EMERGING TRENDS IN AFRICA'S ELECTORAL PROCESSES

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EXECUTIVE SUMMARY

The quest for competitive elections in Africa, with the modest gains made since the 1990s towards deepening democratisation, continues to underpin the continent's efforts to create stable and growing democracies. Since the post-Cold War transition from single-party to multiparty systems, most African countries have embraced elections as their preferred option for power transfer. Drawing especially on AU election observation mission reports, this policy briefing examines trends emerging from elections held in 2015 and 2016, and calls for extensive structural, legal and policy reforms. It argues that adherence to and implementation of the AU treaty and non-treaty standards for democratic elections are key to further strengthening electoral processes in Africa.[2]

INTRODUCTION

In the past two decades Africa has made commendable progress in democratic institution building and practices. The continent continues to witness peaceful transfers of power through regular elections; the increased establishment of independent election management bodies (EMBs); and the independence of judicial systems. This is coupled with multiparty political systems that boost citizens' participation in political and electoral processes.

RECOMMENDATIONS

1 The AU in collaboration with RECs should develop guidelines for constitutional revisions to give effect to Article 10 of the ACDEG.

2 Electoral calendars must be respected and changes must be mutually agreed by all stakeholders to protect the sanctity of electoral processes.

3 Inter- and intra-political party dialogues remain key in safeguarding electoral democracy and deepening political pluralism in AU member states.

4 Governments should develop and adopt social media codes of conduct for elections to protect the fundamental rights to access to information and expression.

5 Political parties should undertake reforms to address structural exclusion and guarantee equal participation of young people, women and other marginalised groups in political and electoral processes.

By contrast, before the 1990s coups d'état, one-party states, vote rigging and malpractices prevailed. Specifically, in the 1960s and 1970s elections in Africa were often followed by regime breakdown and violence that left many dead and others exiled.[3] The 1966 coup that removed Ghanaian president Kwame Nkrumah, for example, was partly a response to the electoral manipulation that underpinned his monopolisation of power.[4]

Africa's progress in democratisation has also been influenced by continental organisations such as the AU providing guidelines and standards. In an effort to inculcate democratic principles and ideals among African nations, the heads of state and government of the AU and its predecessor, the Organization of African Unity (OAU), have over the years adopted normative instruments and frameworks that promote democracy, governance and human rights. These instruments enjoin member states to ensure that democratic governance principles and practices are reflected in their national laws and standards.

For instance, Article 13 (1) of the African Charter on Human and People's Rights (ACHPR) of 1981 provides for every citizen's right to participate freely in the government of his/her country, either directly or through freely chosen representatives in accordance with the law. The African Charter on Democracy, Elections and Governance (ACDEG) of 2007 directly addresses issues of democratic elections by outlining various threats to democracy and constitutional order, defines democratic elections, and provides standards by which to adjudge the quality of an election. The ACDEG complements the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa, which addresses the rights and obligations of stakeholders in electoral processes, and elaborates the conditions and standards for conducting democratic elections. Regional economic communities (RECs) have also adopted frameworks and protocols to promote democracy, including democratic elections. These include the ECOWAS Protocol A/SP1/12/01 on Democracy and Good Governance (2001), the SADC Principles and Guidelines Governing Democratic Elections (2004) and the Treaty for the Establishment of the East African Community (2000).

With many member states having acceded to these instruments, there have been noticeable improvements in the establishment of democratic institutions, more regular elections, and increased participation by women, young people and other marginalised groups. However, despite this visible progress, there are concerns about the depth of these improvements. While the number and regularity of elections in Africa have improved significantly since the early 2000s, many challenges threaten the long-term sustainability of electoral processes.

In 2015 and the first quarter of 2016, 22 African elections were held (See Appendix). Notably, elections were relatively peaceful, free and fair in Burkina Faso, Tanzania and Zambia,[5] and there were peaceful transitions from incumbents to opposition parties in Benin, Cape Verde and Nigeria. However, in Burundi, Chad, Congo-Brazzaville, Equatorial Guinea and Uganda the incumbents claimed victory amid controversy, resulting in violence.

