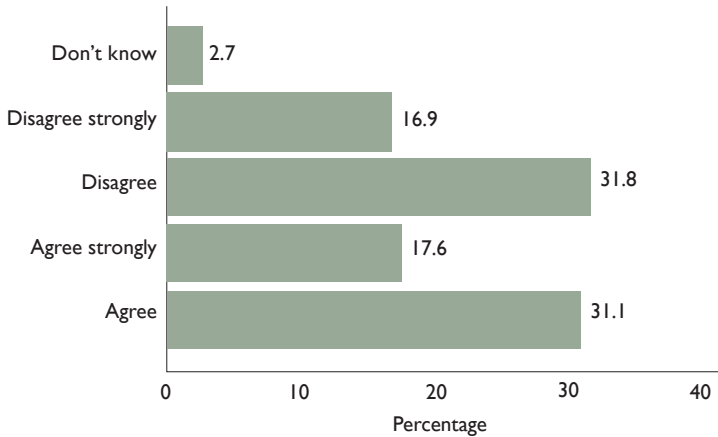


Figure 12: Whether the presidential election debate was a worthwhile exercise

Figure 12 above depicted the responses of people regarding the level of their perception of the 2019 presidential election debate. There is equal ground regarding whether the presidential election debate was worthwhile, as 48 percent of the respondents considered it to be a worthwhile exercise, as opposed to 48 percent who considered it an irrelevant exercise.

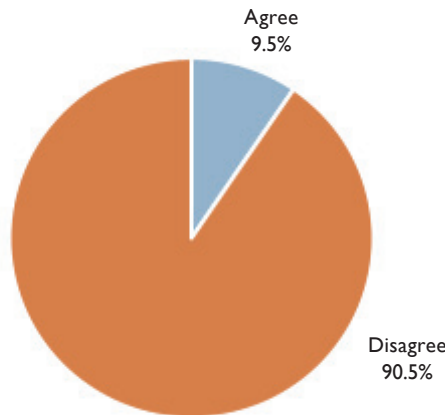


Figure 13: Whether politicians/political parties implement their manifestos after election

Figure 13 above shows that 90 percent of the respondents agreed that politicians and political parties usually fail to implement their manifestos after the election; this is strong evidence of eroding trust in Nigeria’s political system.

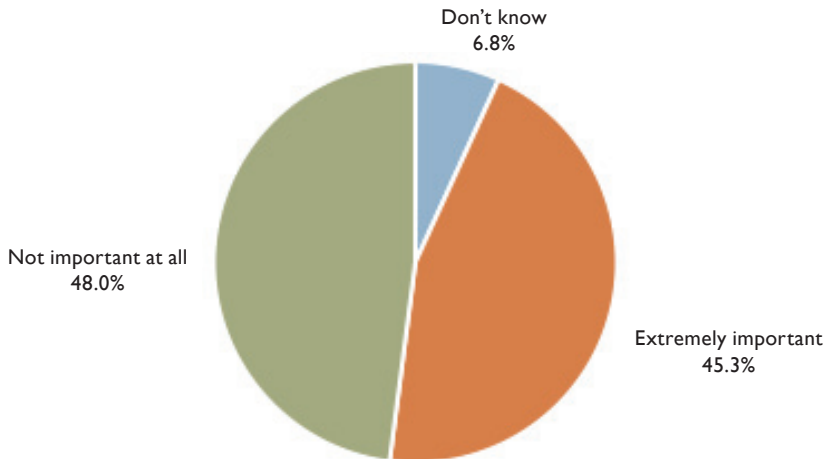


Figure 14: Rating the importance of campaign manifestos in Nigerian elections

The information presented in Figure 14 above buttresses the argument so far. About 48 percent of the respondents opined that campaign manifestoes are not at all important in Nigerian elections, whereas 45 percent considered campaign manifestos extremely important.

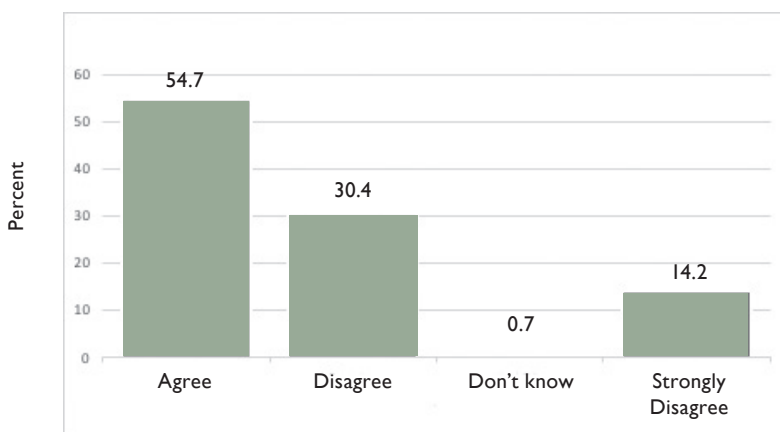


Figure 15: Whether there is any point voting for a party with no chance of being in government

Figure 15 above shows the response to voting for parties with a very low chance of winning. About 54 percent of the respondents are of the opinion that there is no point voting for a party that has no chance of being in government or winning the election, whereas about 44 percent totally rejected this view as they believe that even a less popular party may perform better than those that are more popular.

RECOMMENDATIONS: SOCIAL CONTRACT, ELECTORAL REFORM AND DEMOCRATIC ACCOUNTABILITY

Social Contract

The social contract between voters and their elected representatives has long remained one of the foundations of democratic institutions (Transparency International 2019). The social contract is a fundamental principle of legitimising governmental organisation, as it provides a starting point for a rational explanation of the origin of the state. The idea is that the authority of government over supposed subjects or citizens derives originally from an agreement between ruler and ruled in which the former agrees to provide advantages such as peace, security and order in return for obedience from the latter.

In a viable democracy, government statements and actions must have some degree of trust from the citizens as a prerequisite for an effective social contract (Gaskarth 2017). In other words, the contractual agreement that obtains between the citizenry and a constituted authority presupposes that elections should afford citizens the opportunity to periodically bargain with public office holders and decide whether to renew their mandate or vote an irresponsible government out of power. This is what a credible election can guarantee Nigerians and thus teach politicians to hold sacrosanct the principle of social contract in a democratic society. Citizens should continually hold public office holders and government institutions accountable, in order to prevent new governance and security challenges.

Electoral Reform

Generally undertaken to enhance the electoral process, electoral reforms also advance the electoral rights of citizens by operationalising 'key principles such as impartiality, inclusiveness, transparency, integrity and accuracy' (IDEA 2014, p. 16). To bring elections in line with regional and international standards for democratic elections in Nigeria, a number of fundamental challenges must be surmounted. These include weak transparency requirements for the publication of

results; absence of provisions empowering INEC to sanction campaign violations; manual voting and collation of results; insufficient campaign finance regulations; and the inability of voters and civil society organisations to file petitions against the results.

Thus, it is strongly recommended that the Electoral Act Amendment Bill be passed into law. Among other salient inputs, the bill prescribes the announcement and pasting of results at each polling unit, and the electronic transmission of results from the polling unit directly to the headquarters of the Independent National Electoral Commission. The bill outlaws the use of incident forms in polling units where the Smart Card Reader does not work. In the new Section 53 (2), it prescribes that where the final figure is more than the number of accredited voters at any polling unit, the results are automatically cancelled. It also prescribes the digital storage/archiving of election results at INEC headquarters (*The Guardian*, 2019).

More important to this study is that sections 30, 44 and 99 of the amended bill are targeted at improving the electoral process. Section 99 states that candidates and parties can commence their campaigns 150 days (or five months) before the polls. In contrast, the current act stipulates 90 days for campaigns. Given the fact that it is important for citizens to have adequate time to interrogate those to whom they are delegating their own power to govern, this section is fundamental to the electoral reform. With 774 local government areas, 36 states and the Federal Capital Territory, it enables candidates to cover a lot of ground and present their manifestos to the electorate (*The Guardian*, 2019).

Democratic Accountability

The question of democratic accountability is critical as government's role in the electoral process and governance comes to the fore. In order to ensure accountability and governance in the system, representative democracy is widely acknowledged as a system of government whereby elected representatives act on behalf of the citizens. The task of holding leaders to account is one of the logics behind the voting power of the masses and relies on the trust between the electorate and elected leaders. There are several forms of accountability:

- *vertical accountability*, which allows citizens to choose their leaders through free, fair, transparent, regular, and meaningful elections, which happen when there is an acceptable level of political rights and civil liberties;
- *horizontal accountability*, the ability of government institutions to check abuses by other branches of government, a system in which government institutions are independent and no agency or branch becomes too powerful in relation to the others; and lastly

- *personal accountability*, an individual's responsibility and commitment to uphold high standards.

The underlying proposition is that democratic mechanisms should enhance citizens' capacity to hold public officials accountable for their actions while government officials should act upon citizens' demands and preferences. Despite their shortcomings, political parties and elected representatives in Africa have dual roles to play in the accountability landscape (IDEA 2007). As account holders, they can be democratic instruments holding governments to account. Simultaneously, they may respond to the demands of their voters through the electoral cycle as agents of accountability. While in power, therefore, parties and public office holders should 'account for the manner in which they allocate and spend public funds, make public policy and take decisions which affect the people in whose name they govern' (Chirwa & Nijzink 2012, p. 63). Ordinarily, governments cannot respond effectively to the needs of the people without accountability (*ibid.*) or set national agendas that address current and important challenges because accountability in government ensures equality, fairness and equity in public decision-making (Behn 2001). As in advanced democracies, democracy in Nigeria can only thrive and be sustained by accountability. Therefore, the essence of public accountability must be held sacrosanct by all persons in positions of public leadership and citizens alike.

CONCLUSION

Core processes of democratic governance such as elections and referendums often become dangerously outmoded, especially when they are not strengthened by pragmatic forms of citizens' participation (Van Reybrouck 2016). This study emphasises that a more crucial, liberal and inclusive form of democracy can be engendered by structured consultation with the mass of the people during and after elections. Considering the imperative of having elected public representatives accountable to the electorate on issues of concern or dissatisfaction (Brinkerhoff 2001, p. 95), this study contends that moving from ritualistic formalities to more strategic approaches capable of fundamentally addressing policy issues arising from campaign promises is crucial to democratic accountability and good governance.

