Elections in Africa

Preparing a democratic playbook

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Strengthening Africa's economic performance

THE BRENTHURST FOUNDATION

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Preparing a democratic playbook

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The authors are grateful for the insights and feedback provided by the dialogue participants. As per the guidelines of this Brenthurst Foundation dialogue, they remain anonymous.

Executive Summary

This Discussion Paper draws on select themes that emerged from a high-level international dialogue on African elections convened by the Brenthurst Foundation in partnership with the Konrad Adenauer Stiftung in May 2017 at Villa la Collina, Cadenabbia, Italy, as well as additional research. The core objective of the Paper is to identify the negative trends impairing Africa's democratic electoral progress and explain how the current malaise came about. The first section devotes considerable attention to Africa's dramatic transition to competitive elections after 1990 in the context of unsteady and uneven democratisation as a whole. It explores the different uses or 'meanings' of elections and the challenges of building institutions in the periods between them. Examined thereafter are issues which have borne heavily on the integrity of recent elections: campaign funding; use of violence and threats; technology; the advantages of incumbency; and the international dimension. Brief pointers or recommendations are included at the end of each section. The final part of the Paper provides a glimpse into the means to tackle these negative trends – an election playbook.

Introduction

Elections in Africa have become a key indicator of the strength of democracy on the continent. The continent has witnessed a spectacular growth in competitive elections since the 1990s. Only three countries held genuine multi-party elections during the whole of the 1980s. Today they are the norm. Another important marker of progress are peaceful transfers of power through the ballot box. They are becoming institutionalised in countries like Ghana, helping to confer legitimacy on the newly-elected. Presidential term limits were almost non-existent in Africa three decades ago. More than two-thirds of the new constitutions enacted since then have included them.

> Presidential term limits were almost non-existent in Africa three decades ago

Less encouraging is recent survey data from the research network Afrobarometer. Just 40 per cent of Africans (polled in 36 countries) believe that the last elections in their country were 'free and fair'. Only 25 per cent said that they trust their national election commissions *'a lot'*.[1] Africa's faith in elections has been dented by several worrying trends. High on the list are voter intimidation and violence, media bias, vote buying and fraud. Incumbents commit the lion's share of abuses. Their capacity to exploit state power affords them much greater scope to shape electoral outcomes than opposition parties. But opposition parties are not always blameless.

At the same time, the capacity of civil society, political parties, international monitors and observers to identify electoral abuses has increased considerably. Effective use of election monitoring methodologies has also made concealment of outright electoral fraud much more difficult, if not impossible. The regular presence of observers (local and foreign) and independent media adds an additional check on grave abuses. Consequently, the more obvious pathways for

undermining elections are increasingly strewn with obstacles. But they are not insurmountable. And there remain countless subtler means – especially in the months before voting day – to effect undemocratic election outcomes.

In response to growing concerns about the trajectory of African elections as well as recent innovations in electoral methods and technologies, the Brenthurst Foundation in partnership with the Konrad Adenauer Stiftung convened a high-level international dialogue in May 2017 to assess recent elections on the continent. Participants at the dialogue included former heads of international election observer missions, experienced election monitors, leaders of political campaigns, diplomats, experts and media. Case studies presented included Kenya, Nigeria, Uganda Zambia and Zimbabwe, as well as key learnings arising from South Africa and the Democratic Republic of Congo (DRC). The principal aim of the dialogue was to create a holistic picture of the ways and means that African elections are being 'un-democratised'. This picture will aid the development of a comprehensive election 'playbook' for democrats and observers alike, to be published later by the Brenthurst Foundation.

> Africa's faith in elections has been dented by several worrying trends

This Discussion Paper draws on select themes that emerged from the dialogue as well as additional research. Its core objective is to identify the negative trends impairing Africa's democratic electoral progress and explain how the current malaise came about. The first section devotes considerable attention to Africa's dramatic transition to competitive elections after 1990 in the context of unsteady and uneven democratisation as a whole. It explores the different uses or 'meanings' of elections and the challenges of building institutions in the periods between them. Examined thereafter are issues which have borne heavily on the integrity of recent elections: campaign funding; use of

violence and threats; technology; the advantages of incumbency; and the international dimension. Brief pointers or recommendations are included at the end of each section. The final part of the Paper provides a glimpse into the means to tackle these negative trends – an election playbook.

Democratisation

Historical Context

It has become almost an accepted fact that the election which sent the most popular US president of the 20th century to the White House was, for lack of a better word, rigged. In 1960 John F Kennedy became US-president elect after defeating Richard Nixon by the then-narrowest margin (of total votes) in American history. Nixon was later heard to remark 'we won, but they ['the Kennedys'] stole it from us'. 'Dirty tricks' were then a common feature of US electoral democracy. As the acid-tongued aid to Nixon, in Oliver Stone's eponymous film, counsels his boss once the results are announced on election night, 'you gotta swallow this one … they stole it fair and square.'[2]

Electoral democracy has never been perfect. Dating back over 2000 years to the first elections in the Greek city-states and republican Rome, through to England's parliament and latterly the US model of representative democracy, a fully participatory democratic political system based on equal citizenship has never been achieved easily. And there is evidence everywhere that it remains a work in progress, subject to popular weariness and setbacks, even in the most established democracies. In the Economist Intelligence Unit (EIU)'s 2016 democracy index, the United States was downgraded to a 'flawed democracy'.[3] A distinguished academic and former official in President Barack Obama's administration recently despaired that the US needs 'a new American revolution … [our] political system is broken; we do not have a functioning democracy that can enact the will of majorities and protect the rights of minorities … our system is corrupt and captured'.[4]

The US is one of many states grappling with how to reaffirm democracy against the tide of populism threatening to upend the established liberal-democratic order. Numerous surveys have identified a growing 'democracy deficit' over the past decade across most indicators in Western countries and elsewhere, fuelling the rise of anti-democratic political parties and candidates. The EIU's democracy index showed countries with declining levels of democracy (measured by pluralism, civil liberties, and political culture) outnumbered those becoming more democratic by more than 2 to 1. Less than half the world's population, according to their report, lives in a democracy of some sort (flawed or full).

> A fully participatory democratic political system based on equal citizenship has never been achieved easily

Popular support for democracy, for all its imperfections, remains high. Seventy years ago, Winston Churchill quipped that 'democracy is the worst form of Government except for all those other forms that have been tried from time to time'. It is no less apposite today. 'Democracy' is typically understood in the Western sense: market economies, individual rights, elected governments. Yet one of the inherent strengths of democratic systems is their flexibility and pragmatism. You can borrow good ideas and tailor them to your requirements. States' public institutions can look very different from each other and yet work well in their particular context and for their specific stage of development.[5] The Western model in its entirety will not be right for everyone. Rwanda's President Paul Kagame has frequently made this point, emphasising the need for Africans to redefine democracy in accordance with the continent's distinct history and needs. Kagame knows better than most, however, that the alternative to democracy are autocracies and dictatorships that usually cannot be removed without bloodshed.

