

Chapter 2

Elections in Anglophone African Countries

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'Building democracy is a complex process. Elections are only a starting point but if their integrity is compromised, so is the legitimacy of the democracy' Kofi A. Anan

Elections, taking place in an environment of democratic election structures and competition, generally inaugurated the independence of African countries in the late 1950s and early 1960s. Towards the end of the 1960s, political leaders increasingly suppressed electoral competition. Several explanations are put forward for this move, such as a political competition being a threat to the power of the political elites, preserving ethnic harmony, as justified by President Nkrumah of Ghana, or solidifying cohesion for national development in the case of President Nyerere of Tanzania. Until the end of the Cold War unconstitutional and violent changes of government became the norm in many African countries. Regimes were characterised by authoritarian rule – oligarchies, military regimes and one-party states. Where elections were held, they were non-competitive, with a dominant party winning all available seats. Competitive elections were held in only two Anglophone African states, Botswana and Zimbabwe, before the early 1990s when the new wave of multi-party elections started taking root on the continent.

Elections are generally considered to be the foundation of democracy – a basic condition, a first step without which democracy cannot mature. Although other institutions, such as independent courts and legislatures, human freedoms and rights and viable opposition parties are essential requirements of a democracy, none of these 'precedes elections, either in timing or importance' (Bratton and Van de Walle 1997: 13). Nonetheless, Terry Lynn Karl cautions against committing the 'fallacy' of 'electoralism', which entails taking electoral contestation as a sufficient condition for the existence of democracy (Schmitter and Karl 1991: 78).

In democracies, elections serve both a practical and symbolic role – that is by providing citizens with the primary means to select their representatives and, among other things, shaping future policy, and in a symbolic sense by providing the primary mechanism by which the consent of the

people legitimises the government (Clark et al. 2018: 522). For Przeworski (2018: 78), the value of elections is 'not that each voter has a real influence on the final result, but that the collective choice is made by summing the total of individual wills'. Furthermore, despite the fact that 'elections are not pretty nor are they ever 'quite fair', and therefore do not realise the lofty ideals that led to their materialisation, they are nonetheless the least bad mechanism of choosing leaders (Przeworski 2018: 4-5).

Elections are thus hardly ever flawless: as Norris (2014: 4-5) notes, flawed elections are found under many types of regimes across the world – even in established democracies with centuries of practice such as the United Kingdom, France, Germany, Canada and the US. Although fraudulent elections can occur anywhere, the consequences, she argues, are most serious in newly democratised states that lack deeply rooted, widespread support for democratic principles and, among other things, institutionalised legal channels to resolve disputes through the courts. In countries lacking these conditions, electoral irregularities have a greater chance of eroding regime legitimacy and potentially destabilise countries (Norris 2014: 32). Particularly citizens in deeply divided countries with recent experiences of conflict are expected to have the least trust and confidence in state authorities, legal institutions and electoral processes (Norris 2014: 33). Elections in an African context that are not flawed are commonly, and vaguely, described as 'free and fair', 'credible and transparent' or 'reflecting the will of the people'.

In this chapter the concept 'integrity' will be used. It refers to the 'extent to which the conduct of elections meets universal standards and global norms related to elections', which pertains to all stages of the electoral cycle – pre-electoral period, electoral period and post-electoral period (Norris 2014: 21). In a similar vein, the Global Commission on Elections, Democracy and Integrity (2012: 6) defines an election with integrity as 'any election that is based on the democratic principles of universal suffrage and political equality as reflected in international standards and agreements, and is professional, impartial, and transparent in its preparation and administration throughout the electoral cycle'.

The above-mentioned global norms for elections are based on, among other instruments, the Universal Declaration of Human Rights (article 21) and the United Nations Covenant for Civil and Political Rights of 1966 (article 25) and have been endorsed in a number of authoritative conventions, protocols and charters of the United Nations and regional bodies such as the African Union. In terms of the latter, the African Union's Declaration on the Principles Governing Democratic Elections in Africa (2002) and the African Charter on Democracy, Elections and Governance (2007) provide the foundation for elections on the continent. In addition to these pan-African standards,

sub-regional organisations, namely the South African Development Community (SADC), Economic Community of West African States (ECOWAS) and the East African Community (EAC), have also produced electoral guidelines.

For countries in the SADC region, the SADC Principles and Guidelines governing Democratic Elections (2004) is the key document. To address the vagueness of the concept of ‘free and fair elections’, the Principles for Election Management, Monitoring and Observation (PEMMO) in the SADC region¹ were accepted as guidelines for election management and observation. They set out the requirements to be met in three stages of the electoral process – the pre-election (preparatory phase), the election phase and the post-election phase. Based on the trends and challenges in the region, the following principles are recommended (EISA 2004).

- the need for a comprehensive constitutional and legal framework;
- the importance of transparent and accessible pre-election procedures (including the delimitation process, voter registration and candidate nomination);
- the equitable use of the media and public resources and issues of political party finance;
- the organisation and management of the election phase, including the location of polling stations, their layout, and access to them; the secrecy of the ballot, and the monitoring of the counting process;
- the post-election phase, including the settlement of election disputes and ways of ensuring that results are acceptable;
- the requirements for unhindered, credible, professional and impartial monitoring and observation of the electoral process.

In July 2015, SADC adopted a revised framework for election observation (2015 Revised SADC Principles and Guidelines Governing Democratic Elections) to fill the gaps in the 2003 version, which is mandatory for SADC to observe future elections in its member states. The revised version has a number of important additions, including the following (Chirambo and Motsamai 2016: 8-11): it is directly joined to the SADC Treaty and SADC Protocol on Politics, Defence and Security Cooperation, which means compliance enforcement through the Organ and the SADC Summit by use of sanctions on member states; the usage of four different objective measures in addition to the notion of ‘free and fair’, which include ‘transparent’ and ‘credible’ and which are all defined (including the notion of ‘free and fair’ – it was argued that the 2004 Guidelines lacked objective and

¹ Anglophone countries that are members of the SADC are: Botswana, Malawi, South Africa, Tanzania, Zambia, and Zimbabwe.

distinctive measurement; and, lastly, encouraging states to ‘regularly review’ diaspora participation ‘based on their national experiences and national laws’.

In West Africa, member states of ECOWAS² adopted the Protocol on Democracy and Good Governance in 2001. Section 2 (articles 2-18) is devoted to elections and election monitoring. Although less elaborate than the SADC requirements set out above, the following requirements are highlighted: the independence and neutrality of electoral bodies (article 3); reliable voters’ lists (article 5); the transparent preparation and conduct of elections (article 6); adequate arrangements for the hearing of petitions relating to the conduct of elections and announcement of results (article 9); and refraining from all acts of violence and intimidation against candidates and supporters (article 10).

In 2012, the EAC Partner States³ adopted the EAC Principles for Election Observation and Evaluation, which, as acknowledged in the Principles, are guided by the above-mentioned Declarations and Principles (Electoral Institute for Sustainable Democracy in Africa 2012). In the Guiding Principles the EAC acknowledges that democratic elections that express the free will of the people ‘serve as the basis for the legitimacy, and authority of government’. Basic minimum conditions for democratic elections include: a comprehensive constitutional and legal framework, universal adult suffrage, the existence of an independent Election Management Body (EMB), freedom of expression, movement and assembly, fair and equitable access to the state/public media by contesting parties and candidates and an independent mechanism to prevent and manage election-related conflicts (EISA 2012: 4).

The above principles are followed by a list of requirements set out for each of the three stages of the electoral cycle. In the pre-electoral period, requirements include the adoption of a legal framework to guarantee EMB independence, criteria for constituency boundary delimitations, continuous and accessible voter registration open for monitoring, the regulation of party funding by law, fair and equitable access to public/state media and efforts to ensure enfranchisement of the people in the diaspora. During the electoral period, the secrecy of the ballot must, for example, be assured, polling stations must be accessible, and procedures and conditions for the counting of the vote must be well established and known to election officials and other stakeholders. For the last stage of the electoral cycle, legal provisions should exist for the fair and impartial resolution of election-related disputes (EISA 2012: 4-8).