However, debate continues to rage over those basic elements that shape voter behaviour or determine electoral outcomes across the globe. The study affirms that every voter has the right to scrutinise the manifestos of candidates as well as their campaign promises, their requisite experience, and their track record of achievements, with a view to taking an informed position on franchise. The 2019 elections, as revealed in this study, did not reflect what the social contract

stands for – ‘the implicit, mutual bargaining over what citizens expect from the state, and what the state can legitimately demand of citizens in return’ (World Bank 2019, p.8) – as electioneering campaigns did not provide the space for social contract bargaining.

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THE CHALLENGES AND OPPORTUNITIES OF WEB 2.0 ELECTIONS

The Case of Zimbabwe

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ABSTRACT

This study analyses different perspectives of the challenges and opportunities of using Web 2.0 technology with specific reference to Zimbabwe's 2018 general elections. It discusses digital tools and resources such as social networking sites (SNSs) and biometric voter registration (BVR) for the management of the voters' roll. The study includes in-depth interviews with several politicians and ZEC officials to discuss the challenges and opportunities of Web 2.0 in Zimbabwe's elections. Informed by theoretical concepts on technology and politics, the study establishes that technology is not a panacea but can be used as an apparatus. This study concludes that political institutions in Zimbabwe should reach consensus that the country will not conduct another election until electoral reforms are implemented because technology alone cannot overcome political challenges. Thus, the election monitoring body should be sufficiently credible to ensure a free and fair election.

Keywords: digital technologies, biometric voter registration (BVR), voters' roll, social networking sites (SNSs)

INTRODUCTION

This study aims to establish whether information technologies can make elections more inclusive and meaningful in Zimbabwe. The article focuses on the use of digital information technologies such as cellphones, internet facilities and other computer-based information systems, namely digital biometric technology for voter identification, software applications, Web 2.0, and related computer hardware during elections in Zimbabwe, particularly in 2018.

The digital revolution started in the middle of the last century and is characterised by 'a fusion of technologies, blurring the lines between the physical, digital, and biological spheres' (Xu et al. 2018, p. 91). It is noteworthy that every technological revolution has brought about 'shifts in power, shifts in wealth, knowledge' and advanced democracy (Schwab 2015; Xu et al. 2018, p. 90). This study considers technology to consist of techniques, tools, technical objects or technical apparatus (van Jaarsveldt & Wessels 2001).

Scholars such as Lee (2009) and Kim and Chen (2016) believe that technology such as the internet and social networking sites (SNSs) can promote democracy, discussion and the participation of citizens as well as improving voting patterns and experience. Debrah et al. (2018, p. 1) claim that the 'application of information technology (IT) in a democracy can promote efficient organisation, processing, communication, storage and retrieval of information needed by election management bodies'. Developed countries now use technologies for census, citizen registration, voter registration, as well as the counting and consolidation of votes (Xenakis & Macintosh 2008). In an election, technologies such as online databases can facilitate the huge tasks of managing a voters' roll and even create accurate electoral rolls for polling stations. A decade ago, underdeveloped countries attempted to improve their electoral processes by embracing technology to prevent fraud or duplicate voting (Debra et al. 2018, p.2). Scholarly debate in Africa continues to question the impact of information technologies on offline realities where political systems are viewed as repressive (Mutsvairo 2013; Mutsvairo & Sirks 2015).

Scholars such as Mozaffar and Schedler (2002) and Schaffer (2002) contend that developing democracies suffer electoral manipulations due to authoritarian leaders or incumbents circumventing electoral processes and the will of the people. Elections in Africa have often been chaotic and violent; for example, Kenya's 2017 elections were characterised by violence resulting in civil unrest. The 2019 elections in the Democratic Republic of Congo also saw delayed election results and protests. Many African countries also have revolutionary or liberation political parties in control of governments, and a history of long-serving presidents. Opposition political parties struggle to win power and cry foul at bogus elections. Zimbabwe is among those African states with a troubled democracy whose elections have been viewed as unfair and unrepresentative with a rigged, inaccurate voters' roll and low voter turnout (Sithole & Makumbe 1997; Hove & Harris 2015).

THE DIGITAL BIOMETRIC SYSTEM

The use of digital biometric technology in voter registration is not unique to Zimbabwe as it has been utilised by several other African countries. In 2012 Ghana

used the biometric system for voter registration and voter verification technology. Debra et al. (2018) studied the use of biometrics in Ghana's elections, and noted the system stimulated high voter participation, turnout and confidence in the electoral process. The biometric acted as 'forensic measure against election fraud such as impersonation and multiple voting' (Debra et al. 2018, p. 1). However, they add that there were many discrepancies arising from human error, slow voter verification and 'policy manipulation by polling officials', leading to a disputed election outcome.

In 2014 Namibia also used an electronic voting system (Alam & Bokhari 2020). The Electoral Commission of Namibia (ECN) reported that the election had various technical issues such as the slow response of voters' verification resulting in the disenfranchisement of some voters who were unable to wait longer in the queue (ECN 2014). In 2015 Nigeria embraced new technologies such as the biometric card reader for 'direct data capturing for revalidation of voters' register, accreditation of eligible voters and permanent voters', making it impossible for a voter to cast the vote more than once (Nwagwu 2016, p. 305; Alam et al. 2020). Although that election was the country's first to be declared free and fair, some smart card readers had technical faults (Alam et al. 2020). The common problem with biometric technology is that voters can cast their ballots only at their registration centres or polling stations (Alam et al. 2020).

Biometric technology is an automated method that verifies and recognises voter's identity based on physiological features (Wayman 2000) such as fingerprints, retina, ear shape, hand vein and facial recognition (Rhodes 2003). The biometric system can recognise voice and signature (Jain et al. 2004) and links the person to his or her nationality, gender, district, or polling station, amongst others (Wayman 2000). The scanner is usually utilised to verify the user's characteristics and access is granted when his or her characteristics match with the stored or existing data.

Biometric identification does not guarantee accuracy or security as the system depends on the application and properties of the biometric characteristics (Uludag et al. 2004). The biometric process on its own depends on user interaction and can only perform within the user's capability or incapability (Wayman 2000) – in other words, an automated machine depends on the human factor. Prabhakar et al. (2003) argue that regardless of technological advantages, the fact that the biometric system depends on input devices means that it is subject to manipulation. Insufficient input, technological failure and underutilisation may fail to deliver the expected outcome (Jain et al. 2004). Debra et al. (2018, p. 2) argue that 'the failure of a biometric system to achieve an acceptable election outcome is not only caused by biometric technology malfunction but human error and policy manipulation by election officials'. In this light the article seeks

to establish whether information technologies such as the biometric technology can be utilised for a meaningful or democratic election in Zimbabwe.

ELECTIONS AND INFORMATION TECHNOLOGY IN ZIMBABWE

Zimbabwe has had a series of violent elections since 1980 (Raftopoulos 2002, p. 2013). Scholars note that Zanu-PF has 'held electoral hegemony' (Sithole & Makumbe 1997, p. 123) and has been the beneficiary of the 'winner takes-all' Electoral Act of 1987 (Sachikonye 2003, p. 120). Sithole and Makumbe (ibid.) argue that most of the elections held after 1980 had been a mere formality with low voter turnout due to voter apathy. This history of chaotic elections has been associated with the government's repressive media laws and control of state media. For instance, radio and television in Zimbabwe in both the pre- and post-colonial state have been used for hegemonic political purposes (Moyo 2005). From 2000 to 2002, the government of Zimbabwe enacted laws that barred media freedom and expression, namely the Broadcasting Services Act (BSA), the Public Order Security Act (POSA), the Access to Information and Protection of Privacy Act (AIPPA) and Criminal Law (Codification and Reform Act) (Raftopoulos 2002). The POSA restricted freedom of the press while AIPPA restricted publishing or access to any classified information (Moyo 2005, p. 12; Mugari 2008, p. 10). These laws affected freedom of the press throughout the elections. Zimbabwe still has only one television station, the Zimbabwe Broadcasting Cooperation (ZBC), few radio outlets and a modicum of print media houses.

The rise of the internet and Web 2.0 enhanced citizen's access to information. From the early 2000s, most of the online news outlets run by diasporans became alternative sources of information (Manganga 2012). Mutsvairo and Karam (2018, p. 5) posit that 'for many African states, it was nearly impossible to find alternative sources of news content before the digital revolution'. These online news sites dodged the repressive media laws in the country but the government of Zimbabwe considered them as a 'guerilla form of journalism' or 'terrorist media organisations' because they could report critical issues (Mugari 2008, p. 10). The digital revolution also enabled citizen participation in social networking sites (SNSs) such as Twitter and Facebook. Social networking sites became alternative platforms for political deliberation, promoting freedom of expression and association in digital spheres (Banda 2010; Mathe 2017). The social networking sites Twitter and Facebook also played a vital role in Zimbabwe's 2018 elections where political organisations, non-governmental organisations (NGOs) like *Pachedu*, civil society organisations (CSOs), national and international election observers like the European Union (EU) and Zimbabwe Election Support Network (ZESN) mobilised voters for biometric voter registration (Mwonzora 2020).

Many stakeholders, political organisations and CSOs hoped that digital biometric voter registration (BVR) would eradicate the perennial problem of deceased, or 'ghost' voters on the voters' roll and halt electoral fraud (ZESN 2018). Other publics believed that the BVR system would boost public confidence, 'not only in the voter registration process but in the end product – the voters' roll' (Mwonzora 2020, p. 107). Thus, the adoption of BVR in Zimbabwe was supposed to counteract the perennial electoral challenges by promoting an inherently impartial and efficient election. It was believed that BVR 'would enhance citizens' trust and faith, therefore being in part responsible for the increase in the number of potential and interested voters' (Mwonzora 2020, p. 107). At first BVR had the support of the United Nations Development Programme (UNDP), civil society and all political stakeholders; however, the government of Zimbabwe took control of the system, creating political disharmony within the opposition (Zenda 2018).

