

Electoral Processes and Democratization:

The Role of Election Monitoring Bodies in Africa

1.1. Introduction

Electoral processes are of utmost importance in a democracy.¹ Democracy essentially speaks to a 'government of the people, for the people and by the people'.² The citizens are the centrepiece to democracy, they through their vote have the power to maintain and or change public leadership. Through centuries of building democracy, elections have become almost the most critical action of conferring legitimacy to any government.

Over the past two decades, the process of electing public leaders has become even more contested with allegations of rigging characterising most elections in Africa. Violence, triggered by extensive irregularities has marred some pre and post-election activities in undemocratic and or pseudo democratic regimes; with most irregularities emanating from the manipulation of election processes. Electoral systems have been criticised for flaws in voter registration, voters roll, stuffed ballot boxes, biased counting and more importantly partisan electoral commission staff.

Through elections, governments obtain their democratic mandate; this mandate demands governments to be accountable for their performance in office and for their promises to the people. However, in recent times, there has been a rise in violence during elections; this in turn has undermined the electoral process itself and consequently democracy.³

Despite the centrality of elections in consolidating democracy it has emerged that in post-conflict societies elections have a great potential to plunge a country back into violent

¹ Ellis, A.2009. *Electoral processes and democracy: a moving field*. International Institute for Democracy and Electoral Assistance (IDEA). Available at: http://www.idea.int/elections/el_process_moving_field.cfm. (Accessed on: 21 June 2016).

² Stanford University. 2004. *What is Democracy?* Available at: <https://web.stanford.edu/~ldiamond/irag/WhalsDemocracy012004.htm>. (Accessed on: 6 July 2016).

³ Cheeseman, N. 2014. Skoll Foundation Researching Democracy, Peace and Human Rights in Africa, *Saïd Business school*, pp. 1-14. Available at: <http://www.sbs.ox.ac.uk/faculty-research/skoll/knowledge-generation/applied-research/oxford-impact-0/impact-essays>. (Accessed on: 21 June 2016).

conflict. This more often undermines processes of stabilization and discredits democratization.⁴ Conflict and tension during elections have become common in African states since the introduction of multiparty politics.⁵ Against this background this research seeks to establish the function electoral bodies serve in a democracy, by interrogating an important question: Are electoral bodies in Africa contributing to the realisation of democracy?

The discussion will focus on transparency, accountability and accuracy in electoral administration, as well as the ethical behaviour of key players able to contribute to maintaining integrity. These above elements can have positive and or negative effects on the process of democratisation. The model of Election Monitoring Bodies (EMB) i.e. whether the bodies are independent or government controlled will form the basis of this argument.⁶ The case studies will target South Africa and Zimbabwe; with the former being independent and latter under state influence. A comparative analysis will follow to highlight the strengths and weaknesses of electoral processes and identify the electoral connections to democratic setbacks.

1.2 Aim of the Study

Against the aforementioned background, the specific objectives of this paper are:

- To identify factors that influence directly and indirectly the integrity of electoral processes;
- To ascertain the gaps in the electoral processes in two strategic African countries and establish what can be done to improve electoral bodies.

⁴ Electoral Institute for Sustainable Democracy in Africa (EISA). 2010. "When Elections Become a Curse: *Redressing Electoral Violence in Africa*". *EISA Policy Brief Series* Number 1, March. Available at: <https://www.eisa.org.za/pdf/pb01.pdf>. (Accessed on: 21 June 2016).

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⁶ López-Pintor, R. 2000. *Electoral Management Bodies as Institutions of governance*. United Nations Development Programme (UNDP), Bureau for Development Policy. Available at: <http://www.eods.eu/library/UNDP.Electoral%20Management%20Bodies%20as%20Institutions%20of%20Governance.pdf>. (Accessed on: 20 June).