² Anglophone countries that are members of ECOWAS are Ghana and Nigeria.

³ Anglophone EAC partner states are Kenya, Tanzania and Uganda.

There are, therefore, African and sub-regional standards for electoral integrity that comply with global norms and requirements and that pertain to all stages of the electoral cycle. Elections, as Norris (2014: 32-33) argues, should be regarded as a sequential cycle and in this cycle she has identified 11 stages, which serve as a useful heuristic device in identifying where electoral irregularities exist, particularly beyond election day⁴ (campaign finance; campaign media; party and candidate registration; voter registration; boundaries; electoral procedures; electoral laws; electoral authorities; voting process; vote count; and voting results). Electoral irregularities (fraud), which involves, in the words of Schedler (2002: 44), the ‘introduction of bias into the administration of elections’, effectively violating the principle of democratic equality, can occur at any stage and can challenge the legitimacy of the elections. Although incumbents do not have complete control over the outcomes of elections, they can and do minimise the probability of being defeated. The manipulation of rules, the abuse of the state apparatus, intimidation and fraud are common tactics (Przeworski 2018: 50).

This chapter aims to provide an overview of the integrity of elections in the ten Anglophone countries on the continent.⁵ It begins by providing an overview of presidential and national elections since the founding of multi-party elections in the early 1990s. This includes voter turnouts and the nature of electoral systems. This is followed by the major achievements in terms of integrity since the first elections and the common thread of malpractices that have persisted over the years.

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Multi-party elections, voter turnout and electoral systems

Multi-party elections

As shown in Table 1, elections at regular intervals have become a common feature in the ten Anglophone countries since the so-called third wave of democratisation that swept over the continent in the early 1990s. Botswana has been the only Anglophone country that has sustained its democratic elections since its independence in 1965, at a time when it was classified as one of the three poorest countries in the world, with no promising economic future and no democratic

⁴ The Electoral Integrity Project run by Pippa Norris (based at the University of Sydney and Harvard’s Kennedy School of Government) uses the eleven stages cycle (comprising indicators for each stage) to analyse the integrity of elections across the world (website: www.electoralintegrityproject.com)

⁵ Botswana, Ghana, Kenya, Malawi, Namibia, Nigeria, South Africa, Tanzania, Zambia and Zimbabwe.

electoral culture to count on. Its second elections, which were due in 1970, were called earlier (in 1969) due to the heavy criticism that was launched against the government's policies under Seretse Khama by the chiefs and opposition parties. Although Khama's Botswana's Democratic Party (DP) won the elections his vice-president and minister of development (Quett Masire) lost his seat to a former chief who joined the newly formed Botswana National Front (BNF). Unlike many other African countries at the time (for example Tanzania, Zambia, Malawi, Ghana), Khama did not outlaw the opposition and declare a one-party state, and instead multi-party elections were held at regular intervals as stipulated in the Constitution (Maundeni 2005: 6-7). In 2019, the country held its twelfth election.

Zimbabwe is the other exception: it has held regular multi-party elections since its independence in 1980. However, as will be discussed in the next section, these have been characterised by increasing irregularities. Ghana, Kenya, Malawi, South Africa, Tanzania and Zambia all held their first multi-party elections between 1991 and 1995 and had thus held between five and seven elections by 2019. The first parliamentary elections in Nigeria since the 1993 military coup (and the first elections of the Fourth Republic, ending three decades of intermittent military rule) were held in 1998 but were repeated in 1999 (with the presidential elections) after the 1998 elections were annulled. Four elections followed: in 2007, 2011, 2015 and 2019, making it the longest period under civilian rule in the history of Nigeria. On the other hand, the Ugandans cast their ballots in the first multi-party elections in 26 years only in 2006.

In the 62 elections (from 1990-2017) that have taken place in the ten Anglophone countries under discussion, the incumbent presidents and ruling parties that lost the elections accepted their electoral defeat and peacefully ceded power to the opposition. This was the case in the founding elections in Zambia, when Chiluba defeated Kaunda in 1991, and again in 2011 when Michael Sata defeated Rupiah Banda; in Ghana where the elections of 2000, 2008 and 2016 resulted in an alternation of power; the 2002 elections in Kenya (defeat of KANU); the presidential turnover in 2014 in Malawi; and the 2015 elections in Nigeria (Buhari (APC) replaced Goodluck Jonathan (PDP)). Therefore, in six of the ten Anglophone countries there have been election turnovers. Turnovers are important since they symbolise the willingness of political parties to accept the rules of democracy. Furthermore, surveys have shown that transfers of power significantly increase support for democracy and trust in democracy (Bratton 2004: 147-158; Cheeseman 2015: 182).

Table 1 An overview of multi-party elections since 1990

	National Elections before 1990	1st	2nd	3^d	4th	5th	6th	7th
Botswana	1965, 1969, 1974, 1979 1984, 1989	1994	1999	2004	2009	2014	2019	
Ghana		1992	1996	2000	2004	2008	2012	2016
Kenya		1992	1997	2002	2007	2013	2017	
Malawi		1994	1999	2004	2009	2014	2019	
Nigeria		1999	2007	2011	2015	2019		
South Africa		1994	1999	2004	2009	2014	2019	
Tanzania		1995	2000	2005	2010	2015		
Uganda		2006	2011	2016				
Zambia		1991	1996	2001	2006	2011	2016	
Zimbabwe	1980, 1985, 1990	1995	2000	2005	2008	2013	2018	

Presidential elections take place in all the countries except South Africa and Botswana (presidents elected by parliament). Elections for presidents are held simultaneously with the national elections. The only exception was Zimbabwe. Zimbabwe introduced presidential elections in 1990. Until 2008 the presidential term in Zimbabwe was set for six years, which then changed to five in 2008. This is one of the reasons why the national elections were brought forward to 2008 and not in 2010 so that they could coincide with the presidential election.

Moreover, although most elections in the Anglophone countries have been won by those already in power, a number of leaders have been forced to step down as a result of presidential term limits. The presidential terms set out in the constitutions of Anglophone African states are either four or five years – with a maximum of two terms. Jerry Rawlings from Ghana, Daniel arap Moi from Kenya and Tanzania’s Mkapa all refrained from seeking a third term and stepped down after two terms. However, Chiluba from Zambia (1991–2001) (Kimenyi and Moyo 2011); Obasanjo

from Nigeria (1999-2007) (*Mail and Guardian* 2006); and Muluzi⁶ from Malawi (1994-2004) (VOA News 2009) tried to change their Constitutions to allow three terms for a president, but they were not successful. However, Museveni of Uganda was able to change their constitution with legislators removing the presidential term limits in 2005 to allow him to stay in office. Furthermore, in December 2017 Uganda's parliament amended the constitution for a second time removing the presidential age limit and guaranteeing Museveni a lifetime rule over the country – a measure the constitutional court upheld in 2018 (*CNN* 2018). Zimbabwe is the only exception among Anglophone countries that did not employ restrictions on the length of time that the incumbent president could stay in office – that is until 2013, when the new constitution approved, in a referendum, the presidential term to two five-year terms. However, this did not take effect retrospectively and resulted in the 37-year rule of Robert Mugabe that only ended in November 2017, shortly after the Zimbabwean parliament began an impeachment process.⁷

Voter turnout trends

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Voter turnout is one of the measures of citizen participation in politics. A high turnout is mostly a sign of democratic vitality, while lower turnouts are usually associated with voter apathy and mistrust of the political process (Solijonov 2016: 13). Both Norris, (2012: 221) and Przeworski (2008: 126) regard a low turnout as a 'common symptom of democratic ill health' and 'a crisis of democracy' respectively.

This section presents a brief overview of the voter turnout of the most recent national elections in the ten countries under review. Almost half of the countries in the world have voter turnouts of between 60-79 per cent, while in only 20 per cent of countries are the turnouts higher than 80 per cent (Solijonev 2016: 29).