The rise of electoral democracies globally is one of the clearest political currents of the past century. In the first Survey of Freedom in the World by Freedom House in 1972, just 42 countries

African elections and electoral democracies pre-1990

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- Electoral democracies
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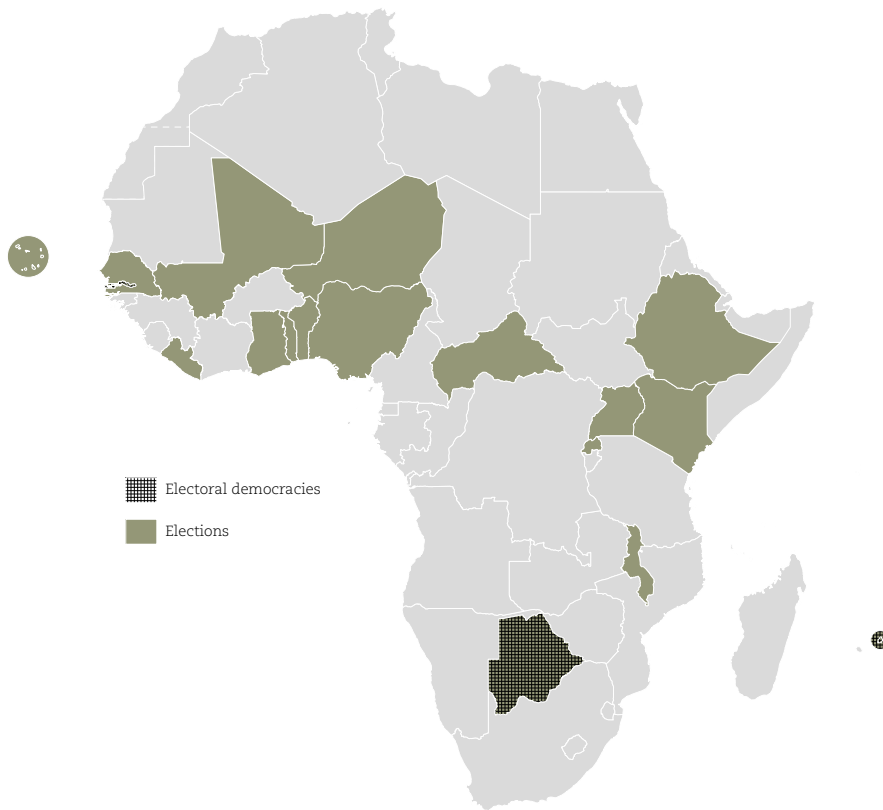
African elections and electoral democracies post-1990

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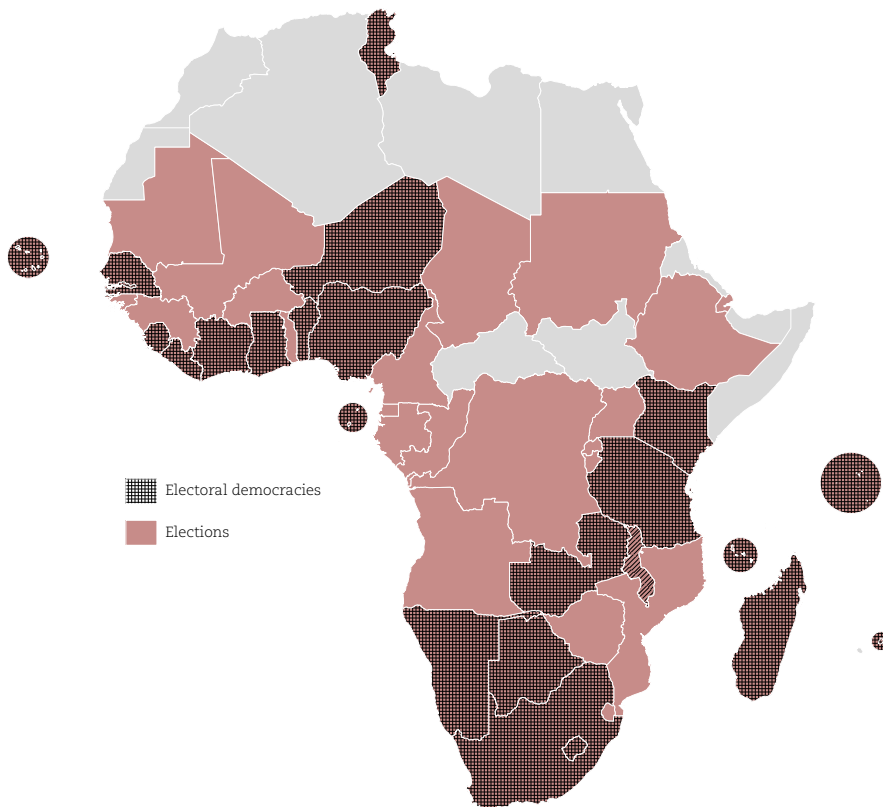
Source: Adapted by the authors from Afrobarometer.

were classified as electoral democracies; today the number is 125. Full and equal suffrage is today considered a universal principle specified in the Universal Declaration of Human Rights. Of course, not all countries considered electoral democracies are listed as 'free' in the Survey, reinforcing the point that elections themselves do not equal democracy. Elections are by their nature a constrained and flawed process. And in voters' minds they will not always be about democracy. Elections can be an exercise in power bargaining at the local level, a means to share resources, a way of testing loyalties or managing internal dissent. That elections sometimes produce non-democratic outcomes – *in extremis*, the election of a dictatorship – should not surprise us. Historical experience shows that the complex, organic processes that need to play out over decades for democracy to be consolidated – building social capital, embedding norms of pragmatism and accountability, broadening the tax base, and so on – happen in-between elections. No single political event can produce these outcomes.

> Well-managed elections that are perceived as 'free and fair' can help to mediate conflict between opposing groups and root democratic norms in society

Elections are nevertheless a fundamental part of democracy. Provided they accurately reflect the will of the people, elections are the basis on which democratic governments receive their legitimacy, exercise their authority and help strengthen perceptions of citizenship and inclusion within the national polity. As one dialogue participant observed, they 'represent the best tool we have for translating political expression into representative, responsive governance, and are therefore a uniquely important feature of public life'. Moreover, regular elections, owing to their massive logistical and technical requirements, are typically a strong indicator of progress in state capacity.

For states emerging from periods of conflict and instability, elections can exacerbate societal fault-lines, especially when politicians seek to mobilise supporters around differences (racial, ethnic, tribe, religion, etc.). Poorly-run and stolen elections can erode people's faith in democracy's capacity to reflect their interests and deliver meaningful change. But well-managed elections that are perceived as 'free and fair' can help to mediate conflict between opposing groups and root democratic norms in society. In more democratically advanced states, elections are a potent method for synthesising popular sentiments and aspirations into a distinct policy agenda for governing. Staffan Lindberg has identified several ways elections can have democratising effects: training voters in democratic arts, coordinating pro-reform factions, forcing governments to make small concessions after the outcome (e.g., a controversial presidential win) to regain legitimacy.[6] And they are the most effective way to remove incompetent leaders peacefully. Multi-party elections may be problematic but we cannot do without them.

Africa

Africa lurched onto democratisation after the end of the Cold War. During that initial, triumphalist phase of democracy in the 1990s Africa's authoritarian states proceeded less by plan than through experimentation and improvisation. For the most part, regimes acceded to public demands for competitive elections. Voting became the norm. Between 1990 and 1994, the first multi-party elections in over a generation were convened in 29 out of 47 states in sub-Saharan Africa.[7] Without lived experience or much civic education, however, the idea that elections and democracy were synonymous gained harmful traction in what were still deeply illiberal political cultures.

The international community – read The West – was heavily complicit in privileging the electoral over the liberal and participatory aspects of democratisation. Elections became a 'quick deliverable' for donors: a potent signifier to domestic constituencies that the West was making progress in spreading the liberal international order

to developing corners of the world and that their money was being well spent. Not nearly enough was done by either locals or their international partners to grow democracy through elections. The hard slog of creating sustainable institutions, developing constraints on the executive by judiciaries and legislatures, safeguarding the legal rights of citizens and building an informed citizenship – all received scant attention. This is reflected in Afrobarometer surveys on how much democracy Africans *feel* they experience in their lives. Though three in every four Africans believe democracy is preferable to any other system, day-to-day the touch of democracy is very light.[8] At the heart of the current ennui around democracy in Africa is the sense that its citizens are still unable to exercise any effective influence on politics in-between elections, especially big failings in leadership and governance.