Four significant trends that are capable of reversing democratic gains can be observed from these elections.

ALTERATIONS TO CONSTITUTIONS AND TERM LIMITS

Africa has seen an increase in the number of states that have attempted (sometimes successfully) to tamper with their constitutions to extend tenure or remove term limits for presidents or prime ministers. While Cameroon, Chad, Congo-Brazzaville, Djibouti, Gabon, Guinea, Namibia, Rwanda, Togo and Uganda successfully amended their constitutions to alter or remove two-term provisions, attempts in Burkina Faso, Malawi, Niger, Nigeria and Zambia failed. Alterations to term limits in Congo-Brazzaville, Rwanda and Uganda were further 'legitimised' through referendums.

In debates on the issue, many constitutional law experts have argued that the removal of term limits to allow incumbents to extend their tenure casts a shadow on the already challenging constitutional environment in Africa. Proponents of term limits argue that they prevent dictatorial rule and ensure the rotation of power between geographic, ethnic, and political power blocs, while opponents argue that they are key to consolidating democratic governance gains. In Rwanda the incumbent argued that the term extension was due to popular demand.

In an attempt to set continental standards, Article 23 of the ACDEG outlaws unconstitutional changes of government, including arbitrary amendments of or revisions to constitutions or legal instruments. Various REC frameworks do the same. For instance, Article 1(c) of the ECOWAS Protocol A/SP1/12/01 on Democracy and Good Governance commits all member states to zero tolerance for power obtained or maintained by

unconstitutional means. In May 2015, however, an attempt by ECOWAS leaders to institute a regional practice limiting presidential tenure to two terms was reportedly blocked by Togo and The Gambia, whose constitutions have no term limit clauses.[6]

Constitutional and term limit alterations have tested the independence of the judiciary and legislature, with some incumbents resorting to intimidation and harassment of dissenters to achieve their aims. This phenomenon presents new challenges to conventions on the separation of power and unconstitutional changes of government, calling for strict compliance with the norms acceded to by member states.

TAMPERING WITH THE ELECTORAL CALENDAR

Most countries have a fixed electoral cycle based on their constitutional provisions. Africa is, however, witnessing a rash of electoral calendar revisions, seemingly repositioning electoral processes to favour incumbent parties. In Congo-Brazzaville the opposition struggled to effectively organise for and participate in the hastily called 2016 elections. The ruling party coasted to victory with 67% of the vote, allegedly due to its proximity to state apparatus and funds to organise early elections. The unfair advantage that sudden elections bestow on incumbents poses a threat to free and fair elections and deepens existing animosities between supporters of the ruling party and the opposition.

Manipulating electoral calendars also brings into question the capacity and impartiality of EMBs. In Congo-Brazzaville again, the opposition questioned the independence of the electoral commission and called for the formation of an independent body as a precondition for its participation in the elections. In Nigeria the Independent National Electoral Commission's capacity to conduct credible elections was undermined when its chairperson was forced to postpone the elections for six weeks due to security concerns. In Burundi[7] and Uganda[8] the perception that EMBs were doing the bidding of incumbents aggravated tensions in recent elections.

There is an urgent need to strengthen the independence of democratic institutions and guarantee respect for constitutions and the rule of law, as enshrined in chapters 6 and 7 of the ACDEG. Specifically, EMBs and the judiciary must uphold constitutional provisions regarding the election calendar, rather than succumbing to pressure from the ruling party.

HARASSMENT AND INTIMIDATION OF OPPOSITION CANDIDATES

In some countries, ruling parties have stoked animosity toward the political opposition, sometimes using state security agencies to evoke extant laws curtailing freedom of assembly and association, ostensibly to preserve public order. In Niger, following a spate of arrests and charges brought against opposition members, many called for an election boycott.[9] In the 2016 Ugandan elections the leading opposition candidate, Dr Kizza Besigye, was arrested several times in the run-up to the polls, and underwent house arrest for over a month after the vote.[10] He eventually appeared in court on treason charges.