1.3. Election Trends and Practices in Africa

It is important to note that free and fair elections can only be realized if enough effort is invested in managing the pre, polling and post contexts of the election process. The 1990s witnessed the emergence of the democratic movements on the continent leading to the transition of many autocratic regimes. This transition saw autocracy giving way to democratic reforms, in most African countries.⁷ Such reforms included respect for human rights and the holding of multiparty elections. According to Mathiasen, as the wave of democratization spread across the continent, electoral violence became increasingly frequent with roughly a fifth of the elections in sub-Saharan Africa resulting in violence and electoral conflict.⁸

Roland Paris argued that elections have posed a high risk in post-conflict situations by re-igniting the conflict they were supposed to resolve;⁹ factors such as vote rigging and voter manipulation have been identified as igniting election violence. Cilliers acknowledges that violence directly associated with elections has increased in line with the rise in political contestation before, during and after polls.¹⁰ This is evidenced in settings where democracy has not been entrenched, such as during the elections in Zimbabwe in 2005, or where the government has been actively factional in benefitting one ethnic group above others; namely in Kenya's 2007 election.¹¹

⁷ Cyllah, A.I. 2010. *Democracy and Elections in Africa: Recent Trends and the Role of the International Community*. Testimony before the House Committee on Foreign Affairs Subcommittee on Africa and Global Health. Available at: <http://library.fes.de/pdf-files/iez/07416.pdf>. (Accessed on: 21 June 2016).

⁸ Mathiasen, F. 2006. "The African Union and Conflict Management". Being a Strategy Research Project Submitted in Partial Fulfillment of the Requirements for the Master of Strategic Studies Degree, to the United States Army War College. <http://www.dtic.mil/cgibin/GetTRDOC?Location>. retrieved 18/03/11. (Accessed on: 20 June 2016).

⁹ Paris, R. 2004. *At wars end: Building Peace Farther civil conflict*. Cambridge University press, Ottawa.

¹⁰ Cilliers, J. 2014. "Africa's conflict burden in a global context", *Institute for Security Studies ISS paper 273*, p 1-20. Available at: <https://www.issafrica.org/uploads/Paper273V4.pdf>. (Accessed on: 20 June 2016).

¹¹ Ikejiaku, B.V. 2011. African Union, Conflict, and Conflict Resolution in Africa: A comparative analysis of the recent Kenya and Zimbabwe conflicts. *International journal of development and conflict*, 1 (1): 61- 83. Available at: http://www.academia.edu/892730/African_Union_Conflict_and_Conflict_Resolution_in_Africa_A_Comparative_Analysis_of_the_Recent_Kenya_and_Zimbabwe_Conflicts. (Accessed on: 15 June 2016).

Over the last few years, very violent elections have occurred in countries such as Lesotho, Mozambique, Côte d'Ivoire, Kenya, Nigeria and Zimbabwe.¹² In most cases, violence has transpired with widespread coercive intimidation of candidates and voters through harassment, imprisonment, violent riots and clashes between supporters. Despite the role of elections in promoting peace and security in democracies, elections in the post-independence era in Africa have brought instability as they have become a source of conflict.¹³

In 2010-2011 a political crisis in Côte d'Ivoire began as a result of a contested presidential election result in which the incumbent Laurent Gbagbo was proclaimed the winner despite opposition candidate Alassane Ouattara initially being declared the winner with international support.¹⁴ Youssouf Bakayoko, head of the Ivorian Commission - Electorale Indépendante (CEI), had announced provisional results declaring Ouattara the winner of the Ivorian 2010 elections. However, the final results were delayed and later on the Constitutional courts` President Paul Yao N'Dre - who was considered an ally of the president - declared the incumbent as the winner thereby denouncing the initial results. Against this backdrop suspicions of voter manipulation and vote rigging were rife due to the delay and consequently, a clash between security forces and civilians resulted in the death of over 1000 people.¹⁵

Similarly, during the Zimbabwe's 2008 presidential election, suspicion was raised with delays in the announcement of the election results despite a clear indication that opposition Movement for Democratic Change (MDC) candidate Morgan Tsvangirai had won. The MDC held roughly 47.87% of the votes whilst the ruling ZANU PF obtained 43.24%;¹⁶ a run-off on the presidential election was set since the opposition did not hold

¹² Lindberg, S.I. 2009. *Democratization by Elections: A New Mode of Transition*. Baltimore: Johns Hopkins University Press.