Zimbabwe adopted BVR on 18 September 2017 with national registration on 10 October 2017 (Heal Zimbabwe Trust 2017). Zimbabwe Election Support Network (2018, p.12) notes that 'the exercise ran in four phases, from 10 October to 19 December 2017, before it was extended in a mop-up exercise between 10 January and 8 February 2018'. The election monitoring body, the Zimbabwe Electoral Commission (ZEC) had to extend the registration by 30 days due to public complaints that many potential voters had been excluded from the national BVR registration. Mwonzora (2020, p. 108) notes that the 'mobilisation of citizens to register as voters under the BVR system was, in part, a result of the intense social interactions among peers, colleagues, friends and strangers within virtual public spaces'. Hence, electoral challenges that occurred before and after the 2018 elections should be explored within the context that this was the first time Zimbabwe had gone to an election using digital biometric voter registration and a vigorous social media campaign for voter mobilisation and participation.

A THEORETICAL VIEW OF TECHNOLOGY AND POLITICS

The use of technologies in a democracy is still debatable, especially in Africa where political dynamics are challenging and diverse. This study uses the technological determinism paradigm and social construction of technology to analyse whether technologies can be used to make an election credible in Zimbabwe.

The technological determinism paradigm acknowledges that there is a relationship between technology and politics (Ellul 1990). Langdon Winner (1986) argues that 'properties of certain kinds of technologies are intrinsically linked to particular institutionalised patterns of power and authority'. Other scholars (Ott & Rosser 2000; Hill & Hughes 1999) have also shown that democratisation has been promoted by some technologies. Political communication studies highlight

how digital technologies through social media have enhanced voter participation (Lee 2009; Nip 2006; Mathe & Caldwell 2017). The internet and Web 2.0 have also enabled the interaction of political players and the public. Politicians can influence voting choices through digital media (Ott & Rosser 2000). Through information technologies (ITs) citizens can be mobilised to participate and government can easily engage them in policy debates (Tetty 2001). Christopher Kedzie (1997) also notes that information technologies can dislodge 'entrenched social and political cleavages, by unleashing new patterns of citizen consciousness and civic engagement across the marginalised, hence generating new and decisive political outcomes' (Debra et al. 2018, p.3). Chiumbu (2015, pp. 9–10) argues that there can be 'no serious democracy without serious media technologies'.

Digital technologies in some parts of Africa have been used to promote citizen mobilisation and citizen-driven news at low cost (Chitanana 2020, p. 134). In 2009 and 2014, the electorate in South Africa made use of social media, both Facebook and Twitter, which in turn affected the results of the national elections (Dhawraj 2013). In 2015 and 2016, South Africa saw the eruption of student activism (#FeesMustFall and #RhodesMustFall) and this political activism used Facebook and Twitter as part of its mobilising campaigns (Mutsvairo & Karam 2018). However, it is not always so with many southern African states 'whose governments do not tolerate any dissension within the public sphere, whether it is in the cybersphere, the media sphere or the physical realm, in terms of protesting' (Mutsvairo & Karam 2018, p. 9). These authors also claim that governments in Africa respond by censoring and frustrating any dissent (Mutsvairo & Karam 2018). For instance, in Zimbabwe the government responded harshly to social movements like #ThisFlag and Tajamuka (Chitanana 2020).

Thus, the social construction of technology criticises the overreliance on information technologies for problem-solving in elections. This theory notes that technology on its own cannot solve societal problems in an election without a positive will for change. Robert Dahl (1989, p. 339) writes that 'the evolving technology is bound to be used somehow, for good or ill. It can be used to damage democratic values and the democratic process, or promote them'. Castells (2004) argues that technology alone cannot change political institutions and democratic processes, while Putnam (2000) claims that it can erode social capital. Thus scholars note the significance of the human factor in technology (Joerges 1999). For instance, in post-colonial African countries the state has used the media to promote the ruling party (Mutsvairo & Karam 2018). Hoff (2000) argues that social actions determine the significance of technology. Castells (2001, p. 5) adds that 'the internet is a malleable technology that is susceptible to modification by its social practice, thereby leading to a whole range of potential social outcomes'. Given the social construction of technology and the technological determinism

paradigm theory, this study therefore analyses perspectives on the challenges and opportunities of a Web 2.0 election in Zimbabwe.

RESEARCH METHODOLOGY

This study employed a qualitative research method through a semi-structured interview guide (see Appendix) to engage with ZEC officials, politicians and those representing political parties such as Zanu-PF, the MDCs (MDC-Alliance and MDC-T), People's Party (PP), and Zimbabwe People First (ZimFirst). Other minor political parties could not be reached; however, this does not distort the validity of the findings since the major stakeholders were involved. Qualitative research is viewed as 'rooted in a phenomenological paradigm which holds that reality is socially constructed through individual or collective definitions of the situation' (Firestone 1987, p. 17). A purposive and convenient sampling technique led to the interviewing of participants. Thus, a qualitative approach through in-depth interviews, including follow-ups, was able to obtain in-depth information from participants. The interviews were carried out between January 2020 and 10 May 2020. Some of the interviews were carried out telephonically due to difficulties in arranging face-to-face meetings.

Altogether a total of 30 politicians and 10 ZEC officials participated in this study. This study does not reveal the identities of the participants but their perspectives are considered important for analysis. Anonymity and confidentiality ensure that the participants' identities are not and should not be revealed in the study against their consent (De Vos 1998). Therefore, the perspectives reflected in this study exhibit the concerns or comments of major political parties and other politicians in Zimbabwe. Data was transcribed and coded in *Nvivo11*, a research tool to facilitate the thematic analysis of participants' perspectives.

FINDINGS

Participants had varied perspectives on the challenges and opportunities of a Web 2.0 election in Zimbabwe. The challenges and opportunities of such an election in Zimbabwe are linked to the voter registration process (BVR), election management and the role of ZEC, voting and the tabulation of results, political communication and outreach by political parties and candidates, and voters' responses to political messages.

Biometric Voter Registration Process (BVR)

Participants from the ruling party (Zanu-PF) noted that biometric voter registration was less cumbersome because it improved the level of transparency and

enabled people to verify their registration status by crosschecking the voters' roll against the issued registration slip. Zanu-PF affiliated participants said that BVR was a huge improvement on the traditional voters' roll which was consistently found to have 'ghost' voters and could be manipulated. While some participants believed that BVR improved transparency in local elections, participants from the opposition pointed out that BVR was susceptible to manipulation by the ruling party.

Thus, BVR has its fair share of challenges with issues raised around the use of fictitious and double registrations. Participants from opposition political organisations commented:

- The voter's roll had many errors, some intended and some not. The refusal by the Zanu-PF government to avail the voters' roll to the opposition enabled them to manipulate the voters' roll in their favour. Voters found out that their names had been removed from the voter's roll on election day and there was nothing they could do.
- The purpose of the biometric voter registration was to have a clean biometric voter's roll; however it was open to abuse by the ruling party since their government runs the elections. They loaded names of their own people and issued voter registration slips to their supporters so that they could double vote. Without tightening these loopholes through election reform process the BVR will continue to be a double-edged sword.
- There were recurrent voter's roll duplications; despite the introduction of biometric technology, the voter's roll retained lots of irreconcilable discrepancies with some names of the deceased still appearing while those of the living appeared twice or more and some registered voters did not appear at all.

Inasmuch as the biometric system eased voter registration, the findings show that it could not curb the perennial challenges and allegations of 'ghost' voters and double registration. It is noteworthy that the BVR was susceptible to modification by the ruling Zanu-PF.

Other politicians argued that it remains a fallacy that the biometric registration of voters generated a biometric voters' roll. They pointed out that the ZEC failed to implement an accurate voters' roll, just as they had done in the 2013 elections. There were also complaints about the lack of timely access to the voters' roll. In 2018, the voters' roll was made available only a week before elections and had many errors. As a result, many political players questioned the accuracy of the voters' roll and had concerns about possible electoral fraud. A participant noted that:

the 2018 elections were carried out with a new voters' roll but there were questions around access to the roll by opposition parties ahead of the polls. The questions raised around the credibility of the voters' roll had negative impacts on democracy as voters were discouraged from participation believing the outcome of the poll is predetermined.

Election Management and the Compromised Role of ZEC

The views of ZEC officials shed more light on the challenges faced during the biometric registration of voters, actual voting and the counting of votes. ZEC officers highlighted key challenges, namely (a) inadequate training of ZEC officers (b) the limited timeframe (c) challenges with the implementation of biometric technology (d) lack of transparency on the procurement of biometric technology and (e) recurrent voters' roll duplications. ZEC officers also noted that voter registration and elections were rushed, resulting in many errors and there was insufficient time allocated to the programme to prepare for a credible election, adding that training itself was inadequate. A participant made the following comment:

The training aspect left gaps between theory and practicals, like people were trained on the kit and less on placing voter using the alpha listings; hence people were erroneously posted in wrong wards and polling stations.

Another worrying factor raised by officials was that ZEC as the user system did not have absolute control of the biometric programme; the government of Zimbabwe under Zanu-PF retained control. A ZEC employee emphasised that 'there is still no known record of tender that was issued by government inviting bidders to supply the biometric technology to the government of Zimbabwe, thereby raising genuine opposition concerns'.

ZEC officers also expressed concerns about the lack of extensive voter education. A participant noted that voter education and subsequent adaptation or improvement of the biometric voter registration process was poorly communicated and in some instances opaque, and left a degree of suspicion about the whole process. A participant added that:

voter education midway the biometric voters' registration blitz did little to dispel the unintended inferences of politicking rumours that negatively affected the credibility and confidentiality of the data which was collected.

Initially, biometric voter registration would have excluded aliens born in Zimbabwe had it not been for the High Court judgement which ruled that people with dual citizenship should be registered. Participants also emphasised that the proof of residence requirement for voter registration excluded mostly women and youths. One participant argued that the credibility of ZEC should depend on the (a) the voting system (b) the management of the election. There were accusations that ZEC failed to run a credible election because it was compromised by Zanu-PF. Thus, the electoral governance was poorly done. A participant opined that:

The credibility of the Zimbabwe Elections Management body remains in doubt. Technology can improve processes but will never compensate [for] the lack of transparency by ZEC. Zimbabweans must prioritise the appointment of a credible independent elections body over technological advances... . Zimbabwe must invest in digital voting equipment ranging from voters' registration equipment, e-voting system to training of the personnel tasked with managing the voting process.