As shown in Table 2 below, Botswana and Zimbabwe had voter turnouts (of registered voters)

⁶ Muluzi was barred from running for president in 2009 after serving two consecutive terms in office from 1994 to 2004.

⁷ Although the seizure of the presidential palace and the state broadcaster by the army chiefs, as well as the arrest of some members of Mugabe's cabinet, were described in the news media as a 'military coup' it was denied by the military. Several SADC leaders called for a transition in accordance with the Constitution of Zimbabwe. Zanu-PF asked Mugabe to resign, but he refused to step down voluntarily until a process of impeachment was started in parliament.

higher than 80 per cent in their last elections in 2019 and 2018 respectively, while the turnouts in Kenya and Malawi are also high and fall into the 70-79 per cent bracket. For the first time since its first democratic elections in 1994, voter turnout in South Africa fell below 70 per cent. It declined considerably from 73 per cent in 2014 to 66 per cent in 2019. Only Nigeria (with 36.5 per cent) falls below the 50 per cent voter turnout mark in their most recent elections and are respectively the lowest of the Anglophone countries. The VAP (Voting Age Population) statistics in these two countries as well as in South Africa are also below 50 per cent, which suggests a significant degree of voter apathy in these countries. In Nigeria, the 2019 elections recorded the lowest turnout of voters in the history of the country, and this is attributed to a combination of reasons. These are mainly: the difficulties associated with voting which many people cannot afford (first registering, then collecting the Permanent Voter's Card and finally voting), long queues at registration points, poor organisation, electoral fraud, postponing elections at the last minute, creating suspicion that 'politicians were delaying the elections to perfect their rigging strategies', and high levels of violence and intimidation (Aziken and Ndujihe 2019; Adekoya 2019).

Two factors that were likely causes of depressed electoral participation in South Africa are the so-called 'youth bulge' and voter dealignment. The disproportionately large size of young people in the electorate along with their lower registration and turnout rates effectively reduced the aggregate turnout in South Africa. Furthermore, party loyalties have significantly weakened in South Africa resulting in a decline in voter turnout. Afrobarometer, for example, found that partisanship declined from 73 per cent in 2015 to 45 per cent in 2018 while ANC partisan affiliations have declined since 2009 from 51 per cent to 29 per cent in 2019. It is argued that party loyalty binds people to a preferred party and mobilises them to turn out and vote while non-partisans tend to have less motivation to cast their vote (Schulz-Herzenberg 2019: 58-64).

Table 2 Turnout legislative elections and electoral system

	Election	Voter turnout %	VAP turnout %	Electoral system
Botswana	2019	83,51	53,47	FPTP
Ghana	2016	67,55	70,88	FPTP
Kenya	2017	77,37	59,77	FPTP
Malawi	2014	70,07	64,04	FPTP
Nigeria	2015 2019	43,65 36,50	32,11 Not available	FPTP
South Africa	2019	66,05	47,28	List PR
Tanzania	2015	62,68	58,31	FPTP
Uganda	2016	67,61	60,37	FPTP
Zambia	2016	56,03	51,19	FPTP
Zimbabwe	2018	83,10	61,86	Parallel since 2013

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VAP per cent = Voting Age Population figure based on voting population over 18;⁸ FPTP = first-past-the-post system; MMP = multi-member proportional system. Voter turnout = based on registered voters

Source: International IDEA 2019. Voter turnout database and International IDEA: Electoral Systems Design Database

⁸ Both voter registration and VAP statistics are used, since the latter can provide a clearer picture of participation in some countries if there are problems with the voters' list or registration system. Ideally, voter registration and the VAP statistics should be close to each other. In most established democracies, such as Sweden, they are close to each other. However, the VAP figure also has limitations when the census of countries is not up to date. Also, the VAP is not able to exclude non-citizens (Solijonov 2016:19-22). South Africa has a large number of foreign migrants, and this might explain the large discrepancy between the voter turnout and the VAP turnout.

Electoral systems

Electoral systems are distributive mechanisms that reward one set of actors at the expense of another. The design of an electoral system can assist in managing or accommodating minority groups. Despite numerous variations in electoral systems, three main types (based on the manner in which votes are translated into seats) are generally distinguished – i.e. majoritarian, proportional and mixed – with each consisting of different types.

The single-member district system (SMD), more commonly known as the first-past-the-post system (FPTP), is the most commonly used majoritarian system, and is primarily in the United Kingdom and its former colonies (also those in Africa). As shown in Table 2 above, with the exception of South Africa with its list PR system and Zimbabwe with its mixed-member parallel system (also known as the independent mixed electoral system⁹), all the other Anglophone states use the FPTP system.

Under a FPTP system, the candidate that wins the most votes in the constituency is elected to the legislature. Therefore, if a party's support base is dispersed and it wins a number of votes in each constituency (but fails to come first in the constituencies), it may end up in having no representatives in the legislature, while winning a significant support of the vote at a national level. One of the main criticisms of the FPTP system is that it can produce a highly disproportionate translation of votes into seats that usually favours the larger parties at the expense of the smaller ones – it therefore produces unrepresentative outcomes. This was, for example, the case in the 2004 elections in Botswana where the Botswana Democratic Party (BDP) won 53 per cent of the vote, but 77 per cent of the seats in parliament, while the Botswana National Front (BNF) with 23 per cent of the vote ended up with 21 per cent of the seats and the BCP with 18 per cent of the vote with only 1 per cent of the seats (Osei-Hwedie and Sebudubudu 2005: 30). Despite the fact that the 2014 election was the most competitive – the average margin of victory for the dominant party (the BDP) plummeted from 31,4 per cent to 15 per cent since the 2009 election – the disparity between voter support and seats remained: with 46,45 per cent support the BDP still received 64,9 per cent of the elected seats, followed by the UDC (Umbrella for Democratic Change) with 30,1 per cent of the vote and 29,8 per cent of the elected seats, and the BCP in third position with 20 per cent of the

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⁹ The majority of seats in the National Assembly are still elected through a FPTP system, while each of the constituency candidates also counts as a party-list vote for the election of 60 of Zimbabwe's 80 senators, the ten-member Provincial Councils in each of Zimbabwe's provinces and for the 60 seats in the House of Assembly that are reserved for women.

vote obtaining a mere 5.3 per cent of the elected seats (Potete 2014: 446). In the 2019 elections, the BDP received 52.7 per cent support while receiving 67 per cent of the elected seats (38 of 57 seats).

This type of disproportionality between voter support and seats in parliament is a trend reflected in all the countries discussed in this chapter that follow the FPTP system.

Another strong feature of the SMD electoral system, particularly in Anglophone African countries, is the rural bias favouring the majority party due to malapportionment (the unequal assignment of seats, which in this case, gives more weight to voters in rural areas). In a study of Anglophone countries in sub-Saharan Africa (Botswana, Ghana, Tanzania, Kenya, Malawi, Zimbabwe and Zambia), Boone and Wahman (2013) found high levels of malapportionment (by international standards) in these countries. The mean malapportionment of these countries is twice as high as the worldwide figure, with only Botswana close to the international mean. The levels of malapportionment have not decreased despite electoral turnovers in four of these countries (see above) and despite the fact that at least one demarcation exercise has been undertaken in most of the countries.

Urban areas in Anglophone countries have been particularly disadvantaged in the SMD electoral system. The disproportionate electoral weight to rural constituencies that prevailed since the 1960s created a systemic rural bias. Numerous reports on elections in these countries over the years have argued that unequal representation due to malapportionment violates the principle of the equality of the vote (Boone and Wahman 2013: 2-4). In Tanzania, for example, the National Electoral Commission (NEC) conducted a delimitation of constituency boundaries ahead of the 2015 elections. Again, the new boundaries do not take into consideration the principle of equal distribution of the electorate among the constituencies: some highly populated areas are under-represented in terms of seats compared to less populated constituencies (EU 2015: 17).

The unrepresentative outcome of the FPTP system is addressed under a system of proportional representation where the allocation of seats in the legislature is adjusted to the total number of votes the party gets. Proportional systems are therefore more likely to increase the legislative representation of small parties and reduce the majority of the government – in other words, they provide a far more accurate translation of votes into seats.

