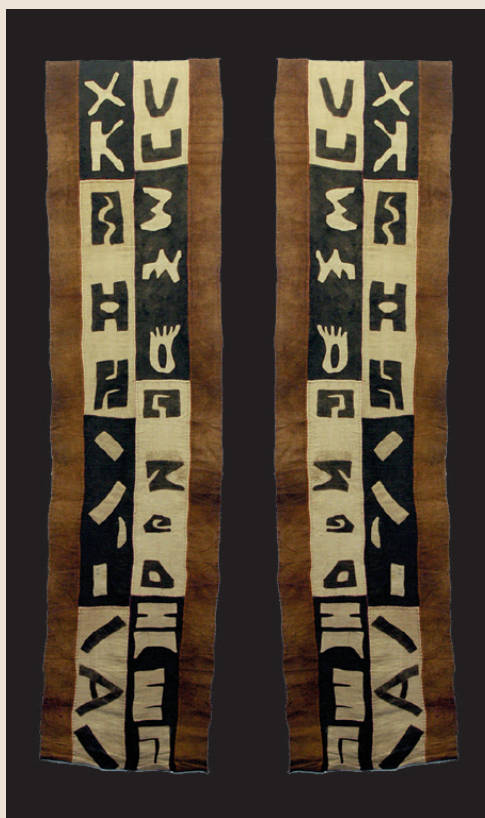




# JOURNAL OF AFRICAN ELECTIONS



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# Journal of African Elections

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# OPINION PIECE

## THE ALTERNATIVE VOTE FOR ZIMBABWE?

### *A Rhodesian Retrospective*

***Roger Southall***

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the Witwatersrand

Only starry-eyed optimists ever hoped that the 2023 election in Zimbabwe would bring about a significant change in how the country is ruled politically. From 2008 onwards, when President Robert Mugabe survived a challenge presented by Morgan Tsvangirai only by orchestrating a brutal crackdown on his rival's supporters in a run-off in the presidential election, Zimbabwean elections have lost any shred of credibility. The electoral playing field is systematically stacked against challengers to the ruling Zimbabwe African National Union–Patriotic Front (ZANU-PF), as those confronting the ruling party are faced by partisan electoral authorities, a battery of laws inhibiting opposition, restrictions on the media, the deployment of violence against opposition supporters, and so on (Southall 2013, pp. 107-32; Human Rights Watch 2018). In short, electoral outcomes are largely predetermined in ZANU-PF's favour, notwithstanding the bravery of those who continue to challenge the ruling party.

Yet hope still lingers. Hope that one day some unforeseen set of circumstances will open the door to meaningful political change. Hope that one day, the grip which ZANU-PF – backed by the military – holds on power will be weakened sufficiently for the forces of opposition to compel a re-arrangement of the political furniture to allow for a democratic renewal. Hope that one day there can be a genuinely meaningful election when ZANU-PF's claim to the support of all patriotic Zimbabweans is put to a proper test. If that day comes, we may be sure that calls for the independence of Zimbabwe's Electoral Commission will be matched by an extensive debate about the most appropriate electoral system for democracy to flourish.

The broad outline of that debate has already been anticipated (Zimbabwe Elections Support Network 2020). Fundamentally, the debate will revolve around whether Zimbabwe should retain its present majoritarian first-past-the-post

(FPTP) electoral system or move to an electoral system which guarantees a more proportional outcome (proportional representation, or PR). Proponents of the first stress that the single-member constituencies which FPTP (customarily) requires allows for a direct link between voters and their elected representatives in parliament. This enhances the direct accountability of the latter to the former, while encouraging tendencies towards a two-party system wherein to gain power the rival parties need to attract voters from the political centre.<sup>1</sup> Proponents of PR will reply that because FPTP enables candidates to win seats with pluralities of the vote (less than fifty per cent), and because it has a marked tendency to 'waste' votes (in constituencies where the winner sweeps over fifty per cent of the vote, all votes above the fiftieth percentile are 'wasted'), it enables governments to be elected which lack majority popular majority support but which enjoy disproportionately large majorities of seats.<sup>2</sup> They will therefore point to the guaranteed greater fairness of PR systems which ensure that the support which competing political parties receive in elections translates into a proportional number of seats. In turn, this almost always guarantees that governments that are formed after elections held under PR can claim to be backed by a majority of voters, even if they are formed by the coming together of two or more parties which individually received less than 50 per cent of the poll. In response, supporters of majoritarian systems will argue that because PR requires large (sometimes national) multi-member constituencies, the direct link between voters and their MPs is broken, and as a result, there is lack of personal and political accountability between 'the people' and their representatives.

This debate is so well known to readers of this journal that there is no need for further elaboration, suffice to make two simple points. First, if Zimbabweans are enabled to make a choice of electoral system, they will be influenced by not only their own experience of FPTP (which has delivered highly skewed outcomes in favour of ZANU-PF) but by other southern African examples. Two such examples stand out.

---

1 Steinberg (2023) (amongst many others) has railed against the way in which PR in South Africa has led to a multiplication of minor parties while entrenching a corrupt ANC in power: '... the best system for a country like SA is a first-past-the-post two-party system. Why so? Because to win an election under this system a party is forced to track to the centre. Either it wins a majority of votes or it loses. It must aggregate the broadest alliance of voter interests it possibly can. It must think like a nation, not like an ethnic minority. If it fails to do so it will be voted out, for its rival is trying to do the same.'

2 The most notorious instance of this occurring in the southern African context is the election in 1948 when Smuts' United Party won 49 per cent of the votes and 65 seats but lost to the National Party which won only 38 per cent of the vote but 70 seats, and proceeded to introduce apartheid. In Britain, governments are consistently formed by parties which have won less than 50 per cent of the popular vote (see United Kingdom general elections overview, Wikipedia, [https://en.wikipedia.org/wiki/united\\_kingdom.ge](https://en.wikipedia.org/wiki/united_kingdom.ge))

- The first is that of South Africa, where a national-list system of PR has delivered repeat majority victories for the ANC but at huge cost to popular accountability. It has now become a regular refrain that MPs are accountable not to the electorate but to the party bosses who determine whether they will be included on the party list at the next election (Steinberg 2023).
- The second is that of Lesotho, where since the election of 2002 MPs have been elected by a system of Mixed Member Proportional Representation (MMPR), whereby the outcome of FPTP constituency elections in parliament are rendered proportional by the election of other MPs from party lists. Although successful in addressing the highly disproportional outcomes of elections held in 1993 and 1998, the overall outcome has been problematic, having resulted in the fragmentation of political parties and successive unstable coalitions since the election of 2012 (JAE 2023).

Consequently, and electoral system theory apart, it will be important for the Zimbabweans to refer to how the different electoral systems on offer have actually worked in southern Africa, where politicians have been as active in pursuing personal interests and 'gaming electoral systems' as anywhere else in the world. Real life experience is important. Hence it is worth throwing into this debate some reference to Zimbabwe's electoral past which has largely been forgotten.

In 1980, Zimbabwe's first truly democratic election was conducted under a system of PR, with a 5 per cent threshold being used in the allocation of seats in eight provinces. Three parties, ZANU under Mugabe, the Patriotic Front-Zimbabwe African People's Union (ZAPU) under Joshua Nkomo, and the United African National Congress (UANC) led by Abel Muzorewa contested 80 common-roll seats (ZANU winning 57, ZAPU 20, and UANC 3), with a further 20 seats being elected by whites. Subsequently, following an amendment to the Electoral Act, a reversion was made to the FPTP electoral system which, albeit employing a race-skewed franchise to ensure that there was no electoral threat to white minority rule, had operated for elections which had been held in 1970, 1974 and 1977. However, what is so often overlooked today is that previously the then Rhodesia had been a site for 'electoral engineering', with the elections of 1958, 1962 and 1965 having employed a system of Alternative Vote (AV), albeit combined with a race-skewed franchise (Fraenkel 2015; Leaver 2000; 2006).

The argument here is that the implementation of AV in these elections is worth re-visiting. If nothing else, they may serve to illustrate how the disproportional outcomes of FPTP can be ameliorated while retaining the accountability of elected MPs for which single-member constituencies is so highly praised by its proponents as supplying.

## THE ALTERNATIVE VOTE ELECTORAL SYSTEM

One of the greatest virtues of AV is its simplicity. Voters are invited to list the candidates standing for election in single-member constituencies in order of preference. If no candidate wins a majority of the votes cast, the candidate with the least votes is eliminated, and his or her votes are redistributed according to these voters' second preferences. This process is repeated until one candidate receives fifty per cent of the vote, ensuring that no MP is elected by only a minority vote, as under FPTP. It is claimed by electoral system theorists that this process works to ameliorate political extremes (on a left-right spectrum) and / or to limit appeals to racial or ethnic sentiments, as parties in genuinely competitive political systems need to look beyond their own popular base to appeal to the 'second preference' votes of supporters of other parties. As a result, it is said, AV works to pull electoral outcomes to the political centre (Electoral Reform Society, undated; *Encyclopedia Britannica*, undated).

AV is categorised as a *majoritarian* electoral system as electoral outcomes continue to be heavily influenced by electoral delimitation. Consequently, if some seats are 'loaded' (that is, if some constituencies have more voters than the average number of voters relative to the total number of constituencies, this most commonly occurring where urban constituencies are allocated disproportionately more voters than rural ones), there is a resultant tendency towards a disproportional outcome enabling a party with less than a popular majority to win a majority of seats. On the other hand, AV operates to ensure that no individual MP is elected without a majority of the popular vote in his / her constituency.<sup>3</sup>

As in all single-member constituency electoral systems, the numerical fairness of outcomes rests heavily on the criteria used to determine the allocation of constituencies relative to voting age population. It is hugely dependent on this exercise being conducted in a politically non-partisan manner to avoid, for instance, the intentional devaluation of the votes of categories of voters by criteria such as race, class, or religion, by herding them into arbitrarily demarcated voting districts to limit their influence.

In other words, whether AV would be a viable option for a democratic Zimbabwe would depend heavily upon:

---

3 It is important to distinguish between AV and Single Transferable Voting (STV) systems. Whereas AV operates in single-member constituencies, STV (in which voters are invited to rank all (or as many) candidates before them in order of preference) operates in multi-member constituencies, and results in a proportional outcome. Note, however, that in colonial Rhodesia, the AV system introduced for the 1958 election was often wrongly referred to as STV.

- i) the existence of a non-partisan constituency delimitation authority and process whose independence was widely accepted;
- ii) the definition of clear criteria for the allocation of constituencies (that is, if factors other than the numerical equality of voters per constituency were taken into account, these should be transparent and justified according to stated principles); and
- iii) the constitutionally-mandated regularity of delimitation exercises to take into account changing electoral demography (such as migration) affecting the population size and composition of individual constituencies.

#### THE INTRODUCTION OF AV INTO RHODESIAN ELECTIONS<sup>4</sup>

It must be emphasised from the start that the introduction of AV into Rhodesian elections was part and parcel of white settler politics. The population at the time was composed of 178 000 whites (usually then referred to as 'Europeans'), 2.3 million Africans and 13 200 people from other minority groups (usually referred to as 'Asians and Coloureds'). What was then the 'Southern Rhodesian' government was run by politicians representing the white minority, yet it was under increasing pressure for enfranchisement by the black African majority. Although there was provision for six seats for Africans in the parliament of the colonial-inspired Central African Federation (formed in 1953 and composing then Northern Rhodesia (Zambia), Southern Rhodesia (Zimbabwe) and Nyasaland (Malawi)), Africans remained unrepresented in the Southern Rhodesian legislature.

With the formation of the federation, the most ambitious white politicians from Southern Rhodesia wanted to emulate their prime minister, Godfrey Huggins, by moving 'upwards' into federal politics where they thought the most exciting and important political and economic action would be happening. This meant there were vacancies in government at territorial level, and it was these which allowed Garfield Todd, who had moved into politics following some two decades as a missionary, to become prime minister. He did so with the backing of Huggins, who had a high regard for his ability, despite his being identified as a 'liberal'. Indeed, to give Huggins his due, he recognised that if the federation was to work, it needed to be able to accommodate African political aspirations, and there was no settler politician more likely to meet these than Todd (Hancock 2008; Woodhouse 2018).

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4 I would like to stress that this article is intended to remind Zimbabweans of a part of their electoral history that is too often forgotten, and that it makes no claim to originality, having drawn its data primarily from Fraenkel 2015, but also Leaver 2000 and 2006.

Todd may have been a 'liberal', yet he was also a man of his time. He did not believe that Southern Rhodesia's African population was yet ready to rule the country, yet neither did he accept the demands of the more politically extreme settler politicians who wanted to emulate the racially exclusivist politics of South Africa. As prime minister, Todd committed himself to the advance of Africans in the civil service, devoted himself to the reform and expansion of African education, and dismantled the colour bar in many public spaces, and in so doing he earned widespread African support. His intent was not only to allow Africans to ascend the steps of 'civilisation', but to woo middle-class Africans (largely composed of professionals, teachers, and nurses) away from the emerging African nationalist movements. These movements were following the example of their counterparts in Northern Rhodesia and Nyasaland in calling for majority rule, independence, and the dissolution of the federation. In turn, Todd's reforms received the reluctant acceptance of 'centrist' settler politicians who aspired to Southern Rhodesia's own independence, and recognised that Britain, the formal colonial power, was unlikely to grant this independence to a settler state with a racially restricted franchise.

To find a workable solution to these conflicting political pressures, the Todd government appointed a commission, chaired by the federal Chief Justice, Sir Robert Tredgold. It was fundamentally concerned with the problem of finding a franchise formula which would enlarge African participation while ensuring that the result of this change would strengthen the majority enjoyed by what was regarded as the 'moderate' centre (Leys 1959, pp. 227-28). Its official task was to devise a system 'under which the Government is placed and remains in the hands of civilized and responsible persons'. Its report argued that a universal franchise required a 'homogeneous electorate', with party divisions based on policy differences rather than those of 'race and colour'. It simultaneously acknowledged the dangers posed by the denial of the franchise to the majority of the population. To begin to address this, it recommended the introduction of a new 'special' qualification of £180 per annum, plus literacy, for entitlement to the franchise. Under this arrangement, the Commission anticipated that, as incomes rose, increasing numbers of Africans would qualify for inclusion as voters on the electoral rolls, although such 'special registrations' were to be capped at no more than one-third of the ordinary voters' roll in any constituency. It envisaged the enfranchisement of several thousand of the wealthiest and best-educated Africans and held out the hope that they would at least tilt the balance of voting away from the most extreme segregationists (*ibid.*).

In addition, the Commission proposed the introduction of AV in the territory's existing single-member constituencies (locally and misleadingly referred to as a Single Transferable Vote, STV, which operates in multi-member

constituencies). It hoped thereby to facilitate the election of candidates who could satisfy African aspirations while simultaneously allaying white fears about impending loss of political control. Its justification was that the introduction of AV would mean that no candidate or party would be able to appeal to the electorate on racial grounds without alienating key bodies of support whose second preference votes might be required to gain election.

The cabinet was reluctant to embrace Tredgold's recommendations in their entirety, and Todd was compelled to compromise. The outcome was that the 1957 Electoral Amendment Act retained the existent minimum franchise requirement of £240 income per annum, but a 'special qualification' was added of either two years of secondary education or an annual income of £120 per annum for two consecutive years. Furthermore, special qualifications were to be capped at one-sixth of 'ordinary' registrations, instead of one third, as Tredgold had recommended. 'Although still extremely restrictive, the law entailed the extension of the franchise to several thousand of the best educated or wealthiest Africans' (Fraenkel 2015, p. 1172).

With good reason, we today decry the various qualifications introduced by a settler government to contain the size of the African vote. However, the purpose here is to focus upon how, within this context, AV operated, and the extent to which it worked to pull electoral outcomes to the political centre in a context which was racially fraught.

#### AV IN THE 1958 ELECTION – AND WHY IT (SORT OF) WORKED

Todd's modestly reformist politics proved too much for his cabinet, which worried that his liberal intent would lose their United Federal Party (UFP) votes at the forthcoming election. As a result, he was ousted from power in February 1958, following which he established the United Rhodesia Party (URP) in April, reviving the name which the UFP had used prior to the establishment of federation.

As a result, the 1958 election was a three-corned contest between the ruling UFP, now led by Sir Edgar Whitehead who had replaced Todd as prime minister, Todd's URP, and the Dominion Party (DP). The UFP was the predominant party of the time, backed by professional, senior civil servants, and major mining and commercial interests. It identified strongly with the federation project, while simultaneously embracing modest political reforms and 'multi-racialism' to strengthen its case for independence from Britain. In contrast, the DP, which strongly opposed the extension of the franchise and the introduction of AV, appealed to lower-class whites who feared they had much to lose from African upward mobility, as well as to conservative rural settler interests. Todd's URP made its appeal not only to liberals, but as it saw it, political 'moderates' among

the white electorate, as well as being regarded as the champion of African middle-class interests (Hancock 1984).

The electorate was composed of voters on two rolls. The A roll was for voters with ordinary qualifications, and was composed of 74 000 whites, 1 500 Asians and 1 500 Africans. The B roll was for voters with special qualifications, and was composed of 1 500 whites, 8 000 'Coloureds' and Asians, and 1 500 Africans. However, both categories of voter cast ballots on a combined single roll for the 30-seat legislature.

Given the new electoral arrangements, the UFP could expect to benefit from AV and to receive the second preferences of URP voters, who were unlikely to vote for the more right-wing and racially exclusive DP, and this is how the election turned out:

**Table 1: The 1958 General Election**

	<b>First Preferences</b>	<b>%</b>	<b>Final Vote</b>	<b>%</b>	<b>Seats</b>
Dominion Party	18,142	45.7	18,314	47.0	13
United Federal Party	16,840	42.7	17,516	45.1	17
United Rhodesia Party	4,662	11.7	2,991	7.7	0
Independents	67	0.2	67	0.2	0

As is made clear, the DP won a plurality of both first preference and the final votes but lost the election. Fraenkel's detailed study, from which this table is sourced, reckons that without AV, and under FPTP, the DP would have won 17 seats to the UFP's 13. Instead, the outcome in seats was reversed once the second preference votes were in, with two-thirds of URP voters opting for the UFP as the lesser evil. In nine constituencies, results were decided by second preferences. In four of these, the DP, ahead at the first count, lost the final election. In total, the UFP won six seats after the transfer of second preferences. In constituencies where there were substantial number of African voters, around 45 per cent of those who gave a first preference to the URP, chose not to express a second preference (Fraenkel 2015, pp. 1172-75).

In short, the outcome of the vote demonstrated a tension between majoritarianism and proportionality inherent in AV. On the one hand, the UFP won a majority of seats, despite receiving a smaller popular vote than the DP (presumably, because of varying sizes of constituency electorates). On the other hand, it is apparent that the UFP was preferred to the DP by a majority of the voters. In short, the tendency of AV to encourage centrism was confirmed – although

as Fraenkel argues, it is difficult to disentangle this from the 'cross-voting' by B roll voters. However, this was settler politics, at a time when the tide of African nationalism was rising. One participant of the day looked back retrospectively at Rhodesia's 'lost chance' of avoiding the racial polarisation that followed (Holderness 1985).