¹³ n.12

¹⁴ Observatoire De L'Afrique. 2011. *The African Union's role in the Libya and Côte d'Ivoire conflicts*. Africa Briefing Report Brussels, 1-4. Available at: http://www.observatoire.eu/wp-content/uploads/2011/06/ABLibya-Report_11-07-2011.pdf. (Accessed on: 19 June 2016).

¹⁵ International Coalition for the Responsibility to Protect. 2010. *The Crisis in Côte d'Ivoire*. Available at: <http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-ivory-coast>. (Accessed on: 21 June 2016).

¹⁶ BBC News. 2008. 'Mugabe's Zanu-PF loses majority'. Available at: <http://news.bbc.co.uk/2/hi/africa/7326968.stm>. (Accessed on: 18 June 2016).

a majority. However, Bekoe is of the view that suspicions of vote rigging and vote manipulation were high due to the delays that had occurred with the announcements of the results.¹⁷ These two cases show similarities on how political influence by the incumbents played a huge role in determining the results. According to Ellis, partisan EMB are dysfunctional and almost certainly guarantees a bad election.¹⁸

In addition, voter manipulation and rigging, were identified as the causes of election violence that ensued during Kenya's (2007) and Côte d'Ivoire (2011) election.¹⁹ In Kenya, the manifestation of the election violence that followed was ethnic. Two of the political parties vying for the government were strongly supported by ethnically rooted political constituencies. Consequently, a wave of systematic violence occurred characterised by ethnically targeted killings between political parties.²⁰ On the other hand, in Côte d'Ivoire violence was between the supporters of the incumbent and the opposition. Frazer argues that political manipulation of ethnicity, religion, identity and weak political institutions have contributed to conflict in the continent.²¹ It is important to note that weak political institutions contribute to conflict when they yield to political influence, as has been the case in Kenya and Côte d'Ivoire.

The Electoral Institute for Sustainable Democracy in Africa (EISA) notes that the African Union (AU) should stress improved government institutions in order to persuade governments in Africa to be democratic.²² From the aforementioned, one can identify the role weak political institutions play by creating the conditions for violent conflict. Governance remains weak hence political institutions are easily manipulated resulting in lack of accountability and credibility. Against this background, this discourse will

¹⁷ Bekoe, D.A 2012. *Voting in Fear: Electoral Violence in Sub-Saharan Africa*. Washington D.C, United States Institute of Peace.

¹⁸ *n.1*

¹⁹ *n.15*

²⁰ International Coalition for the Responsibility to protect. Available at:

<http://www.responsibilitytoprotect.org/index.php/crises/crisis-in-kenya>. (Accessed on: 5 July 2016)

²¹ Frazer, E.J. 2010. Introduction: Preventing Election violence in Africa, *Council of Foreign Affairs*, 15-22. Available at: http://www.cmu.edu/cipi/publications/intro_Preventing-Electoral-Violence-in-Africa_Frazer.pdf. (Accessed on: 17 June 2016).

²² EISA. 2009. Preventing and managing violent election-related conflicts in Africa: Exploring good practices. EISA's 4th ANNUAL SYMPOSIUM crowne plaza Hotel, Rosebank, South Africa 17-18 NOVEMBER 2009. Available at: <https://eisa.org.za/pdf/symp09cp.pdf>. (Accessed on: 11 June 2016).

investigate role of effective election administration in facilitating democratic practices. This is important in determining to what extent EMB are contributing to achieving the adoption of democratic principles on the continent.