Voting and the Tabulation of Results

Voting and the tabulation of results was done manually in Zimbabwe's 2018 election just as it had been in all other previous elections. Participants highlighted the fact that BVR did not prevent all fraud as the actual voting and counting was done manually by government employees working under supervision. There were also reports of voters being turned away because their names could not be found in the voters' roll, and voter disenfranchisement was experienced across polling stations. According to a ZEC officer 'voter disenfranchisement was due to technical side of data cleaning which misposted the unfortunate voters'. Thus, the BVR could have misplaced some voters in the wrong polling stations. Participants also noted that the verification of voters at a polling station and the tabulation of results was manual. A participant noted that ZEC officials 'only asked for voters' conventional identity cards and there was no checking of voters' photographs or fingerprints as part of the voting process'. This means ZEC could not afford to implement the whole biometric system from voter registration to verification on election day. Politicians from the opposition party noted that:

The biometrics was [sic] of no use and gave no relevance to the tabulation of information at the end of the day. The ultimate electoral information from V11 and V23 forms were physically captured. It had issues of duplication where people were found to be in more than one voting space.

Participants also noted that while most results were posted immediately outside the polling station, election observers found some polling stations which did not have results posted outside, and others where there were more voters who had cast their votes than were on the voters' roll. A participant noted that 'citizens exposed vote buying by sharing videos and photographs of the alleged malpractices and helping political parties to take counter measures'.

Given the challenges around manual voting, participants noted that digital voting might be progressive if it were not subject to hacking, and others indicated that Zimbabwe is technologically deficient in its ability to implement digital voting. For example, the government does not have functional first-class websites and few rural areas have either internet or access to digital platforms. On a different note, it was felt that personal information must be protected in the event of digital voting, because it is not safe for this to be available in a toxic political environment like Zimbabwe.

Digital voting was seen as capable of enhancing democracy through easy registration and verification of voters. A participant argued that electronic voting will probably reduce the number of spoilt ballot papers, improve the management of illiterate voters and speed up the process of vote counting. A Zanu-PF participant argued that although 'digital voting is prone to manipulation, it reduce[s] human errors and improve[s] transparency, hence manual voting remains safer'. Another participant added that 'electronic voting in an environment of distrust like Zimbabwe may result in more disputes as a result of the inability to easily identify any vote tempering in electronic voting machines'.

Campaigning and Political Communication by Political Parties and Candidates

Participants confirmed that Zimbabwe's media landscape is still dominated by the state with a relatively small private media sector, largely print, because of restricted licensing of private television and radio stations. The state media does not provide equal coverage to all political players. Participants opined that:

Digital technologies, through the internet, come as an alternative in Zimbabwe to offer opportunities for plurality as they can help media practitioners to circumvent stringent licensing regulations, high costs involved in setting up media channels and the generally restrictive legal environment. The mushrooming of online media platforms, some run by diasporans, to some extent helps improve plurality and gives a voice to groups that would otherwise be shut out of mainstream media.

The political environment as it currently stands doesn't support

or enable a democratic election through digital media. The political space conflates one political party and the state. These monopolise the licensing of digital platforms to the exclusion of dissenting institutions. This has to be corrected in order to have clear and transparent use of digital media and technology platforms across the political divide.

This study finds that even in previous elections, the opposition relied largely on the alternative media (new media) for political communication. However, the use of new media such as social networking sites have been problematic in rural areas where people have poor internet connection and lack digital devices. Participants noted that most rural areas still depend on radio for information. A participant noted that:

Recent surveys show that more Zimbabweans are listening to the Voice of America's Zimbabwean service than to local radio stations, something that could be attributed to technology limitations on the part of the state-owned signal carrier and on the other hand access to technology by usually marginalised regions.

Although rural areas in Zimbabwe were viewed as disconnected from social media platforms such as Twitter and Facebook, participants noted that opposition political players relied more on social media to campaign or communicate. Campaign messages were accessed by divergent groups through cheaper platforms such as WhatsApp. Thus, social media enhanced voter education and reach by political groups more in urban areas and less in rural areas.

One participant indicated that 'information technology in Zimbabwe has been used to check and verify voter registration as well as transmit political campaigns directly to voters'. Some participants also acknowledged that during the biometric voter registration process, several civil and political organisations such as the Election Resource Centre (ERC) used social networking sites to encourage and motivate citizens. Most political parties, including Zanu-PF, used social media to mobilise citizens for rallies and turnout. Social media platforms such as WhatsApp were used to transmit immediate campaign messages because citizens could form digital communities that way. Thus, the Zimbabwe Election Commission was urged to use the short message services (SMS) and WhatsApp messaging as well as Facebook and Twitter for voter education campaigns, voter registration and verification.

Participants recommended that digital technologies be used to promote political campaigns and outreach. In addition, one participant said that:

the cost of running digital media campaign varies with type ranging from very cheap to highly expensive. In underdeveloped countries the cheaper forms of digital media were WhatsApp and other mobile phone application that allow texting, video conferencing and group calls or group messaging substitute television ads, or physical rallies and these make sharing of information easier.

However, some participants complained that the ZEC should be transparent by using all digital platforms for voter education, registration and verification services to improve voter participation and turnout. It was noted that if political parties and candidates were provided with electronic voters' rolls on time, this would assist in their election campaigns, improve voter participation and turnout as well as reduce electoral fraud. There was much concern that the early release of the voters' roll should be accompanied by a fair voting process with cameras available at every polling station to monitor and reduce electoral fraud.

Nonetheless, participants emphasised that due to the limitations of infrastructure and the availability of electricity and signals in rural areas, reliance on digital technologies for a free and fair election remains problematic. One politician argued that the 'cost of handsets, data, electricity, and equipment remains expensive for rural communities who constitute 70% of all voters'. Thus, the challenge with social networking sites is that there are many rural communities with no access to digital media technologies. A different view was that the availability of alternative media in rural areas would help to dislodge much reliance on state-controlled media. A participant added:

Repressive governments the world over survive on restricting the flow of information and feeding citizens with propaganda to serve to keep them stay in power. The advent of social media along with a plethora of diverse digital media technologies would weaken the grip the dictatorship [has] on citizens' access to information.

Several participants opined that the solution is not necessarily the use and availability of digital technologies but a positive political will and electoral reforms. Others posited that electoral reforms can only work by stopping Zanu-PF's interference in the voting process.

Voters' Responses to Political Messages

Due to polarisation in the country, political players noted that voter reaction to political messaging is subject to party affiliation. Though social media has

emancipated most voters from sole dependency on state media for information, social media is easily misused for propaganda and fake news. For instance, some participants highlighted that Zanu-PF deployed what they call *vakarashi* (Shona term meaning invincibles) on Twitter to propagate party agendas and counterattack any opposing agenda.

Propaganda and political agitation increase considerably towards and during elections. While those connected through digital media and other technologies stay updated and informed, others in rural areas without the internet are described as being in the dark and intimidated by Zanu-PF. Participants noted that sometimes political parties, in particular the ruling party, use disinformation or misinformation to lure voters; for example, Zanu-PF has used torture and intimidation in rural areas in order to secure those votes (Raftopoulos 2002).

There were several allegations leveled against the ruling party which Zanu-PF affiliated politicians denied. The 2018 general elections were perceived as peaceful prior to the elections but many opposition politicians claimed that voter intimidation by Zanu-PF happened behind the scenes. Though the purpose of the BVR was to ensure that ZEC has an updated registry of voters, and to enable the elimination of ghost voters, some participants noted that the biometric system became a new tool of voter intimidation by Zanu-PF. For instance, some participants said that a day after the 2018 elections, Zanu-PF agents and the military went door to door recording BVR slip serial numbers, as they had instructed some voters to submit registration slip serial numbers and identity cards to ascertain who voted for them. Apparently some voters thought that the biometric system would assist Zanu-PF to gather their personal information and track them down using their photos, addresses and fingerprints. As a result, there was some doubt as to whether the BVR system was secure enough to protect their identities. Another participant mentioned that 'the generality of Zimbabweans could not understand this biometric technology, let alone those in rural areas'. He pointed out that the ZEC should have taken it upon themselves to educate Zimbabweans about biometric technology, how it works, and why it was chosen.

Moreover, the political environment was described as toxic and undemocratic. One participant opined that 'The involvement of the military and other security agencies has made it difficult to introduce technologies that enhance the quality of elections because of the organs' vested interests'.

President Mnangagwa's ascent to power was through a military takeover and Zimbabwe went to vote in 2018 without any electoral reforms. Some participants noted that this lack of electoral reforms resulted in voter apathy because Zanu-PF always manipulates the electoral process. Another participant further argued that 'As long as Zanu-PF maintains a grip on the electoral process any efforts invested to improve the voting process will be futile if electoral reforms are not addressed'.

Thus, several comments indicate a lack of political will by Zanu-PF for electoral reform. This lack of electoral reform, violence, voter intimidation and torture, result in apathy and a low voter turnout.

DISCUSSION

The study established that technology on its own cannot be a panacea but is a tool to facilitate democratic processes. Previous literature and the findings of the study indicate that Zimbabwe still has a troubled democracy that cannot be resolved by technology alone. A Web 2.0 election on its own becomes a challenge in an environment where there is a lack of political will to reform or conduct a credible election. It is noteworthy that Web 2.0 technologies present many opportunities for a democracy but they are susceptible to misuse or manipulation in a toxic political contestation. Taking into consideration the social constructionist view of technology which claims that human action determines technology (Dahl 1989; Joerges 1999; Castells 2004), it would be far better to implement electoral reforms prior to any technological election. Technologies should be used as facilitation tools where social forces are ready for a political settlement.

It is evident from the findings of the study and previous literature that Zimbabwe needs to implement electoral reforms before even considering biometric voter registration or any other technologies. Literature and the findings of the study have shown that available digital media such as the state-controlled television (ZBC) are controlled by the ruling party and do not give equal coverage to all political players (Moyo 2005; Mugari 2008). Radio licensing is restricted and most often issued to Zanu-PF players. Mutsvairo and Karam (2018) have also shown that in post-colonial African countries the state has absolute control of the media in order to promote the ruling party. This alone indicates that other technologies in the country cannot escape state control. If state players can control the mainstream media for their own political communication, they are unlikely to allow technology to bypass their control. Hence, there is need to solve the political problem first before considering other technologies in an election, as these cannot provide any guarantee of a free and fair election where the political will is negative or biased.