### THE 1962 ELECTION – AND WHY AV DIDN'T WORK

The response of Africans to the failure of Todd's URP to win a single seat led to an upsurge of support for African nationalism. Events moved fast.

Leaver (2000, p. 9) characterises Whitehead as a technocrat who was disposed to a cautious reformism which 'he knew to be in Rhodesia's best interests'; yet when faced by increased African protest, he clamped down on it harshly. Within a year of the 1958 election, he had declared a state of emergency and arrested around 500 leaders of the Southern African National African Congress and banned it via the passage of an Unlawful Organizations Act. When African leaders formed the National Democratic Party (NDP) in the SRANC's place, he arrested those too. But after authoritarianism to regain white support, came reform to attract African votes. Although repression had alienated much African middle-class support, 'the fate of the UFP now rested critically on the sustainability of its middle-of-the-road (racial) partnership position: its ability to attract growing African support while retaining backing from its predominantly white electorate'.

Whitehead pressed on with reforms inaugurated by Todd. He abolished colour bars in public swimming pools, cinemas, and restaurants; the Industrial Conciliation Act of 1959 eliminated race-based rules for negotiation; the higher ranks of the civil service were further opened to Africans; and an Education Act promised elementary schooling for African children. In addition, in August 1960, the size of the legislature was increased to 50 seats, in the hope that a few Africans might be elected. He also inaugurated talks with leaders of the NDP, which was pressing for reserved seats for Africans.

Whitehead's principal objective was to secure a political settlement which would pave the way to internationally recognised independence from Britain. A key moment came in January 1961 when the NDP participated in a constitutional conference, chaired by Whitehead, where a compromise arrangement was brokered by Duncan Sandys, the British Secretary of State for Commonwealth Relations. The key features of this were:

- Membership of the legislature was increased from 50 to 65
- Two voters' rolls were now to have their respective allocated seats, with 50 'constituency' seats allocated to A roll voters who met higher

income and educational qualifications (these being mainly white); and 15 'District' seats being allocated to B roll voters, comprising voters registered on lower income and educational qualifications (mainly Africans), but now also including various chiefs

- Each voter now had two votes, one in each type of constituency. Votes cast by B roll voters were able to influence outcomes in the 50 constituency seats, up to a maximum of 25 per cent. Votes cast by A roll voters were likewise entitled to influence outcomes in the District seats, up to 25 per cent. Any 'surplus' votes would be devalued so as not to exceed the 25 per cent limit.

Although these (complicated and highly unequal) new electoral rules (which were almost certainly opaque to many voters) allowed for significantly larger numbers of Africans to be enfranchised than the previous common voter roll system, they drastically limited the value of their votes.

NDP leader Joshua Nkomo initially accepted the additional 15 seats and the cross-voting provisions, but rapidly back-tracked when faced by opposition from within his party. The DP also rejected the new rules, but Whitehead pressed ahead with a referendum under the existing and largely white franchise which had preceded the conference. The referendum was approved by a large majority, 42 004 votes to 21 846. However, the NDP arranged its own referendum, the result of which registered overwhelming African rejection of the new constitution (372 446 against, a paltry 471 for). Nkomo followed up by declaring that the party could not accept a constitution which entrenched the superiority of the white population. For all his earlier willingness to compromise, Nkomo's rejection of the constitution 'mortally wounded' Whitehead's approach, which had been to outflank the far-right in the form of the DP by winning the support of African 'multi-racialists' (Leaver 2000, p. 9).

Whitehead was encouraged by the size of majority he won in the 1961 referendum, believing it would translate into white backing for his approach in an election which was held in December 1962. The local press and the British government fell in behind him, and both expected a UFP victory and the defeat of white settler irreconcilables but failed to recognise that 'majority settler backing for the new constitution had not reflected endorsement of the UFP's multi-racialism', but rather support for concessions designed to achieve full independence' (Fraenkel 2015, p. 1176). Even more critical, however, was that the NDP under Nkomo, scrambling to keep up with more radical African nationalist opinion, called for a boycott of the election, and as a result, was banned by Whitehead only a few days before the polls.

Whitehead had sorely miscalculated. By banning the NP, he had appealed to white prejudices, stimulating a white intransigence which had already been inflamed by events in the Congo. Roy Welensky, who had succeeded Huggins as federal prime minister, had backed the Katangese secessionist leader, Moise Tshombe. For many white voters, anarchy in the Congo represented all they feared at home if African nationalists were to gain power, their fears thrusting them into the arms of the newly formed Rhodesian Front (RF) under Winston Field, which by now had succeeded the DP as the champion of the right.

The 1962 elections saw the registration of 92 131 ordinary (A roll) voters, who were overwhelmingly white (87 447 white, 2 416 Asian and Coloured, and 2 268 African). They were joined by 11 014 'special' (B roll) voters (561 white, 267 Asian and Coloured, and 10 186 African). They were to participate in an election which, in effect, had become a two-party race with the UFP confronting the RF, for by now the URP had collapsed, Todd having alienated much liberal support by calling for British intervention into Rhodesia. Although he had now established the Centre Party, his increasingly radical posture gained little traction among white Rhodesians. The outcome of the election recorded a significant shift to the right.

**Table 2: The 1962 General Election**

	%	Constituency Seats	District Seats
Rhodesian Front	54.7	35	0
United Federal Party	43.5	15	14
Centre Party	1.6	0	0
Independent Ahrn Palley		1	0

Two key features of the election explain why AV and preferential voting had virtually no impact on the outcome. The first was the markedly higher level of racial polarisation, which had severely squeezed the remaining hopes for 'multi-racialism' and 'moderate' political reform as embodied by the platform of the UFP. The second, and more significant was the boycott of the election driven by the NDP:

- As noted above, electoral reforms had opened the door to significantly increased numbers of Africans. It is estimated that without the boycott, up to 50 000 Africans could have registered as special voters; but in the event, only about 2 600 Africans voted, far too few to influence the outcomes in all but one constituency election (where

a narrow RF first preference outcome was overturned in favour of the UFP).

- In 15 districts, the 2 577 votes cast on the B roll largely determined the results, whereas the 64 904 A-roll votes cast mainly by whites were 'devalued', so that they represented only 25 per cent of B-roll votes in any district. Although the RF was ahead in 12 of the 15 district seats on the basis of the totals of both A and B roll votes, the UFP candidates ended up ahead in 14 of the district seats once A roll votes were devalued.

In retrospect, the key aspect of the election was the boycott by African voters. According to Leaver (2000, p. 9), Whitehead's defeat 'aborted a liberal plurality attempted from local liberals, multi-racial blacks, constitutional reform and imperial cajolery'. African failure to vote meant too few votes or 'second preferences' to overturn RF's first preference lead amongst whites. Fraenkel (2015, p. 1177) agrees: 'Without the African boycott, the UFP would probably have won the election, not primarily because of the AV system, but because of the influence of B-roll votes in the 50 constituency seats'. Second-preference vote transfers would have proved significant only if the outlawed NDP had been allowed and willing to contest the election.

Leaver's judgement is that white Rhodesians bear ultimate responsibility for that outcome, as they had frustrated African aspirations and hence nourished political and racial militancy (Leaver 2000; 2006). However, he also insists that because of their decision to boycott the elections, African nationalists share responsibility for the defeat of the UFP. They had supposed that a better majority-ruled world was imminent through Pan-African liberation, but this was their 'gravest miscalculation'. 'Majority rule, without some degree of white acquiescence, was never a realistic option in 1962, as thirteen years of insurgency and civil war to 1979 was to show' (Leaver 2000, p. 9). However, as Fraenkel (2015, p. 1179) argues, Leaver's conclusion only holds if we can believe that Whitehead's UFP was genuine about sharing power with Africans and would have been able to sell this to its white electorate.

Subsequent events suggest it was not. By the time of the next election in May 1965, the RF under Ian Smith had consolidated its hold on power. The break-up of the Federation had left Southern Rhodesia isolated, and had undermined the UFP's platform, leading to its collapse. No strong alternative to the RF, which was threatening to declare independence unilaterally, emerged. As a result, 22 of the 50 constituency seats in the election were uncontested, with the RF being opposed in the remainder only by the newly formed Rhodesia Party, which opposed a break with Britain. All were won by the RF, with no need for the counting of second preference votes. Although the RF failed to win a single District seat (the RF won

ten, with five being won by independents) it had won 50 out of the 65 available seats in parliament. After declaring UDI on 11 November 1965, it passed a new constitution in 1969 which re-organised the legislature on a strictly racial basis, allocating 50 constituency seats to the white electorate, and 16 to Africans (half of these going to chiefs). It also dropped AV and reverted to the FPTP system which had operated before 1965.

### LEARNING ABOUT AV FROM RHODESIA

It would be thoroughly understandable if, when given the chance to review their electoral system, Zimbabweans were to regard AV as having been fatally tainted by its use in Rhodesia. Furthermore, any analysis of how it worked in the 1958 and 1962 elections requires us to disentangle how AV worked from the restrictions introduced by the government of the day to limit the African vote and to maintain white minority rule. Two conclusions follow:

- AV worked in 1958 insofar as the small minority of African voters who were enfranchised used their second preference votes to elect the UFP, which they regarded as the less objectionable white party on offer.
- AV did not work in the 1962 election because of increased racial polarisation brought about by the fraught regional and national politics of the day. Given the collapse of the URP and its replacement by the more radical Centre Party, the 'moderate' alternative within the white sphere was fatally squeezed, rendering the election a de facto two-party contest. Meanwhile, any chance that AV might have worked was collapsed by the African nationalist boycott.

The lessons that Fraenkel (2015, p. 1178-80) draws from careful study of the 1958 and 1962 elections are apposite:

- AV has a potentially significant impact only in settings where a substantial third or multiple political parties contest. The survival of third or multiple parties often rests on regional pockets of support or special minority interests. The transfer of votes from third parties, via second preferences, often rests upon transfers of votes being likely to transfer in both directions, between two major parties. In cases where, as happened in Rhodesia in 1958, a third party gains no seats, it is unlikely to survive, especially where if preference ranking is optional.
- Political polarisation undermines the conditions under which the

transfer of preference votes may affect electoral outcomes. This needs to be particularly borne in mind where racial or ethnic loyalties influence voting patterns.

- Electoral institutions aimed at encouraging political moderation or compromise are not value-free devices, and in transitional situations they often find favour among those who benefit from the status quo. 'For marginalized groups, support for such arrangements requires some political judgement that dominant groups genuinely intend to share power.' However, in other settings, use of AV may allow for the emergence of multiple parties without the potential damage to ethnic unity that is likely to be entailed under a FPTP electoral system.

If Zimbabweans are enabled to consider any far-reaching political change, they will need to be informed not merely of the merits and demerits of different electoral systems as outlined by theorists, but by how different systems have operated in the real-life context of southern Africa, where none of the three major alternatives routinely seen as being on offer – FPTP, list PR and MMP – have proved to be unproblematic. No option will be problem free, and, in any case, any final choice will likely be heavily influenced by the politics of the day, which is likely to be extremely fluid and highly contested. Nonetheless, there is sufficient evidence from the Rhodesian experience, deeply flawed though it was, to suggest that AV should at least be considered as one possibility for the reform of the Zimbabwean electoral system.

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# DÉJÀ VU WITH DIFFERENCE

## *A Gramscian Interpretation of Zimbabwe's 2023 Elections and their Pasts*

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### ABSTRACT

*Violence – ranging from barely detectable to genocidal to coups and post-coup mêlées – has marred most if not all of Zimbabwe's elections since its 1980 birth. Electoral brutality has been almost normalised since Zimbabwe's first meaningful opposition, coupled with the 'fast track' land reform-inspired crises, accompanied the millennium's turn. This article suggests that elections are signposts of what Antonio Gramsci might have considered the balance of coercion and consent during the long interregna between colonialism and an uncertain end. Evidence from Zimbabwe's 2023 election and its predecessors illustrates the changing techniques between the coercion/consent poles as ZANU-PF's leaders gain and maintain power along the rocky road to an unknown destination.*

**Keywords:** Zimbabwe, democracy, African elections, ZANU-PF, Citizens' Coalition for Change, Gramsci, interregnum, hegemony

### INTRODUCTION : ZIMBABWE'S INTERREGNA

In Zimbabwe's 2023 harmonised general elections, President Emmerson Dambudzo Mnangagwa gained 52.6% of the presidential tally, his primary opposing candidate received 44%, and his party's MPs 136 of Parliament's 210 seats. On 21 September, he announced to the 78<sup>th</sup> United Nations General Assembly that he was 'pleased to highlight that our country enjoyed peace before, during and after our free, fair, transparent and credible elections' and that his country's sovereignty had not been sullied (United Nations 2023). The size of the audience was unclear, although reports of sparse attendance were denounced by a Zimbabwean 'fact checking' website (Factcheckzw 2023). When

the UN's TV cameras turned to the audience, they showed only the Zimbabwean delegates' applause.

Many election observers' reports, including the Southern African Development Community's (SADC 2023a), seminars and much media coverage (SAPES Trust 2022; Ndebele 2023a&b) disagreed with Mnangagwa. But they failed to notice the lines stirring him out of his noctambulation. He raised the right refrain with sovereignty discourse, a key component of a legitimacy campaign pointed at his peers in similarly uncomfortable 'quasi-states' (Jackson 1989; Hopkins 2000).

Zimbabwe's newly re-elected president recalled his country's suffering 'under the illegal, unilateral economic sanctions ... imposed by some Western countries ... designed to subjugate the sovereign will of the Zimbabwean people' since 2000 (United Nations 2023). '*We* (italics mine), therefore, demand that the unjustified unilateral sanctions be unconditionally lifted, including those imposed on countries like Cuba.' With the Cuba cue, he emphasised his distance from the imperialists, and 'remain[ed] grateful for the support and solidarity of progressive countries in the comity of nations'. With their help, he continued:

in spite of these debilitating sanctions the people of Zimbabwe have become masters of their own destiny. This is anchored on a philosophy that as a people, we have the duty and responsibility of developing our country, using our own domestic resources. Partners and investors are welcome, guided by our own vision and national priority areas.

This self-reliance has been a key theme of Zimbabwean political discourse since the early days of the nationalist movement. Then, a new party split off from the first one, citing adherence to that code as opposed to its ostensibly more multi-racial and moderate predecessor, the Zimbabwe African People's Union. That splinter group (then the Zimbabwe African National Union with the suffix 'Patriotic Front' appended) eventually ruled Zimbabwe. It proceeded to do as much as possible to wipe out ZAPU, its main post-colonial opponent (Cameron 2023a&b; Doran 2017), thus cementing a truncated version of 'the people'. At the United Nations about four decades later, Mnangagwa – an architect and engineer of this genocidal attempt and its legacy – sang the sovereignty chorus with more passion than he did the shibboleths of good governance and electoral transparency. It is the foundation of ZANU-PF's consciousness of its moral and intellectual leadership. Crafted over decades of struggles for majority rule, Zimbabwe's nationalist 'organic intellectuals' have created the cornerstone of ZANU-PF's interpretation of ideological hegemony. They have blended the Westphalian rectitude of non-interference with a strident anti-colonial/imperialist line and a mythical collective

will of its people's mastery over their destiny.<sup>1</sup> Such almost divinely ordained unity seems a feudal conceit, but it runs regularly through Zimbabwe's leaders' incantations. As past-President Robert Mugabe suggested to one of his bothersome peers in 2002 at a global environmental summit in Johannesburg: 'So Blair, keep your England and let me keep my Zimbabwe' (*Guardian* 2 September 2002; Moore 2022a, p. 28).

But elections shatter this certainty. They test ruling party assertions of consensual leadership as no other barometer. When electoral contests threaten the rulers' constructions of consent, they turn to coercion. This paper will attempt to argue – and illustrate with the empirics of Zimbabwean elections past and (mostly) present – that some of Antonio Gramsci's ideas (following many of Machiavelli's) of the consent/coercion spectrum that runs through every polity can supplement prevailing liberal ones. Elections play the most important legitimacy test for liberal and parliamentary modes of representation, and the most acceptable mode of substituting one group of that institutions' management by another. Parliaments, as Perry Anderson (1976) argued soon after Gramsci's works entered the English political lexicon, are in turn the leading component of how ruling groups and their representatives gain and maintain intellectual and moral leadership. Elections are, for most people, the only way to participate in how they are ruled (or rule), and by whom: sometimes they can extend to be part of efforts to change wider and deeper ways by which power is articulated. But when rulers and ruled do not agree that elections are a valid means of change – even at the minimal level of alterations within an otherwise cohesive ruling elite and its relations to the subaltern classes – this generally considered rule-bound, well-trod, peaceful and as representative as possible way to parliament and its institutions will be supplemented by force (Moore 2014).

Elections, parliaments, and many of the other colonial and post-colonial accoutrements accompanying capitalism's (and Soviet-style socialism's ineffective) spread to Africa did not arise spontaneously from its modes of production and reproduction. Thus it should not be surprising that the slide between coercion and consent bears only slight resemblance to their relationships where liberal (and social) democracy grew organically, if not smoothly. As Gramsci argued

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1 Joost Fontein reminded me that this anti-colonial/imperialist sovereignty discourse is a pillar of ZANU-PF hegemony, thus deserving more attention. Phimister and Raftopoulos (2004) emphasise that this is especially the case regarding support from ZANU-PF's African peers. The purchase of this on Zimbabweans at home remains to be seen, although Gallagher's (2017) exploration of how Zimbabweans relate to 'the international' is an important effort along these lines. ZANU-PF's construction of its singular role in the people's struggle against 'the West' emerges directly from this discourse, as Terry Ranger's 'patriotic history' (2004) noticed, albeit late-in-the-day, and is interrogated in Fontein's (2006) exploration of interactions between war veterans and spirit mediums.

early in the twentieth century, when the ideologies and politics of colonialism and its aftermaths move from their birthplaces in ‘highly developed’ countries to their imperial conquests and ‘intertwine with [their] internal relations’, they create ‘new, unique, and historically concrete combinations’ (1971, p. 182). These concatenations rarely blend well. If the ‘historically organic ideologies ... necessary to a given structure’ do not match with the imported ‘arbitrary, rationalistic, or “willed”’ ones and they only create ‘individual movements [and] polemics’ they might at best ‘function like an error which by contrasting with the truth, demonstrates it’ (Gramsci 1971, p. 367). Harold Wolpe’s mismatched ‘articulations’ and Peter Ekeh’s contending ‘two publics’ within African social formations suggest the universality of such a perspective (Ekeh 1975; Wolpe 1972, 1988; Moore 2019). The development trinity of primitive accumulation (Marx the father), nation-state construction (Gramscian and Weberian sons), and democracy (with scores of ghostly parents) drips with blood – usually, not always, and not always to the same degree (Moore 2015a). I have also suggested that 2015 signalled the end of a quarter-century of post-Cold War-inspired euphoria about the prospects of liberal democracy in Africa (Moore 2015b).