Most FPTP systems also have fewer parties represented in parliament than with PR systems – generally around four or five in the case of, for example, Botswana, Malawi, Tanzania, and two in the case of Ghana, while fourteen parties are represented in South Africa. However, this is not always the case, especially when ethnic groups are geographically concentrated. Smaller parties that rely on ethnic regional support are then well placed to win seats in those areas – no votes are then ‘wasted’. Kenya is

an example here: the National Assembly is drawn from as many as twenty parties. Therefore, though the design of electoral systems can help in promoting political inclusion, it ultimately depends on local circumstances.

While proportional electoral systems produce more proportional outcomes in elections, a shortcoming currently experienced in, for example, South Africa is the limited ability of voters to hold representatives accountable. A strength of the FPTP system is that because there is only one representative per constituency it is easier for voters to hold that person accountable in the next election. In doing so, the system creates incentives for representatives to perform well.

Electoral systems, as shown in the chapter on the role of women, have an influence on women's representation in parliament.

Electoral integrity in Anglophone states – some common trends

As already mentioned, Pan-African and regional norms and standards for the appropriate conduct for elections exist which deviate little from the global normative framework for elections. The question is to what extent do elections in African Anglophone countries comply with these norms and standards? What are the major accomplishments and challenges with the standard of elections that have been held since the early 1990s? The Perceptions of Electoral Integrity Index (PEI) 2012-2018 (Electoral Integrity Worldwide 2019) is used as a point of departure in highlighting the levels of electoral integrity in these countries.¹⁰

Of the seven countries in Africa that score very high (70+) or high (60-69) on the PEI Index, two are Anglophone countries – i.e. Ghana (65) and South Africa (63). At a moderate PEI score (50-59) are Botswana (58) and Nigeria (53), while the low/'flawed' category (40-49 PEI score) consists of Malawi (48), Zambia (45), Tanzania (44) and Kenya (43). At the lower end of the spectrum of electoral integrity (the very low/'failed', less than 40, category), are Uganda (38) and Zimbabwe (38).¹¹ As emphasised by the Electoral Integrity Project, the data is based on a Perception Index. In their report on elections in Africa held between 2012 and 2014, Grömping and Martinez I Coma (2015: 9) note that although Africa in general exhibits lower levels of election integrity, problems in elections are similar to those elsewhere in the world and the difference is therefore 'in degree and

¹⁰ As explained by the Electoral Integrity Project, the categories in the 100-point Perceptions of Electoral Integrity Index are constructed from the average score for each country in presidential and parliamentary elections held from 2012-2018. Also see note 4 above.

¹¹ The performance indicators are: electoral laws; electoral procedures; boundaries; voter registration; party registration; campaign media; campaign finance; voting process; vote count; post-election; electoral authorities (each consisting of 3-5 measures).

not kind'. So, in which dimensions of elections do the ten Anglophone countries perform well and in which do they not meet the required standard?¹²

Though the intensity and scale of each of these elements differ by country, the patterns are strong enough to justify a conclusion that these are the common realities in the Anglophone countries.

Despite the fact that the PEI Index of three of the Anglophone countries is above 60 (high), and two fall into the moderate bracket, with scores below 40, all of the ten countries fail in terms of the campaign finance indicator. These range from 39 for Ghana to a perception indicator of 36 for South Africa, to very lows of 14 (Uganda), 16 (Zimbabwe) 17 (Kenya), 17 (Botswana) 18 (Malawi) and 20 (Nigeria). As shown in the table below, the integrity of elections in the majority of countries is also compromised in terms of voter registration, media coverage, the voting process and the results. Although electoral management bodies are independent by constitutional prescription in all the countries, they have not been so in practice in Kenya, Tanzania, Uganda and Zimbabwe. An elaboration of the nature of these problems is presented below.

¹² In their 2019 report, Norris and Grömping (2019: 36-22) (Electoral Integrity Project) provide a summary table on the breakdown of the PEI Index for each country in terms of the indicators (mentioned in note 10 above) for legislative and presidential elections in the period 2012-2018. Since elections are held every four or five years, this table, in most cases, reflects the evaluation of only one (the most recent) election. Nevertheless, this assisted in providing some indication of which aspects of the elections are regarded as problematic in each country.

Table 3: PEI Index, and lowest scores of indicators in each country (below 50)

Country	PEI index	Campaign Finance	Electoral Laws	Media coverage	Voter Registration	Voting process	Results	Electoral Bodies
Botswana	58	17	38	36				
Ghana	65	39						
Kenya	43	17			40	26	26	36
Malawi	48	18			30	42	45	
Nigeria	53	20		49	42	31		
South Africa	63	36						
Tanzania	44	23	33	43	32	43	39	46
Uganda	37	14	33	42	33	33	41	41
Zambia	44	27		30	32	33		
Zimbabwe	38	16	33	43	32	44	34	43

Source: Norris and Grömping (2019: 16-22). Scores cover national elections held during the last seven years (1 July 2012 to 31 December 2018). The scores for South Africa, Botswana and Malawi are for the elections held in 2014 in these countries.

Political Party Funding

For parties to fulfil their democratic role they need access to funds. However, money in politics is regarded as one of the biggest threats to democracy, since it can unduly influence the political process. Buying access to or bribing those in power, foreign interests using money to manipulate politics in their favour, the illicit funding of candidates and parties by, for example, drug cartels and the use of state resources by incumbent leaders/parties during elections are some of the numerous problems related to political finance¹³ (Ohman 2014: 1-2). Furthermore, it is argued that certain party

¹³ Although political finance is a broad term referring to all money in the political process, in this chapter it refers to money related to electoral politics. Therefore, it refers to ‘the (legal and illegal) financing of ongoing party activities and electoral campaigns (in particular, campaigns by candidates and political parties, but also by third parties)’ (Ohman 2014: 2).

finance practices also have the potential to obscure the voice of the poor, undermining one of the central concepts of democracy: the principle of one person one vote (February 2003). If money plays a determining factor in politics, public confidence in the political process can be eroded.

In its 2012 report the Global Commission on Elections, Democracy and Security (2012: 5-6) argued that one of the five major challenges that must be overcome in order to conduct elections with integrity is to regulate 'uncontrolled, undisclosed, and opaque political finance'. Furthermore, poor or unregulated political finance 'threatens to hollow out democracy'. Funding is essential to all political parties to play their part in the political process. However, if unregulated, it can result in a political playing field that is not level. Therefore, as Ohman (2014: 39) remarks, 'how political parties and candidates raise and spend money can have a more significant impact on the fairness of an electoral process than anything that happens on Election Day'.

Two aspects are important in terms of party finance: the availability of funds to parties to enable them to fulfil their democratic role and the regulation of party funding.

Although no consensus exists on what constitutes best practice, a number of international, regional and sub-regional requirements and guidelines exist. The United Nations Convention Against Corruption (UNCAC) (2005: 11), which has been accepted or ratified by all ten Anglophone states, for example, notes in article 7(3) that countries should 'consider taking appropriate legislative and administrative measures . . . to enhance transparency in the funding of candidates for elected public office and, where applicable, the funding of political parties'. Similarly, the AU Convention on Preventing and Combatting Corruption (2003) requires that states adopt legislative and other measures to prohibit the use of funds 'acquired through illegal means and corrupt practices to finance political parties' and that the principle of transparency should be incorporated into the funding of political parties (Article 10 a-b). The Principles for Election Management, Monitoring and Observation in the SADC Region (2003) also recommend that public funding should be extended to all parties contesting elections that can 'demonstrate a track record of support', but that these funds should be regulated by the EMB and that verifiable accounts of the spending of this money should be provided to the EMB. Furthermore, regulations should be considered for the disclosure of all sources of funding of political parties (Article 4.10). Over the years, scholars have also argued for public funding to support parties in meeting the cost of democratic politics, particularly in developing countries, in order to promote equal opportunities and fairness, thus creating a more level playing field.