Several governments have restricted access to social media during election periods, arguing that these platforms are potential tools for spreading hate speech, misinformation and rumours. The Burundian government argued as such when it shut down social media during protests sparked by the nomination of incumbent President Pierre Nkurunziza to stand for the 2015 national elections, claiming that social media tools were being used to co-ordinate protests. In Chad and Uganda, internet access was blocked on election day, while Congo-Brazzaville shut down access for six days.[11] Human rights activists have criticised these actions as threatening freedom of expression, access to information and participation in governance processes.

Guaranteeing the rights and fundamental freedoms of all, including opposition members, to participate, associate, assemble and express themselves remains key to a vibrant and violence-free democratic process. Regulation of these rights and freedoms must avoid infringing on human rights, including people's fundamental right to information, in line with Article 9 of the ACHPR[12] and Article 27(8) of the ACDEG,[13] as well as respective national laws. In addition, there is a need for regular inter- and intra-political party dialogue to safeguard democratic elections in Africa, giving effect to Article 3(11) of the ACDEG.[14]

LOW VOTER TURNOUT

The aforementioned trends drive a sense of apathy among citizens, who are increasingly losing trust in electoral processes. Virtually all elections held in 2015 and early 2016 were marked by an unprecedentedly low voter turnout. While voter registration numbers are often impressive in African countries, few people actually vote. For instance, the voter turnout in all presidential and

parliamentary elections held in Africa in 2015 averaged at under 60%, compared to the global averages of 67% and 65% for presidential and parliamentary elections respectively. Asia averages an 89% turnout for presidential and 72% turnout for parliamentary elections.[15] In the Zambian presidential election, out of 5 166 084 registered voters only 32.36% voted, while in Nigeria, of the 47.08% citizens accredited to vote, only 43.65% voted.[16]

A more worrisome trend is the low level of participation by youth, women, persons with disabilities and the elderly. Low turnout among youth and women in Africa is increasingly attributed to disillusionment with the political system, corruption in politics, lack of information, distrust of the electoral institutions and systemic exclusion from nomination processes within political parties.[17] For disadvantaged populations, there are hardly any measures in place to guarantee their access to polling stations. Consequently, voters are increasingly disenchanted with a system that effectively excludes them.

Measures addressing low voter turnout must therefore focus on making votes count. Electorates will only value electoral processes that are inclusive and participatory. Without convincing citizens that their votes will truly have an influence, the continent will continue to grapple with disillusionment with a regular but valueless voting ritual. In addition, reforms aimed at addressing structural exclusion in political parties must be put in place alongside a broader voter/civic education programme.

CONCLUSION

There are guidelines to ensure that electoral processes are credible, fair to all players and free for everyone to participate in. The ACDEG and the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa provide a broad continental framework that obliges African countries conducting elections to do so in an open and transparent manner. Unfortunately, the slow pace of ratification of the ACDEG and the varied levels of political will to implement its principles and commitments remain a concern. As with many challenges on the continent, the problem is not the absence of laws but the lack of commitment by the governing elite to ensure their effective and efficient implementation. Unless addressed, the trends highlighted in this policy briefing have profound implications for democratic governance, including democratic elections and the credibility of electoral outcomes.

ENDNOTES

1   Ibraheem Bukunle Sanusi is the Citizens Engagement Lead and Rizzan Nassuna the Democracy Assessment and Governance Expert at the African Governance Architecture Secretariat based at the Department of Political Affairs, AU Commission. The views expressed are their personal reflections.

2   The AU treaty standards for democratic elections include the African Charter on Human and People's Rights and the African Charter in Democracy, Elections and Governance, while non-treaty standards include the OAU/AU Declaration on the Principles Governing Democratic Elections in Africa.

3   Lindberg SI, *Democracy and Elections in Africa*. Baltimore: The Johns Hopkins University Press, 2006.

4   Austin D & R Luckham, *Politicians and Soldiers in Ghana 1966–1972*. London: Frank Cass, 1975.

5   Ighobor K, 'African democracy coming of age: Strong institutions: Judiciary, media and civil society helping to strengthen leadership', *Africa Renewal*, August–November 2016, p. 37.