Given the uncertainty of democracy’s progress (not only in Africa) after the eventually dampened hopes occasioned by the fall of Berlin’s wall, it is no coincidence that Gramsci’s ideas about ‘interregna’ – the uncertain times between modes of reign and rule (Achcar 2021) – have taken hold around the world. Rune Møller Stahl’s analysis focuses on the post-2008 financial crash period, but one can extend it to the ‘uncertainty, confusion, and disagreement among the dominant elite[s] as capitalism’s post-WWII golden age stalled’. In this era of ‘sustained political crisis and confusion’ there is ‘no new hegemonic project able to take over from the old hegemonic equilibrium’ (Stahl 2019, pp. 334-5). Achcar and Stahl, along with Francesca Antonini (2019) situate Gramsci’s morbid symptoms alongside Marx’s Bonapartism, an authoritarian solution carried out through dictatorships in all but name. As Anderson notes, ‘corruption/fraud’ is one of the indications Gramsci includes among the maleficent array. ‘Characteristic of certain situations when it is hard to exercise the hegemonic function, and when the use of force is too risky,’ it ‘stand[s] between consent and force’ (Anderson 1976, p. 41).

Africa is a good candidate for interregnum status. Its halted developmental condition suggests it is far from following modernisation’s teleology. If Africa’s flawed elections and successful coups (York 2023) are just some of this interregna’s morbid symptoms, and they all look the same, why examine them? Precisely because they are symptoms. They indicate which pole in the dialectical dance joining the coercive and consensual aspects of Africa’s impasse is moving faster and gaining strength, or the to-and-fro as they change places and intensity. And Africa is not a country: its many nation-state formations hold significant variations

on the electoral theme. What are the parts of a particular election that portend more or less transparency or cheating? What strategies and tactics of incumbents and challengers indicate significant new ideological and organisational alterations? What is the 'threat' component of propagandistic 'advertising' and rousing rallies? Can one perceive clear movement toward restrictive authoritarianism or participatory openings? How do elections influence the construction of an active citizenry and civil society, and reduce dependence on donors' aid? Or are they only worth cynical ticks in the boxes presented by myriad international agencies (Cheeseman & Klaas 2019; Cheeseman 2023)?

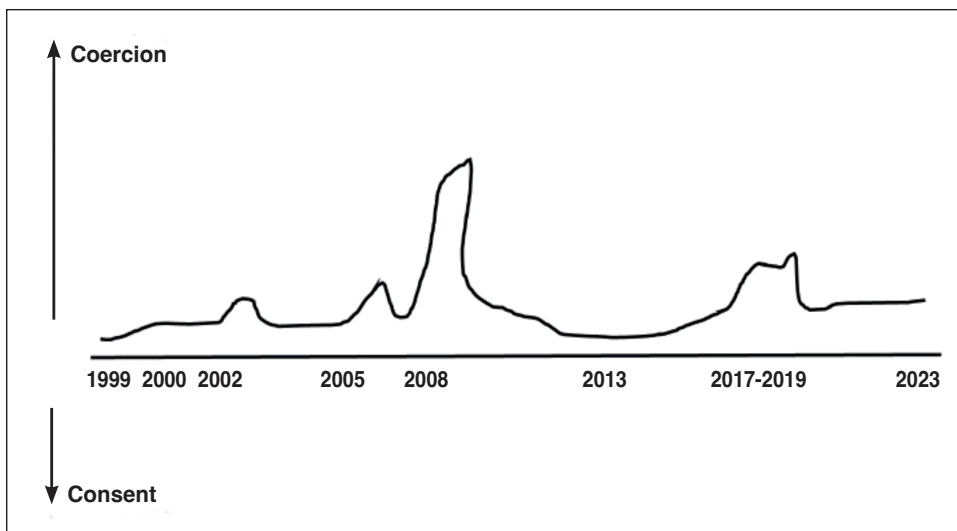
More fundamentally, how do all these electoral signposts relate to the political economy of the social formations to which they are supposed to anoint leaders and the public managers/civil servants they hire? If 'hustling' is emerging as the dominant means of production, consumption and culture (Thieme, Ference & Van Stapele 2021) among crony capitalists and subaltern groups (be they mired in the muck of ages or linked to the celestial spaces of the fourth industrial revolution), how do elections follow suit?

Tinashe Chimedza reminds us that Zimbabwe's economy has been altered irrevocably by 'informality, diaspora and agrarian change': how do these new activities in the socio-economic realm affect electoral politics (2023a)? As Brian Raftopoulos' (2023) pre-election warning invokes (and critiques) the interregna motif, Zimbabwe's long experience with authoritarian forms of nationalism means a hiatus is closer to an eternity. Roger Southall's *Liberation Movements in Power* (2013b) situates such analyses within a long-term view regarding southern Africa's leadership. The late John Saul's (Lawrence 2023) caveats about the class nature of Zimbabwe's nationalist leaders bear remembering as well: they were especially prone to the 'wasting internecine battles of petty-bourgeois politics' during Zimbabwe's liberation war (Saul 1977; cf Ranger 1980). The fate (three years' in Mozambique's prisons) of the 'Young Turks' that inspired Saul to deviate from his theory of class determination exemplifies what happened to whoever Mugabe thought were pretenders to his precarious throne. It serves as a warning to today's young generation (Mhanda 2011; Moore 2014b; Saul 2016) in an interregnum of a different type. The petty-bourgeois leaders of past nationalisms are now well on their way to ruling class status. There is little chance that those pretending to better Mugabe's legacy after disposing of him in 2017's coup will act differently (Moore 2018a, 2023a). Their ideologies are no more than opportunistic, but their internal battles are yet to be slaked.

How do these battles reflect and influence Zimbabwe's coercion/consent continuum, following the emergence of an effective opposition party in 2000? Violence accompanied the elections from 1980 (Sachikonye 2011). They were clouded by *Gukurahundi* in the early to mid-1980s, distorted by a de-facto one-

party condition for a few years after ZAPU's absorption, and marred by defections in the early 1990s leading to the faltering, and violence inducing, attempt at the Zimbabwe Unity Movement as the continent and its donors began to abandon the mirage of one-party state-led developmentalism for a post-Cold War resurgence of liberalism. 'Neo-liberal' structural adjustments, war veterans' disaffection, and civil society activism led to and compounded the MDC's formation. ZANU-PF's always precarious hold on hegemony began to slip (Moore 2008), so it would have to calculate its measures of coercion more carefully than before.

So far, no analysis has entered the 'interregna' terrain, veering as it does between teleology and the eternal purgatory where the 'neo-patrimonialism' trope ends (Hoffmann 2018) – or a completely new mode of production begins (Hamilton & Moore 2023). The rough chart below suggests how such an investigation might appear.



**Figure 1: Impressions of Zimbabwe's Electoral Hegemony Balance during Elections: 2000-2023**

A persisting element in this period is the claim that every election since 2000 has been 'stolen', either by overt violence or chicanery. These critics are usually privy to information buttressing their claims' veracity and are quite public with them. But although they and the party and processes they support have come close to winning elections, and even entered a 'transitional inclusive government' when regional and continental organisations despaired of ZANU-PF 'mid-election' (before a run-off) violence in 2008, they made little headway during the last quarter

of a century. They have not constructed a counter-hegemony, which involves a careful blend of the political strategies and tactics with ideological content coherent and strong enough to compete with – let alone supersede – the ruling party's combination of force and persuasion, even as life chances for the vast majority of Zimbabweans have fallen precipitously. Part of that process would be a subtle measure of the ebbs and flows of the past coercion-consent quotients to see when and calculate how effective interventions could have been better made, during election times and after.

The graph indicates a very rough measure of that ratio.<sup>2</sup> Factors to be included range wider than the cold numbers of murder of highly placed politicians to death's quotidian (Fontein 2022) and bodily harm. They should include rallies – a crowded combination of coerced bus rides, forced conversions, corruption by chicken and chips, and religious incantations (Gonda 2023; Lewanika 2023). The state media's positive propaganda and negative warnings also go beyond physical altercations: when the rhetoric is laced with ferocity where does that fit on a chart such as this? Public opinion surveys measure widespread perceptions of fear, often by proxy (Booyesen 2014). A key element, as Musekiwa (2021) charts, is how states mete coercion to human rights organisations using legal and financial roadblocks to abduction and more.

Such a many-faceted chart could be augmented by analysis of ZANU-PF's vulnerability to challenges, that relation to violence, and when the most opportune counter-hegemonic moments faced the MDC or its successor, the Citizens' Coalition for Change (CCC). Crude coercion does not always indicate strength, but challengers and their allies must confront rulers with careful calculation. Were the Democratic Resistance Committees (DRCs) the MDC set up in the late 2000s, for example, effective? Or did they give the party-state the opportunity to label the MDC and its 'imperialist sponsors' as violent democracy disrupters (Fielding 2015; Xinhua 2020). Probably the most obvious time when that challenge presented itself was in 2008; faced with the loss of its run-off presidential challenge ZANU-PF chose a campaign of terror. The MDC pulled out of the election, and the SADC (read Thabo Mbeki) negotiated transitional inclusive government (aka Government of National Unity) was born (Raftopoulos 2013b). All elections since, even the coup's pretence of a united government on the horizon, have been cast in that shadow. Were the opposition's choices to exit the election and then to join the GNU correct?

In brief, the chart indicates that election periods emphasise the coercive end of Zimbabwe's hegemonic spectrum. That plane is high in any case: consider,

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2 Far more sophisticated representations are in the Armed Conflict Location & Event Data Project's site (ACLED 2018, 2023), but there are problems with the collection of data in such places as Zimbabwe.

for example, the necessity to buy a ZANU-PF card to get food aid, the common practice of bribery at roadblocks (increasing again since a marked decline after the coup and the police lost their monopoly on that: now soldiers seem to be taking that space), and the proliferation of ZANU-PF affiliated war-lords and their gangs in the 'high density suburbs'. However, even this preliminary effort makes it clear that violence increases with elections and other moments of political change such as a coup (which in the Zimbabwean case did not take many lives).

The new millennium failed to introduce free, fair, and peaceful elections to Zimbabwe. ZANU-PF's February 2000 constitutional referendum failed. War veteran-inspired land invasions accelerated as the mid-year elections neared. The Zimbabwean army, mired in the Democratic Republic of the Congo's war, stripped the fiscus while enriching many high-ranking soldiers and their relatives. Two journalists were jailed and tortured for reporting the body count and a rumoured coup. A new party full of enthusiasm was ready to take over. Inflation rose; the local dollar fell. This journal's first edition published an article by the leader of the EISA election observers to the June parliamentary contest: David Pottie (2001, p. 64) counted 'over thirty persons ... killed and many more reportedly harassed, beaten and forced to engage in partisan activities (some 5,000 according to human rights organisations)'. The MDC scored just four seats less than a majority of the 120 while ZANU-PF gained 51.7% of the vote – and chose thirty more members. Official counters admitted to friends that their job description included cheating (Fieldwork 2000).

ZANU-PF had to work quickly to avert the previously unthinkable. Enroute to the 2002 election – this one for presidents alone – the 'opposition' *Daily News* offices were bombed in April 2000 and nine months later so were its presses, while 'war vets' beat up the paper's vendors (Meldrum 2001). The party-state's newspaper cartoons veered to violence: a series of eight in *The Herald* (6 March 2002) started with a sketch of one man aiming an AK-47-like rifle toward a horizon and another below it ploughing happily: 'plots to kill or plots to till' hinted at the voters' choice. Two more illustrated Morgan Tsvangirai's subservience to 'Tony Bliar', while more compared the colonialists' 'sellouts' to Judas Iscariot: 'ZIMBABWE WILL NEVER BE A COLONY AGAIN'.

More worrisome, the Public Order and Security Act criminalised gatherings of more than five people and the Access to Information and Protection of Privacy Act required journalists' registration and promised to prosecute 'false information'. ZANU-PF's 'Green Bombers' trashed MDC offices and homes in the cities. While sealing off rural areas they killed white farmers and high school headmasters (Kwashirai 2023, pp. 161-174; Solidarity Peace Trust 2003). A couple of weeks before election day public television broadcast a doctored video showing MDC leader Morgan Tsvangirai plotting to kill Robert Mugabe. It became the main evidence in Tsvangirai's treason trial. The number of polling stations in urban areas was

reduced significantly while rural ones popped up like mushrooms: thus urban MDC supporters waited in long queues, even during the two further days ordered by the courts. A Congress of South African Trade Unions observation mission was sent packing. Later, another, led by two South African High Court judges, criticised the election and recorded 107 political killings since 2000. It was kept under wraps for more than a decade, until the *Mail and Guardian* won its court case in 2014. Only 56% of the 5 049 815 registered voters marked their ballots: Mugabe took home 1 685 212 votes while Tsvangirai was left with 1 258 401.

The parliamentary election at the end of March 2005 was notable mainly for the near introduction of V-11 forms and for the post-election violence of *Operation Murambatsvina*. The latter, smashing (informal) houses and kiosks and displacing around 700 000 people, demonstrated the propensity of ZANU-PF to vicious vengeance at the end of a humiliating experience (Raftopoulos 2006). The former began a long process of electoral transparency unfolding for two decades – in 2023 still the unresolved thorn in ZANU-PF's side. Also notable was the election of the former information minister and campaign manager Jonathan Moyo as an independent: he had been expelled from the ruling party for his involvement in ZANU-PF's internal ethnic competition as Mugabe's retirement became a possibility. This showed the factional fissures that would fester until the 2017 coup (Moore 2022a, pp. 133-139).

SADC passed fairly comprehensive election protocols in 2004. The V-11 rule, perhaps most important among them, was incorporated in Zimbabwe's 14 February 2005 Electoral Act (Veritas 2018, 2023 &b). Under it, the presiding officer of every polling station must record the station's results on the V-11 form. All the parties' agents, the candidates, election observers and officials have the right to check it and make copies. The form must also be posted for the public to inspect and photograph. It must record all the ballot papers and their serial numbers received before the polling started. Those unused, cancelled, and unaccounted for must be recorded along with each candidate's votes and the spoilt papers. However, during the election at the end of March only a few of these forms were posted on the polling station walls before being sent to regional centres; many were never posted (US Embassy in Zimbabwe 2005).

In August 2004 the MDC stated that it would boycott the 2005 elections due to ZANU-PF's continued intimidation, restricted media access, corruption, and propensity to stall registration and rig voters' rolls. It demanded full adherence to the new SADC guidelines (Matlosa 2005). However, incumbent and aspiring MPs registered dissent. Contests for the primaries in such a void were vicious. Just a few weeks before the poll, Tsvangirai announced that the MDC would join. That did not give much time for a 'real' campaign to ensue. The MDC split soon after over the question of whether or not to participate in elections for the Senate:

more would follow. The 'quitting conundrum' would be repeated in some of the succeeding elections, most importantly in 2013.

The March 2008 election – the first to 'harmonise' municipal, parliamentary, and presidential contests – indicated electoral horror most clearly (Moore 2022a, pp. 31-33, 145-146). Visible violence started with extreme beatings, including Morgan Tsvangirai, at a 'prayer meeting'. V-11s were allowed. Their indications encouraged MDC secretary-general Tendai Biti to announce victory with a couple of points over 50%: this was treasonable so he was jailed. A hurried meeting of the election NGOs announced Tsvangirai's presidential victory of just under 48% to Mugabe's 43 plus. Six weeks later, the Zimbabwe Election Commission reached the same tally, thus confirming a run-off. Thabo Mbeki (appointed mediator after the prayer meeting melee) and his advisors took some time to decide whether to avoid the predictable violence by forcing a temporary government with the two main parties or to let the constitution stay its course. The latter choice led to Zimbabwe's Joint Operations Command killing nearly 500 people and beating many hundreds more, including those who had voted for ZANU-PF MPs but not Mugabe. Norma Kriger (2008, p. 4) noted the irony of the V-11s: they 'enabled the ruling party to target those villages or farms or resettlement areas which had voted for the opposition'. The GNU – in itself, an indication of hegemonic disarray within a 'Caesarist' interregnum (Antonini 2019) – cast a cloud over Zimbabwean politics, not so much in and of itself, but because the MDC worked it poorly. Its most pronounced achievement was to reduce Zimbabwe's astronomical hyperinflation by introducing a 'multi-currency' regime, over which the American dollar presided, thus negating ZANU-PF's sovereignty.

The 2013 contest was notable for the extra million or so ballots and tricks provided by Nikuv, an Israeli election management firm (Matyszak 2017). It also demonstrated the difficulties with which even determined regional actors could change ZANU-PF's propensity to rule by any necessary means. Lindiwe Zulu was the most visible member of SADC's three-strong committee established to oversee the GNU's progress to decent elections. At a June 2013 SADC meeting in Maputo she opined that Zimbabwe might hold off its elections because the ZEC had yet to follow the route prescribed on the electoral roadmap. Less publicly, Zulu offered to help the MDC if they boycotted the election, as they had done a decade before. Mugabe told the then South African president Zuma to call off his 'street-woman': the leader of the supposed regional hegemon agreed.

The July 2018 election was carried out in the shadow of the previous year's coup (Moore 2018a; Tendi 2020) and stillborn hopes for a new GNU. November 2017's presidential adieu saw relatively few killings, though, perhaps the violence inherent in this mode of succession simmered until the election climaxed.

If ZANU-PF's old guard changed its ruler with a coup, with Morgan Tsvangirai's death in February 2018 the MDC's Nelson Chamisa also side-

stepped the party's constitution to slip into the leader's position (Marszyk 2018). His combination of religiosity, populism, and a certain stubbornness may have introduced a new mode of hegemonic construction. ZANU-PF's consistent threat of violence was only realised, however, when on the day after the election soldiers shot demonstrators and bystanders during the counting. The 155 to 53 seat parliamentary victory for ZANU-PF had been counted quickly, but the presidential tally was taking longer than expected. Before the 50.8% victory could be announced, soldiers shot and killed at least six demonstrators and bystanders. Mnangagwa invited former South African president Kgalema Motlanthe to chair an investigative commission, but its recommendations have been ignored.

The (probably partially) planned chaos in January 2019's *jambanja* (chaotic violence) confirmed the ruling party's coercive continuity. A stayaway protesting about increasing fuel prices erupted into days of riots amidst crude military / police action. It signalled the conclusion of post-election warnings. At least 17 people were shot, 17 women raped, and countless more hit, battered, and marched en masse to jail and trials (Moore 2022b). Uncertainty reigned – and still does – over who started and finished it. Mnangagwa's midnight flight to Belarus and Davos (Davos cancelled at the last minute) added doubts to the 'Second Republic' pronouncements of peace, harmony, and business openness. The MDC-Alliance's successor, the Citizens' Coalition for Change, was constantly bothered by ZANU-PF's attempts to dismember it: on one occasion a ZANU-PF-supported splinter persuaded the courts of its right to the MDC-A moniker and its headquarters. The police helped the takeover. However, by-elections in March 2022 confirmed the CCC's ability to persuade voters of its lineage (Moore 2022a, pp. 201-207).