All the Anglophone countries under discussion have some regulations that govern their political finances, although there is considerable variation in the level of political finance regulation among

these countries. It also does not mean that with a higher level of regulation the money is more transparent. In the end the problem lies in the enforcement of the regulations – particularly the lack of political will to control the income on the one hand, and on the other, the lack of resources to enforce the regulations or the biased enforcement of these regulations.

Despite these continental and regional recommendations that political parties should be publicly funded, Botswana, Ghana and Zambia have so far resisted the idea of public funding,¹⁴ whereas Nigeria discontinued funding parties in 2010 (Sule et al. 2018: 4). Despite a strong call for public funding in Botswana by political parties (including the governing party), this has not materialised. It is argued that individual candidates and political parties struggle to reach out to voters because they lack the resources to do so (*Sunday Standard* 2017; *Daily News* 2017). In Ghana, as a result of financial challenges, a number of political parties are inactive between elections and are unable to establish and maintain offices in many parts of the country (Gyampo 2015: 4). Furthermore, during election campaign periods, as Gyampo (2015: 5) notes, the party in power exploits its access to state resources ‘while those in opposition suffocate’. In his view, the pillars of multi-party democracy in Ghana cannot be strengthened without dealing with the financial problems of political parties. Although a Political Parties Fund Bill was introduced in the National Assembly in 2003 in Zambia, President Mwanawasa rejected the measure, arguing that Zambia did not have the finances (Kabemba and Eiseman 2004: 15-16). At the end of 2017 the Political Parties Bill which, among other things, makes provision for the public funding of political parties, was introduced in the National Assembly. However, by February 2019 this Bill had still not been enacted. As in the case of Ghana, incumbent parties have over the years used state resources freely for political campaigning (Momba and Madimutsa 2009: 6-7; Kyambalesa 2015).

In the seven remaining Anglophone countries which receive direct public funding, legal provisions exist in terms of the eligibility criteria generally based on the outcome of the previous elections. However, these criteria vary substantially across the countries. In Kenya, for example, parties are not entitled to funding if they did not secure three percent of the vote in the previous election or if they do not have twenty elected members of the National Assembly, and three elected members of the Senate and three elected members who are governors, and 40 members

¹⁴ International IDEA has a regularly updated Political Finance Database that contains data on political finance regulations in force in 180 countries. It provides the basis for the discussion on political financing in this chapter. Four aspects are covered in terms of each country: bans and limits on private income; public funding; regulation of spending and reporting; oversight; and sanctions.

of County Assemblies (Republic of Kenya 2011: section 25 1a-b). In Malawi, a party receives public funding when it has secured 10 per cent of the vote in the previous election (IDEA database), while parties in Zimbabwe receive funding if they get 5 per cent of the vote in a general election and then in proportion to votes cast for the party (Zimbabwe Situation 2018). In South Africa, public funds are distributed in proportion to the representation that parties secured in the previous elections. Parties not represented in parliament or in a provincial legislature do not qualify for such funding. Therefore, a newly established party such as the Economic Freedom Fighters (EFF) did not qualify for state funding for the 2014 elections. In Tanzania, according to the Political Parties Act, 50 per cent of funds are disbursed based on the number of constituencies won and the other 50 per cent goes to parties that received at least five per cent of the total number of valid votes cast (Mwamunange 2016), while in Uganda eligibility criteria are also linked to the numerical strength of parties in parliament.

Problems with public funding in the Anglophone countries mainly revolves around the funding criteria i.e. that the threshold for funding is too high. This inevitably reinforces the dominance of the larger parties and does little to help the development of multi-party democracy. For example, in Malawi, only four parties qualified for funding in the 2019 elections (based on the 2014 election results), while only two qualified in Zimbabwe for the 2018 elections (based on the 2013 results). Since 2013, only three parties in Kenya have qualified for funding from the government – the National Alliance (NA), the Orange Democratic Movement (ODM) and the United Republican Party (URP) (Oluoch 2016). On the other hand, opposition parties in Uganda do not agree with the numerical strength in parliament formula because it does not tally with party votes received in the previous election due to the FPTP electoral system. Some parties won no seats, but their candidates received more votes than other parties that won seats (Ruzindana 2015).

A further problem is that government funding is not adequate to cover the cost of election campaigns or the annual operational costs of political parties. One way of trying to regulate the cost of campaigns and to ensure that candidates and parties with less access to resources are not disadvantaged, is to limit the amount candidates and parties can spend on elections. Of the countries under discussion only Nigeria limits the amount that candidates can spend on their campaigning. For example, the maximum expenses to be incurred by a candidate for election to the National Assembly is NGN 40 000 000, while the amount is NGN 10 000 000 for a State Assembly election and 1 000 000 000 for a presidential election (Nigeria – Electoral Act 2010, section 91). Although the law limits the spending of candidates it does not require the submission of any financial reports, and, as Ohman (2014: 56) observes, no one will know whether these requirements are followed.

Parties participating in elections in Anglophone African countries mainly rely on private sources of funding, which include small and large donations (local and foreign), funding from candidates, own business initiatives of parties and membership fees. The last are proportionately the least important of a party's source of income for two reasons. The first of these is the low percentage of card-carrying members of parties. It is estimated that in South Africa, for example, from two to six percent of party supporters are card-carrying members. Secondly, given the high poverty rate in countries and in order to attract the largest number of members possible, membership fees for parties are generally very low (Sadie 2017). In its financial report presented to its national conference in December 2017, the ANC in South Africa, for example, stated that membership fees constitute a mere five percent of its annual revenue (*Mail and Guardian* 2017).

Whereas the public funding of parties is regulated by specific legislation, a major controversy surrounds private funding, which in most countries is not regulated. As is the case elsewhere in the world, there are concerns about the link between party financing practices and corruption.

Kenya and Nigeria have banned foreign donations to parties (nothing is said about candidates), while in Kenya, Tanzania and Nigeria (FPTP systems) there is also a limit on financial donations to candidates. In Nigeria no individual or other entity is allowed to donate more than NGN 1 000 000 to a candidate, while in Tanzania, an individual donor may not donate more than one million shillings to a candidate, and the amount from an organisation may not exceed two million shillings (International IDEA, Political Party Funding Data Base – separate country statistics).

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Donation limits to parties, which are quite high, also exist in Kenya, Tanzania and Uganda. In Kenya, donations may not exceed 20 per cent from a single source of the total contribution received by the party, while in Tanzania a single contribution cannot exceed 30 per cent of the total expenditure of the party (including the election year) and in Uganda the limit is 400 million shillings (US\$ 104 000) (International IDEA, Political Party Funding Data Base). The contribution limits are of importance only if these are monitored and violations are penalised, which does not seem to be the case. As Ohman (2014: 44) remarks, 'contribution limits play a negligible role in the de facto regulation of political finance in Africa'.

With regard to Kenya, Oluoch (2016) stated that 'the art of political funding remains a mystery in Kenya'. Furthermore, the Registrar of Political Parties has indicated that Kenya's main political parties are underrepresenting their incomes and that they have not revealed billions of shillings.

In South Africa, one of the major issues since democratisation in 1994 has been the fact that private funding to political parties was not regulated. The practice of private funding was challenged in the High Court in Cape Town in 2004 by Idasa – the case was then dismissed after the major

political parties agreed to legislate on the matter. At the time, the then secretary-general of the ANC (Kgalema Motlanthe) in a sworn affidavit said that a parliamentary process was under way to pass appropriate legislation (Sadie 2017: 221). However, it was some fifteen years after making that public commitment that President Ramaphosa finally signed into law (in February 2019) a new bill aimed at regulating the funding of political parties, which was approved by parliament in June 2018. The new Political Party Funding Act, 2018 requires parties to disclose all donations over R100 000 from any one donor within a financial year. It also prohibits donations from foreign governments or organs of state. Non-compliance with the law can lead to a fine or a jail sentence of up to five years (Articles 8 and 19 and Schedule 2 article 9) (Political Party Funding Act 2018).