Biometric voter registration was the object of political manipulation in Zimbabwe as the study has shown that Zimbabwe's ruling party took control of the biometric technology (Zenda 2018; Mwonzora 2020), and ZEC as an election monitoring body had no control of the system. Even today the sponsors of the biometric system remain unknown. Without transparency, the biometric system as a tool can be manipulated by the user. Prabhakar et al. (2003) posit that regardless of technological advantages, the biometric system is subject to

manipulation because it depends on input devices. The user is capable of loading own data without the knowledge of a third party. Castells (2001, p. 5) also noted that technology is susceptible to modification by its social practice. The socio-political practice in Zimbabwe is tainted by a history of electoral manipulation; hence transparency is essential for any progressive democracy.

Although digital communication platforms such as social networking sites (SNSs) are today an alternative media for many Zimbabweans, a majority of the people in rural areas and even those in towns without digital privileges remain unconnected. The alternative media is viewed as the only technology that bypasses repressive media laws and government control but its impact is limited to those connected, who are considered a minority. Although social media and other digital media news platforms threaten the dominance of the ruling party, they can be misleading or are sometimes manipulated for political expediency. Castells (2001, p. 5) argues that 'the internet is a malleable technology', hence anyone can use it for his or her own purposes. Dahl (1989, p. 339) claims that 'the evolving technology is bound to be used somehow, for good or ill'. Thus, the solution is not necessarily in the use and availability of digital technologies, but rather in political will and electoral reform which are key to the progressive use of digital processes.

Digital technology can still be utilised as a tool for democratisation. This study notes that access to digital technologies in rural areas will enhance democracy and even minimise the level of manipulation caused by a lack of information. Digital technologies in other African contexts do enhance democracies where the political will is favourable. Hence, the Zimbabwean context does not negate the significance of these technologies as tools for democratic processes but only as a panacea for political problems.

CONCLUSION

This study concludes that Zimbabwe has complex political challenges that need positive political and electoral reforms for a democratic change. Main key challenges extracted from this study include the control of media by the government; repressive media laws; lack of access to digital technologies by citizens, especially in rural areas; the control of biometric technology by the state during elections; unfair media coverage; and lack of transparency by the election monitoring body, ZEC. Though digital technologies offer many progressive opportunities for democracy, they can be used for either good or evil.

Electoral reforms are paramount. Political institutions in Zimbabwe should agree on electoral reforms and ensure that the country will not go forward to the next election until reforms are implemented. The election monitoring body should be credible and the political environment conducive for a free and fair election.

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APPENDIX

- a) How can the digital technologies enhance democracy in Zimbabwe?
- b) In what way can digital technologies increase voters' participation, voter turnout and reduce electoral fraud?
- c) Did the social media campaigns enhance voter turnout for the 2018 election?
- d) How did political players utilise digital media for political communication?
- e) What were the challenges implementing the biometric voter registration (BVR) for 2018 elections?
- f) Any challenges in terms of voter verification at polling stations?
- g) Did the Biometric Voters' Roll 2018 elections assist the electorate or promote a democratic election?
- h) How true that 2018 and 2013 elections were carried out without the electronic voters' roll? How does this affect a democratic election?
- i) Do you think it will be progressive to digital the voters' roll or implement digital/e-voting?
- j) Is the political sphere conducive for a democratic election through digital technologies?

SUCCESSION POLITICS AND STATE ADMINISTRATION IN AFRICA

The Case of Zimbabwe

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ABSTRACT

The paper is a critical inquiry into the influence of succession politics on state administration in Africa, with particular reference to Zimbabwe, and unpacks the interactive boundaries and conceptual overlaps in this field. This study was based on 18 qualitative in-depth interviews conducted with key informants using the purposive sampling technique, complemented by extensive document review. The findings of the study show that succession politics in Africa includes executive dominance, egocentrism and excessive appointive powers. These are compounded by the lack of an institutional framework of succession, which in turn undermines the professional independence of the bureaucracy and inhibits the pursuit of comprehensive governance. The findings also isolate Zimbabwe as a victim of political, societal and historical factors that exacerbate the succession dilemma. In its recommendations, the paper argues that the succession challenge faced by the continent, in particular Zimbabwe, will continue to hound succession trends and responsive administration unless broad-based reforms are instituted to dismantle the historical legacies embedded in the political systems.

Keywords: succession politics, state administration, constitutionalism, regime change, Zimbabwe

INTRODUCTION

Succession politics is understood to mean the process of changing leadership and includes the vacating of power by the old ruler, the choice of the new, and his or her legitimation. Periods of succession are often tense for all regimes, even

where there are established procedures and easy legitimation. Succession times are considerably more risky and precarious for tyrannical, authoritarian and dictatorial regimes. The discourse of succession presents a contested and topical issue in Africa, and in particular Zimbabwe. Afrobarometer surveys (2015) on political succession have shown that leaders in African countries manipulate and exploit state apparatus to further their interests at the expense of promoting an efficient, effective and responsive government characterised by peace, stability, democracy and the growth of the political economy. This view is compounded by muzzling dissent, cumulating in strong personalities and weak institutions. The argument of strong personalities and weak political institutions has wide application in Africa, since some leaders view political leadership as a solo project rather than a collective political process. Therefore, passing the baton to the next leader has been a challenge resulting in the personalisation of governments and political parties by leaders.

Political and administrative organs are crucial components for the effective functioning and development of nations since there is a direct correlation between the configuration of the political architecture and the functionality of the administrative apparatus of the state. The political dynamics of a state influence changes in the administrative leadership, since the political architecture determines the turnover of administrative staff. Regular transfer of executive power is the major test of stability in a nation's political system. In many African countries leaders have shown a consistent trajectory of amending state constitutions to prolong their stay in power.

Nonetheless, the succession outlook is not completely gloomy in Africa, as several countries offer good examples of peaceful and orderly leadership change. These include, most importantly, Nigeria, as well as South Africa, Botswana, Mauritius, Senegal, Mozambique, and Ghana (Habisso 2011). Despite the few good examples of routine regime change, it is apparent that incumbent leaders in many African countries have seized power from both political parties and governments. The result is a stifling of leadership renewal and reconfiguration of governance structures resulting in the collapse of administrative units and statutory state organs. Zimbabwe had only one leader from independence in 1980 until the military-aided transition on 17 November 2017. This paper strongly argues that a proper succession plan, pertinent constitutionalism and ingrained succession norms are the mainstay and lifeblood of succession challenges in Africa.

HISTORY OF SUCCESSION POLITICS

Historically, the term succession was applied to monarchies, signifying the substitution and replacement of one sovereign by another (Hughes & May, 1998). Hughes and May (1988) further aver that in hereditary monarchies there tend to

be less frequent clashes over the authentic or legitimate heir or beneficiary. In most monarchical regimes, traditional authority was recognised as legitimate by virtue of tradition, custom, and the veneration of previous generations. Under this form of political system, laws and customs are handed down from earlier generations to validate the existing political structure (Nwosu 2012, p. 10), and the transmission of authority is normally heritable in monarchies. Thus, there are few if any succession problems since there is a solitary succession framework that is usually followed after the death of the monarch.

The progressive bureaucratic state has embraced a legally-sanctioned rational succession procedure in which authority is derived from a system of rules that are agreed to by the population (Hughes & May 1988). In this rational procedure, states become progressively bureaucratic, monarchs either become figureheads or disappear, and government shifts to political parties and party coalitions (Govea & Holm 1998, p.135). Most modern states have shifted from the traditional/monarchical succession framework to that of legal-rational succession (*ibid.*). The succession problem in Africa, however, seems to be characterised by the postcolonial state coupled with political power as a means to accumulate riches (Igbuzor 2010, p. 6). This results in the gradual attrition of the constitutive and regulative rules, institutional processes and mechanism for succession leading to political volatility, illegitimate governments and conflict.

In Zimbabwe, the Constitution provides for an elective congress to elect party leadership and/or renew their mandates. However, the paper points to the capture of procedure through strong normative values, thus undermining the role of the elective congress as a democratic institution because leaders had used it to endorse themselves. The paper examines the constitutional framework and succession paradigms in Zimbabwe juxtaposed with the tenets of democracy and good governance. These include the entrenchment of constitutionalism and the institutionalisation of systems for regular political succession as key ingredients for stability and growth.

THE CONCEPT OF SUCCESSION POLITICS

Succession politics has been defined as the transfer of political power from one person or group, government or regime to another (Ojo 2009, p. 9). Hughes and May (1988, p.11) agree that succession politics is 'the manner by which political power passes, or is traded, from one government or administration, to another'. They further describe succession politics in its narrow sense as the methodical arrangement for the transfer of important offices within a state, which offers latitude for change and coherence, and further aver that the degree to which power is successfully traded becomes a benchmark of the political development

and maturity of a state. Examples include mature democracies like Britain, France, and Germany as well as African countries such as Mauritius, Botswana and South Africa that have experienced seamless succession. Succession takes different forms; for Mwaura (1997, p. 7), leaders can be succeeded through regular executive transfer, irregular power transfer, internal procedures within the ruling party, renewal of executive tenure, or self-succession and executive adjustments. Power transition in Zimbabwe was witnessed only twice, immediately after independence in 1980 and again in the military-aided transition of 17 November 2017. It is evident from these examples that most transitions in Africa have been irregular, signalling the need, addressed in this paper, to recommend a constitutionally-based rotation as in mature democracies.

The paper argues that African polities should confront a more general problem, namely how to organise their governments. Zimbabwe seems to be one of the prime examples of power revolving around the person of the president. The complete domination of Zanu-PF by the presidency, and the primacy of one centre of power, have sustained patrimonialism in Zimbabwe (Bratton & van de Walle 2010, p. 25). This in turn has resulted in the collapse of the administrative units of the state due to excessive political interference and control. Political systems and processes in many African countries revolve around the presidency. Devanny and Jowell (2018, p. 3) advanced the notion that succession politics is one of the most delicate issues in politics, claiming that political leaders seem reluctant to handle succession issues, firstly by arbitrarily extending office term limits, and secondly by revising a country's constitution to permit another presidential term.