Factors that Influenced Election Integrity in Africa

The credibility and legitimacy of electoral processes is inextricably linked to electoral integrity. The Global Commission on Democracy, *Elections and Security Report 2012* identified five major challenges to the conduct of elections with integrity. They included; (a) building the rule of law to substantiate claims to human rights and electoral justice, (b) creating institutions and norms of multiparty competition and division of power; (c) removing barriers to universal and equal political participation; (d) regulating political finance and developing professional and competent EMBs with full independence of action.²³.

EMBs as institutional anchors assist in the development of free, fair and accurate elections. Factors such as independence, impartiality, integrity, transparency, efficiency, professionalism and service-mindedness have been identified as important in the functioning of EMBs.²⁴ Current literature on EMBs point to three broad models, namely the Independent Model, Mixed Model and Governmental Model; all reflecting their own set of strengths and weaknesses.²⁵ The following section will focus on the independent and government models of EMBs by identifying the main strengths and weakness. It is important to establish what can be done to make election processes more effective and avoid the violence which threatens to positively contribute to the democratic process.

²³ Institute for Democracy and Electoral Assistance (IDEA). 2012. *Global Commissions on Elections, Democracy and Security. 2012*. Available at: <http://aceproject.org/ace-en/topics/em/onePage>. (Accessed on: 2 July 2016).

²⁴ n.22

²⁵ López-Pintor, R. 2000. Electoral Management Bodies as Institutions of governance: *UNDP, Bureau for Development Policy United Nations Development Programme*. Available at: <http://www.eods.eu/library/UNDP.Electoral%20Management%20Bodies%20as%20Institutions%20of%20Governance.pdf>. (Accessed on: 10 June 2016).

2.1. Independent Vs State Dependent Election Bodies

The model for electoral management bodies is critical to the success of any election process. These bodies vary from one country to another according to political regimes and institutional structures. They go by different names such as commissions, departments, units, councils, boards - amongst others. In Zimbabwe there is the Zimbabwe Electoral Commission (ZEC) while in South Africa there is the Independent Electoral Commission (IEC).

The Independent Model of electoral management is used in countries where elections are organized and managed by an EMB that is institutionally independent and autonomous from the executive branch of government.²⁶ Under the Independent Model, the EMB has and manages its own budget, and is not accountable to a government ministry or department; it may be accountable to the legislature, the judiciary or the head of state. EMBs under this model may enjoy varying degrees of financial autonomy and accountability, as well as varying levels of performance accountability.

In countries with the Governmental Model of electoral management, elections are organized and managed by the executive branch through a ministry (such as the Ministry of the Interior) or through local authorities.²⁷ EMBs under this model exist at the national level, they are led by a minister or civil servant and are answerable to a cabinet minister, and their budget falls within a government ministry or local authority.

2.1.1 The advantages of independent electoral commissions:

- Provide a conducive environment to the development of electoral corporate identity and staff professionalism,
- less likely to be subject to restriction on who can be involved in electoral management as it may be able to draw on outside talent,

²⁶ n22

²⁷ n22

- is in control of its own funding and implementation of electoral activities. Hence electoral legitimacy is enhanced as the EMB is perceived to be impartial and not subject to political control.²⁸

2.1.2 Disadvantages:

- May be isolated from political and electoral framework decision makers,
- may not have sufficient political influence to acquire sufficient or timely funding,
- may not have the skills or experience to deal with bureaucratic and corporate environments.

2.1.3 The advantages of governmental electoral management bodies:

- they have self-renewing corporate memory and sustainability,
- have a pool of bureaucratically experienced staff with a power base and influence within government.²⁹

2.1.4 Disadvantages:

- Credibility maybe compromised due to perception of being aligned with ruling government or subject to political influence,
- subject to internal decisions of government department on funding allocations and electoral policies,
- consists of multiple arms with differing agendas within the executive branch, which may cause fragmented leadership.