Numerous examples of how money contributes to unequal playing fields in elections exist. In Nigeria, as Onah and Nwali (2018: 318-320) argue, money has become the deciding factor in terms of consolidating elite rule and politically excluding the non-elite. The role of money starts at party level during the candidate nomination phase and continues throughout the campaign and voting period. It even extends to the pursuit of electoral victory at the courts. For example, the nomination fees for candidates of the major political parties are 'astronomically high' and doubled with every election, resulting in party-nomination that is only for the 'super rich'. The 2015 general election was the most expensive in the history of Nigeria and in Africa and has also been regarded as one of the most expensive in the world (Sule et al. 2018: 169).

Elections have therefore been described as a 'game for those with money' (Onah and Nwali, 2018: 327). Despite the fact that Nigeria has a comprehensive set of laws to limit campaign spending, which could mitigate the undue influence of money on elections, these laws are rarely enforced due to the weak capacity of enforcement institutions such as the police and the Independent Electoral Commission (INEC) (Oji et al. 2014: 2; Onah and Nwali 2018: 328). Consequently, as Oji et al. (2018: 2) point out, the unchecked influx of money into politics produces governance that has been captured by a very small minority.

An important point raised by Onah and Nwali (2018: 332) is the fact that Nigerian politicians are willing to spend so much on elections because of the lucrative returns of politics such as wealth, influence and security, which guarantees a 100 per cent return within a year. This 'turning of politics into business' constrains the vote of Nigerians. The right to vote and to be voted for in elections is a fundamental Constitutional right in Nigeria (1999 Constitution). However, although Nigerians of voting age can technically vote, their choice of candidates are limited to those chosen by the elite through monetised party primaries while those with less money would have fallen by the wayside. Furthermore, the right to be voted for has become exclusive to the rich who can afford to participate

in the process (Onah and Nwali 2018: 332).

Corrupt practices, which over the years have emerged in the process of party funding and the campaign expenditure of candidates, include a wide occurrence of vote-buying by both the governing and opposition parties (see Sule et al. 2018: 198-199; Onah and Nwali 2018: 13); bribery, particularly of INEC officials (Sule et al. 2018: 200; Onah and Nwali 2018: 331); public funds diverted to campaign funding of the presidential candidate of the ruling party;¹⁵ and, lastly, the godfather phenomenon, where a wealthy individual or group bankrolls the party. Godfathers not only decide party nominations, but also supply campaign monies. In most cases they also guarantee the victory of such candidates. The guarantee will come in the form of financing campaigns, the purchase of votes or outright intimidation of voters (Babalola 2018). Godfathers will adopt every means and avenue to ensure success. They may also 'employ thugs to rig and or cause chaos before, during and after the elections' to ensure the success of their favorite candidates. Godfatherism has accounted for some of the worst violence experienced in Nigeria (Majekodunmi and Olanrewaju 2013: 73). Party candidates are used as an 'investment outlet to be recovered through frivolous and bloated government contracts, appointments of cronies into chosen public offices and other prebendal returns by the beneficiaries' (Ibeanu 2008 as cited in Oji et al. 2014: 11-12).

The foundation of money politics in Nigeria dates back to British colonialism and in particular the 1922 Clifford Constitution, which introduced the Elective Principle that created four elective seats and was an income-based franchise. It allowed only those with an annual income of 100 pounds or more to participate in elections, an amount that most Nigerians could not meet and that, therefore, prevented them from contesting elections¹⁶ (Onah and Nwali 2018: 3). Money was therefore used as an indicator for meaningful political participation. As Onah and Nwali (2018: 4) show, although the Nigerian nationalists succeeded in repealing income-based suffrage, and money played a small role during the elections of the First Republic, money again became central to Nigerian politics in the run-up to the Second Republic (1979-1983) and has since continued, as Onah and Nwali (2018: 4) put it, 'to define the careers and fortunes of politicians in the country'.

In Ghana, the absence of any regulation on campaign spending or limitation of private donations

¹⁵ President Jonathan of the PDP, for example, diverted several billion of government funds to his campaign in 2015 (Onah and Nwali 2018: 11).

¹⁶ Between 1923 and 1946, only four Nigerians were elected as members of the Legislative Council by the wealthier members of the communities (Onah and Nwali 2018: 3).

to candidates has been described by a former Minister of Youth and Sport, Afriyie Ankrah, as institutionalising corruption in the country. A recurring debate in Ghana has been the issue of the linkages between the way parties finance campaigns and operations in Ghana and the inability of governing parties to tackle corruption. Large amounts of money are required for internal party elections, as well as national elections. In 2016, for example, a parliamentary candidate spent as much as \$85 000 on average to contest his/her party's primaries and parliamentary elections. The campaigns of individuals/parties are sponsored by individuals who then have a strong influence on politicians once they are in office. In the words of Ankrah, it is 'almost unconscionable' to overlook persons who contribute to the political campaigns when the political party they funded comes to power (Mordy 2018; CDD Ghana 2018).

Media coverage

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During electoral periods the media's role is particularly vital. Since they are the main sources of information, they play an important role in facilitating a transparent process while providing an outlet for political parties and candidates, and, in doing so, ensure a level playing field. However, media coverage of elections is an issue in the majority of the Anglophone countries – except for Ghana, Kenya, Malawi and South Africa. In Ghana, media coverage scores high (60-69), while in South Africa and Kenya the score is moderate (50-59). The scores for the remaining countries (see Table 3 above) are 'low' (40-49) in the case of Nigeria, Tanzania, Uganda and Zimbabwe and 'very low' (less than 40) for Zambia and Botswana (2014 elections). A variety of problems characterise media coverage in different degrees in the various countries of which biased coverage, most often in favour of incumbent presidents, is the most common. In Zambia, for example, a report by MISA Zambia (Media Institute of Southern Africa) in 2016 showed that the ruling PF party received significantly more media coverage across all four public media outlets ahead of the 2016 elections. Also, state interference and outright violations of the media's independence and freedom featured. The heavy-handedness by the state was reflected in the suspension of the licences of three independent broadcast stations that carried dissenting views and also offered a platform to the opposition, a move that was regarded as an attempt to silence the media. Newspaper journalists have also been insulted and physically attacked in their line of duty. The police have also either been physically aggressive against journalists or have been passive when it comes to the defence of journalists (MISA Zambia 2016: 8-13).

In Malawi the most important negative aspect of the media in the 2014 election period was

the one-sided coverage provided by the two state radio channels, the state television station and its online news service that focused its coverage on the presidential race rather than the local government and parliamentary elections (Gaber and Lora-Kayambazinthu 2014; MISA Malawi 2014). The 2019 elections were likewise characterised by bias in state media in favour of the ruling party, which contributed to the absence of a level playing field (EU Observation Mission 2019: 1) The state media in Tanzania also failed to provide equitable and fair coverage of the election campaigns by predominantly covering the ruling party (EU 2015: 29-30). Similar problems, such as biased reportage in favour of the ruling party, were experienced in Botswana. The arrest of one of the editors of a private newspaper under the sedition law also raised serious concerns about the freedom of the media.

The July 2018 elections in Zimbabwe were significant in many ways. Besides the fact that Mugabe was no longer a factor, Emmerson Mnangagwa who stood as the ZANU-PF presidential candidate, promised to break with Mugabe's authoritarian politics. Although Mnangagwa promised to review the repressive media legislation when he took office in November 2017, by mid-2019 no concrete progress had been made. Nevertheless, journalists have reportedly been able to cover the elections more freely and access areas that they would normally have avoided for fear of harassment. However, the violent aftermath of the elections resulted in, among other things, journalists being assaulted by the police, police barring journalists from accessing a press conference held by the opposition MDC Alliance, and threatening calls from unregistered numbers being made to the NewsDay editor, Wisdom Mdzungairi. NewsDay reported that there had been more casualties in the Harare protests than officials had mentioned (Pekkonen 2018). In addition, according to the EU Election Observer Mission's media monitoring findings, the state-owned media provided heavily biased coverage of the electoral process in favour of the ruling party. It also registered a total of eight cases of journalists injured, attacked and harassed during the entire observation period (EU 2018: 28-29).