> Though three in every four Africans believe democracy is preferable to any other system, day-to-day the touch of democracy is very light

An increasingly common refrain in parts of the continent is that elections – even comparatively free and fair ones – only further entrench a winner-take-all mentality and a culture of state predation. To many, Africa's elections have become a means of endorsing the status quo, as in Sudan or Rwanda. For others, elections provide a false veneer of legitimacy to a government that is not legitimate at all, as in Burundi. In some countries, they are not really elections at all, but 'election-like events'.[9] Zimbabwe is one of several African countries where a distinct form of electoral authoritarianism has set in. Elections are held at regular intervals but the government continues to brazenly deprive its citizens of civil liberties at its whim. And elections make no meaningful difference to the lives of Zimbabweans. Consequently,

public confidence in the system's capacity to deliver change has collapsed.

The same cannot be said of voter turnout. It has not collapsed to the degree one might have expected in Zimbabwe, and remains strong in other countries like Angola where elections have also taken on a perfunctory character. Further evidence, perhaps, that the 'meaning' of African elections cannot be taken for granted, i.e. an essential part of performing democracy. Voters' behaviour may well be determined as much by a desire to insert themselves into socio-economic networks, or improve life circumstances by being in the winner's camp, than any sense of political affinity. Understood in this way, multi-party elections on the continent are a reliable indicator of *electoral* support for leaders like Museveni in Uganda or Dos Santos in Angola, but not necessarily *political* support. This is not an insignificant distinction when considering the role of elections in contributing to democratic consolidation.

Elections reflect the broader web of bureaucratic and political processes in which they are embedded, and 'require significant political will at multiple levels to work as intended'. In other words, if the structures embedded in the political system are not democratic, there should be no expectation that elections will be any different.

> Elections reflect the broader web of bureaucratic and political processes in which they are embedded

On several important indicators, sub-Saharan Africa is ahead of other regions, such as the Middle East and Central Asia, in terms of political participation. Yet the continent still faces huge challenges in constructing formal democracy on a foundation of colonial and illiberal, neo-patrimonial legacies. According to the EIU assessment, democratisation overall has stalled in Africa, with aspects of pluralism and the functioning of government and

Election voter turnout
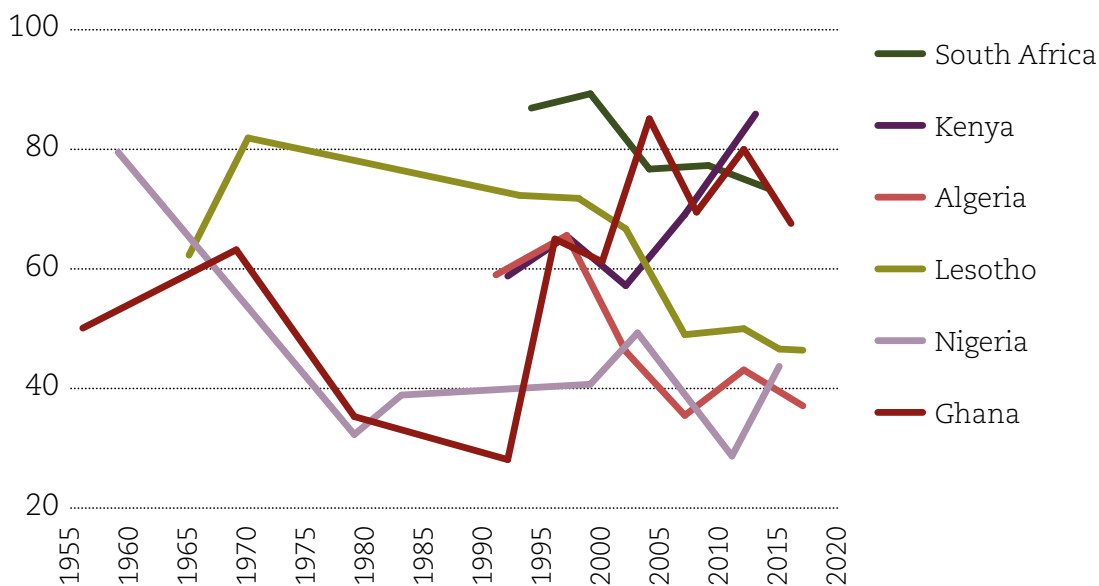
Source: Adapted by the authors from International Idea.

quality of civil liberties actually declining. Thus, not surprisingly, the quality of Africa's multi-party elections remains low, averaging just over five (out of 10) according to the national elections across democracy and autocracy dataset.[10]

Recommendations and Pointers
- *Democracy worldwide is in recession.*
- *Elections do not equal or necessarily bring democracy.*
- *The purpose and 'meaning' of elections cannot be taken for granted.*
- *Elections occur against a backdrop of stalled democratisation.*
- *Find the right tools and mechanisms to restore the 'power of the vote' back to the citizen.*
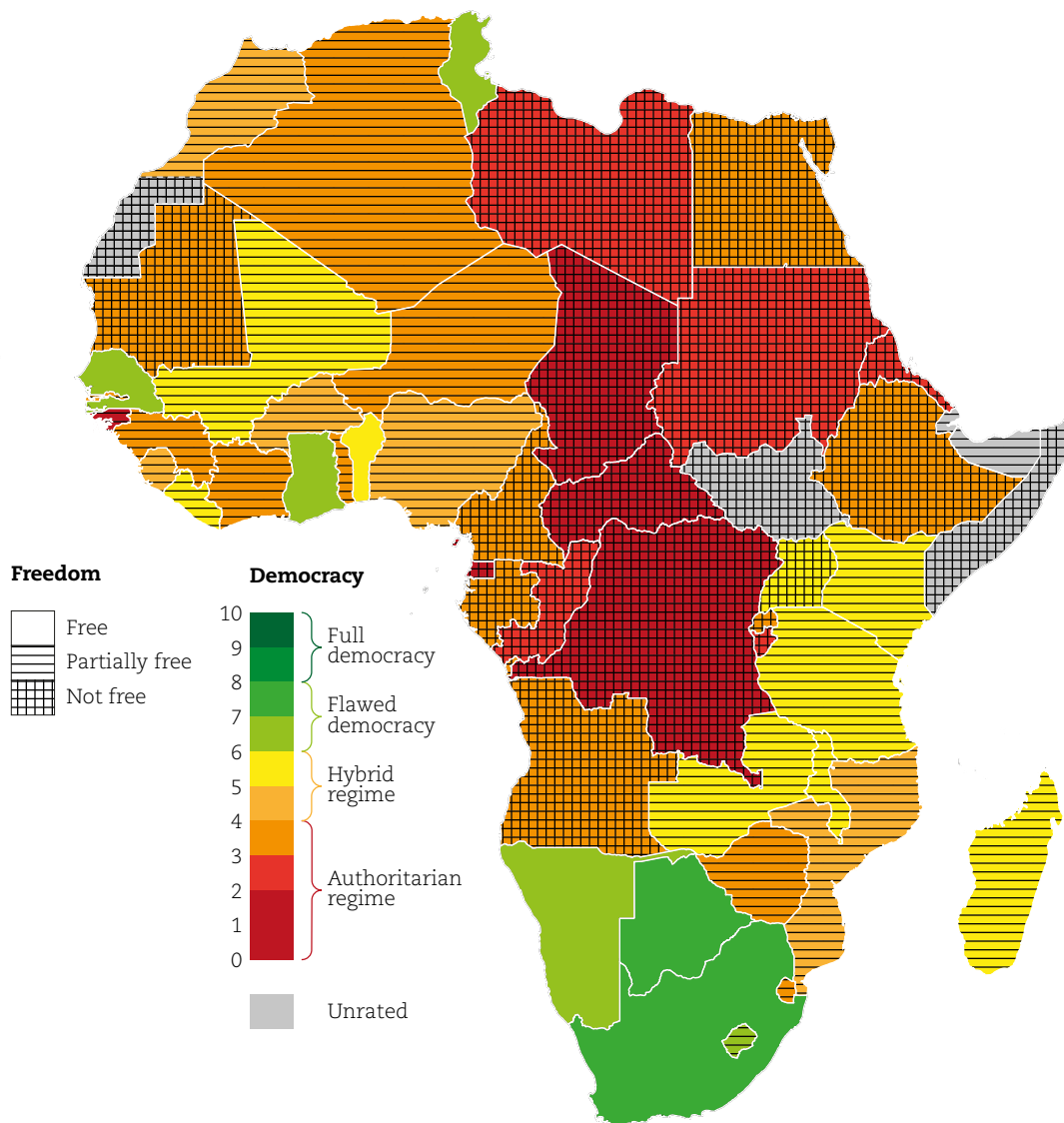
Technology