It is important to note different electoral practices and how they influence the integrity an election process; the following section compares South Africa and Zimbabwe.

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²⁹ n.5

2.2 South Africa Election Management

The South African IEC is renowned for its impartiality as the executive does not influence its leadership; making it more efficient in executing its electoral duties - in this case political interference is limited. Its funding largely derives from external donors not subject to political influence from the ruling government. It is important to note there is usually minimal violence during elections in South Africa and many at times violence occurs in the pre-election period in the country. One of the many ways the IEC has been able to limit violence is by committing political parties to an electoral code of conduct.³⁰ Overtime the organisation has been able to build public confidence and credibility which has been a contributing factor to the competence of the organisation. This has limited the possibilities of post-election violence as in most cases parties have accepted and respected election result outcomes.

2.3 Zimbabwe Election Management

On the contrary, the model of election management in Zimbabwe reflects the government model; the perception being it is alignment with the current government which has subjected it to political influence.³¹ It is important to note that in a government model, the executive directly appoints the organisation. The appointment of all the commissioners by the President, who is himself a member of one of the contesting political parties in an election, effectively erodes the ZEC's impartiality in the management of the electoral process.³²

One can argue that this affects the objectivity of the organization. For example, in the 2008 election, Makumbe writes that "perhaps the most glaring example of the ZEC's ineptitude was demonstrated when the commission failed to release the results of the presidential election for five weeks after polling day".³³ Reports from the *Zimbabwe*

³⁰ Electoral Commission of South Africa (IEC). 2016. *The Electoral Code of Conduct*. Available at: <http://www.elections.org.za/content/Elections/The-Electoral-Code-of-Conduct/>. (Accessed on: 6 July 2016).

³¹ n.10

³² Makumbe, J. 2010. *Theft by Numbers ZEC's Role in the 2008 Elections*. Available at: http://www.kas.de/upload/dokumente/2010/05/Defying_7.pdf. (Accessed on: 6 July 2016).

³³ n.31

Independent reported that the results were withheld on the instructions of the president, which in this case defeated the role of the EMB to facilitate a democratic election. Such occurrences highlight the importance of an independent EMB in an election environment.

From the above cases studies, we can begin to acknowledge the value of an independent EMB in any election; the credibility and accountability of an EMB depends on the degree of its independence from political interference. As shown in the discussion, public confidence in any EMB rests on how the civil society perceives the independence of an electoral body.

3.Improving Electoral Processes

In order for electoral bodies to contribute to the realisation of democracy, electoral reforms are important. Designing and establishing an electoral administration is essential; we need a structure that is fearlessly independent. Such independence means that the electoral administration does not bend to government, political or other partisan interests; though it is worth emphasizing that the threat can come not just from overt political restriction or pressure, but from financial mechanisms which prevent the administration from accessing money and other resources when needed.

Reforms on the institution itself can restore public confidence thereby enhancing credibility of an EMB.³⁴ Reforms should focus on the legal, political and administrative aspects which affects the functioning EMBs. For example, on the legal aspect, reforms should focus on the amendment of the constitution, electoral law or related rules and regulations to enhance the integrity, relevance and adequacy of the legal framework within which the EMB delivers its services.³⁵ On the political aspect, EMBs should be given more autonomy by creating a more effective and transparent framework for its funding and accountability.

From this discourse, one can conclude that electoral bodies in Africa contribute to achieving democracy - to an extent -. When approaching the topic of democratization, one must always view the processes holistically and all-encompassing of multiple

³⁴ n.22

³⁵ n.22

principles needed to achieve it; namely the rule of law, good governance, human rights, separation of powers – to name a few. That said, the independence of an EMB has been identified here as an important building block to the consolidation of democracy. EMBs that are independent have been largely credited to produce credible elections with minimal violence; henceforth electoral reform should focus on the legal, political and administrative challenges if we are to achieve the fundamentals of democratic governance.