Voter registration

The integrity and credibility of elections depend largely on the quality of the voters' registers. However, as indicated above, voter registration and the creation of a voters' register is not without controversy and has over the years been an issue in Kenya, Tanzania, Uganda, Malawi (2014 elections), Zambia and Zimbabwe, with PEI scores below 50. Each country has its own method of creating the voters' roll and none is generally without controversy.

Biometric voter registration (BVR) has been introduced in all of the Anglophone countries, with South Africa standing out as the only country where it is not high on the agenda. Nigeria, Zambia, Ghana and Kenya are the frontrunners. BVR was already used in 2011 in Nigeria and Zambia and was introduced in Ghana before the 2012 elections and in Kenya before the 2013 elections. They were followed by the rest of the Anglophone countries, with the most recent being Zimbabwe and Malawi, which introduced BVR for their 2018 and 2019 elections respectively. In Malawi's 2019 elections the integrity of the voter register was significantly enhanced by the new biometric National Identity card, which was accepted as the only proof of eligibility (EU Observer Mission Malawi 2019). Although Botswana planned to use the BVR system for the 2019 elections, it did not materialise.

In general, BVR has contributed to more valid voter registers, has been successful in eliminating multiple registrants from the register, and on the day of the election in preventing multiple voting, thus reducing rigging.

However, with the use of technology it is assumed that a sound ethical framework is in place, that election officers are competent in its use and that voters are properly informed about the use and advantages of the system. This was not the case in Kenya, Tanzania and Uganda, especially when the system was used for the first time. Significant registration glitches occurred, since electoral management bodies were not prepared for the technology. For instance, there was inadequate electric power and battery backups, registration officials not knowing how to use the machines, an inadequate number of BVR kits, the malfunctioning of kits (East Africa Law Society 2017: 8) and the misconception by some that the BVR kits are harmful to the body. With the 2017 registration process in Kenya there was improved use of this technology, but, again, problems were experienced with insufficient capacity or security testing. Allegations of computer hacking in the 2017 elections also reignited a debate around the use of digital technology in national votes. Similar to the 2013 elections, election monitors pointed to the fact that technology cannot replace trust. Recurring problems such as intermittent electrical power and malfunctioning of voter smart cards were also

evident in the most recent elections in Nigeria.

The BVR was also introduced in Zimbabwe for the first time for the 2018 harmonised elections, following concerns about the past inadequacies of the voters' roll, which has always been a major point of contention. However, numerous concerns were raised about the accuracy, completeness and inclusivity of the register. These were compounded by the late release of the final voters' roll by the ZEC and its failure to carry out a proper and independent auditing exercise, which affected stakeholder confidence in the register and of the ZEC (AU 2018: 4; EU 2018: 14-17).

BVR does not solve all the problems that are associated with voter registration such as: the low turnout of voters to register (e.g. Kenya); insecurity in some parts of the country and the lack of national identity cards for many (Kenya and Nigeria) (ELOG Report 2013: 43); the presence of a high number of deceased voters on the register (Zambia); in Tanzania, cases of 'fraudulent registration', where illegal immigrants and non-citizens along the border regions were registered as voters; and in Uganda disenfranchisement of many voters by the Electoral Commission by arbitrarily making the cut-off date for registration on 11 May 2015 for an election taking place in February 2016 – effectively preventing anyone turning 18 years old after 11 May 2015 from voting (East Africa Law Society 2017: 15).

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Voting process

As shown in Table 3 above, the voting process in the period 2012-2018 scored low in Malawi (2014 elections), Tanzania and Zimbabwe (40-49), while Nigeria (2015 elections), Kenya, Uganda and Zambia received 'failed' scores (less than 40). The shortcomings in the voting process in Uganda and the elections in Nigeria, outlined below, provide some indication of the type of issues that characterise a 'failed' voting process. In Uganda, for example, markedly delayed delivery of voting material in several areas coupled with a lack of communication by the Electoral Commission led to growing frustration and tension among voters, with crowds protesting and the police using teargas to disperse crowds. In addition, the Ugandan Communication Commission blocked access to social media, which further contributed to the tense situation. A number of other problems at polling stations included unsealed ballot boxes, ballot boxes and ballot papers missing in significant numbers, the unavailability of the voters roll at some polling stations, the inconsistent use of the voters roll as a primary means of voter identification and attempts at vote-buying (EU 2016: 28-29).

In Nigeria's 2019 elections (like the 2015 elections), serious operational shortcomings were also reported. The elections, originally scheduled for 16 February 2019, were postponed by the

INEC hours before they were meant to begin due to problems of timeously delivering materials such as ballot papers and voter card readers to polling stations. When the vote was finally held on 23 February, most polling stations (for the same reasons) opened hours late and many election officials seemed confused about voting-day procedure. According to INEC, voting had also not been possible in 8 500 of the 120 000 polling stations around the country. Although voting was generally peaceful, violence broke out at some stages, with over 39 people killed over the weekend – mostly by thugs who attacked polling stations, stealing ballot boxes and intimidating voters. Vote buying (despite being prohibited by law) was also widespread by means of, for example, the handing out of cash and spices in some neighbourhoods/villages. This has led to the description of Nigeria's electoral politics as 'cash-and-carry democracy' (Onuoha and Ojo 2018; *BBC News* 2019; *The Economist* 2019).

Results (challenges, violent protests and resolving disputes)

The election results of recent presidential elections in, for example, Kenya, Uganda, Malawi and Zimbabwe have been challenged in the courts. In Uganda's 2016 elections nearly 60 polling stations had a 100 per cent voter turnout. In 47 of these Museveni received 100 per cent of the votes cast and there were no invalid votes, while in eight he got 98.5 per cent. Such high percentages for a winning candidate with a very high turnout rate were regarded as 'a sign of systematic fraud'. Besigye, the opposition candidate, led in all polling stations with less than 60 per cent turnout rate. The court resorted to formalities to reject the evidence of malpractice by arguing that although Besigye had proved that irregularities had occurred he had failed to prove that Museveni 'did not obtain more than 50 per cent of valid votes of those entitled to vote' and that Besigye's statistical analysis was academic, theoretical, speculative and lacked expertise and credibility (East Africa Law Society 2017: 13). In Kenya, however, the Supreme Court's annulment on 1 September of the presidential component of the election held on 8 August 2017, due to large-scale irregularities, has been described as a historic and landmark ruling, specifically since it went against the incumbent president (European Union 2018: 16). However, the rerun of the presidential elections on 26 October 2017 was equally contested. The runner-up of the August presidential election—Raila Odinga, who secured 44,9 per cent of the vote – withdrew from the presidential election re-run, arguing that there was no prospect of a credible election since the IEBC failed to make the necessary reforms (*Aljazeera* 2017). This culminated in an opposition boycott and a political environment characterised by an increase in violence, with 92 people killed. The voter turnout also dropped

from 79.5 per cent to a mere 38.8 per cent (*Al Jazeera* 2017). In Tanzania, the Ukawa coalition also rejected the Union¹⁷ presidential and parliamentary results. However, the results of the presidential election cannot be challenged in court.¹⁸

In Zimbabwe, the outcome of the presidential election was contested by the MDC Alliance after the marginal victory of the ZANU-PF candidate Emmerson Mnangagwa was announced. The MDC Alliance chairperson refused to sign the results form (arguing that he was not given access to the verification process) and later lodged an unsuccessful legal challenge to the presidential result. In their observer mission report the EU highlighted the fact that the ‘figures presented by the Zimbabwean Electoral Commission (ZEC) contain many anomalies and inaccuracies’, though they did not bring into question the results per se (EU 2018: 37). These errors were presented to the court by the MDC, but the court found that they did not affect the overall outcome. The MDC Alliance leaders intensified their claim that the elections were rigged. The news that the ruling ZANU-PF had won a parliamentary majority sparked violent protests in Harare between MDC supporters and the military. In the end, the military opened fire on opposition supporters, leaving six people dead and dozens injured.