Africa has been a global pioneer in the deployment of technology in its elections. First used in the Democratic Republic of Congo elections in 2006, roughly half of all national-level elections in Africa now involve digital equipment of one form or another. The popular rationale for their introduction is to improve the voter registration process, ensuring countries have the most apolitical, accurate and thus credible lists of voters. Biometrics (typically fingerprinting, but can also be

iris or facial recognition) are increasingly deployed in Africa to assist electoral commissions in reducing duplications and help make voter verification seemingly fail-safe on election day. Deployed effectively and operated proficiently, technology can significantly reduce opportunities for rigging elections.

To date, however, democracy in Africa has not been well served by new election systems. Many governments as well as segments of the international development community have reified new technology as a panacea for all that ails African elections. But technology cannot fix broken institutions or act as a substitute for political will. Whilst technological advances can help to address some of the problems in the electoral process, innovations such as Biometric Voter Registration (BVR) have generally been over-sold to Africa's voting publics. BVR is one technical step in a whole process still requiring human intervention, such as the distribution of voter registration cards. Neighbours or husbands or other family members sometimes serve as distributors, exposing the process to politicisation.[11] Hence what might appear 'tamper proof' in theory rarely eventuates in practice. The contexts in which such systems are deployed are ripe for politicisation due to multiple constraints, including:

- *Funding.* Polls in advanced democracies typically cost between US$1 to US$3 per head. In the 2013 Kenyan election where six ballots were held on the same day, estimates of its cost ran over US$20 per head. African countries – often reliant on declining donor funding to support the initial roll-out of new election technologies – struggle to meet the follow-on costs of maintenance, storage and upgrading, let alone the daily running costs of their operations.

- *Governance.* Procurement of such systems opens up vast scope for graft and corruption in states grappling with myriad governance challenges.

- *Skills.* A sufficient skills base – notably, computer skills with an emphasis on data capture, processing and administration; sophisticated planning and logistics; equipment repair and maintenance – is typically available only in pockets, with large areas facing acute capacity constraints.

Freedom and democracy in Africa – 2017

Sources: Adapted by the authors from Freedomhouse and Economist Intelligence Unit.

- *Power.* Deployed technologies require sufficient and reliable power supply, which is frequently absent for at least part of the day, especially in remote voting stations. When power failures or technology breakdowns occur, typically there is a reversion to manual processes.

Amplifying existing constraints is the lack of time local election bodies are generally given to familiarise themselves with and be trained on the deployed technology. Systems generally need to be in place six months to a year prior to elections to ensure a high degree of readiness, especially given the high turnover of new technologies and procedures; in some recent elections, voter verification kits arrived at polling stations the day before the vote. When systems do arrive well in advance, incumbents can exercise undue control over their use and deployment to the disadvantage of political opponents. Ironically, technology meant to streamline elections on the continent has introduced levels of complexity that make them easier to manipulate than more traditional, simpler procedures. To be sure, it also works both ways: the more sophisticated the technology, the more technological know-how is required of the fraudster. Perhaps more worrying is the entrenched lack of trust amongst average voters. If they are uncertain how the technology works, they are likely to perceive any hiccup, such as a *genuine* power cut, as evidence that 'the fix is in'. There is still a tendency for legitimation to be perceived in terms of *outcome* – e.g. was there a big difference between incumbent and opponent – rather than *process*.

Kenya's former anti-corruption tsar, John Githongo, once wryly observed, 'you cannot digitize integrity'. In other words, election technology will only be as fair and functional as the persons and institutions entrusted with them. Mindful of this axiom, recent elections nevertheless suggest a few measures that could put Africa's 'technological turn' on a better democratic trajectory.

The first is to ensure that technological solutions are introduced in collaboration with the lawmakers responsible for passing enabling law for elections.

The second is the need to disaggregate the new technologies and methods. Disaggregate not only the bits that work and don't work, but also what a constrained environment can realistic absorb and what it cannot. Systems need to be secure, accessible and efficient. Hybrid systems – technology rolled out for only part of the electorate – are particularly vulnerable to rigging. Nigeria's much-praised chair of the 2015 electoral commission Professor Attahiru Muhammadu Jega resisted the deployment of a host of technologies in favour of just four. Faced with massive training and logistical challenges across a vast population, Professor Jega adroitly assessed the testing and preparations required to use newly-introduced technology effectively against existing capacities. He knew Nigeria's limits.

> Election technology will only be as fair and functional as the persons and institutions entrusted with them

The third is to ensure technological solutions are not a substitute for doing the basics – i.e. developing reliable government records of national populations (deaths, births, marriages) that can be fed into a single repository. Flawed voter rolls – roughly 15–20 per cent of Zimbabwe's initial 2013 voters roll were dead people – are one of the principal tools for compromising elections. Governments have in the past resisted calls to independently audit them because a reliable list would *de facto* make them more accountable. Kenya has done the opposite. The government commissioned KPMG to conduct an audit of Kenya's biometric roll. Though several problems were uncovered – close to 3 million inaccurate records, around 1 million dead – it allowed for the roll to be scrutinised and (hopefully) cleaned in time for the August 2017 vote.[12]

A properly maintained civil registry is a critical backstop for democratic elections, whether conducted along more traditional lines or using elaborate technology. In a similar vein, election observation methodologies such as parallel vote tabulation (PVT) serve as a vital, independent verification tool to prevent technology

Fairness of elections

On the whole, how would you rate the freeness and fairness of the last national election?

Source: Adapted by the authors from Afrobarometer.

being manipulated. The effective use of PVT by Zimbabwe's opposition MDC in the first round of the 2008 election enabled it to release accurate results weeks before the government did. Uganda's opposition systematically releases PVT after national elections, though neither locals nor international bodies have paid them as much attention.