What then could be new about the 2023 iteration of Zimbabwe's electoral interregna?

### ELECTION 2023: A DIFFERENT DÉJÀ VU

As indicated at this article's beginning, Zimbabwe's President Mnangagwa announced his party's electoral *fait accompli* to the world's highest political assembly.<sup>3</sup> But within a few weeks of his return, an apparently self-proclaimed and suspected ZANU-PF proxy CCC secretary-general advised parliament's clerk to remove 14 CCC MPs, because they had been 'imposed' during primaries. Mnangagwa slated the by-elections for 7 December (Ndebele 2023c). The CCC (or its leader) may have realised too late that it should have clearly defined structures

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3 Thabo Leshilo of *The Conversation* commissioned my article on the election (Moore 2023a) and helped develop the categories of intimidation, judicial and electoral management, regional responses, and opposition strategies. They can be seen implicitly and retrospectively in this paper's earlier sections. They are more explicit in this one.

in a 'movement' on the way to institutionalisation, and to run tight primaries. More immediately, if the CCC lost even four of its 73 seats to ZANU-PF the ruling party would have 140 – enough to reach the 2/3 needed to start constitutional changes. That could in the long run gain more terms for the current president and give ZANU-PF more time to plan for that future.

### *Intimidation*

Since the 2017 coup and its post-election and 'stayaway' warning in early 2019, ZANU-PF administered more sticks than carrots as a deterrent to engagement in opposition politics. Glanis Changachirere (2020) has informed us of Joana Mamombe, Cecilia Chimhiri, and Netsai Marova's mid-2020 abduction and trials, emphasising their gendered nature. They are not the only ones by far and these are not restricted to women: male journalists and research assistants fill the enforcers' rosters (SABC & Reuters 2020; York 2021). Moreover the ZANU-PF regime often accuses the victims of arranging their own kidnappings and beatings.

It is hard to draw time-lines between this violence and pre-election warnings. A month after the August 2023 election, the Zimbabwe Human Rights NGO Forum released a study of pre-election violence in Zimbabwe from January 2021 to mid-July 2023 (ZHRF 2023). It records 1 463 cases, 63% of which are serious, ranging from abduction to arson and murder to rape. If intimidation is added the percentage rises to 75%. The report charts a clear linear progression up to mid-2023, thus approaching election time. It also notes that particular forms of public violence – like the nightly *pungwes* during the liberation war – have a mass effect. This would factor into measurements of hegemonic construction.

The study might include the murder on 24 May 2022 of Moreblessing Ali,<sup>4</sup> a CCC activist in Nyatsimbe, outside Chitungwiza, the second largest city in Zimbabwe albeit considered a large township. The 'audience' for this brutal murder and its aftermath would have been psychologically injured in many ways. This most horrific murder indicates a number of contributing factors to ZANU-PF's systemic and long-evolving coercive forms: the imbrication of township warlords linked to the ruling party; the supercilious, dismissive and deceitful discursive style of journalists working for the party-state; the politics of the police in such cases; how voices for justice are silenced; and the entanglement of these factors with elections. If ZANU-PF had intended to keep the murder silent as a warning to CCC activists alone, they did not know that Ms Ali's London-based brother Washington was still an active CCC member. When he realised that she was missing after a severe beating he moved his Zimbabwean comrades to public

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4 Elaborated in Moore 2023b (pending).

action. He asked lawyer Job Sikhala, then a CCC MP and the party's Deputy National Chairman, to assist finding his sister.

Sikhala is a long-time, oft-tortured and imprisoned activist and contrarian on-again/off-again MDC, then CCC MP until the 2023 election. When Ms Ali's body was found more than two weeks later – in three pieces in the well of a local ZANU-PF warlord's mother – he took the case further, with all its political overtones. As soon as the case was thus publicised, the ZANU-PF press claimed the CCC was politicising an otherwise ordinary but sad example of gender violence. Given the crafting of Zimbabwean law, Sikhala's speechmaking verged too easily toward incitement.

Justice in Sikhala's case has meant, at the time of writing, nearly 16 months in prison. Arriving in Chikurubi prison in June 2022, as of May 2023 he was indicted on charges of obstructing justice, only to face further charges for inciting violence and disorderly conduct and thus rest in remand without bail. Prisoners are not allowed to contest parliament. His party's reluctance to support him enthusiastically – and its long history of division – gave the state media and other political commentators room to suggest he leads a faction readying to depose CCC leader Nelson Chamisa (*Herald* 2023a), and for him to fear betrayal (*Newshawks* 2023). Thus murder and intrigue appear to merge in pre-electoral politics, combining gangsters' criminality, judicial bias, calculated police negligence, and the state media's 'fake news'.

Closer to election time, a CCC activist marching to a rally in Glen Norah, one of Harare's townships, was stoned to death by ten ZANU-PF youths. Their leader, a well-known activist, was videoed declaring that the police dared not arrest him. The ten were arrested, but as of this writing there are no media reports of a trial (Ndoro 2023).

After the election, there were no encounters or shootings between demonstrators and soldiers as in 2018. However, visitors to township pubs were subjected to rough treatment from unidentified people with guns and brand-new uniforms. On 3 September Womberaishe Nhende, a CCC councillor in Glen Norah, and fellow activist Sonele Mukuhlani, were abducted, whipped, injected with poison, and left naked. Douglas Coltart and Tapiwa Muchineripi, their lawyers, were arrested when visiting them in hospital.

The Forever Associates of Zimbabwe (FAZ) indicate a new, or more sophisticated twist to Zimbabwean pre-election politics, blending the Mnangagwa cult's networking politics with intra- and inter-party intimidation. FAZ has been around for a while but found new strength and possibilities with ZANU-PF's need for a polished version of the Green Bombers, a Hitleresque 'national service' for youth in the 2000s (*Newsday* 2022). Now reconfigured in the NGO mould, albeit with rough edges, it's a true-blue ZANU-PF mix of young semi-intellectuals and aspirant entrepreneurs needing connections to the ZANU-PF

state (Doran 2023). A plethora of professional and charity organisations replicate this path, presumably without the intimidation quotient (Gonda 2023). Funds from the Central Intelligence Organisation helped the start-up, led by a retired CIO director (Matiashe 2023a; *Nehanda Radio* 2023). Its website promises to ‘dominate and saturate the environment while denying the same to opponents’ (Faztrust 2023). Some of those adversaries included elements of the ‘Generation 40’ faction that lost the coup, as they tried to re-join the ZANU-PF fray during the primaries (Matiashe 2023b).

During the contest for the nation, observers were quite aware of FAZ intimidation, often with chiefs’ help in the rural areas and perhaps with access to data available from the voters’ roll in the cities (Matiashe 2023b). By 11 July, Healing Zimbabwe Trust recorded ‘at least 40 cases of intimidation, threats and coercion in the past week’ targeting CCC supporters, with the ‘shadowy FAZ, heading its list of traditional leaders and war veterans’ (Munhende 2023). Sixty-eight of the 200 respondents questioned by the Zimbabwe Democracy Institute spread across ten districts had seen FAZ – ‘a shadowy and quasi-securocratic body composed of the Central Intelligence Organisation (CIO), the Zimbabwe National Army (ZNA), War Veterans, Zanu-PF Youth Militia and vigilante groups’ – in action: 65% of the 200 said FAZ was intimidatory and 68% of them said they would be uncomfortable ‘associating and voting for the opposition’ (ZDI 2023, pp. iv, 21, 22, 24).

During polling time the FAZ members operated ‘illegal entrance and exit polls’ (Ndebele 2023a). This inspired a violent reaction as CCC people took umbrage and turned over a few FAZ tables at one station. CCC activists asked the police to remove the FAZ tabulators at another – successfully (Fieldwork 2023). Whether such openness ‘backfired’ on Mnangagwa, as one journalist opined (Buwerimwe 2023) is debatable. Further reports implicate FAZ’s tampering with the actual operations of polling stations in order to forestall the V-11 process (see section on V-11s).

No matter the exposure of the media and human rights organisations and observer missions, very little happens when the regime can use force to negate consequence.

### *Corruption and the Courts*

Many carrots have been offered throughout ZANU-PF’s history of electioneering. According to a ZDI report (2023, p. 40), ‘food aid, agricultural inputs, cash handouts, bicycles, and fishing boats’ wooed their way into the ruling party’s mode of agricultural accumulation. While farmers were offered maize seed in time for planting, those higher up the persuasion pole received immediate recognition for past services and evidence of more to come. Judges received “housing loans”

of US\$400,000 in June 2023, CIO chiefs got US\$350,000, MPs received \$40,000 while cabinet ministers pocketed 12.5 times that' (ZDI 2023, p. 40).

Such offerings do build up a modicum of consent, but it's in that nether zone of which Gramsci spoke. Judges thus encouraged are likely to take a serious view of the state's account of the transgressions of those spreading opposition talk to imperialists – recently criminalised in the 'Patriotic Act' (Sithole 2023). Whether that reaches the 'treasonous' charge remains to be seen, as indeed is the presidential signing of the NGO Bill, remaining a Damocles sword as the 2023 parliament begins. These bribes bridge the consent-coercion gap: the bigwigs' loyalty is purchased, they participate in coercion. As Gramsci warned, even at this elite level they bear little resemblance to the 'moral leadership' that plays a leading role in active hegemony. It's a measure of hegemony's absence.

### *Electoral Manipulation*

The previous year's delimitation exercise – the first in nearly a decade and a half – was primary among 'technical' issues such as ZEC's clearly non-independent makeup, sloppy voters' rolls and many names missing at the polling stations. As is common across the world, the redrawing of constituency boundaries gives incumbent regimes the chance to gerrymander in their favour, and is bound to upset a myriad of other actors (for example chiefs in Zimbabwe). Unsurprisingly, given urbanites' history of voting against ZANU-PF while their rural cousins face many pressures to follow the incumbent's line, the ruling party (to be precise, its appointees in ZEC) took the opportunity to expand city constituencies into peri-urban areas or the country (Bulawayo24 2023). This tactic coincided with a shortage of ballot papers at up to 75 urban polling stations: waits of over 12 hours were not unusual. In some cases voting was extended for another day. Not all those voters would return. Furthermore, the hasty delimitation exercise had left many in the wrong constituency, forced to walk long distances to see if they were registered elsewhere.

However, the ultimate test is the final vote. In the SADC countries following their 'development community's' 2004 electoral guidelines, that vote can be tabulated independently of their election commissions. Perhaps the V-11 forms are the best electoral signifier of collective endorsement that constitutes a good part of political hegemony.

### *The V-11 Forms*

As outlined above, the V-11 forms arose out of one of the more liberal moments of SADC. In 2008 their counting led to much discussion by election watchers, more counting by ZEC, and killing fields; but they did not seem to matter much

in the debates about the 2013 election. In 2018, the MDC claimed to have them in hand, but never showed them. MDC leader Chamisa spoke of a 'saver' that held the evidence, but it was never revealed. No one seems to know what a 'saver' is, or if it has anything to do with storing images. Some said that the 'saver' was a person, or a person who had it. Revealing the saver would lead to his or her death. Thus the 2018 legal challenge amounted to nothing. Election 2023 saw more hullabaloo about the magical process of retrieving and revealing these sheets of paper – except for the ZEC, which keeps them hidden or can't find them all. If ZEC wanted its elections to be considered legitimate, it would put them on its website immediately they arrive. But it does not, so the whole election remains suspicious.

If history reveals lessons to the opposition, getting a grip on V-11s is one of them. But this time, neither the CCC nor its civil society compatriots prepared for the task timeously. Zimbabwe's *gendarmes* raided two NGO election offices (they were working in the same hotel as the European Union election observers, all watched carefully by the CIO), took their equipment, and arrested over 40 of their members late on election night. It was thought that they had the results and would release them before ZEC did. It is unlikely that if they did have them they had enough time to save them.

There were other V-11 collectors who also lacked the time to gather and consolidate the approximately 12 000 V-11 forms. One group's App malfunctioned. At the end of August Freeman Chari (based in the USA) broadcast on his Twitter (or 'X') account that he had 11 500 V-11 images and would show them by the first of September, challenging ZEC to release its stash (Chari 2023). ZEC did not release its account and neither did he. But a few weeks later – too late to beat ZEC's announcement and the president's inauguration – he and other V-11 gatherers managed to collect nearly 89% of the forms. However, even with projections from the remaining stations the margin of error was too large to determine whether Chamisa or Mnangagwa gained more or less than 50%, although it is certain that Chamisa gained more than the 44% he was granted in the official count. Thus it cannot be determined if a run-off would have been necessitated. The CCC (or Nelson Chamisa himself, since the decision-making structure in the 'movement' is unclear) decided not to release this information although some advisers thought those numbers would contribute to CCC's credibility (Pigou 2023). ZANU-PF acted quickly enough, without the V-11s but within the week allowed for any challenges, to capture the prize.

There was also a coercive side to the immediate V-11 process this time. Reports are that FAZ cadres visited a significant number of rural polling stations early on election day and told the officials to give up their V-11 forms. These stations recorded upwards of 90% victories for ZANU-PF (Fieldwork 2023). Perhaps that is why not even ZEC can reveal an accurate count. Further reports say that

Nhende and Mukuhlani, the men abducted just after the election, were too close for comfort to the offices holding the opposition's V-11s.

In future the V-11s may be considered the most important part of the election process, overlaying the hegemony's dialectic of coercion and consent. This will be apparent to all parties interested in the final measure of transparency.

### *The Observers and the Opposition*

Preliminary reports of most of the Western observers were announced at a press conference on the afternoon of the 25 August. George Charamba – once the state's information chief, when he penned sardonic columns under the name of Nathaniel Manheru, and now deputy chief secretary to the president and cabinet – warned *The Herald's* readers more than a month previously to be aware of observers 'audaciously interfering' by 'openly hobnobbing with some presidential candidates' and to expect their quick deportation if they strayed from their neutral remit. The 'presence of people who have worked against elected governments across the continent' in the 'huge' western delegations had 'raised eyebrows', Charamba's report suggested. He warned them 'not to stray from their mandate of observing elections'. If they did, 'Government will not hesitate to kick them out ... they are skating on very thin ice' (*Herald* 2023b). Charamba took special note of the European Union and the Carter Center's delegation (two members of the latter having been denied entry; thirty were later 'un'-accredited) even listing many of the latter's members and their alleged democracy-destabilising activities on the continent. Such rhetoric and action inspired UK-based professor of democracy Nic Cheeseman (2023) to question the worth of such missions. As if taking their cue, most of the observers listed his observations of what would go wrong, and more.

Given the long list of quite visible lacunae in Zimbabwe's electoral probity, Charamba's implied predictions, and the problems that even a professor from afar could foresee, most of the 'western' reports were critical (the Commonwealth seemed friendlier, perhaps because its Secretariat had yet to decide to re-admit Zimbabwe to the post-Empire club). Various among them added the issues of late ballots; ill-trained party agents at the voting stations (some did not know what party they represented); some officials too eager to 'help' elderly or physically challenged voters; Tinashe Chitsunge's murder and other intimidation; gender representation issues; FAZ; and the excessively high registration fees for entry (US\$20,000 for the presidency for example, up from \$1,000 in 2018) (Carter Center 2023; EU 2023; The Commonwealth 2023).

SADC's unequivocal condemnation, joining the usual critics, was the biggest surprise (SADC 2023a&b). The following *Sunday Mail* pictured a jovial Joaquim

Chissano, former Mozambican president and currently leading a commission advising on Zimbabwe's debt restructuring, with Mnangagwa. 'I never heard of an observer mission criticising a sovereign country's legislative framework', he said, referring to the mission head's attacks on ZEC, the Patriotic Bill, and the judiciary. He then repeated his account of advising Mnangagwa on some of the missions' issues and had been assured that 'he will study this and see how this can be helpful for the improvement of our governance'. These promises are required for the arrears and debt clearance programme, so that promise should be made, but not raise hopes on its realisation (Matabvu & Kafe 2023; Ndlovu 2023).

Justice, Legal and Parliamentary Affairs Minister Ziyambi Ziyambi attempted to dampen fears about the mission's effect. He claimed that others in the mission whose 'thinking is totally divorced from that of the head' had 'disowned' the report and they might 'put the head of mission to task to say that let's do this professionally without deviating from our mandate'. If not, he reminded readers that the SADC Troika (the Organ on Politics, Defence and Security Cooperation) would review the report's 'accuracy and objectivity', recommend changes to the mission, which would then revise it accordingly 'before the final report is published'. Other media and analysts were quick to note that these interventions revealed a SADC split between the liberationists and the liberals. Mission head Dr Nevers Mumba was in the latter camp, having been the Zambian vice-president under Levi Mwanawasa, no friend of Zimbabwe's brand of governance.

Barely a month later, *The Herald's* anonymous journalists uncovered nefarious plots supposedly implicating Mumba, the EU, and the Carter Center in a plethora of conspiratorial efforts to 'provide a basis for the denouncement of the polls'. The EU in particular was accused of being 'both a referee and player during the elections as they nicodemously funded Mr Chamisa's election campaign, while at the same time claimed the role of an unbiased umpire' (*Herald* 2023c).<sup>5</sup> Not much is done with such reports, given the long delay between the preliminary and final versions and SADC leaders tend not to listen to anyone but themselves. But the reports do stay on the record, singing well in unison. The SADC report may be ranked as one of the most important markers of change in this election. Its final rendition, cleared by the chair of SADC's politics, defence and security organ, is the same as the preliminary one (SADCb), thus nullifying Ziyambi's hopes. The 'liberationist' legacy may be losing its hegemonic shine. Even though this may be nothing more than a generational change as the warriors and those in the 'old guard' pretending to be so lose their lustre too, it's important.

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5 Nicodemus is often referred to in Zimbabwean politics when factionalism arises. Joshua Nkomo employed it in 1963, referring to those splitting from his party to form ZANU (Lewanika 2019, p. 107). More recent usage in the faction context includes ZANU-PF actors such as George Charamba (Gumbo 2016) and Christopher Mutsvangwa (Zindoga 2014).

The opposition thought that the SADC commission report would galvanise the region into a new and united defence of democracy. A committee of the region's wise elders might fly in and declare the election null and void (eNCA 2023), perhaps resurrecting a government of national unity melding the nation's political class into something like the transitional regime advocated for some years by the Platform for Concerned Citizens (Mandaza & Reeler 2023). A petition they circulated proposed setting up an eminent persons group that would negotiate the establishment of a transitional government comprising political parties and various civil society groups; this garnered 30 012 signatures at the time of writing (GGA 2023).<sup>6</sup> The CCC decided not to go to court to challenge the election, reversing 2018's decision. It decided to let its MPs go to parliament, although they boycotted its first post-election sitting— and a few weeks later had to deal with its recalled members.