In February 2020 the Constitutional Court in Malawi annulled the May 2019 vote that returned President Peter Mutharika to power. The court cited ‘widespread, systematic and grave’ irregularities and ordered a rerun within 150 days. Similar to the Supreme Court’s annulment of the 2017 presidential election in Kenya, observers also regarded the court’s decision as a democratic milestone for a continent where judges often play it safe by ruling in favour of the winning incumbent in a disputed poll (*Daily Maverick* 2020).

A trend of violence has not only characterised the outcome of the elections in the above-mentioned countries but has, since 1990, also been frequent in, for example, Ghana and Nigeria. In general, there have not been large-scale killings such as the post-election violence in Kenya in 2007 (with 1 500 deaths and more than a half a million displaced people) and in Zimbabwe in 2008 (with 107 deaths, over 600 displaced people and 1 913 cases of assault).

¹⁷ In the observer mission reports they refer to the Union and Zanzibar

¹⁸ This is contrary to the international principles for democratic elections entrenched in the International Covenant on Civil and Political Rights. Only the validity of the elections of the National Assembly may be challenged by way of petition to the High Court (European Union 2015:34).

Electoral violence in Sub-Saharan Africa is a multi-faceted phenomenon and is also present in the Anglophone countries. In Kenya, for example, violence is explained by the development of exclusive ethnic identities, resulting in violent electoral mobilisation, including promises of patronage (Fjelde and Höglund 2018: 41-42). In Nigeria on the other hand, state control of productive resources and domination of economic life, creating the perspective that state office is an easy avenue for accumulating wealth, is regarded as an important driver of electoral conflict. The state owns and controls the oil and gas sectors, which accounts for more than 50 per cent of government revenue, placing considerable resources at the state's disposal. In addition, many in the private sector depend on political patronage. Politics has become the only way for politicians to improve their lot (Kwarkye 2019). As shown above, candidates and their financial supporters invest heavily in elections in order to gather returns when they win. The situation is further compounded by religious and ethno-regional tensions whereby elections become the battleground for political supremacy and resource control (Kwarkye 2019).

The causes of electoral violence in Ghana, which is considered small-scale or less severe than that in other countries in the region, play out differently from the above two examples. The underlying causes of the violence vary in terms of geography. Electoral violence in the north, for example, is related to interethnic conflicts, chieftaincy rights and big man politics. In order to gain political support these factors are manipulated by political leaders from the two main parties, the National Democratic Congress (NDC) and New Patriotic Party (NPP) (Schmitz 2018: 244).

Electoral Management Bodies

It has been widely asserted that the quality and credibility of elections depend greatly on the competency, viability and impartiality of the electoral management bodies. It is therefore not surprising that the countries with low and very low PEI Index scores (below 50) also have similar low scores for their electoral authorities. As shown in Table 3 above, these are: Kenya, Tanzania, Uganda and Zimbabwe. In many instances, as also shown in the examples below, the major problems with electoral bodies are generally inefficiency and the lack of effective communication, as was also the case in the 2019 elections in Nigeria.

According to observers, during the 2018 elections the ZEC lacked inclusivity, transparency and effective external communication, which was regarded as problematic given the low base of trust in the electoral process by stakeholders (EU 2018: 10). Also, in Tanzania the National Electoral Commission (NEC) did not provide full transparency of its decision-making processes, which

affected the confidence of political parties (EU 2015: 16-17), while the lack of structural capacity in Malawi in conducting some key operations compromised the credibility of the Electoral Commission (EC) during the 2014 elections (EU 2014: 15). However, the appointment of a new EC for the 2019 elections which instituted a number of positive operational reforms to address past shortcomings, resulted in increased public confidence in the body (EU 2019: 6).

On the other hand, the Electoral Commission in Uganda has been described by observers as neither independent nor transparent, and consequently lacked the trust of stakeholders. As a result, the elections fell short of international standards for the conduct of elections at key stages (EU 2016: 1). Also, in Kenya during the 2017 elections, the IEBC (Independent Electoral and Boundaries Commission) was not trusted as a result of extensive political controversy about the neutrality of its predecessors. Despite the replacement of all commissioners, the IEBC continued to lack stakeholder trust and was subject to on-going public criticism and legal challenge. The issue of the credibility of the IEBC was heightened when a commissioner (Roselyn Akombe) resigned before the rerun of the second presidential election, saying that the body was 'partisan'. She also said: 'The commission in its current state can surely not guarantee a credible election on 26 October 2017. I do not want to be party to such a mockery to electoral integrity.' (Al Jazeera 2017).

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Conclusion

Having each held between five and seven elections since the early 1990s, elections in these Anglophone African countries have become the most important institutional mechanism for the distribution of political power. In addition, turnovers in power, which symbolise the willingness of political parties to accept the rules of democracy, occurred in six of these countries, the efforts of presidents in three countries (Zambia, Nigeria and Malawi) to constitutionally extend their term limits were unsuccessful, in Uganda, Museveni was guaranteed lifetime rule in 2017 after parliament amended the constitution, and in Zimbabwe no term limit existed until 2013. Voter turnout in the majority of countries is fairly high (between 60 per cent and 80 per cent) in eight of the ten countries, confirming the importance of elections. The exception is Nigeria, where voter turnout in the 2019 elections reached an all-time low of 36.5 per cent, which has been attributed to a number of factors, including violence, poor organisation and the postponement of the elections.

Influenced by former British rule, the FPTP electoral system is still used in most of the countries with the exception of South Africa, which uses a proportional list system, and Zimbabwe, which has in recent years changed to a mixed system. In all the countries this system has produced

unrepresentative outcomes due to the disproportionate translation of votes into seats, which favours the larger parties at the expense of the smaller ones. Another consequence of the system is the disproportionate weight accorded to rural constituencies, which violates the principle of the equality of the vote, despite the demarcation exercises that have been undertaken. The mean malapportionment in countries such as Ghana, Tanzania, Kenya, Malawi and Zambia is twice as high as the worldwide figure.

Although the Pan-African and regional norms and standards for the appropriate conduct for elections are generally reflected in the constitutions and electoral laws of the Anglophone countries, electoral malpractices are persistent across most of the countries. In terms of the Perceptions of Electoral Index scores, which were used as a point of departure for the evaluation of elections in this chapter, the levels of election integrity vary considerably among the ten countries. On the one hand, Ghana and South Africa (2014 elections) were the best performers across most dimensions of the electoral cycle in their last general elections, while at the lower end of the spectrum, flawed contests were held in Malawi (2014 elections), Zambia, Tanzania and Kenya. Uganda and Zimbabwe are the worst performers, falling into the 'very low' or even failed category, where the integrity of the elections across most of the dimensions was compromised.

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Party financing is the weakest stage of the electoral cycle in all the Anglophone countries (including Ghana and South Africa). The PEI ratings are all below 40, which is regarded as very low. Many of the challenges of corruption and coercion in the elections are related to money issues. Although donation limits to candidates exist in countries such as Kenya, Tanzania, Uganda and Nigeria, these limits are not monitored, and violations are not penalised. Abuse of political finance includes multiple practices such as clientelism and vote buying, which is particularly pervasive in Nigeria. The absence of control over the campaign spending of candidates has resulted in large amounts of money being required to contest elections, which are often sponsored by individuals who then have a strong influence over elected politicians.

The integrity of the elections in terms of voter registration, the voting process and the results (comprising challenges, the triggering of violent protests and dispute resolution through legal channels) have also been very low in Kenya, Malawi (2014 elections), Nigeria, Tanzania, Uganda, Zambia and Zimbabwe, and can be linked to the limitations of the electoral management bodies in these countries. Furthermore, in eight of the countries (the exception being South Africa, Ghana and Kenya) media coverage during the elections, particularly the state media, has been characterised by biased coverage in favour of the governing party or the incumbent president.

Finally, it is not possible to identify which stage of the electoral cycle is the most important in

determining the integrity of elections. What is evident, though, is that a number of shortcomings characterise elections, and Anglophone countries need to improve on a multitude of aspects along the whole electoral cycle.

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