And finally, the use of social media as a tool to enhance democracy and accountability. Election management bodies can track election-related conversations being conducted on social media platforms as a means to better understand issues and concerns of voters. Effective tracking on social media can also help identify and monitor

incidents which may have an effect on the integrity of elections.[13]

Recommendations and Pointers

- *Technology is not a panacea; it cannot fix broken institutions or act as a substitute for political will.*
- *The scope for politicisation and manipulation remains high.*
- *Collaboration with lawmakers on technology is essential.*
- *Disaggregate new technologies and methods.*
- *Technology is not a substitute for doing the basics – maintaining a reliable civil registry.*
- *Use social media to enhance democracy.*

Money

Elections in Africa have become an expensive business. Lesotho's general election held on 3 June 2017 – the country's third snap election in five years – cost as much as $25 million or just under 2 per cent of the country's entire 2016 budget. And that's for one of Africa's smallest and least populous countries. The estimated cost of the next election in the DRC (indefinitely delayed but originally slated for 2016) is near $2 billion. As indicated above, the procedural costs of elections are often considerably higher than the per capita cost of elections in developed economies.

> More detrimental to democratisation is the ever-increasing monies spent by political parties during election campaigns

More detrimental to democratisation, however, is the ever-increasing monies spent by political parties during election campaigns. Africa's electorates invariably bear the brunt of election over-spending. This is especially true where there is a marked conflation of party and state, which effectively licenses incumbents to raid state coffers to finance their campaigns. After losing the 2015 election in Nigeria, outgoing President Goodluck Jonathan was forced to deny spending astronomical sums to win votes for his ruling Peoples Democratic Party (PDP). Even if his reported total spend is exaggerated, clearly extraordinary monies (experts believe between $2 and $3 billion) were doled out in a failed attempt to *decisively* influence outcomes at the polls. The victory of current President Muhammed Buhari's All Progressives Congress (APC) over the PDP illustrates that 'defeating *money*' is not impossible – APC spent several times less on its campaign – yet the financial challenges facing opposition parties should not be underestimated. Imagining how an opposition party could possibly compete in Angola, for instance, would still require a considerable leap of faith.

Over-spending by governments and political parties has another side. Voters themselves often demand gifts or hand-outs of some kind in return for their support. Leaders who do not accede to such demands often lose. This dynamic is another contributing factor in Africa's spiraling elections costs. Reversing the trend of vote buying will require far deeper reform in public administration and delivery.

Problems around campaign financing are not unique to Africa. Countries everywhere have grappled with questions of transparency – i.e. where party funding for elections comes from – to ensure their elections are conducted on a level playing field. This is also partly linked with the lack of democratic procedures within political parties, opposition included. Within Africa, systematic financial abuses by government campaigns are common in everything from media platforms and advertising space to the use of state vehicles and contract tenders. Such abuses typically start before official campaigns kick off. One tell-tale sign is the spike in government procurements – a form of pork barrel politics – which typically occur in the months prior to election day. For a whole host of actors, elections give rise to income-generating activities. They have become an industry.

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Several considerations bear mention in attempts to better align election spending with ideas of fairness and equity that are central to democratic consolidation. Though circumstances vary across the continent, common to all countries should be two related objectives: reduce the

costs of elections and make it easier for opposition parties to compete on a level playing field. Bolstering the mandate and (funding) expertise of observer missions could help improve accountability and transparency. Root-and-branch campaign finance reform would, however, require new tools to expose financial flows to scrutiny and place all parties on an even footing. In fledgling democracies, however, transparency can act as double-edged sword. Opposition party funders may seek to retain their anonymity to protect their financial interests, if incumbents are likely to punish firms and individuals not supporting their own campaign. One mechanism to address these complexities discussed at the Roundtable would be the establishment of an independent body to which all party donors would be compelled to channel their funding. In turn, the pool of resources would be divided and distributed according to a commonly agreed formula in an open and transparent process. Critically, this formula should not be based on past election performance or existing seats in parliament, as both would favour incumbents.[14]

Recommendations and Pointers

- *Elections in African have become too expensive.*
- *Elections are a business; highly profitable for certain interests.*
- *Campaign financing needs to be reformed.*
- *It needs to be made easier for opposition parties to compete on a level playing field.*

Incumbency

Governments the world over aim to stay in power. A general litmus test for the health of a democracy is whether they leave office when the law says their time is up. Constitutions are *sine qua non* in this regard. Not least, as one dialogue participant reminded, since 'autocrats can be democratically elected, and "democrats" can become autocrats in office'.

Peaceful transfers of power through elections are becoming more common in Africa where once they were unheard of. Incumbency is no longer automatic. Oppositions are learning from their mistakes and doing better. The credibility

of electoral commissions in some countries has strengthened. And voters are more assertive: governments increasingly face consequences at the ballot box for failing their economies.

Most African countries have constitutionally imposed term limits, typically two five-year terms. But since the 1990s, at least 30 presidents in sub-Saharan Africa have tried to extend their rule by tweaking constitutional term limits. Around half have succeeded. Of those bent on abusing incumbency to remain in charge, short of a military coup they can be confident of scarcely a wrist slap from regional bodies, the African Union and the international community. A crude ethos has developed on African elections that if there was no violence, then basically it was a 'good' election. Even then, it's relative: nearly 200 Nigerians were killed across the country in the run-up to its 'successful' election. That the sheer size of Nigeria's population may have taken the sting out of those numbers makes it no less concerning. The international community *write large* can often appear untroubled by the idea that elections that wouldn't pass muster in the major powers are accepted in Africa.

> A crude ethos has developed on African elections that if there was no violence, then basically it was a 'good' election

This has certainly been the case where undemocratic incumbents pull various levers to effect 'victory' at the ballot box. Often the abuses start early on, in the selection of national electoral commissions, which usually operate under the purview of a sitting Minister of Interior or a Presidential appointed board. The demarcation of constituencies, recruitment of election personnel, compilation of the voters' roll – all afford subtle advantages to the incumbent. Often such processes occur under the cover of an otherwise democratic reform agenda. In Uganda, for instance, President Museveni has built a regime which comprises democratic and autocratic elements at the same time. Its electoral commission

is nominally independent but its members are nominated by the President and in practice does his bidding, ignoring consistent calls from civil society for electoral reform. In cases where new election technology is being procured, incumbents can gain advantages through use and familiarisation well before opponents get access.

Control of state-run media offers partisan messaging and reporting opportunities throughout an election campaign. Of course, bias and hyperbole are common to both government and opposition press. Explicitly partisan press is much more common than 'objective' media. The fake news phenomenon has generally served the interests of government, for whom it's become a ready pretext to crack down on opposition voices. The overall command of police and security services can be used to harass and threaten opposition leaders and supporters, as recently evidenced in Uganda and Zambia. Should an incumbent challenge the results of an election, dispute resolution can be manipulated where judiciaries and public administrations are not impartial. In all potential scenarios outlined above, access to the public purse affords incumbents wide scope to tilt the playing field in their favour.

> The overall command of police and security services can be used to harass and threaten opposition leaders and supporters

Drawing a direct link between specific transgressions by incumbents and election outcomes or voter behaviour is not straightforward. Incumbency is hard to overcome in any electoral democracy – like boxing, a seasoned election expert once said, you've got to knock out the champion to win the title. And when they use undemocratic means and methods, it is always difficult to place a 'value' on government crackdowns of the independent press or restrictions on opposition rallies. Yet there can be no doubt that opposition campaigns suffer thus.

At the same time, there is a clear bias evident amongst, especially, international media and officialdom that the opposition are 'always the good guys'. That is not the case. It is common practice within Africa for the opposition to attempt to delegitimise the official results of nearly every election, even comparatively clean ones. In cases where violations have not been excessive nor likely swung the election in the incumbents' favour, oppositions often still reflexively proclaim that the election was stolen. Evidence of wrongdoing, for all the investigative and political challenges involved in securing it, must be the criterion on which allegations are assessed. Both incumbents and oppositions can undermine institutions and democratic legitimacy.