### SO WHAT'S NEW?

To many intents and purposes, this election was *plus ça change...la meme chose* and *déjà vu*. But as Lewanika (2019) asserts, ZANU-PF never remains the same. It learns lessons from every election, although it may not apply them consistently or with linearity. ZANU-PF appears to have made its coercion and corruption work more smoothly and efficiently than in the past. The coercive plane is higher on average, without the peaks. But it is too soon after the coup to say, and intra-party ructions may still implode with violence.

The Zimbabwe Human Rights Forum report and others like it should be able to examine these moves carefully and attune their constituency to alter the coercion-consent spectrum in the latter direction.

The opposition learns too. It has a new name, and its loss of strong trade unions as a base may have rendered it to more populism than in its past. Perhaps the V-11 lesson has been learned: grasping that opportunity for transparency can spread to other aspects of the electoral process and society at large. But more importantly, the CCC's organisational structures must emerge through visible democratic processes at the next congress. They are essential in their own right, to mitigate against one-man rule. But without them, the party is also drawn too easily into crises such as recalling hastily nominated candidates.

More broadly, and in line with Gramsci's analytical mode, does election 2023 offer empirical means of judging the balance of coercion and consent? On

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6 I signed it –perhaps thinking I am part of the 'international community' entreated to support the initiative – with a caveat. The only group of 'eminent people' I recall managing a transition to a transition in Africa was in the Democratic Republic of the Congo. In 1960 Mobutu co-opted a group of university students to the General Commissioners' Council, which lasted until the end of January 1961 (Monavale 2010).

the coercive side, the long history of murder and intimidation continues. Urban gangsters' links to the leading ZANU-PF emerged in the early 2000s but are more visible than ever (Oosterom & Gukurume 2022), adding to the hustling side of economy and polity. If economic suffering continues, so will this – and if ZANU-PF feels it necessary to repeat 2005's 'clean-up' or 2019's unleashing it will have plenty of human ammunition. Adding this to the legalised restrictions on civil liberties brings more coercive elements to the ZANU-PF package. Gerrymandering is more like sly cheating than coercive, but the inconvenience of shifting boundaries, the slow arrival of ballots, and incomplete voter rolls dampen the freedom that elections should bring.

The two-sided FAZ – one like an NGO and the other like the Green Bombers – indicated a new style of election preparation and 'management' as well as a way to co-opt youthful entrants to the political and economic world of its elders. So far it suggests more force than gentle persuasion.

The SADC report should strengthen the consent pole. Yet this perception could be teleological and Panglossian. As Chimedza (2023b) observes, the accumulating classes in the region have close links that may overcome 'liberal' political pretence: ZANU-PF may just have to lubricate them better.

All in all the V-11 lessons should add the most weight to the poles of persuasion.

Zimbabwe's interregna among parties, generations, and rural and urban modes of belonging (though integrated in many ways) will take a long time to coalesce coherently and consensually. Elections will be nodal points of all these contradictions, exacerbated as they are by the shifting global political economy beyond such a small country's control. These elections will signpost modes characterised by 'low intensity democracy' or conflict sufficiently under international and regional radar to register meaningful intervention, or 'autocratisation' in which an active and consensual hegemony will simmer in perpetual contention instead of cooking up a new brew (Beardsworth, Siachiwena & Sishuwa 2022).

At a more theoretical level, does this Gramscian analytical mode offer a wider, more contextual – and less teleological – way of judging elections and their effects than current analyses of electoral means to a representative end? And will this lead to greater possibilities for the emergence of less coercion and chicanery as Africa, and indeed the world, search for a stronger participatory mode of power than we see today? If equipped with more sophisticated means of measurement, it might. As for what Gramsci would have hoped to emerge from these uncertain interregna, that remains to be told.

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# FUTURE PANDEMICS AND ELECTIONS

## *Lessons from the COVID-19 Pandemic in the Central African Republic, Ghana, Kenya and Tanzania*

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### ABSTRACT

*Pandemics and other health crises are predicted to become more common in the future. This is likely to pose a variety of threats to electoral integrity. This article argues that, by learning lessons from the COVID-19 pandemic, the negative impacts on elections of viral outbreaks and other emergencies can be mitigated in the future. It will begin by reviewing academic and grey literature on COVID-19 and elections, before presenting research findings from case study elections in Tanzania, Ghana, the Central African Republic, and Kenya. The article will highlight specific challenges facing low- and middle-income countries and argue that the protocols that were introduced in these case study countries ultimately failed to adequately ensure the safety of voters and election administrators by not addressing issues of compliance and enforcement. It will then present: 1) recommendations designed to be implemented in advance of future health crises, and 2) measures that should be taken once such emergencies are underway.*

**Keywords:** COVID-19, future pandemics, election preparations, emergencies, mitigation measures

### INTRODUCTION

Although much media coverage of the COVID-19 pandemic highlighted its ‘unprecedented’ nature, epidemic diseases have broken out periodically throughout human history (de Waal 2021). Indeed, between 2016 and 2018, 41 out of the 47 countries in the World Health Organization’s Africa region had at least one epidemic (Talisuna et al. 2020). Of these, 21 experienced at least one epidemic per year during that period (ibid., p. 7). Furthermore, as John Nkengasong (2021) of

the Africa Centres for Disease Control and Prevention has argued, 'COVID-19 will not be the final pandemic to challenge the world'. Therefore, it is imperative that planning occurs to ensure greater preparedness for the next outbreak, particularly as scientists have warned that pandemics are likely to be more frequent in the future as a result of the environmental damage caused by human activity (Settele et al. 2020). At a smaller scale, viral outbreaks that lead to health crises are also likely to become more common at the regional, national, and subnational levels. Beyond health crises, the COVID-19 emergency has acted as a reminder of the need to prepare for other possible unexpected disruptions. Such emergencies may arise due to, *inter alia*, natural disasters, extreme weather events, and conflicts.

This article will focus on the preparation that is required to address election-related issues during a future pandemic or other health crisis. The Universal Declaration of Human Rights (1948, Article 21.3) outlines a crucial role for regular elections in providing political rights: 'The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.' Citizens' rights and states' obligations are further expanded in various United Nations and regional instruments.

However, as this article will argue, evidence from the COVID-19 pandemic has shown that viral outbreaks can directly interfere with elections by exposing voters, administrators, and candidates to additional risks of viral transmission. These risks can lead to the postponement or cancellation of elections. In some cases, safety concerns may be used as a pretext by incumbent governments wishing to alter electoral calendars for other reasons. Restrictions that are introduced to mitigate viral outbreaks can also limit citizens' ability to freely participate in political processes. Indeed, such measures can be used instrumentally by governments wishing to constrain the activities of opposition parties and their supporters.

This article argues that, by learning lessons from the COVID-19 pandemic, the negative impacts of viral outbreaks on electoral integrity can be mitigated in the future. It will begin by reviewing recommendations for holding elections during COVID-19 that were produced early in the pandemic, after which attention is turned to academic literature that investigates the impact COVID-19 had on electoral integrity. This review will highlight common ways in which risks of viral transmission were not adequately addressed during elections, and detail how political freedoms were often curtailed by the mitigation measures that were introduced. We will then present evidence from our research on four case study elections that took place in Africa during the pandemic: national elections in Tanzania (October 2020), Ghana (December 2020), and the Central African

Republic (December 2020), as well as by-elections in Kenya (March 2021). We argue that, except for Tanzania, the mitigation measures created for the elections in these countries tended to be sensible in theory. However, in practice, we observed that many of them were frequently ignored.

Contrary to the expectations expressed in much of the literature, we found little evidence of pandemic protocols being used instrumentally for political gain in our case study countries. Our data also describes a mixed picture regarding the pandemic's impact on political participation. Based on these findings, the article will then present recommendations for holding elections during future pandemics and other health crises. It will note that several of these recommendations are also helpful in addressing other types of emergencies. Although they are based exclusively on findings from African elections, the recommendations are relevant to other regions, particularly in low- and middle-income countries (LMICs). The recommendations presented here first appeared as part of a broader set in a briefing paper that we produced in partnership with The Westminster Foundation for Democracy during September 2021 (Macdonald & Molony 2021).

Sets of similar recommendations have subsequently appeared in other publications, most notably in an analysis produced by International IDEA and The Electoral Integrity Project (James et al. (eds.), 2023).

## ELECTIONS AND COVID-19 TRANSMISSION

Viral outbreaks create clear health risks to people participating in elections due to the additional opportunities they create for viral transmission. These can affect anyone involved in the electoral process in any capacity, including voters, electoral management body (EMB) staff, and politicians.<sup>1</sup> In a study conducted in Liberia during the Ebola outbreak, The International Foundation for Electoral Systems (2020, p. 10) found that there are more than 40 stages during the electoral cycle where people assemble or objects are transferred. Early in the pandemic, several sets of recommendations were created for mitigating the specific public health risks that were created by holding elections. The IFES (2020) recommendations are among the most comprehensive. By splitting elections into their component parts, they systematically provide recommendations that address pre-electoral activities, election-day, and post-electoral processes. The recommendations, shaped by a strong scientific understanding of how COVID-19 is transmitted, were updated as knowledge about this evolved during the pandemic.

Another set of good quality recommendations came from a group of researchers working under the auspices of The British Academy (Birch et al. 2020).

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1 Evidence from the African context suggests that senior political figures may have been disproportionately impacted by COVID-19 due to the nature of their work (Falisse et al., 2021).

They produced recommendations addressing electoral administration, polling, administrative collaboration, election observation, and the risk of violence. Other sets of recommendations focused on specific elections (The Brennan Center for Justice 2020) or were limited to single aspects of the electoral process (The Centers of Disease Control and Prevention 2020).

Due to their timing, these recommendations were unable to draw on evidence from research conducted in the context of COVID-19. As a result, they have little to say about how successfully mitigation measures are implemented in practice. Indeed, the British Academy researchers do not discuss the issue of compliance, while the IFES researchers do not offer much detail concerning the enforcement of their proposed measures. Subsequent evidence from election observation reports suggests that, in some countries, 'restrictions were often not consistently respected and poorly enforced' (Asplund et al. 2021). Furthermore, both the IFES and British Academy recommendations tend to propose universal solutions that do not always consider the specific social and economic challenges of LMICs. Several of the suggested measures involve additional expenses that might prove prohibitive in these contexts, while others assume the existence of infrastructure that is not necessarily present. Some recommendations that are more specifically tailored to LMIC contexts were produced, including some Africa-specific ones from the Center for Strategic and International Studies (Devermont 2020). However, these tended to be less detailed than those produced by IFES and The British Academy.

It is challenging to determine if elections held during the pandemic ultimately led to increased viral transmission. COVID-19 data can present an incomplete picture and it is difficult to isolate the contribution of elections to infection rates. The academic studies on this topic provide mixed findings. Some find that elections are associated with increased COVID-19 rates, for example, Cotti et al.'s study of the Wisconsin Primary in the United States (2020), and the 2022 study by Palguta et al. of local elections in Czechia. Meanwhile, others found little impact, for example Kim et al.'s study of the National Assembly elections in South Korea (2020), and a Centers for Disease Control and Prevention report (Paradis et al. 2020), which also relates to the Wisconsin Primary. Further complicating the picture is a study of the French municipal elections by Guilhem Cassan and Marc Sangnier (2022), which found significant sub-national variance. In none of the four case study countries discussed below was the COVID-19 data sufficiently comprehensive to attempt to gauge the impact of our case study elections on infection rates.

## COVID-19 AND ELECTORAL INTEGRITY

The emerging literature on COVID-19 highlights several ways in which viral

outbreaks can impact electoral integrity. This is perhaps most obvious in cases when elections did not occur as scheduled. Data collected by International IDEA (Asplund (ed.) 2023) shows that between 21 February 2020 and 21 February 2022, 'at least 80 countries and territories across the globe have decided to postpone national and subnational elections due to COVID-19, out of which at least 42 countries and territories have decided to postpone national elections and referendums'. These postponements occurred disproportionately before June 2020, when there was still uncertainty about COVID-19's modes of transmission. As Toby James and Sead Alihodzic (2020) have argued, postponements in emergency situations can promote adherence to several democratic principles, by ensuring better electoral management and creating more opportunities for deliberation while also creating conditions for more equal contestation and participation.

However, attempts to reschedule elections can create legal difficulties. As Katherine Ellena (2020, p. 3) notes, 'election postponements may not be clearly provided for or even contemplated in the law, making the decision to delay or cancel an election complex'. This was seen in the case of South Africa, where multiple court cases and an official inquiry were required to determine if it was constitutional to delay the local government elections that were scheduled for October 2021 (Electoral Commission of South Africa, 2021). There is also a danger that postponements create political problems in situations where incumbents either use emergencies as a pretext for postponing elections when seeking political advantages, or face allegations that they have partisan motives (James & Alihodzic 2020, p. 356). These dynamics have been apparent in Ethiopia, where the postponement of presidential and parliamentary elections scheduled for August 2020 has been described by Hala Thabet (2021, p. 256) as part of a broader process in which 'the ruling government has used the international health, economic, and security threat of COVID-19 to justify its perpetual control of power thus causing a setback on the democratization process'.

Another way in which electoral integrity can be impacted is by reducing political participation. The specific issue of turnout on election day – a point of particular concern due to fears that eligible voters might abstain from voting due to the risk of contracting COVID-19 – has been addressed by several academic case studies. However, they do not return consistent findings. For example, Dulani et al.'s study of Malawi's 2020 presidential elections (2021, p. 56) concludes that COVID-19 had 'little to no effect on either abstention or vote choice', while a study on the same elections by Chirwa et al. (2020, p. 409) finds that 'voter turnout may have been highly affected by the perceived risk of catching COVID-19'. Other examples of studies that found a link between COVID-19 and low turnout include Matteo Picchio and Raffaella Santolini's (2022) analysis of local government elections in Italy, and Martin Oswald's (2022, p. 40) evaluation of the 2021 Ugandan

elections. Although turnout can vary for a range of reasons, it is perhaps telling that data collected by International IDEA (Asplund (ed.) 2023) shows that turnout was lower than during previous iterations in 66 per cent of countries holding elections in 2020 and 2021.

When looking at the electoral process more broadly, the pandemic created a range of new risks that carried the potential to undermine political participation (Landman & Splendore, 2020). Some of these relate to health risks increasing the perceived costs of citizen involvement in certain parts of elections, for example, in political campaigns. However, the emergent literature has tended to focus more on the impact of COVID-19 mitigation measures. As Alessandra Spadaro (2020) has argued, measures designed to protect public health can have a negative impact on political rights, particularly as they can be abused. As states began to respond to COVID-19, this created a 'tenuous balance between democracy and human security' (Matlosa 2021, p. 1). COVID-19 measures have been used in some countries to constrain opposition activity. For example, Oswald (2022) details incidences of the arbitrary detention of opposition candidates in Uganda, which were justified with reference to COVID-19 protocols. In other cases, measures to mitigate the pandemic were used to limit citizens' political expression. For instance, Sammy Badran and Brian Turnbull's (2022) study of Egypt and Morocco argues that, by going beyond World Health Organization advice, these countries' COVID-19 measures were designed to curb popular dissent. It should, however, be noted that resistance to and circumvention of government COVID-19 restrictions also emerged (Bashizi et al. 2021).

## METHODOLOGY

The research for this article was conducted as part of the UKRI GCRF/Newton Fund 'African Elections during the COVID-19 Pandemic' project,<sup>2</sup> which was designed to offer evidence-based, context-specific recommendations tailored to making African elections during the pandemic safer. The project is a collaboration between researchers from the University of Edinburgh, the Open University of Tanzania, the Ghana Centre for Democratic Development, and the Harvard Humanitarian Initiative (HHI, who work with the NGO Echelle). We followed each stage of three national elections that occurred towards the end of 2020: in Tanzania, Ghana, and the Central African Republic (CAR). This involved a convergent mixed-methods study design that included nationally representative population-based surveys on a range of COVID-19-related attitudes and experiences, observation of the electoral process, and qualitative interviews with government

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2 For further details see <https://aecp.sps.ed.ac.uk/>

employees, political parties, civil society actors and EMB staff. The project followed all the stages of our case study elections, including voter registration, party nominations, campaigns, voter education, election day activities, tallying, and the announcement of results. We also conducted qualitative research during Kenya's March 2021 by-elections, with a focus on EMB mitigation measures and the level of adherence to them during polling and tallying.

## FINDINGS FROM CASE STUDY COUNTRIES

### *Delays and Postponements*

The national elections, including pre-election voter registration activities, took place as planned in all three case study countries. There had been considerable discussion in the media and on social media regarding the constitutional possibility of postponing the elections in Ghana, but neither the political parties nor the EMB felt this was required (Nugent et al., p. 4). In CAR, the elections were conducted at a time when large parts of the country were controlled by armed groups, and insecurity and internal displacement were of greater concern to many citizens than COVID-19 (Magbe et al. 2021, pp. 7 & 10). A coalition of armed groups asked for the elections to be postponed for reasons unrelated to the pandemic but the request was denied, and voting went ahead as planned in 118 of the 140 constituencies (ibid., p. 7). In Tanzania, any chances of the elections being postponed were removed when, five months before the elections, President Magufuli (falsely) announced that the virus had been eliminated from the country (Macdonald et al. 2023). Although some Kenyan by-elections had been delayed due to COVID-19 during 2020, those scheduled for March 2021 went ahead with minimal discussion of postponement.

### *Mitigation Measures*

In Tanzania, the EMB initially applied some COVID-19 mitigation measures during the voter registration process; but, following Magufuli's announcement claiming that the virus had been eliminated from the country, the remainder of Tanzania's elections took place with little to no public health precautions in place (Lihiru et al., p. 11). Aside from Tanzania, mitigation measures in the case study countries tended to be sensible in theory. A range of standard health directives designed to apply to everyday life were issued in Ghana, CAR and Kenya during each country's pre-election period. These included common measures such as requirements to wear facemasks in certain circumstances, the provision of public handwashing facilities, and requests that citizens maintain social distance

(Nugent et al. 2021, p. 1; Magbe et al. 2021, pp. 3-4). These general restrictions offered no exemptions for campaign activities such as rallies and canvassing and should, therefore, have been applied (Nugent et al. 2021, p. 1; Molony 2021, p. 5). For election day, the EMBs in these three countries introduced additional and more specific COVID-19 protocols. They were reasonably similar, with voters in each country being required to socially distance at polling stations, wash their hands before entering, and wear facemasks. Voters in Ghana and Kenya were additionally tested with a non-contact thermo-gun before they were allowed to enter polling stations. Ghana also created some additional polling stations to allow for greater social distancing during voting and counting (Nugent et al. 2021, p. 5). In CAR, instructions on the voting procedure were adapted to include mitigation measures. However, in both Ghana and Kenya, information on the voting process remained divorced from messaging about the COVID-19 protocols that had been introduced. Part of the issue was that neither country's EMB had a budget for adjusting training manuals and demonstration materials (CAR's EMB had access to funds from a UNDP Election Support basket).