From this perspective Zanu-PF appears to thrive on neo-patrimonialism, the cult of personality and politics of patronage (Francisco 2010, p.14). The incumbent party seems to have used state resources to reward its supporters at the expense of implementing government programmes, in many cases appointing party loyalists to strategic positions in state institutions. For example, at least 15% of the Zimbabwe Electoral Commission (ZEC) employees are serving and former security personnel, and it can be reasonably assumed that they are there to advance the interests of Zanu-PF. The paper thus asserts that succession politics in Africa resembles and reflects a negation of the legal rotational succession framework designed to guarantee a seamless power transition in Africa.

STATE ADMINISTRATION

State administration in a polity is determined by the politics of the day. How public decisions and policies are made is influenced by those who control the levers of power. The paper argues that state administration is the engine and life blood of government programmes whose role is to fulfil and attain the

aspirations of both governors and the governed. Agamben (1989, p. 40) contends that approaches to public administration constitute related activities; for instance, public administration deals with the administration or management of issues which have to do with society, politics and its sub-parts which are fundamentally not private, commercial or individualistic. Maphunye (2009, p.15) characterises state administration as a politico-regulatory structure with the ability to convey administration to people in general. This exceeds the criteria for a trained and insightful bureaucracy that simply enacts arrangements from a bureaucratic perspective. Rather, it is the subordination of administrative structures and the overlooking of constitutional mandate by the political structure that have negated the design of strong democratic administrative structures in Africa.

THE COLLUSIVE MODEL OF POLITICO-BUREAUCRATIC STATE ADMINISTRATION

There are a number of politico-bureaucratic relations that inform the discourse of state administration the world over, namely the collaborative, collusive, intrusive and integrated models. Of concern to the present paper is the collusive model that depicts the state of affairs in Zimbabwe where democratic centralism has defined the political landscape, suffocating the elasticity and autonomy of state institution and statutory organs.

This model is characterised by a close relationship between political and bureaucratic elites based on low role separation, a model that accords with predatory patrimonial states with low, sometimes non-existent bureaucratic independence. This collusive relationship nurtures patronage networks to extract party allegiance and is more obvious in predacious states such as Zimbabwe (Dashwood 2000, p. 30). It is also associated with relatively democratic countries such as Mexico, where politics is dominated by a patronage system (Grindle 2012, p. 45). The relations are characterised firstly, by control of the state apparatus by a small assemblage of politicians and bureaucrats with personal links. Secondly, those in strategic political and administrative positions have access to the main means of securing personal affluence in the country; thirdly, the government bureaucracy is used largely for rent-seeking resolves; and finally, employment in the public service is based on allegiance to politicians, leading to enormous and inept bureaucracies.

The paper stresses that patrimonial states in Africa resemble overgrown bureaucracies incorporated into rent-seeking governments. This pervasive corruption is widely seen as a central cause of the post-independence economic stagnation across the continent (Grindle 2012, p. 18). The problem, however, has to do with the lack of bureaucratic autonomy. A key feature of the collusive model is

that engagement in the bureaucracy is centred on personal or political allegiance. The patronage system in the collusive model entails the employment contract to be centred on a personal or political allegiance to an individual. In systems with an established civil service, this contract tends to be between an individual and an institution. It is also worth noting that because there are often political cliques and conflicts within patronage systems, such systems are 'often quite muddled' (Grindle 2012, p. 20). The model tends to promote a strong patrimonial and patronage system, which normally results in a static environment in which leaders are not rotated because of a captured bureaucracy.

The paper asserts that the politico-administrative interface tends to promote symbiotic relations between these two agents to achieve the common good. A politico-administrative interface is vital for effective public sector governance, where the administrative organs are comparatively apolitical and have minimal political patronage (Cedras 2013, p. 75). Once voted into power, political parties have a bearing on the governance of the polity. Appointments of senior government officials depend on the government of the day, and those appointed often reflect the political trajectory of those in power (Mills 2012, p. 28). Succession politics should take a governance approach premised on responsiveness, responsibility, economic development and political security (Oyedele 2015, p. 34). The adoption of a collusive model in Africa with reference to Zimbabwe undermines and neglects the development of a strong and responsive public administration (Cedras 2013, p. 60). Moreover, there is confusion between policy pronouncements which are the preserve of politicians, and policy implementation which is considered to be the purview of public administrators. Professional public administration seems to have become subordinate to politics in Zimbabwe (Matunhu 2011, p. 27). This has resulted in the collapse of units in the administration and statutory state organs. In this context, state administration should have high standards of professionalism and efficiency, be economical, development-oriented, impartial, fair and equitable, and without bias. Furthermore, state administration, as the bastion of responsible government, should be accountable, cooperative and transparent. Often, political agents in control take for granted and underestimate the role of administrative units, forgetting that what needs to be done will be implemented by the administration. Therefore, the transition from a parliamentary to a presidential system in Zimbabwe led to the usurpation of both the political and administrative roles of government by the political leadership, as espoused by sections 89 and 90 of the Zimbabwean Constitution. To this end, therefore, the paper advocates a symbiotic and collaborative politico-administrative interface that promotes seamless leadership succession and effective state administration in Zimbabwe.

METHODOLOGY

This paper explores the impact of succession politics on state administration in Zimbabwe, and has four research aims:

- to examine the similarity between constitutional discourses and normative narratives in succession politics;
- to examine the influence of party politics on the functioning of public administration systems in Africa with particular reference to Zimbabwe;
- to examine challenges posed by succession politics on state administration; and
- to recommend a succession mechanism or paradigm for effective state administration in Zimbabwe.

The research was based on non-probability sampling procedures, and participants were selected because of convenience and their knowledge of the subject under study. For instance, politicians, think tanks, civil society and academia had an enhanced chance of being part of the sample in the thematic area of succession and state administration.

Table 1: Interview response

Population group	Targeted	Actual
Executive Branch	2	2
Legislature	3	3
Bureaucracy	4	3
Politburo members	4	2
Opposition parties	40	3
Think tanks	3	2
Academia	4	3
TOTAL	60	18

Source: Raw Data

The researcher interviewed representatives of three political parties, representing a 7.5% proportion of the total number of 40 opposition political parties as indicated in Table 1 above. The political parties represented in the respondent sample are only those that are represented in the House of Assembly. Whereas the researcher appreciates that political parties have various formal and informal avenues of

influencing state administration, Parliament remains the most viable framework for members to hold the executive accountable. Section 117 of the Constitution provides that Parliament shall be responsible for ensuring that governmental institutions and organs at both national and sub-national level are bound by the Constitution. In the categories, the response rate was over 75% and in all those cases data collection saturation was reached. Any interview above the saturation point would therefore not be of research information value but rather constitute a data collection exercise only without offering a corresponding qualitative value.

PATRONAGE POLITICS, STATE ADMINISTRATION AND PATRIMONIALISM

This section focuses on how patronage politics and patrimonialism influences succession patterns, frameworks and the efficacy of state administration. Members of academia, think tanks, civil society and two of the MPs strongly agree that patrimonial systems in most African nations seem to have adversely affected the challenge of non-succession. One representative of the opposition party noted that:

The calibre of most African nationalists was engrossed in power accumulation and consolidation at the expense of development and redesigning of governance structures/institutions. Ascendance to power meant perpetuation of neo-patrimonial system and patronage politics.

Such reasoning suggests that leaders seem to be concerned with consolidating power through expanding their electorate and patronage networks at the expense of stability and continuity of a polity. The views above of the member of the opposition were echoed by Dorman (2006, p. 6), who asserts that African politics 'is increasingly patrimonial and benefits oriented'. In patrimonial contexts, control is cohesive or compacted in one individual who applies it for his subjective gain, and faithful supporters are rewarded. Dorman (ibid.) further notes that 'These cohorts or proxies are obligatory to mobilise political help for the incumbent and alluded to conclusions made by the patron'. A case in point is the manipulation of land reform by Zanu-PF to entice war veterans to become the vanguard of the party; they in turn campaigned for Zanu-PF as a sign of loyalty.

In the same context, the academics strongly agree with the opposition member and believe that political business in Africa is influenced by cartels controlling those with the levers of power. Furthermore, the cartels are well linked and protected and this is made easier by their ability to seize major state institutions, including those charged with oversight – the police and anti-corruption courts. A lecturer at the Midlands State University commented that:

Political systems in Africa are characterised by well-webbed cartels enjoying the protection of the political elites. The cartels thrive within an intently knit system of close connections. The cartels are awarded tenders in major sectors of the economy namely agriculture, fuel sector, mining and energy. The network is difficult to prosecute since the connections enjoy the protection of the powerful. On the other hand, the cartels support the political elites' political programmes, for instance funding constituency development programs and other personal goodies. This fuels succession challenges, since cartels will protect the systems that benefit them.

The academics interviewed noted the capture of Command Agriculture and the fuel sector by the Tagwirei family in Zimbabwe who have close connections with the political elite, especially in the presidency. On January 18 2020 Nehanda Radio reported that fuel mogul Tagwirei had bought Vice-President Chiwenga 'a Toyota Lexus under the Command Agriculture programme, to supervise the programme countrywide'. Academic views echo the findings by Kebonang (2005, p. 11), who asserted that patronage and patrimonial contexts are prime in most African states where political power is tailored, and that politics is a form of industry as political positions offer easy access to amassing prospects and state resources. Accordingly, political succession is difficult and complex, because violence, patronage, the rendition of patriotic history, the capture of bureaucracy and social-laxity have been major attributes propelling and sustaining centralism and non-succession. In an interview, a permanent secretary noted that:

Succession politically is complex and difficult. When one is elected into power, the main goal is to maintain and consolidate power, guaranteeing the continuity of the political party and individual position. Administratively, succession is clear because of the system of hierarchy. Once appointed in the ministry, upward mobility is smooth. Permanent secretaries are appointed to a ministry not based on their competences or educational qualification like in South Africa. This enhances transferability not for someone to be a permanent feature of a ministry.

All the respondents concurred with this perception that political succession is difficult due to the disregard of citizens' preferences, political parties' internal democracy, and due process as evidenced in the ascendance to power of both Nelson Chamisa and Emerson Mnangagwa. According to one member of civil society:

Organised state violence, high-jacking of societal demands, veneration and glorification of political leadership and non-adherence to the precepts of constitutionalism have been the hallmark of Zimbabwean politics.