> There is a clear bias evident amongst, especially, international media and officialdom that the opposition are 'always the good guys'

Recent elections, notably the defeat of Nigeria's ruling party in 2015, suggest several measures to counter governments intent on using incumbency to distort electoral processes. Much inevitably rests on opposition parties. The question of whether they can come together in the face of government malfeasance is an increasingly potent dynamic in African elections. Eventually six opposition parties merged in Nigeria over the two years prior to its 2015 election. Both insiders and experts suggest that that unity was pivotal in forestalling nefarious attempts by President Jonathan to cling to power. Doubtless that level of unity would be unobtainable in many fragmented political contexts but sometimes that's what it will take to overcome a determined incumbent. It's conceivable that a different outcome to Zambia's disputed election may have resulted had the main opposition party under Haikande Hichelema (at the time of writing, imprisoned on trumped-up treason charges) formed political coalitions in the run-up to the

election. In the absence of a united opposition, the government had relatively free rein to influence Zambia's post-election judicial and security processes, in a way that The Gambia's defeated incumbent – Yahya Jammeh – did not in 2016/17. The Gambia's supreme court managed to resist his attempts to petition the judiciary to annul the election results, if only through delay tactics.

> Civic education has a vital role in formulating ideas about elections, not as events, but embedded parts of democracy

A strong civil society is one of the principal bulwarks against incumbent excesses. In-between elections, every effort should be made to empower civil society – including churches and faith groups – with an active role in the formulation of electoral commissions' mandate, its membership, staffing and operation. There was a broad consensus at the dialogue on the need for electoral commissions to be professional institutions with the broadest oversight by civil society, not staffed by political appointees. Civil society can also serve as a check on abuses through ad-hoc groupings – such as national peace committees, business alliances, faith-based councils – and extensive use of both traditional and social media to highlight abuses of public media by incumbents. At a deeper level, civic education has a vital role in formulating ideas about elections, not as events, but embedded parts of democracy. Though in itself almost always insufficient to prevent a stolen election, maintaining strong links and consistent engagement with key international bodies (UN, EU, etc) is nevertheless vital to any concerted civil society (or opposition) pressure on errant incumbents. In doing so, the impact of greater international financial assistance to local NGOs needs to be borne in mind. Backlashes against civil society organisations funded from abroad are becoming more common, highlighting the need for domestically sustainable NGOs.

Doubtless the most substantive constraint on aberrant incumbency is the African Peer Review Mechanism (APRM) – at least in theory. Currently the APRM is not backed by sufficient political will and commitment from individual African countries. If it functioned as its originators, former Presidents Thabo Mbeki and Olusegun Obasanjo envisaged, the APRM would not only render such electoral abuses much less frequent, but also dilute the pernicious winner-take-all mentality.

Recommendations and Pointers

- *Peaceful transfers of power are becoming more common in Africa.*
- *Crude ethos has developed: if there was no violence, it was a good election.*
- *Unity of opposition a strong bulwark against incumbents clinging to power.*
- *A strong civil society is one of the principal brakes on incumbent excesses.*
- *Renew the APRM as a key constraint on errant incumbency.*

Violence

Not so long ago the idea of the African security sector contributing positively to democratic consolidation would be roundly derided. Such was the dire reputation of most African militaries. Tainted by colonial and postcolonial legacies, armed forces historically served the narrow interests of the regime. Or were the regime itself, through often violent, destabilising coups. Either way, they were feared by the citizenry. But since the end of the Cold War civil-military relations and the professionalisation of African armed forces have improved considerably.

At the same time, incumbents in some parts of the continent have actively resisted professionalisation to maintain a stranglehold on all or at least parts of the security sector. Where the state and party have become one, legitimate political opposition is usually portrayed by governments in the grammar of security ('enemies of the state'). It usually transforms into a grammar of violence around election time.

Zimbabwe is *exemple par excellence* of this phenomenon. When the ruling Zanu-PF party realised they were likely to lose the second-round run-off, it unleashed the might of its military on the opposition MDC. Murder, torture and displacement made it impossible to continue with the run-off. Zimbabwe also potently demonstrates the two, interrelated functions of government-driven electoral violence: to attack opponents and to intimidate people who might defect from the ruling party. As one dialogue participant explained, 'much of the violence in Zimbabwe was directed against communities that were "supposed" to be ZANU PF, but were seen to have let the ruling party down. The violence was a deliberate strategy to remind them to get back into line, and to warn others not to follow suit.' When regimes grow fearful of internal disunity, violence typically rises in step.

> Zimbabwe also potently demonstrates the two, interrelated functions of government-driven electoral violence

The armed forces in Zimbabwe and many other African countries are not *just* tools of the regime, however. They also maintain their own strong institutional and economic interests, which they will seek to promote and protect during elections. In Lesotho's June 2017 general election, the armed forces – inordinately powerful in the country's political history – ignored state policy by leaving their barracks and gathering in small numbers at polling stations across the country. No violence accompanied the Lesotho Defence Force's (LDF) actions, but the messaging inherent in the optics was clear: whomever wins the election mustn't tinker with the LDF's privileged slot in Lesotho society.[15]

Violence has been a feature of Lesotho's electoral politics since the colonial period, yet contestation has never centred on ethnic divisions (Lesotho is essentially homogeneous) unlike many African states. Kenya is but one example of where the politics of ethnic mobilisation has frequently sparked clashes during elections. Regular cycles of ethnic violence had marred Kenya's electoral politics for decades prior to its disputed 2007 poll. Relatively low-level and restricted to certain parts of the country, Kenya's election-related clashes were scarcely noticed by outsiders until large-scale violence and displacement carried out mainly by ethno-political militias exploded in the aftermath of the 2007 vote. Similarly in Uganda, violence and intimidation have been a constant around elections, yet the techniques – in this case, government's – have become more indirect, less amenable to international sanction (even when you throw the main opposition leader in jail – if *only* for a few days, regularly). Uganda's police have frequently been cited as leading human rights violators in the country, yet the same police have responsibility for election security. Militias are also recruited in most villages. Closer to the people and paid for a specific job during election times, militia men can frequently be seen at polling stations.

> Elections are often the final stage of a peace process, if not the ultimate objective

Elections are often the final stage of a peace process, if not the ultimate objective. The hope is that elections can have a stabilising effect on a fractured society. Done well and timeously, they can. But conducted too early, before security problems have been converted into political problems, they can have the opposite effect: exacerbate divisions and foment violence. All-party pre-election pledges to respect the results can help, but are not always honoured.

The timing and quality of elections in post-conflict societies bear particular attention. An election is a means to an end, not an end in itself. Africans' reasonable expectation of return on elections is better governance and improved

welfare over time. Africans – young in particular – will lose interest and tire of voting if that doesn't happen. Eighty-five per cent of Lesotho's voters registered for its first democratic election in 1970 cast their ballots; in the last two, just 47 and 46 per cent respectively did. The same exasperation will set in if elections are routinely abused. Young people will pick up arms instead.

Recommendations and Pointers

- *Where the state and party have become one, electoral violence is much more likely.*
- *Armed forces often maintain their own interests, which they will seek to promote and protect during elections.*
- *The techniques of violence and intimidation around elections are changing.*
- *Government-led electoral violence aims to attack opponents and prevent defections from ruling party.*

International Dimension

International bodies conduct two principal functions *vis-à-vis* elections: monitoring and observation. The latter comprises 'watch, note and report' tasks. International observers do not pronounce on 'legitimacy', as per the UN's Declaration of Principles for International Election Observation: 'it is the people of a country who ultimately determine credibility and legitimacy of an election process'. Monitoring is more intrusive, involving supervision and in some circumstances different forms of intervention. The African Union (AU) has sought this mandate. Overall the discipline has become professionalised over the past two decades. A set of norms and techniques have gelled into a broadly accepted global standard for observation/monitoring of elections. Skills transfer from experienced practitioners – notably the Organisation of Security and Cooperation in Europe (OSCE) – to local NGOs is also becoming institutionalised. Advance and follow-up missions are now commonplace, helping to ensure the pre-election environment is conducive to successful elections and that electoral reform remains on governments' agenda.