### *Limits to Feasible Mitigation Measures*

These case study countries provide useful illustrations of why solutions suggested in international recommendations are not always appropriate in LMICs. In all four countries, the EMBs are chronically under-resourced, meaning that some recommendations are simply too costly to implement. Many of the recommendations also rely on the presence of an infrastructure that is generally not available. For example, mail-in balloting is not viable in countries, such as these, which do not have reliable postal services. The virtual training of election officials is not possible in those locations, including the rural areas in these countries, where appropriate equipment and software are not available, and internet coverage is poor. Large structures that allow for adequate social distancing were simply not available in many constituencies in these countries, with cramped primary school classrooms often representing the only communal buildings available for use as polling stations. Extending polling hours would also have been problematic in the case study countries, due to the limited availability of good quality artificial lighting and the power sources required to run it.

### *Compliance with Measures*

In all four countries, the intensity of campaigning increased in the run-up to election day (although, in CAR, the violence restricted some campaign activities). We observed generally poor levels of compliance with COVID-19 mitigation

measures during campaigning in the three case study countries where they were in place. For example, in Ghana, social distancing was disregarded and facemasks were removed during 'health walks' led by party officials (*ibid.*, p. 6). Politicians in CAR and Kenya also contributed to a culture of non-compliance by campaigning without facemasks during huge gatherings where social distancing was almost impossible (Magbe et al., p. 11; Molony 2021, p. 5; Lihiru et al. 2021, p. 11). In all four countries, some voters travelled to both register and cast votes in areas other than where they currently reside. This created additional risks, as mitigation measures were not always observed during these journeys, which often took place on public transport.

On election day, the enforcement of COVID-19 mitigation measures appears to have been particularly weak in CAR (and perhaps non-existent outside Bangui, the capital). There were also significant lapses in the observance of EMB protocols in Ghana and Kenya (Nugent et al. 2021, pp. 6-10; Molony 2021, pp. 6-12). Polling station staff generally did well in enforcing facemask mandates, although they were frequently worn in a way that did not sufficiently cover the nose and mouth. Where temperature screening using a no-contact thermo-gun was required, this was less rigorously enforced. Social distancing in Ghana was relatively well observed when voters were within the bounds of the polling stations but not when they were in the initial queue to enter the polling locations. There was almost no respect for social distancing at any point during Kenya's by-elections, nor in CAR, where the requirements to wash hands and wear facemasks were generally ignored (Molony 2021, pp. 9-10; Magbe et al. 2021, p. 8). In both Ghana and Kenya, the biometric devices used to identify voters by a fingerprint scan were not always regularly sanitised (Nugent et al. 2021, p. 4 & p. 10). The conditions for polling staff were particularly challenging in all cases, as they came into frequent contact with communal materials and often found wearing protective equipment for many hours challenging in often hot and cramped conditions (*ibid.*, p. 10).

### *Impact of COVID-19 on Political Participation*

The surveys we ran in Tanzania, Ghana and CAR revealed a mixed picture regarding the impact of COVID-19 on political participation. In both Tanzania and Ghana, we contracted IPSOS to run nationally representative surveys in both the pre- and post-election periods, during which respondents were asked a range of questions designed to address whether the pandemic was dissuading them from participating in various aspects of the political process. In Tanzania, the number of respondents expressing concerns relating to COVID-19 was very low across the board. When, in the pre-election surveys, we asked Tanzanian respondents if they thought certain stages in the electoral process were likely to be safe, very

few of them expressed concerns relating to COVID-19. The part of the electoral process during which the pandemic was creating the most concern was queuing at the polling station, but only nine of 1 511 respondents mentioned this. In the post-election surveys, we asked questions relating to participation in different parts of the recently concluded elections. Again, the Tanzanian respondents reported few COVID-19 related concerns, with only five of 1 506 respondents giving it as a reason why they had not attended a rally, while none said it had prevented them from voting. In Ghana, the level of pre-election concern was slightly higher. For example, 60 of 1 525 respondents mentioned it as a safety risk when considering their journey to the polling station and 120 when considering queuing at the polling station. During the post-election survey, only 26 of 1 533 Ghanaian respondents stated that they had not voted due to COVID-19. However, 457 reported that they had been unwilling to attend political rallies or meetings due to the pandemic. This suggests that the impact of COVID-19 on participation during the campaign period may have been more significant than its impact on voter turnout. The Tanzanian and Ghanaian data are presented as percentages in Table 1 below.

**Table 1: Frequency of responses relating to political participation by country**

Response	Tanzania (n=1,506)	Ghana (n=1,533)
Mentioned COVID-19 as a reason for not voting	0%	1.70%
Did not mention COVID-19 as a reason for not voting	100%	98.30%
Mentioned COVID-19 as a reason for not attending rallies and political meetings	0.33%	29.81%
Did not mention COVID-19 as a reason for not attending rallies and political meetings	99.67%	70.19%

In the case of CAR, costs associated with the challenging conditions meant that we were unable to field our own survey. However, we were able to insert a more limited number of questions into a pre-election survey conducted by HHI and Echelle. In this survey, the questions were worded slightly differently, with respondents asked specifically about the impact of COVID-19 on certain aspects of political participation (whereas, in Tanzania and Ghana, respondents had to mention COVID-19 without prompting). The Central African responses regarding capacity to vote and participation in discussions and debate (see Table 2) suggest

that COVID-19 significantly impacted political participation. However, the difference in the emphasis of the questions makes direct comparison with Tanzania and Ghana difficult. Again, the responses suggest that participation during the campaign period was more badly affected than voter turnout.

**Table 2. Impact of COVID-19 on political participation in CAR**

	To what extent does COVID-19 impact your capacity to go and vote?  (n= 2,379)	To what extent does COVID-19 impact your opportunity to participate in discussions and debate about the elections.  (n= 2,379)
<b>Extremely</b>	<b>163</b>	<b>151</b>
<b>A lot</b>	<b>596</b>	<b>636</b>
<b>A medium amount</b>	<b>152</b>	<b>209</b>
<b>A little</b>	<b>330</b>	<b>899</b>
<b>Not at all</b>	<b>1 138</b>	<b>483</b>

The turnout figures for each of the national elections studied show significant changes from the immediately preceding iterations. However, this cannot be attributed simply to COVID-19. In Tanzania, turnout was low compared to historical levels (49.27 percent), but this can be explained with reference to the general political situation, which had been deteriorating for some time before the pandemic (Tanzania Elections Watch 2020; Taylor 2020). In Ghana, final results showed that there had actually been a 10% increase in turnout across the country when compared with the 2016 polls, suggesting that significant numbers of voters had not been deterred from casting their ballots due to COVID-19 (Nugent et al. 2021, p. 11). In CAR, turnout in the elections was very low, but, with conflict affecting large parts of the country, it is hard to isolate the specific impact of COVID-19.

### *The Instrumental Use of COVID-19 Measures*

Contrary to the expectations expressed in much of the literature, we found little evidence of pandemic protocols being used instrumentally for political gain in these case study countries. In Tanzania, opposition activities were significantly constrained throughout the Magufuli presidency (Collord 2021). However, this was not justified with reference to the pandemic nor facilitated using COVID-19 specific legislation. In CAR, the ongoing armed conflict distracted from the

pandemic, and it, rather than COVID-19 mitigation measures, became the major driver of political exclusion during the elections. In both Ghana and Kenya, measures were in place that could potentially have been enforced unevenly for political gain but, unlike in, for example, Uganda or Zambia, there is little evidence that this occurred systematically.

### MEASURES TO PREPARE FOR FUTURE PANDEMICS

Holding elections during a pandemic or a smaller-scale health emergency that affects either a whole country or certain areas within a country, adds an additional layer of complexity to what is an intricate task under ordinary circumstances. Therefore, it should be regarded as best practice if some measures are taken to ensure that countries are prepared before such a crisis emerges. Contingency planning is particularly important as, once a crisis begins, other elements of the response may distract from making provisions for elections. Furthermore, any measures that need to be rushed through at the last minute are less likely to receive appropriate oversight and may be more vulnerable to political instrumentalisation.

#### *Electoral Laws Should be Updated to Cover Pandemics and Other Emergencies*

During any emergency, a judgement on whether upcoming elections need to be postponed or cancelled must be made. As discussed above, there are certainly justifications for delaying elections, but these decisions can also be made on the basis of partisan considerations. Where elections do go ahead, safety protocols need to be put into place, and this involves further decisions about who is responsible for drafting and enforcing them. Although this did not occur in our case study elections, there is also a clear risk that these decisions can become instrumentalised for political gain. Current legislation regarding elections may not be flexible enough to allow officials to make the appropriate decisions about how to proceed in a future pandemic. In some countries, constitutions do not allow for delays to the end of government mandates, or for the creation of an interim government during an extension period. Furthermore, many constitutions forbid the passage of constitutional amendments during emergencies (International IDEA 2020, pp. 3-4). Although Ghana's election went ahead as planned, debates about a potential postponement showed the controversy that can be generated by such legal uncertainty.

Depending on the country, the rules governing elections are further established in a range of other documents, which can include specific electoral laws, codes of conduct, and EMB operating guidelines. These rules often contain

few or no provisions relating to health emergencies, the circumstances in which elections can be postponed, or exactly which bodies and individuals should create and enforce safety protocols. If these elements are not in place before a crisis is underway, there may be undesirable delays in decision-making where new legislation needs to be passed or amendments to electoral arrangements are made without legal basis. Additionally, the process may be rushed and not subjected to adequate scrutiny, leaving clear potential for manipulation and undesired consequences.

It is therefore important that countries update their relevant electoral laws to ensure that sensible and transparent processes for responding to future crises are established in advance and properly cross-referenced in all relevant documents. This process should involve consultation with actors from across the country's political spectrum, and new rules should be worded in a way that reduces opportunities for political instrumentalisation. The updated legislation may also include a means of external validation for electoral decision-making, through which the advice of carefully selected international or regional organisations may be required before decisions about postponements and cancellations are made.

### *Funding for Elections During Health Crises Should be Considered in Advance*

The measures designed to reduce the risks of viral transmission during elections come at a financial cost. As our research shows, high-income countries are far better equipped to absorb these costs than LMICs, even once it is appreciated that the measures applied in high-income countries are likely to be more expensive. Some simple measures to prevent transmission, such as introducing handwashing buckets and sanitising electoral materials, are relatively inexpensive. However, once these measures are rolled out nationwide, which can often involve supplying tens of thousands of polling stations, the costs are substantial. Many LMIC governments cannot meet these requirements, so additional budgetary support will be required if elections are to be administered effectively.

Therefore, it is desirable to have a mechanism, potentially provided by the donor community, that provides emergency budgetary support for EMBs in LMICs.<sup>3</sup> Such a funding arrangement would be difficult to put in place at short notice, so it would be better to establish it before a new emergency. As the budgets of EMBs tend to be fungible, this money could be specifically ringfenced, and only released if an election takes place during unusually challenging circumstances.

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3 The authors thank Tanja Hollstein (Westminster Foundation for Democracy) for bringing this idea to our attention.

One major advantage of such an arrangement is that it could be used in other emergency conditions, such as when elections are scheduled to take place in countries recently affected by natural disasters.

*Measures Should be Taken to Reduce the Number of Voters Who Travel Long Distances*

During some elections, including in our case study countries, many voters will either choose to vote in an area where they do not live or find themselves registered in a different place. This issue particularly affects citizens who have migrated within their own countries – something that is often, but not exclusively, related to patterns of urbanisation. In high-income countries, arrangements such as postal voting can be effective in addressing this issue. However, many LMICs lack the resources and infrastructure to implement similar solutions. As a result, in some countries, many citizens will travel to another area to vote. This creates clear risks in the event of a health crisis, as mobile voters may increase the geographical spread of viral infections by carrying them to or from their place of residence. The journeys that mobile voters are required to make, which often take place on public transport, may also lead to greater risks of transmission for them and other passengers. Therefore, reducing the number of voters who travel during elections can lessen some of the risks associated with holding an election during a future pandemic. This can be addressed now through initiatives that facilitate the reregistration of voters who have moved.

*Arrangements Should be Made to Ensure Election Observation in the Future*

COVID-19 disrupted the work of election observers in several ways (Vasciannie 2023), and similar issues are likely to emerge during a future pandemic. International observation groups will encounter difficulties relating to travel restrictions and quarantine periods, and many seasoned observers may not want to offer their expertise due to the risks to their health. Specific observation missions may also suffer from reduced or delayed funding when the bodies that normally support international observation are faced with other priorities. They will also need to follow the specific protocols relating to the pandemic that have been put in place in the country hosting the election. In these situations, it may be prudent to increase the ties between international and domestic observation missions, or to further develop emerging virtual monitoring technology (Birch et al. 2020, pp. 23-25). However, neither of these measures is straightforward.

Creating observation partnerships would be beneficial during future

pandemics as this would reduce the number of people travelling internationally. This has several other possible benefits such as helping to build the capacity of domestic observation groups, potentially allowing them more access and media coverage, and giving a greater sense of ownership over the observation process to the citizens of the country hosting the elections. However, in many countries, domestic observers have limited levels of independence, and their methods and findings are susceptible to manipulation, generally by incumbents (Makulilo 2011). This route is, therefore, only desirable in those countries that have domestic observation initiatives with a high level of independence from political interference. Putting meaningful partnerships in place, and ensuring that adequate capacity building has occurred, would be difficult to do at short notice, particularly during a health crisis. Therefore, these links, which are desirable even under normal circumstances, should be developed now.

Virtual election observation, which often takes the form of online citizen reporting mechanisms, has the clear advantage of providing a wide geographical spread and making every citizen with access to the relevant technology a potential observer. Such initiatives can even collect data on election quality when professional observers are unable to deploy. However, the ways in which they collect information during an election may be less systematic than traditional observation missions, and can be susceptible to manipulation by those seeking to disrupt the process. Furthermore, many citizens will be excluded from participation due to issues regarding access to technology and digital literacy, particularly in LMICs. Virtual observation initiatives also require considerable planning and would be difficult to establish at short notice during a crisis. Therefore, in contexts where they are considered desirable, putting arrangements in place for either of these solutions is something that policymakers should be considering now.

#### MEASURES THAT CAN BE INTRODUCED IN THE EVENT OF A NEW PANDEMIC

As there is great uncertainty regarding the nature of any future pandemic or other emergency, much of the preparation for holding elections cannot be undertaken in advance. This section, therefore, contains suggestions on how to proceed in the event of a new health crisis.

##### *Advice on Dealing with Specific Pandemics Should be Tailored to Context*

When a new pandemic emerges, a range of academics and international elections

experts are likely to offer advice on how to mitigate the risk of holding elections. When doing so, our research suggests that there should be an awareness that in LMIC contexts there are financial and structural limitations on the measures that can be implemented. Any new recommendations must be clear about the contexts in which they are designed to be applied and should ideally offer a range of realistic solutions so as to be relevant in different contexts.

### *Safety Measures Should be Established Early in the Electoral Process*

It takes time to put risk mitigation measures in place for an election, especially as these measures may require a range of supplies to be ordered and distributed. Therefore, it is crucial to ensure that adequate mitigation measures are in place as early as possible in every electoral cycle, rather than imposed as an afterthought in the event of an emergency. This is particularly important because activities such as voter registration, which carries similar risks to voting, often occur months before election day. These protocols should be reviewed periodically to keep up-to-date with the latest knowledge about the pandemic. When designing and updating these protocols, it is important that election planners draw upon the best available advice from international agencies dealing with public health. This will not only ensure that appropriate practices are developed; but if this process is explicit and publicised, it can increase public confidence in the measures by highlighting that they are technical rather than political.

### *EMBs Should Designate a Specific Point Person*

Ensuring that elections take place safely during a pandemic or other emergency adds an additional burden to election officials who are often already extremely busy in the months preceding elections. In these conditions, it is easy for considerations relating to the emergency to become secondary as officials focus on their day-to-day roles in delivering elections. As a result, specific measures need to be taken to ensure that the new pandemic or other crisis receives adequate and timely consideration throughout the electoral cycle. One way of doing this is to select a point person – ideally a dedicated commissioner – who is responsible for ensuring that health-related issues are accounted for during each stage of the election. This person, who could have a public health background, should not be distracted by other tasks beyond health-related issues. Their authority to ensure that adequate health measures are taken at every point in the electoral cycle should be agreed upon by all parties concerned.

### *Election Officials' Health Risks Should be Minimised*

Election officials themselves are likely to fall into a category of high risk during

any new pandemic or health crisis. Their ordinary work requirements involve meeting a wide range of people, many of whom are also in high-risk professions. To ensure that the work of EMBs is not disrupted, it is crucial to ensure that personnel follow the most recent guidance in their regular working environments.

### *A Balance Should be Found Between Safety and Political Party Campaigns*

In a new crisis, political parties may be reluctant to accept preventative measures that affect their ability to reach voters directly. In these situations, measures taken to reduce the risk of transmission during campaigning, which affect, for example, the large rallies and door-to-door canvassing that are commonplace in many LMICs, are likely to be among those that encounter the most resistance from political parties. Indeed, we found that they are frequently ignored. Some parties will see an advantage in continuing these activities if their rivals discontinue, while other parties will fear a significant disadvantage if they stop but their competitors do not.

Restrictions on campaigning are likely to be an even larger problem in LMICs where opposition parties tend to have limited resources and often rely on vigorous campaigning in the lead-up to elections in order to remain competitive. This is particularly problematic in contexts where they are denied equal access to media outlets such as radio, television and newspapers. In these cases, alternatives such as guaranteed free time on traditional media or increased public funding to cover associated costs, could also be considered to counterbalance the loss of face-to-face campaigning. In these situations, a balance must be struck between the need to protect competitive elections and the need to halt the spread of the pandemic. Where this balance is struck should ultimately depend on the severity of the pandemic and its means of transmission. Political parties should be fully consulted during the process of deciding these protocols, as this may encourage compromise and compliance. It may ultimately be decided that rather than attempting to totally ban elements of the campaign – which has the potential to create an uneven playing field, or to be met with low levels of compliance – in some situations the best solution could be to allow large interpersonal events such as rallies to continue while focusing on methods to make them safer. It is particularly important for politicians to buy into the process, as it is far harder to get citizens to comply with safety protocols when they see politicians ignore them.

### *Measures Should be Taken to Increase Public Compliance with Safety Protocols*

Many of the simplest measures for preventing the spread of viruses require a

large amount of public compliance. We find that this cannot be taken for granted, as often citizens are either unaware of or ignore many COVID-19 protocols. Widespread compliance with election-related protocols can be boosted if the public understands the risks associated with the pandemic and why the protocols are important in reducing transmission. This requires continued and broader public education on the health crisis. Changes should also be made to voter education, so that the new protocols are fully incorporated in standard instructions on how to vote and any alterations to the procedure are explained. Another way that compliance can be improved is to have clearer guidelines on how the protocols can be enforced. Procedures for correcting non-compliance need to be established and they should contain proportionate penalties for serious or repeated breaches. It also needs to be clear who is responsible for undertaking this enforcement. Issues of compliance should not be an afterthought, particularly as new legislation may need to be introduced.