A major concern is the system of appointing all permanent secretaries that is not based on their technical competences; such an approach breeds a strong patrimonial legacy. The existing appointment process usually results in the retention of the big-man and -woman syndrome consolidating a patronage system, capturing bureaucracy and resulting in a halt to succession and elite circulation. The three permanent secretaries interviewed appeared to believe that in administrative terms, succession is clear and simple. The secretaries argue that upward mobility and administrative progression is constitutionally guaranteed and protected. One permanent secretary interviewed noted that:

The Constitution of Zimbabwe 2013, Section 199-205, guarantees the independence of the civil service in the recruitment of civil servants being the employer. The civil service analyses the integrity of civil servants, guided by the principles of public management, for instance professionalism and meritocracy (section 194-198 of the Constitution of Zimbabwe, 2013). Seniority was or is also considered during promotion and juniors cannot jump frog [sic] seniors basing on competence and should be in accordance with the Constitution and the enabling Act.

(Civil Service Act 2018)

This may be ostensibly true but in reality, political correctness and loyalty to the ruling party are the avenues to any beneficial opportunities, including employment in the public service. Zhou (2013, p. 7) suggests that more often than not the incumbent government has disregarded constitutional provisions in the operationalisation of public management – for instance, the link between public administration and national constitutions; yet government's operations are informed by national constitutions. In addition, constitutions give the critical legal frameworks that manage and legalise the practice of public administration which is practised within the interactive structure of the legislative, judicial and executive arms of government. Through these gate-keeping roles the legislative arm ensures that national administrative structures function within the parameters set by parliament and the constitution (Zhou 2013). The above views by permanent secretaries are contrary to those of representatives of opposition parties, who assert that both the past and present regime in Zimbabwe overlooked and disregarded constitutional guarantees. One member of the opposition commented that:

Appointment and recruitment of the bureaucracy was or is not based on set constitutional criteria. Senior civil servants were or are recruited based on tribal grounds, perpetuating the patronage system. The civil service commission only rubber stamps appointments done by the party. Public service recruitment disregards competence, capacity and meritocracy which are the defining principles of public administration as outlined in section 194-198 of the Constitution of Zimbabwe, 2013.

Most parastatals and state-owned enterprises are manned by party loyalists who are not necessarily concerned with how the business performs. Instead, they are pre-occupied with what the business can offer the party, for example the appointment of Minister Moyo's wife to head the Ant-corruption Commission, her relative Nyemba to head the National Procurement Board and his friend advocate Martin Dinha to head National Railways of Zimbabwe. The research notes that ethnic divisions in leadership have seen the Zezurisation of the public sector during the Mugabe regime (that is, employment of those Shona from Mugabe's Zezuru ethnic group in Mashonaland and Harare provinces) and the Karangarisation (similarly, the Karanga are Shona predominantly from the two major provinces of Midlands and Masvingo) at the inception of the new dispensation under Mnangagwa. These have supported Zanu-PF in power as most state institutions were manned by Mugabe's friends and relatives from Mberengwa, for instance the appointment of Lawrence Mavima in 2019 as governor of the Midlands province, and retired Brigadier Tapfumaneyi to head the Central Intelligence Organisation. Similarly, Coltart (2008, p. 1) notes that the basis of Zimbabwe's (financial) problems is the wastage resulting from a corrupt political elite which has behaved with absolute latitude for decades. The preceding arguments by members of the opposition differ from members of the Politburo and Central Committee who defended the ruling regime as follows:

When a party is elected into power, it has a manifesto and programs (political, economic and social), that it wants to fulfil. Even in America and Britain as in Zimbabwe, the president appoints like-minded bureaucracy and party members that are compatible politically and ideologically with the party and president's vision. For instance, in America the president can appoint the top four or five in each department or ministry. That is why in Zimbabwe, the president's office will first vet everyone to ascertain their political aptitude, despite the independence and permanency of the Civil Service Commission. Patronage, in the narrow sense, is permissible to achieve the developmental goals of the ruling party and that cannot be eliminated.

The statements in the preceding excerpts by the members of the Politburo and Central Committee are true even in mature democracies which employ the same strategies, except that they differ on execution, operationalisation and rationale. Mature democracies strive to create strong democratic institutions that respect human rights, the rule of law and constitutionalism, thus promoting seamless power transition and responsive, efficient state administrative structures. The academics argue that the execution, operationalisation and rationale of administrative succession in mature democracies differ considerably from how they are comprehended in Zimbabwe. There patronage acts as a political tool to stifle dissenting voices and capture the bureaucracy, leading to strong personalities and weak state institutions enabling the incumbent government to rule in perpetuity. According to a member of the central committee of the ruling party:

Zanu-PF is a system since the liberation struggle era, and state institution[s] will always be led by leaders who have participated in the liberation struggle [and] who are conversant with the trials and tribulations of the liberation war. The party cannot give political and administration positions to someone who has joined the government for a salary.

Furthermore, political elites sacrifice the country's economic and social welfare for the benefits of their political rule. Diamonds, for instance, are a paramount example of a state resource which is pillaged and plundered through a multi-faceted network of army, police, Central Intelligence Organisation (CIO) and senior Zanu-PF officials (Bertelsmann 2016, p. 11).

Engelbert and Dunn (2013, p. 30) disagree with the idea of 'patronage in a constricted logic' by typifying neopatrimonialism as 'a collective of practices and highlights of African political frameworks, defined by private rule, personalisation of legislative issues, the lack of differentiation between public and private realms, institutional weakness, and concurrence of bureaucratic and casual legislative issues and corruption'. They also echo the views of members of academia, observing that 'factionalism is a[n] emblematic feature of neo-patrimonial systems'. Furthermore, they restate the assertion (p. 34) that the struggle for power in Zanu-PF and in Zimbabwean politics in general is mainly about inclusion and marginalisation from the neo-patrimonial supply chain, because:

neopatrimonialism revolves around its polycentric nature, defined by undue number of supporters, such a large number of groups, an excessive number of incessant refashioned and renegotiated proportionate interactions, with the result that economic agents cannot

factor the expenses or costs of the framework in and remain exposed against its eccentricity.

In an interview, an academic indicated that:

Society has no esteem for collective responsibility. Zimbabweans are concerned with how central and local government levels are supposed to work and deliver, for instance how government is expected to be, and should be responsible, as if members of the executive are the owners of the state. Society does not appreciate ideals of co-ownership, co-developing, co-governing and co-producing.

There is indeed a large element of reciprocity in a patrimonial system, whereby the main patron uses his authority and the legitimacy derived from his dominant family position to appoint others to positions of authority from which they can gather resources for themselves in exchange for their loyalty and for transferring some resources back to him.

The views of respondents as described above were more divided on the implications of succession politics on state administration. The views of academia, think tanks, opposition parties, one permanent secretary and two MPs converged by denouncing political aptitude and party loyalty as the hallmark of sustenance in a patrimonial system and the lengthy survival of Zanu-PF in power. On the other hand, proponents of patronage politics and patrimonial systems defended patronage in the narrow sense in terms of presidential appointments in both the bureaucracy and government. This group included members of the executive, politburo, two MPs and two permanent secretaries. The study established that in Zimbabwe, the government has overlooked constitutional provisions in the operationalisation of public administration and this has compromised the efficacy and responsiveness of state administration. In such a scenario, succession and elite circulation become a challenge, since party gate-keepers and bureaucracy are captured by the incumbent party.

THE LEGACY OF TRADITIONAL SUCCESSION MODELS

Succession politics has become a topical issue and a perennial challenge in Africa. In this study, respondents had different perspectives on how succession patterns and frameworks prevailing in the continent influence the efficacy of state administration. Members of academia, the executive and bureaucracy concurred that the inheritance of a traditional succession model had a bearing on the succession challenges facing the African continent. According to July Moyo, a

senior member of Zanu-PF, that party's succession model conforms to the Shona tradition:

In pre-colonial Africa, succession was guaranteed and appointment issues were handled by spirit mediums in line with the different systems pertaining to each culture and tribe during the pre-colonial era like in the American systems, where each battalion has its own chaplain. Africa[n] tradition had two major models of succession, namely the collateral system (which rotates among family in Shona culture) and primogeniture (a chief begets a chief or *Induna iyazali Induna* in Ndebele culture).

The above views are supported by Chirikure et al. (2016) who posit that rotational political succession (sometimes known as collateral succession) in historical/archaeological Shona states such as Mutapa and Torwa, followed the system of 'houses', which were essentially ancestries descended from the initiators of explicit political entities. Based on these preceding views, Mutapa kings were selected from the progenies of Nyatsimba Mutota, the founder of the Mutapa state (Mudenge 1988). Nyatsimba Mutota had several sons, each of whom was given a district to rule in the kingdom. The lineages of these sons, over time, became households of power (*dzimba dzoushe* in Shona) (Chirikure et al. 2016), from which future kings, provincial and district leaders were and still are being drawn. Upon the death of the founder, political succession alternated around these 'houses', beginning with that of the first son to that of the youngest. Furthermore, spirit mediums associated with departed kings or chiefs (*mhondoro*) played a vital role in royal induction, national prayer, deposing a cruel leader and, among others, communicating with *Mwari* [God] via ancestors (Lan 1987).

Under this succession system, rotation inferred that when a new leader became the sovereign he did not move into the homestead of his predecessor (Chirikure et al. 2016). Instead, he ruled from his own household which became the new axis of authority, thus reducing succession conflicts since there was no loss of privilege or material substance. In the event of succession, capitals within the state shifted the eminence of entities such as provinces, and districts changed subject to the political configuration of the day (Chirikure et al. 2017).

However, two members of the opposition and two members of think tanks challenged this conception by a member of the executive, arguing instead that despite clear succession patterns in pre-colonial society, there is a tendency by leaders to smuggle traditional succession norms and monarchical tendencies into the modern bureaucratic state so that power is not abandoned or relinquished unless death befalls. One member of the opposition avers that:

Succession models in modern Africa were cut and pasted from a traditional perspective by politicians to suit their egocentric perceptions. Political leaders in Africa seem to view themselves as the only sacred specie that can rule in perpetuity. The current succession frameworks in Africa are reminiscent of the traditional succession framework.