International observation and monitoring occurs in various contexts and stages of democratic

transition; even some dictators will allow observer teams into their country, confident that their control of electoral processes is such that they can achieve both a manipulated outcome and some level of international legitimation. A story, perhaps apocryphal, goes that long-time Kenyan president Daniel Arap Moi once quipped that he wanted to hold a 'C' election: just enough so that Westerners could not demand his removal, but still allowing the fix to be in. Indeed, except in cases of widespread bloodshed and violence, the international community rarely puts its collective head above the parapet to sanction governments (or opposition parties) for election abuses. Consequently, despite the proliferation of international election observer missions (or EOMs) in recent years, it's unclear whether there has been a concomitant shift to more democratic election behaviour by either incumbents or opposition parties.

> The international community rarely puts its collective head above the parapet to sanction governments for election abuses

What is clear is that international engagement on African elections lacks consistency and a coherent identity. Too many external actors examining and interpreting events from different angles, often with differing if not conflicting agendas. The West is perceived to be advancing one agenda, Africa another, regional organisations perhaps another still. And then there is Africa's biggest trading partner, China. Beijing's soaring influence on the continent cannot be neglected in considering the likely trajectory of Africa's elections, not least since China fiercely resists the idea of democratic votes at home.

That international election observation missions nevertheless receive bad press in Africa is partly beyond their control. Constrained by time and strict mandates, observer missions are rarely privy to the early abuses of electoral processes which occur before their arrival.[16] A report assessing an election to be 'generally free and fair *on the day*'

may not account for various prior manipulations that affected the result. Even if they did, observer missions have no teeth. If their recommendations are ignored, as with the Commonwealth Observers Report on the 2016 Uganda election, they have no means to sanction sovereign states. Even the most strongly worded election reports have had limited impact. In some cases this is partly due, as in Uganda, to the perceived absence of a credible alternative to the incumbent.

> Observer missions will always operate in the real world, against the backcloth of local and international politics

One of the most vexing problems of African elections is that many lie in an ambiguous grey area, neither totally 'free and fair' nor explicitly rigged or manipulated. Election observation missions and the international community generally have not found an effective vocabulary nor the means of responding to these situations.

In post-conflict settings observers often find themselves in a invidious position. The hope is that the presented evidence will 'speak for itself' and thus not force an election mission to enter the political fray. If that doesn't work, as it invariably doesn't, values and interests collide. Missions must consider the consequences of their words on political stability: too critical a report could exacerbate divisions and spark insecurity; too weak a report could effectively countenance abuse and stymie reform. Informed by heightened diplomatic engagement, missions often default into whatever is in the immediate interests of peace, however injurious that may be to long-term stability and security. Amplifying election challenges in post-conflict states is the trailing-off of international engagement typically evident after the first election. The DRC's first election in 2006 after decades of tyranny and conflict attracted massive global interest and donor support. A decade on, donor fatigue has set in. As incumbent Joseph Kabila brazenly schemes to postpone elections year after

year, the DRC generates nowhere near the same level of international engagement that it did during the mid 2000s.

Observer missions will always operate in the real world, against the backcloth of local and international politics. When the capacity of local institutions is weak and civil society is not well-positioned to speak up for themselves, the international community has to navigate a fine balance in considering a host of difficult questions – what is the threshold for sanction? What might be the consequences of a specific intervention against an authoritarian regime? Ultimately, elections are local. Observer missions and the international community are limited in what they can do. Do too much and they will likely face a backlash for infringing on state sovereignty. The anti-NGO legislation introduced (but not ultimately passed) in Kenya targeting Western-funded organisations was at least in part a consequence of Western diplomats having overstepped the mark in their comments about local politics.

> Locals are generally keen for international observer missions to be present during their elections and believe they help

Observer missions go where they are invited and where it's safe to conduct their work. Most public opinion surveys in Africa suggest that locals are generally keen for international observer missions to be present during their elections and believe they help, despite being often disappointed when they pull their punches. Burundi's election in 2015 was not officially observed because the minimum security requirements were not in place. Where they are present, allegations of double standards are common. President Ali Bongo of Gabon is widely believed to have got off lightly on questions about the 2016 disputed election. There was no appetite within the region to take a stronger line, despite sharp concerns over transparency expressed by the AU, UN and EU missions.

Yet in less-influential Lesotho, SADC admonished its government on everything from transparency and justice to security and even individuals, yet their election itself was deemed largely successful.[17] In Zimbabwe, President Mugabe permitted only African observer teams in the 2013 election. Mugabe sought to co-opt African missions into his anti-Western narrative, in effect framing his re-election in terms of a defence against neo-imperialism. And in Nigeria, massive international support and engagement was brought to bear in 2015 in ways that only a handful of major African states could ever expect.

> Local ownership is, as ever, key to democratic progress and consolidation

Nigeria bears mention inasmuch for the success of its opposition campaign and its commendable local management as for the multiple problems which beset the election. Largely ignored because the opposition won and there was a peaceful transfer of power, these problems could resurface with devastating consequences at the next election. Nigeria benefited from a confluence of factors – a wide margin of victory, huge internal and external pressure, a brave and insistent Inspector General of Police (who forced President Jonathan to concede, contrary to international reports that he willingly stepped aside) and a deeply unpopular incumbent – that might never be replicated.

The strengthening of local observer missions and the professionalisation of Africa's electoral commission bodies in Nigeria, as elsewhere, should increase the resilience of African states to various electoral challenges. Over time such institutional advances should lessen the relevance, if not need for substantial international missions. South Africa's much-lauded Independent Electoral Commission is the continent's current standard bearer. Doubtless it will face its sternest test of South Africa's democratic era in 2019, should the party which has run the country since 1994

– the African National Congress (ANC) – adopt undemocratic means to shore up its waning popularity, as many fear.

Local ownership is, as ever, key to democratic progress and consolidation. Though the role of external missions should always be complementary, to date their (often constructive) recommendations have not gained sufficient traction. The aim of outsiders, averred one dialogue participant, is to empower insiders – from whom they require local knowledge – to do a better job and be self-accountable. Credibility is vital here.

Recommendations and Pointers

- *Observer missions will always operate in the real world, against the backcloth of local and international politics.*
- *International community rarely puts its collective head above the parapet to sanction.*
- *Many elections lie in an ambiguous grey area, neither totally 'free and fair' nor explicitly rigged or manipulated.*
- *The international community has few tools to prevent a stolen election.*
- *Local ownership is key to democratic progress and consolidation.*

Into the Future: Principles for a Democratic Election Playbook

The democratic backsliding evident in Africa among both top performers and more repressive countries during the past decade is cause for alarm but also not surprising. Democratisation is a long-term process marked by setbacks and often periods of violence. Western governments often decry the slow pace of reforms in developing countries, forgetting their own tortuous pasts. And the democratic recession evident in Africa is a worldwide phenomenon.