## CONCLUSIONS

By reviewing academic and grey literature and presenting findings from the 'African Elections during the COVID-19 Pandemic' project, this article has highlighted several issues relating to COVID-19 and elections. It has argued that measures suggested for mitigating the risk of transmission during elections failed to account for the realities of organising elections in LMICs and that insufficient attention was paid to issues of compliance and enforcement. This meant that the protocols introduced during elections often failed to adequately ensure the safety of voters and administrators. The literature review also highlighted the ways in which delayed elections and more general COVID-19 restrictions can be used instrumentally by incumbents seeking political advantage. However, these dynamics were not particularly apparent in our case study elections, suggesting that, although serious, they are not universal. The recommendations presented in the final section of this paper built upon these lessons, to propose ways in which the impacts of any future pandemic or other health crisis can be mitigated. Some of these recommendations will also be useful in addressing other types of emergencies that can disrupt elections. Although most of these recommendations will only be useful once a new crisis is underway, some of them will require action in advance. With great uncertainty surrounding when and where the next emergency might emerge, the time for action is now.

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# TECHNOLOGY, CYBER SECURITY AND THE 2023 ELECTIONS IN NIGERIA

## *Prospects, Challenges and Opportunities*

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### ABSTRACT

*Nigeria's Electoral Act 2022 legitimises the use of technology in different aspects of the electoral process. The steady increase in technology adoption in the electoral process continued in 2023, after successful pilots in the Anambra, Ekiti, and Osun state elections. This article investigates how technology has been deployed to conduct elections in Nigeria, comparing it to other jurisdictions, notably Estonia. This study adopts a qualitative case study approach, synthesising expert views and reviews from the available literature, official documents, and press releases to produce emergent themes. The article considers the emerging legal, regulatory, and technical concerns from both a scholarly and industry perspective. The article also examines potential risks, such as reliability issues, cybersecurity concerns, gaps in technological capability, information governance and data protection concerns.*

**Keywords:** e-voting; emerging threat landscape; electoral integrity; electoral management; cybersecurity; election technology; INEC

### INTRODUCTION

Elections are an essential aspect of the democratic process. Over the years, a significant challenge facing elections has been the need to ensure the credibility of

the electoral process. Therefore, electoral bodies are saddled with the responsibility of ensuring free and fair elections. The last two decades have heralded an increase in the global adoption of technology in elections. This has been highly visible, particularly in Africa, with about half of all national elections conducted on the continent now employing the use of technology in critical aspects of the electoral process, such as biometric registration, voter verification, and electronic transmission of results (Cheeseman et al. 2018).

Nigeria has a long history of elections fraught with rigging, and for years there have been demands for reforms to ensure credible elections. These demands led to the introduction of technology in the electoral process to improve the quality and integrity of the electoral process (Agbu 2016). INEC, Nigeria's Independent National Electoral Commission, has been commended for the introduction of technology in elections, resulting in improved quality of elections in Nigeria. For instance, Enwere and Ladan-Baki (2015) argued that using Smartcard addressed the challenge of rigging and multiple voting. Agbu (2016) posited that the use of technology in the 2015 elections made it difficult to manipulate electoral figures, citing the transparency of technology as an essential feature in credible elections.

Despite the positive contributions of technology to the quality and integrity of the electoral process, it has not been without attendant debates and controversies. For instance, at the beginning of the 20<sup>th</sup> century, Allen (1906) argued that the mechanical voting machines used in Rochester, New York, in 1902 undermined the provisions of the electoral law. In Kenya's 2013 general elections the electoral body deployed technology which led to widespread failure, with many technical challenges (Ali 2015). Alebiosu (2015) documented some of the challenges experienced using biometric technology in Nigeria's 2015 elections, including reliability issues, equipment failure, and user challenges. Sibe (2015) argued that the 41% failure rate of the biometric process reported by INEC in the pilot test of the Smartcard reader technology in 2015 (Adebayo 2015) was too significant to ignore, yet INEC went ahead with the same technology in a national election.

Over and above these challenges, the emerging electoral threat landscape has thrown up a new kind of risk, which is becoming a major concern. The increased digitalisation of core electoral processes accentuated cybersecurity threat. For instance, just before the 2015 Nigerian presidential elections, the INEC website was attacked and defaced by a hacktivist group identified as the Nigerian Cyber Army (Abimboye 2015). In the 2022 gubernatorial elections in both Osun and Ekiti states, the INEC chairman also reported several cyberattacks on the INEC Result Viewing Portal (IReV). These attacks were of international dimensions, some of which originated from Asia (Ufuoma 2022). In the recently concluded February 2023 presidential election, Nigeria's Minister of Communication and Digital Economy announced that the country

had experienced a total of 12 988 978 cyberattacks days before and during the election (Michael 2023). These attacks originated both within Nigeria and externally. Therefore, the manipulation of election results by cybercriminals and foreign elements is technologically possible, and a major concern.

In 2022, INEC announced the use of the Bimodal Voter Accreditation System (BVAS) as the technology to be used in the 2023 presidential election. BVAS uses fingerprint verification and facial recognition technology (INEC 2022a). The BVAS system has been deployed in at least three mid-season elections as a pilot test, and despite some concerns, initial feedback was promising (Munya 2022; Agiri & Morka 2022). The Commission announced the deployment of over 200 000 BVAS units for the 2023 general election (*The Guardian* 2022). The Electoral Act 2022 has also added a layer of legitimacy for INEC to use any technology they deem appropriate, which gave the Commission impetus to stay with the BVAS. Amidst this optimism, there were concerns, particularly about technical challenges and the emerging threat landscape.

This article examines how technology has been deployed in Nigeria and other jurisdictions to conduct elections. The paper investigates some of the challenges in technological deployments in previous elections in Nigeria and other jurisdictions, captured by Alebiosu (2015), Cheeseman et al. (2018), and Munya (2022). The article considers the emerging legal, regulatory, and technical concerns from both a scholarly and industry perspective. The article also examines some potential risks in the emerging threat landscape, such as cybersecurity concerns, low adoption rate, gaps in technological capability, information governance, and data protection.

## RESEARCH METHODOLOGY

This article investigates the emerging challenges of technological deployments in elections, structured as a qualitative case study. When investigating a relatively unknown phenomenon, a qualitative study is usually appropriate if there are sufficient resources for review (Hancock & Algozzine 2017). It is an exploratory approach, which allows for a phenomenon to be studied within its context. A qualitative study allows for data from multiple sources to synthesise wide perspectives and allows for an in-depth investigation.

The paper reviewed over 250 sources, including papers from peer reviewed journals, official press releases, reports, election observer reports, newspaper articles, and official websites. Various papers reviewed highlighted Estonia as a pioneer in electronic voting (the first to adopt i-voting in a national election in 2007) and one of the most advanced countries in terms of technological deployment in election and in e-government generally (Heiberg et al. 2011, September). Estonians have used the electronic voting system in four national elections, three European

Parliamentary elections, and four nationwide local elections between 2005 and 2019 (Ehin et al. 2022). Also, the country's voting system has been robustly studied and analysed, examining themes such as efficiency, transparency, security, and auditability (Nurse et al. 2017; Heiberg et al. 2011, September).

A major step in qualitative case studies is the determination of a case, and this study adopted Estonia as the case, and compared the findings on technology deployment in elections in Estonia with those from Nigeria. The choice of Estonia was predicated on their leading role in electronic voting, as corroborated by several scholarly and industry sources presented in this study. Estonia was the first country to conduct electronic voting on a national scale. Their voting system has been robustly interrogated and has recorded consistent gains for over 15 years. Eleven themes emerged from the literature review and were hand coded. These emergent themes from literature showing key features of technological deployment in election are presented in the next session.

## TECHNOLOGY DEPLOYMENTS IN ELECTIONS

### *Emergent Themes from Literature*

Although there are several voting technologies available, there are common features in different implementations. The key themes that emerged from the available literature are summarised and presented below, and will be used to evaluate the case study implementations of Estonia's iVoting system and Nigeria's electoral technological deployments.

- *Correctness*

A voting machine should correctly count votes. All technologies deployed in an election should be correct and accurate. Several of the papers reviewed corroborated this position. For instance, Cortier and Wiedling (2017) noted the need for election technology to be correct and accurate. If stakeholders have no trust in the accuracy and correctness of the election technology deployed, they will challenge the outcome, particularly if this is unfavourable.

- *Legal and Regulatory Framework*

Deployment of technology in the electoral process must derive legitimacy from an underlying legal framework that recognises and supports its operations. This is because elections are rooted in constitution and law, therefore any technology used should not be in violation of the enabling laws and legislations. Several papers and articles reviewed supports this position. For instance, Shchebetun et al. (2020) and Sibe (2015) reinforced the need to ensure that technological deployments are within the legal framework.

- *Mirrors Traditional Voting*

An electronic voting system should be designed to have the same objectives and criteria (such as security and anonymity) as the traditional system (Martens 2011). Therefore, whatever technology is to be deployed should reflect and automate the procedural flow and objectives of the manual system.

- *Voter Anonymity*

An important feature of a voter system is voter anonymity. This is important so that voters can freely elect their choice without any fear or coercion. A voting system should protect the identity of the voter. Several authors, such as Ayed (2017) recommended the need for a voting system to protect the anonymity of the voter.

- *Cybersecurity and Privacy*

One of the major emerging risks of an electronic voting system is that of cybersecurity attacks. Private and even nation-state attacks have increased over the years, targeting both corporate and critical national infrastructure. Also, since voting is a people-centric process involving the capture and storage of Personally Identifiable Information (PII) of millions of citizens (during registration), there is an emerging risk of data breach. For these reasons and because of the sensitivity of elections, an electronic voting system is a natural target for cyberattacks. Several scholars such as Yavuz et al. (2018, March) emphasised the need to install necessary controls to ensure that cybersecurity risks and privacy concerns are mitigated in a voting system.

- *Transparency*

Elections are a multi-stakeholder activity involving several parties and citizens. Therefore, the automation of an electoral process must be seen to be transparent. Several sources reviewed, such as Cheeseman et al. (2018) noted that the voting system must be transparent for voters to have confidence in the system.

- *Trust*

For citizens to accept the outcome of elections, they must trust in the voting system. Several scholars outlined this as a major requirement of a voting system. For instance, Garnett and James (2020) submitted that election technology should be designed and deployed in a manner that engenders citizen trust.

- *Audit and Verification*

Competing interests in elections could challenge the process, particularly

when the outcome is unfavourable to them. An important feature should be the ability to audit the process end-to-end, and to verify votes cast in order to build trust and confidence in the election technology deployed. Several scholars such as Chaum (2009) submitted that voting systems should be auditable and votes should be verifiable.

- *Reliability*

Any failure of a voting system or election technology could prove catastrophic. Therefore, it is important that any election technology deployed should go through robust reliability tests to ensure the effectiveness and efficiency of the system. This theme emerged from reviews of Yavuz et al. (2018, March) who submitted the need for a robust reliability test for any election technology.

- *Stakeholder Engagement*

Elections are a multistakeholder process. Therefore, any technology deployed must have the buy-in and acceptance of the stakeholders. Several scholars, such as Adeshina and Ojo (2020) submitted that for an election technology to be accepted, there must be a robust stakeholder engagement. Such robust stakeholder engagement will present the technology to stakeholders and introduce key features such as transparency, reliability, efficiency, and security.

- *Pilot Tests*

Pilot tests are usually best practice in large-scale technology deployments. This allows for the testing of such technology in a controlled environment where the variables can be better managed. Election deployments are large-scale technology deployments; therefore, it is a good practice to test any election technology in smaller elections or in mock elections to check for the reliability of the system, end-to-end. Several scholars, such as Adeshina and Ojo (2020), Sibe (2015), and Alebiosu (2016), all submitted that electoral technology should be robustly tested in a controlled environment. Pilot testing allows for reliability verification with minimal impact.

## CASE STUDY – ESTONIA

Estonia was the first country to carry out nationwide internet voting during the March 2007 national parliamentary election (Heiberg et al. 2011, September). In the last 15 years, Estonians have used the electronic voting system in four national elections, three European Parliamentary elections, and four nationwide local elections (Ehin et al. 2022). It is noteworthy that the concept of e-voting for Estonia is different from what may be obtained elsewhere. While others used the

term to describe the process of deploying technology in the voting stations, the focus of the Estonian e-voting process was to allow for remote voting through the internet (Maaten 2004). This informed why it is also generally referred to as i-voting (internet voting). To vote electronically in Estonian elections, the voter needs a secure computer with an internet connection, an ID-card with a reader, or a mobile ID (Estonian National Electoral Committee (NEC) 2022). Public acceptance in Estonia for the electronic voting system got off to a slow start, but this would improve later. When it started in 2005, only about 1.9% of votes were cast using the internet voting system. As of the 2015 parliamentary elections, this had increased to 30.5% of the votes cast. By 2019, this had risen to 43.8% (ibid.). This growth shows a sustained level of adoption and user acceptance.

### *Legal and Legislative Framework*

Before e-voting was fully operational in Estonia, the necessary legal and legislative framework was put in place (Maaten 2004). This legislation relied on previous acts for effective implementation. For instance, the Identity Documents Act of 1999 evolved to provide digital identity cards with complex functionality for digital identification through mobile-ID. The Digital Signatures Act 2000 legitimised legally binding digital signatures. Also, the Population Register Act and Personal Data Protection Act are essential legislations in the overarching legal framework on which the Estonian e-voting law depended (Ehin et al. 2022).

Like every voting system, there have been legal contestations regarding legitimacy and validity. Over the years, Estonia's courts have made pronouncements on the legality of the Estonian e-voting stem. For instance, in judgments 2011, 2013, and 2017, the Supreme Court of Estonia ruled that the Estonian elections followed legal provisions, and no major incident undermined the process. Therefore, Estonians continue to use the i-voting system for nationwide voting, and the increasing number of voters using i-voting indicates the rising level of adoption and user acceptability.

### *The Estonian Electronic Voting System*

Estonia's e-voting system has important features that ensure both the verification of voters and voter anonymity. To ensure voter anonymity, the e-voter application encrypts the citizen's vote with a public key and signs the result digitally. The system utilises two envelopes: an inner envelope containing encrypted votes and an outer envelope from which the voters' list is compiled. The inner envelope with the encrypted votes (ensuring that the voter cannot be identified) is forwarded for actual vote counting using the system's private key. Tsahkna (2013, p. 62) noted

that to ensure the privacy of voters, the system provides that at no time 'should any party of the system have both the digitally signed e-vote and the private key of the system'.

The system ensures that the encrypted votes with personally identifiable information are separated before the declaration of the result on the evening of election day. That is, the inner envelope must be separated from the outer envelope; otherwise, the system will not open the votes. To ensure that people do not take advantage of both traditional and e-voting channels so as to vote twice, the system is designed to ensure that only one vote is counted. A list of all internet voters is printed and sent to polling stations two days before the election. This is checked at the polling stations to eliminate the possibility of people voting both ways. Where this is the case, the internet vote of that citizen is cancelled with a note on the e-voting system (Martens 2011).

### *Privacy and Cybersecurity Concerns*

Despite its high praise, the Estonian e-voting system has not been without criticism. Concerns about breaches have led to greater scrutiny through observations, code reviews, and adversarial testing of the voting system components (Nurse et al. 2017). Some criticise the security of the system, arguing that this should depend on the technical measures implemented rather than on the hope that officials will act professionally. After Estonia's 2011 elections, Heiberg et al. (2011, September) published findings identifying new vulnerabilities in Estonia's electoral system, called 'Student attack'. A student had written malware that compromised Estonia's electoral system. The Estonian NEC made some improvements, adding modules to verify votes. Despite this improvement, Springall et al. (2014, November) submitted that the system had both procedural and architectural weaknesses, leaving a potential vulnerability for hackers to alter the outcome of an election. The issues identified include procedural controls, lax operational security, insufficient transparency, and vulnerabilities in the published application code. Springall et al. (2014, November) argued that the Estonian internet voting system does not have end-to-end (E2E) verifiability. Instead, its simplistic model means trust is conferred on the integrity of voters' computers, server components, and election staff. To prove the integrity of the voting system, the Estonian electoral body relied more on procedural controls than technical means. Yavuz (2018) also observed that the centralised structure of the Estonian electronic voting system creates a single point of failure and is vulnerable to malicious software and hackers. Also, there is a potential challenge of scalability. Estonia is a relatively small country and replicating the Estonian electronic voting model might prove daunting for large nations. Nurse et al. (2017) noted that the various concerns raised suggest

vulnerabilities that malicious insiders and sophisticated external attackers may capitalise on to compromise the voting system.

The ability to audit an election process is crucial to its acceptability. Estonia’s internet voting system does not have a full public server-side function. However, Ehin et al. (2022) and Nurse et al. (2017) noted that Estonia employed designated auditors to verify the process’s integrity, much like traditional elections. Also, the system’s mixer and decryption server components use cryptographic proofs that can be relied on for independent verification. In addition, to boost transparency and trust in the system the authorities released the source code running the i-voting platform, except that of the official voting application, which is not released as a defense mechanism (Ehin et al. 2022).

TECHNOLOGY IN NIGERIAN ELECTIONS

*The Fourth Republic (1999 to Date)*

Nigeria has a long history of poorly organised elections, with allegations of rigging and many documented accounts of election malpractice (Enwere & Ladan-Baki 2015). Studies have suggested that this widespread malpractice continued due to the manual methods used in the process (Jibia & Zake 2020), culminating in calls for the total reform of the electoral system in Nigeria. A direct outcome was the decision to deploy technology to ensure the quality and integrity of the electoral process (Jega & Hillier 2012). This study summarises technological deployments in Nigeria’s elections with the timeline indicated in Figure 1. The paper will focus on the newest technological addition.