In the same context, members of the executive, Politburo, Central Committee and academia strongly argued that traditional succession models can be a panacea to African's development and political problems. For them, the models promote continuity and stability in a polity, since authority was recognised as legitimate by virtue of tradition and customs rooted in an ancestral past. A Politburo member argued that:

When modern legal rotational succession models were translated in Africa, the continent struggled to adapt since the models were alien to Africa's political culture. The modern models undermine the revolutionary spirit and Africa's development trajectory, since development dictatorship guarantees continuity and stability.

In analysing the overall responses on the inheritance of traditional succession frameworks, the majority of our informants held the view that succession challenges in Africa are due to the implant of traditional succession models. These informants were mainly the executive members, two Politburo members, two permanent secretaries, one think tank member, two MPs and two members of academia. This category of respondents felt that it was not the length of time someone is in office, but the embedded leadership norms and values exhibited by a leader in fulfilling the aspirations of the people. According to Chirikure (2017), modern succession models involve loss of power and material and influence a situation that exacerbates the succession challenge and non-circulation of elite in Africa.

However, a minority of the respondents differed sharply with the above views, arguing that the current conception and trends of the succession model in modern bureaucratic states now hinge on the similarity of both constitutional and normative values. This category includes members of the opposition, one MP, one think tank member, two members of academia and one permanent secretary. This category of respondents argued that modern states now need to adopt and adapt to the legal rotational succession model. This is supported by Ojo (2012) who alluded to the fact that contemporary governmental and bureaucratic arrangements are the classic procedures of legal rotational authority. Furthermore, for Ojo (2012), the institutions, laws, and legal order are the only source of legitimacy and the law is supreme, not individuals or groups of individuals.

RELUCTANCE OF AFRICAN LEADERS TO RELINQUISH POWER

Reluctance to relinquish power influences succession frameworks and the efficacy of state administration in Africa. Respondents argued that politicians in Africa have shown a consistent culture of violating and amending state and party constitutions in order to prolong their stay in power. This has resulted in what Fombad (2008, p.19) refers to as the constitutional coup or a third-term calamity. A member of the legislature argued that:

Succession is difficult in Africa because leaders are not prepared to leave office or do not imagine that any other person can come into office. Normally, African presidents are hesitant to relinquish power. Only in case of health incapacitation and /or when death befalls as in the traditional setup. Mostly, power transitioning periods have resulted in chaos, coups d'état, because of poor succession planning on who takes over next. Also, the truth about African politicians is that they are unprepared to relinquish power.

The above submissions are supported by Igbuzor (2010), who emphasises that human resources and leadership define the accomplishment or failure of organisations and nations, since everything depends on leadership. Igbuzor further suggests that political leadership is imperative for the effective and competent functioning and progress of the state. Therefore, political succession is of intentional significance in the survival and existence of a polity. Political succession therefore pivots on the solidity, survival and improvement of nations; it is thus important to note that in every nation, change is unavoidable. Respondents strongly argued that despite acknowledging the significance of a methodical transfer of power from one person to another by political stakeholders in Africa, the reality in many countries is that they may be ignorant of the rules and procedures of succession. The result is political volatility and legality issues such as the legitimacy crisis in Zimbabwe. The member of the opposition lamented that:

Mnangagwa's victory through the Constitutional Court was an affront to democracy and international electoral principles. The court-smuggled victory was against the interests of Zimbabweans, inducing legitimacy crises by stifling the wishes of the electorates.

The respondents' views are buttressed by Jinadu (2008), who claimed that smooth and unified political succession entails observance of rules and regulations. When religiously followed over a long period of time, this observance becomes

embedded into the political culture of organisations and nations. A good example is the succession process in Rotary clubs where the successor is known over one year in advance. Consequently, in Africa several factors including ideals, political structure, incongruities in the political system, power fights, dictatorial political philosophy and fragile institutions make smooth succession difficult. Zimbabwe is a good example of a country that lacks observance of rules, where there is an immoderate determination to cling to power for life coupled with a frail and compromised opposition, and feeble and ineffectual mass and egalitarian organisations and institutions (civil society) (Jinadu 2008, p. 5).

In this vein, the academics interviewed argued that pre-colonial Africa was defined by an immaculate aesthetic, social harmony and autonomy informed by the philosophy of communalism. Academia blames the attitude and calibre of leaders in Africa, who despite the adoption of a legal rotational succession model still disregard constitutionalism. One academic interviewed acknowledged that:

Discussion around succession was taboo within and outside Zanu-PF and anyone perceived to threaten the late Mugabe's position (even in the Second Republic) was/is labelled the enemy of the state who is against the norms and values of the liberation struggle. The norms and values of succession were or are not institutionalised; leaders and bureaucracy are recycled despite non-performance or lack of competence.

This argument also finds expression in Mpondi (2015), who argues that calls for leadership transformation, progression and power transitioning have divided political parties in Zimbabwe. Purging rebellious voices in Zimbabwe's two main ideological groups and/or political parties resembles a revolution devouring its children, or a hen ingesting its own eggs.

Appetite for absolute power seems to have been inculcated into Zimbabwe's political landscape for a long time without any concomitant guarantee of viable limitations or control of power. Because society created and sustained this culture of centralism and executive dominance, and encouraged a trend of monopolistic power and the abuse of executive authority, ultimately this was responsible for the cult of the 'Big Man', the unchallengeable leader in Zimbabwe.

Mohiddin (2008) concurs with the academics consulted in this research that a major challenge threatening good governance in Africa, with reference to Zimbabwe, is how to compel or limit executive power and balance its discretionary authority while not attenuating its ability to fulfil its legitimate responsibilities or political obligations. Msindo (2016, p. 160) agrees with this sentiment:

Robert Mugabe did not allow opposition, the late President used more (plibly) brutal tactics, opposing forces were usually struck by a coalition of political and military leaders [who stand] equipped and eager to employ viciousness to effect the treacherous vision of the regime and perpetuate his control of the state.

On the other hand, members of the executive, one MP and members of Zanu-PF's Politburo diverge from the views of most MP's and academia on the reluctance to relinquish power. Their main contention is that during the formative stages of most African states, the incumbent government enjoyed a high degree of goodwill from citizens. Because of the role they played in the liberation struggle they continued enjoying this goodwill from the citizenry because of their incumbent advantage. A member of the executive asserts that:

Most European governance models had no term limits, and this was ingrained in most modern African political systems. When first generation leaders ascended to power, they were very young and managed to attract the goodwill of the masses. Their consistency in winning elections led to the argument that there was no elite circulation or succession.

The paper contends that because they enjoyed incumbent advantage, leaders managed to infiltrate all state institutions. According to one of the academics interviewed in this research:

Society is to blame for creating and sustaining the big man and woman syndrome where leaders were venerated and hero-worshipped, ending up destroying all sectors of the society.

Most of the respondents observed that African leaders disregard and overlook the constitutional clauses which often guarantee two five-year terms for the president. They attacked the democratic centralism and developmental dictatorship which ferment stagnation in succession and abandon the regeneration of governance structures. Major voices in this category were the academics, think tanks, civil society, opposition parties, two MPs and one permanent secretary. Masunungure (2008, p.15) laments the way in which Mugabe overlooked the resolve of the people in the 2008 synchronised elections. The leader's appetite for power led to a vicious government-supported protocol nicknamed CIBD, an acronym for Coercion, Intimidation, Beating, and Displacement, which indulged in the gruesome torture,

incinerating, kidnapping and killing of citizens. According to these respondents, this culture of violence and dictatorship was used as a trump card to sabotage or postpone leadership renewal and succession.

On the opposite side are the proponents of democratic centralism and developmental dictatorship. They do not subscribe to democratic principles that promote credible, free and fair elections resulting in seamless power transition. Instead, they view governing and ruling as the sole objective of their party and not as a collective procedure. Their scope seems to be constrained because of their role during the decolonisation of Africa, in particular with reference to Zimbabwe. The major advocates in this category were the executive and Politburo members, whose sentiments are captured by Matemadanda, and reported in *The Standard* newspaper of 15 December 2019 as saying that 'Zanu-PF will rule by hook and crook'. The Secretary of the Commissariat was quoted saying:

This is a revolutionary party that liberated this country, and the only one that can defend the revolution, therefore, we will fight to defend that course by any means necessary. Every election is a process to defend the revolution against Western imperial powers working in cahoots with local puppets. We will use any means necessary to defend the revolution. Elections will not remove Zanu-PF from power. If elections fail, we will use any other means necessary. You are the voice of this country, you are the way of this country, and you are the future of this country. Only Zanu-PF can defend Zimbabwe's integrity and sovereignty.

This perspective aptly captures Mugabe's views after his defeat by Morgan Tsvangirai in the harmonised elections of March 2008:

Zanu-PF struggled for you, for your prerogative, land and a bright future. This legacy ought to not just be outdone by the stroke of a pen at the voting booth because I am not getting critical or elementary goods... Otherwise a candid X would have returned the nation to 1890.

It is the same mentality that is expressed by the proponents of democratic centralism and developmental dictatorship, who strongly believe that the incumbent revolutionary parties have a mandate to administer the country by any means necessary. These views contravene the culture of constitutionalism, and result in delayed or postponed succession and/or a chaotic and violent takeover of power.

CONCLUSION

The paper has examined the impact of succession politics on state administration, unpacking the relational boundaries and conceptual overlaps of the politico-administrative interface in Africa. The paper indicates that state formation in Africa has been a victim of colonial legacy, and a traditional succession model whose influence led to modern African administration which is progressively absolutist and autocratic in nature. The adoption of a collusive model anchored in a patrimonial system resulted in a small clique controlling the apparatus and institutions of the state for personal gain. The bureaucracy has been captured and used primarily for rent-seeking purposes. The paper concludes that succession politics and state administration are victims of historical, political, traditional and societal factors that moulded political systems, governance structures and succession patterns in Africa. The paper also asserts that in Zimbabwe the succession dilemma will continue to hound succession trends and responsible administration, unless broad-based reforms are instituted to dismantle the historic legacy imbedded in the political system, and which has emasculated succession procedures.

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