6   *CCTV Africa*, 'Gambia and Togo oppose presidential term limits', 20 May 2015, http://cctv-africa.com/2015/05/20/gambia-and-togo-oppose-presidential-term-limits, accessed 22 July 2016.

7   *BBC*, 'Burundi opposition rejects new poll date', 9 June 2015, http://www.bbc.com/news/world-africa-33060975, accessed 15 August 2016.

8   *Daily Monitor*, 'EC boss under fire over poll reforms', 24 March 2015, http://www.monitor.co.ug/News/National/EC-boss-under-fire-poll-reforms/688334-2663320-g3lwp1z/index.html, accessed 6 October 2016.

9   *BBC*, 'Voters in Benin, Cape Verde, Congo, Niger, Senegal and Zanzibar go to polls', 21 March 2015, http://www.bbc.com/news/world-africa-35854768, accessed 7 May 2016.

10 *Voice of America*, 'Ugandan opposition leader Besigye arrested again', 5 April 2016, http://www.voanews.com/content/uganda-besigye-arrest/3269878.html, accessed 7 May 2016.

11 Oximity, 'Digital rights groups ask African Union, UN to take action on Uganda social media blackout', 23 February 2016, https://www.oximity.com/article/Digital-rights-groups-ask-African-Unio-1, accessed 7 May 2016.

12 OAU (Organization of African Unity), African Charter on Human and People's Rights, 1981. Article 9 states that 'every individual shall have the right to receive information and to express and disseminate his opinions with in the law'.

13 AU, African Charter on Democracy, Elections and Governance, 2007. Article 27(8) commits AU member states to promote freedom of expression, in particular freedom of the press and fostering a professional media.

14 *Ibid*. Article 3 (11) calls for 'strengthening political

pluralism and recognizing the role, rights and responsibilities or legally constituted political parties, including opposition political parties, which are given a status under national laws'.

15 Bakken M & A Solijonov, 'Voting in Africa 2015', International IDEA (Institute for Democracy and Electoral Assistance), http://www.idea.int/news-media/news/voting-africa%C2%A02015, accessed 7 May 2016.

16 Mahmud SS, 'The 2015 General Elections: Voter Turnout, Voting Behavior and Democratic Consolidation in Nigeria', Independent National Electoral Commission Conference Paper, July 2015, http://www.inecnigeria.org/wp-content/uploads/2015/07/Conference-Paper-by-Sakah-Saidu-Mahmud.pdf, accessed 30 June 2016.

17 International IDEA, 'Report on Youth Voter Participation: Involving Today's Young in Tomorrow's Democracy', 1999.

APPENDIX	TIMELINE FOR ELECTIONS CONDUCTED IN 2015 AND THE FIRST QUARTER OF 2016	
Country	**Type of election**	**2015**
Zambia	Presidential	20 January
Comoros	Parliamentary	25 January (first round) 2 February (second round)
Lesotho	Parliamentary	28 February
Nigeria	General	28 March
Sudan	General	13–15 April
Togo	Presidential	25 April
Benin	Parliamentary	26 April
Ethiopia	Parliamentary	24 May
Burundi	Parliamentary and Local	26 June
	Presidential	21 July (first round)
Central African Republic	Referendum	4 October
	General	18 October (first round) 22 November (run-off)
Burkina Faso	General	11 October
Guinea	Presidential	11 October
Egypt	Parliamentary	18–19 October (first round) 22–23 November (second round)
Tanzania	General	25 October
Côte d'Ivoire	Presidential	25 October
Country	**Type of election**	**2016**
Central African Republic	Presidential	30 December 2015 31 January 2016 (run-off)
Uganda	General	18 February
Comoros	Presidential	21 February 16 April (run-off)
Niger	General	21 February 20 March (run-off)
Benin	Presidential	28 February 13 March (run-off)
Cape Verde	Parliamentary	20 March
Congo-Brazzaville	Presidential	20 March