Despite grave concerns about persistent corruption and worn-out leadership, Africa has witnessed halting progress across a number of key indicators assessed over the whole post-Cold War era. It is currently out-performing the Middle East and parts of Asia. One of the most potent signs

that Africa remains, despite various setbacks, on a broad democratic course is that even its few remaining tyrants seek popular legitimacy through multiparty elections. That said, it is important to emphasise again the different 'meanings' of elections outlined above. They do not always affirm democratic practice because that's not what they are fundamentally about in some contexts.

The AU Charter on Democracy, Elections and Governance was adopted in 2007 and entered into force in 2012. As with numerous AU initiatives, the charter attracts wide support in theory but when it comes to signing and ratifying, enthusiasm suddenly dries up. Only ten African countries have signed and ratified the Charter thus far. Yet African and international experts generally agree that if applied and implemented rigorously, the Charter would constitute a solid foundation upon which efforts to improve and harmonise Africa's electoral processes could rest. Elections will never be perfect, but good elections will promote a deeper sense of citizenship and collective fate. Conversely bad elections invariably have bad consequences for African societies.

This Discussion Paper has highlighted several themes which bear particular attention in furthering the commendable aims set out in the Charter. Below is a brief list of key principles that could frame a detailed playbook for African elections relevant to both local and international stakeholders.

- *Educate*: Civic education and continuous dialogue on elections are the best antidotes to voter apathy – a key expeditor of authoritarian behaviour. Knowing your rights and responsibilities as citizens doesn't happen naturally in traditionally liberal societies, especially not for society's most marginalised. In many African societies that means women voters. They should be the target of special systematic focus to ensure they are engaged, registered to vote, and increasingly contesting for positions in politics. Credible elections help cure the scourge of voter apathy. Fraud, bribery and intimidation need to be understood, not as excesses, but as criminal acts.

- *Anticipate:* The techniques and measures deployed to undermine elections and influence electors are increasingly sophisticated, even scientific. Close one hole, they open another. Time and resources need to be invested in anticipating the tactics and stratagems used (often, but not exclusively, by incumbents) to shape election outcomes. It should start with a monitoring of material procurement and a determination to halt the rush for new technologies. Get in the mind of the authoritarian and then re-engineer the process. Government shuts down social media – then what is Plan B? At the same time, anticipate the probable lengths to which governments may go to prevent a democratic outcome. Acknowledge that in some situations the scale of crooked operations is simply too vast, so it is better not to observe the election or even participate if you're an opposition party. On reflection, should the MDC ever have agreed to participate in the (predictably violent) run-off to the 2008 Zimbabwe election? The answer is probably no.

- *Collaborate*: Thwarting concerted efforts to steal an election demands strong collaboration and cooperation. Continuous engagement with all stakeholders – civil society, opposition parties, security sector, multilateral institutions, leading international democracies – on plans and actions takes time and effort. But strong links with actors on the ground (political parties, but also NGOs, civic education programs, etc.) are necessary to get year-long feedback from the field. The next elections start the day after an election ends. It's essential to maintain consistency of message and strategy in mounting direct and indirect approaches to countering undemocratic behaviour. Disparate efforts are doomed to fail; you need to build a team-approach. Collaboration is crucial as there is always a danger (by mostly external actors) of doing too much unilaterally, then local society ends up not doing enough. The imperative for opposition parties to collaborate in the face of likely electoral malfeasance is such that cooperation might need to be extended to building opposition alliances across borders.

- *Communicate*: The words and terms used to check electoral abuses are vital. There is a need to communicate accurately and consistently to foster accountability. Currently the vocabulary is inadequate. 'Free and Fair Election' in fact tells us very little about the precise quality of an election or how things have changed over time. As recommended at the Dialogue, a grading system (1–10) with more concrete metrics would give added weight and rigour to election observation assessments. Similarly, a playbook should outline a list of triggers or scenarios to help categorise elections. Unlawful detainment of an opposition leader, closing down of independent media, or other similar events need to be communicated in terms that have consequences, even declaring an election invalid.

- *Ameliorate*: Local and international stakeholders need to put an end to imbalances in the system. In too many elections, the rewards for victors are simply too great and the costs of failure too severe. Ameliorate the disadvantages of opposition to level the playing field with incumbents. Promote equal treatment in all relevant matters – media, campaign finance and so on. In this, persistence and long-term engagement is key. No one wants bad leaders. But we need to care more about how elections are won, not just who wins.

Endnotes

1. See http://www.afrobarometer.org/.
2. See http://www.washingtonpost.com/wp-dyn/content/article/2011/01/13/AR2011011306399.html.
3. See http://www.eiu.com/topic/democracy-index.
4. Comments by Anne Marie Slaughter, former Director of Policy Planning for the U.S. State Department and current President and CEO of New America, 5 July 2017.
5. Terence McNamee on Francis Fukuyama's 'End of History' thesis, 'The Time Has Come for Democratic Africa', *Mail and Guardian* (SA), 7 November 2014.
6. See Staffan I. Lindberg (ed.), *Democratization by Elections: A New Mode of Transition* (Baltimore: Johns Hopkins University Press, 2009).
7. Nicolas van de Walle, see https://web.stanford.edu/dept/iis/democracy/Seminar/Walle.htm.
8. See http://www.afrobarometer.org/.
9. John Campbell, 'Africa in Transition: Elections and Election-like Events', address hosted by Utah Council for Citizen Diplomacy, 12 November 2013.
10. Nic Cheeseman, 'Democracy is taking root in Africa. But that doesn't mean it works all the time', *The Conversation*, 25 May 2017.
11. Olivier de Sardan (ed), Elections au village: Une ethnographie de la culture au Niger (Paris: Karthala, 2015).
12. See http://www.the-star.co.ke/news/2017/06/09/over-one-million-dead-voters-could-be-in-iebc-register-kpmg-says-in_c1577635.
13. See Fatu Ogwuch, https://www.thecable.ng/elections-now-norm-africa-must-leapfrog-future-innovation.
14. In France parties are reimbursed after elections per their electoral results. They get a partial refund provided they obtain more than 5 per cent of the total vote.
15. See The Brenthurst Foundation's 'Preliminary Statement on the 2017 Lesotho Election', Terence McNamee, Nchimunya Hamukoma and Saul Musker. http://www.thebrenthurstfoundation.org/workspace/files/lesotho-statement-.pdf.
16. In recognition of the need for longer-term observation, SADC recently updated its 'Principles and Guidelines Governing Democratic Elections', see https://www.eisa.org.za/pdf/sadc2015principles.pdf.
17. See http://www.sadc.int/files/5314/9667/3888/SEOM_STATEMENT_5_JUNE_2017_LESOTHO.pdf.

Election Playbook for Democrats

ISSUES

DEMOCRATISATION

Elections do not equal **democracy** but done well will deepen democratisation

MONEY

Elections are too **expensive in Africa**, they have become a business

VIOLENCE

Where party and state have become one, **opposition** is often **portrayed** in the grammar of violence **as enemies of the state**

INTERNATIONAL

External engagement on African elections lacks **consistency** and **effective means** of sanction

TECHNOLOGY

Africa is **leading the way** in election technology but it cannot fix a **broken democratic process**

INCUMBENCY

Incumbents still have **huge electoral advantages** but incumbency can be overcome

SOLUTIONS

EDUCATE ...

systematically and **continuously** across the whole of society on civic functions and principles

ANTICIPATE ...

the **techniques**, **sophistication**, and **scale** of the operation

COLLABORATE ...

with all **stakeholders** on **plans** and **actions**, foster unity against authoritarianism

COMMUNICATE ...

accurately and **consistently** to promote **accountability** and establish clear **boundaries**

AMELIORATE ...

the **disadvantages** of **opposition** to **level** the **playing field**