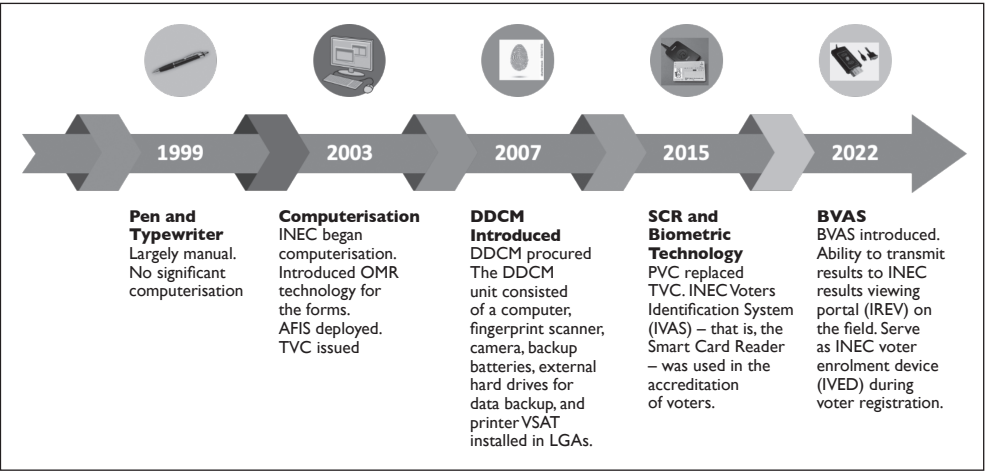


Figure 1: Timeline of technological deployments in Nigeria

### *Bimodal Voter Accreditation System (BVAS)*

The smart card reader introduced in the 2015 elections did record remarkable successes. However, as this article has shown, there were also many shortcomings. In addressing this, INEC introduced the BVAS. It is an all-in-one multifunctional integrated device serving different functions in the electoral process (Munya 2022). It verifies the authenticity of the Personal Voter Card (PVC) and fingerprints and has facial recognition technology, which it uses during the accreditation process. Another important feature is the ability to transmit unit results to the INEC Results Viewing portal (IReV) on the field. It is also used as the INEC voter enrolment device (IVED) during voter registration (Agiri & Morka 2022). The two-factor (finger print and /or facial recognition) verification option of the BVAS is expected to eliminate the use of incident forms.

The introduction of BVAS has not been without its challenges. For instance, Odalonu and Ogu (2022) noted that there were 'severe challenges' with the new BVAS in the Anambra Governorship elections. The Transition Monitoring Group (TMG) also observed the presence of the BVAS challenges and urged INEC to fix them before the 2023 elections (Ileyemi 2021).

### TECHNOLOGICAL CHALLENGES AND PROSPECTS IN THE 2023 ELECTIONS

INEC (2022) recently adopted new technologies for elections – BVAS, the INEC Voter Enrolment Device (IVED), and INEC Results Viewing Portal (IReV). These innovations look quite promising in improving the quality of elections in Nigeria. However, like any innovation, there are emerging risks and challenges. This section assesses these risks and makes recommendations and identifies the following themes and sub-themes from peer-reviewed journals, reports, expert analysis from newspapers.

#### *Legal Framework*

Elections are governed by legislation. The Nigerian Constitution 1999 (as amended) gives INEC the mandate to conduct elections. The Electoral Act 2022 prescribes how elections are to be conducted in Nigeria. E-government (and by extension, emerging technologies in the electoral process) must derive legitimacy from an underlying legal framework that recognises and supports its operations (Sibe 2015). Therefore, for technology to be deployed in a public-centric process like elections, it is important to have a robust legal framework that establishes its legitimacy. One of the challenges faced with introducing the smart card reader

in 2015 was that the applicable law appeared not to recognise its operations. The many post-election litigations around this issue corroborate this fact. This trend necessitated the passage of the Electoral Act 2022, which is a commendable step. The following themes are discussed under legal challenges:

### *Electoral Act 2022*

The Electoral Act 2022 is the primary legislation regulating the conduct of elections in Nigeria. The previous Electoral Act 2011 did not seem to consider the involvement of hi-tech, and left loopholes that could be exploited legally and technically. The Electoral Act 2022 addressed some of the concerns raised in 2015 and legitimised technological innovations deployed by INEC for smooth elections in line with global best practice and industry trends (Sibe 2022).

This section examines some key sections where the Electoral Act 2022 refers to technological involvement. Section 41(1) gave the Commission the mandate to provide suitable boxes, electronic voting machines, or other voting devices for conducting elections. Section 47(2) requires the presiding officer to use a smart card reader or any other technological device prescribed by the Commission to verify, confirm, authenticate, and accredit voters. Section 50(2) states that subject to Section 63, voting at an election and the transmission of results shall be in accordance with the procedure defined by INEC. Section 62(2) gives the Commission the power to maintain a centralised electronic register of voters for collation.

From these sections of the Electoral Act 2022, the following sub-themes emerged as technological possibilities:

1. Electronic voting machine
2. Smart card reader or any other technological device
3. Result transmission
4. Centralised electronic register
5. Collation.

Apart from the first and last sub-themes (electronic voting machine and collation, which were done manually), the remaining three sub-themes were used by INEC in the 2023 national elections. INEC used the BVAS for voter verification as well as electronic transmission of votes. Notably, the Electoral Act 2022 did not make it mandatory for INEC to use any of these but merely gave them the power to decide which technology they deem fit. In their guidelines for the 2023 elections, INEC repeatedly insisted that the BVAS will be strictly adhered to for the accreditation of voters and electronic transmission of votes directly from the polling units

(INEC 2022b). Also, while INEC clarified that collation will be done manually, the Commission announced that results will be published centrally on the INEC Results Viewing Portal (IREV) (Anichukwueze 2022; *Premium Times* 2022). Despite these assurances, there were widespread reports of failed electronic transmission of results from the polling station. This failure was an important aspect of the BVAS and IREV promised by INEC (Ochei 2023; Ejiofor 2023a).

### *Jurisdictional Complexities*

The new electoral technological landscape also comes with emerging challenges such as cybersecurity threats. With technological involvement in almost all aspects of the electoral process – voter registration, identification, verification, and collation – there are real possibilities of a cybersecurity attack. All the technologies deployed by INEC (2022b) are possible targets for cybercriminals with a real threat of both local and foreign interference in elections. Cyberattacks, whether in elections or in any other process, can be classified as cybercrime (Nigeria's Cybercrime Act (2015)). One of the challenges with cybercrime is the cross-border implications of its borderless nature. The fact that criminals could potentially commit cybercrime in one country while operating from another country presents complex jurisdictional roadblocks to law enforcement agencies and cybercrime investigators (Interpol 2017; Sibe 2021). This potential threat has crystallised in recent elections. For instance, in the Osun and Ekiti elections respectively, cyberattacks from Asia were directed at the INEC website (Ufuoma 2022). Also, the Ministry of Communication and Digital Economy reported over 12 million cyberattacks during the 2023 presidential election. These attacks originated both from within and abroad, from other countries (Michael 2023).

It is noteworthy that offences under the Cybercrime Act (2015) are extraditable. Section 51 of the Act gives the Attorney General of the Federation the powers to request or receive assistance from a foreign state or authority for the investigation of offences under this Act. Nonetheless this could prove more complex and complicated than the letters of the Act suggest (Interpol 2017). Given these complexities, investigating and prosecuting electoral cybercrimes with an international dimension could prove daunting.

### *Forensic Readiness of the Justice System*

The justice system plays an important role in the electoral system. The Electoral Act 2022 allows dissatisfied candidates to take their cases to court. With the growing involvement of technology, most of the evidence would be in digital form or from digital devices. Nigeria only allowed for the admissibility of digital

evidence with the passage of the Evidence Act 2011. There are predictable gaps in understanding technical concepts and in the forensic readiness of the justice system (Sibe 2021). For technology to play a much-desired critical role, the justice system needs to be forensically ready, with the ability to understand the delicate complexities of digital evidence.

### *Data Protection*

National elections are a data-centric exercise. As of the 2019 elections, INEC had 84 million registered voters. With the recently-concluded voter registration exercise, this is estimated to have risen to about 96 million (Amata 2022). Having such a large citizen record with Personally Identifiable Information (PII), INEC faces the potential risk of data breaches and other information governance challenges. The reported attacks on INEC's results viewing portals in the Osun and Ekiti elections of 2022 and the national elections of 2023, is an indication of the possibility of data breaches involving PII (Michael 2023). This is even more so given Nigeria's emerging cyberthreat landscape. In a recent survey on Enterprise Security Trends in Nigeria commissioned by Microsoft (2022) and conducted by International Data Corporation (2022), data breach was seen as the top cybersecurity concern by Nigeria's chief information officers (CIO). Therefore, with the datacentric nature of INEC's operations, there is real concern about data breach.

In 2019, the Nigerian Information Technology Development Agency (NITDA) released the Nigerian Data Protection Regulation (NDPR). The NDPR seeks to regulate the collection and processing of personal data. As a major data-centric organisation, INEC faces the potential compliance risk of breaching the NDPR, as the newly-created Nigerian Data Protection Bureau has been investigating data protection breaches and penalising defaulters (*The Guardian* 2023a). Also, the Nigeria Data Protection Act 2023 has just been passed, giving the NDPR more legal and operational impetus. Therefore, to mitigate this risk, INEC needs to take technical steps to ensure the protection of citizen information.

### *Technical Issues*

In evaluating the possible issues and challenges that INEC faced in the 2023 elections, the following sub-themes emerged:

#### **Reliability Issues**

One of the challenges faced during the deployment of technology in elections is that of the reliability of the technology deployed. For instance, Cheeseman et al. (2018) noted the multiple failures in verification devices for thumbprints in

Ghana's 2012 general elections. In Kenya's 2013 elections widespread failure of electronic voter identification kits was reported in over half the polling stations. Ali (2015) also corroborated this, citing the widespread failure of scanners, failed verification, crashed central servers, and others.

Nigeria also has a history of technological failures in elections. In the 2015 elections, there were widely reported cases of the failure of the smart card reader. Alabiosu (2016) noted that all five biometric card readers deployed to the serving president's unit failed. The rollout of BVAS has also not been without attendant challenges. For instance, Odalonu and Ogu (2022) reported technical challenges in the Anambra governorship elections. This also happened at the Ekiti and Ogun governorship elections (Iliyemi 2021).

In the 2023 elections, there were reported cases of failed BVAS. For instance, in Rivers State, the BVAS failed to accredit the wife of the governor, thereby disenfranchising her (Jaiyeola 2023). After the presidential election on 25 February, and despite its earlier claim that the BVAS has passed reliability tests, INEC admitted to glitches with the BVAS which it promised to improve in subsequent elections (*Vanguard* 2023). This was also corroborated by Okeaya-inneh (2023) and the International Centre for Investigative Reporting (2023), who both noted that voters complained of failed BVAS in certain polling units.

Various major election observer groups also made statements corroborating issues of reliability with the technology deployed. For instance, the European Union Election Observation Mission to Nigeria (2023) noted that while the introduction of the BVAS and IReV raised citizens' hopes, on election day there were failures with the electronic transmission of results, particularly for the presidential election result. The Commonwealth Election Observer Group to Nigeria (2023) noted that while the BVAS functioned satisfactorily in most polling stations, there were also notable problems. The report showed that the BVAS's facial recognition function was more efficient than the fingerprint verification. This was corroborated by a joint statement by the international observation mission of the International Republican Institute (IRI) and the National Democratic Institute (NDI) (2023), which observed that while the BVAS functioned properly, the fingerprint verification appeared less effective than facial recognition. Enough is Enough Nigeria (2023), a civil society organisation, also echoed the frustrations of citizens because of malfunctioning BVAS.

### **Electronic Transmission of Results**

The Electoral Act 2022 provided the legal basis for the electronic transmission of votes. There are many risks associated with the electronic transmission of votes. For instance, the potential risk of network failure, as recorded in the case of Kenya, where the server collapsed under heavy network traffic (Munya 2022). Ali (2015)

noted that the central server, which was supposed to store results from 33 400 polling stations through SMS, collapsed under the strain. Beyond this, there are also other emerging risks associated with electronic votes transmission, such as cybersecurity risks (interception and manipulation during transmission) which are discussed in the next sub-theme.

In the 2023 elections, many of these emerging risks crystallised. With reports of large-scale failure of electronic votes transmission, it appears that risks were left unmitigated (Eleanya 2023). A joint statement by the international observation mission of the International Republican Institute (IRI) and the National Democratic Institute (NDI) (2023) noted the challenges with electronic result transmission and real-time display of results on the IReV, particularly with the presidential elections. These made citizens raise concerns regarding the transparency of the process. The European Union Election Observation Mission to Nigeria (2023) also noted delays and frictions with the IReV portal, making it difficult to access scanned results. They indicated that some of the reasons for these included the opacity of the electoral technology, lack of robust testing of the device, and lack of training for INEC staff. The statement pointed to these as a failed opportunity on the part of INEC to improve the trust and confidence in the electoral process.

The failure of the transmission and real-time display of results were widely reported by several independent observer groups. For instance, the Commonwealth Election Observer Group to Nigeria (2023) also corroborated this by reporting that the election results were not uploaded to the IReV portal in real-time as advertised. Yiaga Africa, a not-for-profit civic group, raised concerns about the unexplained delay in uploading polling unit results. The group noted that despite the conclusion of counting several hours earlier, at 10 pm on election day presidential election results had not yet been uploaded to the IReV portal, contrary to the promises given by INEC (Kareem 2023). Okeaya-inneh (2023) also noted the poor internet connectivity in remote areas, and that presidential election results were only made public three days after the election, greatly undermining confidence in the process.

INEC's explanation for these issues was that there was a technical glitch relating to server scaling for the IReV. The Commission noted that this was simply a technical problem, and not the result of sabotage or intrusion. However, this explanation left more questions than answers, as at 10 pm on February 26 (a day after the election), fewer than 30% of the presidential election results had been uploaded (*The Guardian* 2023a). Scalability is an important feature of a good system, and INEC's excuse is surprising. The European Union Election Observation Mission to Nigeria (2023) noted that INEC missed the opportunity for a robust test of the technology before the elections.

### Cybersecurity Readiness

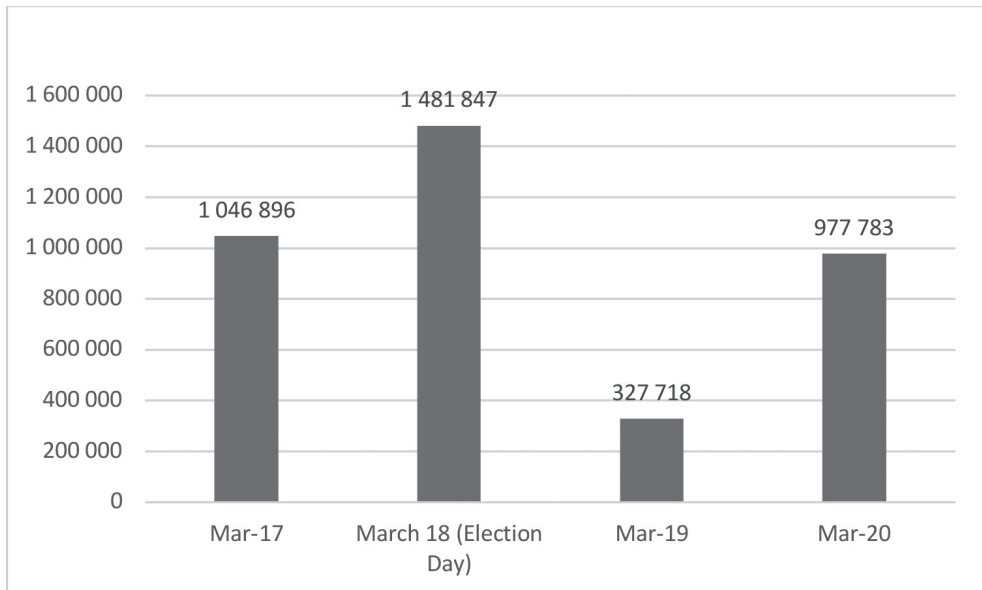
With modern technological innovations in elections, there is an emerging risk of cyberattacks and the potential of tampering with Electronically Stored Information (ESI). These risks are distributed across critical aspects of the electoral chain. For instance, there is the potential risk of intercepting votes in transit; the technical possibility of manipulating the electronic voter database; and of hacking the electronic register, the electronic collation process, and other critical technological deployments in the election value chain. Without prejudice to any specific device, there is the potential risk of manipulating the data stored on the BVAS, and also the potential risk of hacking the IReV and manipulating the result. There are potential risks of tampering with the collation process, and of cybersecurity (hacking, encryption/decryption, manipulation, etc.) of remotely manipulating electronically collated results (Sibe 2022). Given these realities, there is a real possibility that election results could be manipulated by both local and foreign cybercriminals and nation-state actors.

First, this should be viewed from a national perspective. The International Telecommunication Union (2020) ranked Nigeria 47<sup>th</sup> in the world in the Cybersecurity Readiness Index. This is fifth in Africa, behind Egypt, Tanzania, Ghana, and Tunisia. Therefore, Nigeria has much to do to bolster its cybersecurity readiness. While INEC insists that it has implemented the necessary controls to prevent hacking, and that the challenges experienced in the 2023 election are not because of cyberattacks or sabotage (*The Guardian* 2023), there are probable reasons to think otherwise. First, INEC itself has a history of being at the receiving end of cyber-attack. For instance, in the build-up to the 2015 general elections, INEC's website was attacked and defaced. A hacktivist identified as the Nigerian Cyber Army later claimed responsibility (Abimboye 2015).

In the Osun and Ekiti state elections, there were also reported cyberattacks of both local and international dimension with cyberattacks from as far as Asia directed at the INEC portal (Ufuoma 2022). In the 2023 elections, the Ministry of Communication and Digital Economy reported a total of 12 988 978 cyberattacks days before and during the election (Izuaka 2023). Again, these attacks were reportedly of both local and international dimensions.

A breakdown of the attack type shows that the cyberattacks consisted of 'Distributed Denial of Service (DDoS), email and IPS attacks, SSH Login attempts, Brute force Injection attempts, Path Traversal, Detection Evasion, and Forceful Browsing' (Izuaka 2023a). The statement reveals that according to intelligence reports, cyberattacks directed at the country averaged 1.55 million per day in the days leading to the elections and peaked at a staggering 6.99 million on election day. In the gubernatorial elections, the cyberattacks directed at INEC dropped

to 3 834 244. A breakdown of these show that on Friday 17 March 2023, a total of 1 046 896 attacks were recorded; on Saturday, 18 March 2023, election day proper, a total of 1 481 847 attacks were recorded; on Sunday 19 March 2023, a total of 327 718 attacks were recorded; and on Monday 20 March 2023, a total of 977 783 attacks were recorded (Izuaka 2023b). These figures are plotted in a chart shown in Figure 2 below. Experts, however, have questioned these figures, given the emerging dynamics of global threat intelligence (Michael 2023; Okonji 2023).



Source: Based on data from Izuaka (2023b)

**Figure 2: Cyberattacks directed at Nigerian Institutions during the Governorship Elections in 2023**

It is noteworthy that the statement from the ministry was on behalf of a special-purpose committee set up to protect cyberspace for the elections. The committee includes the Board chairman and CEO of the Nigerian Communications Commission (NCC) together with the CEOs of the National Information Technology Development Agency (NITDA) and Galaxy Backbone (GBB) (Michael 2023). While the cyber-attack figures appear surprisingly large and possibly questionable, these are major technology agencies in the country, and such official pronouncements cannot be dismissed without interrogation.

While there is scanty information needed to make categorical statements, there are pointers to the fact that INEC does not have the right level of cybersecurity readiness. Beyond this, the Ministry of Information stated that INEC had deliberately withheld the electronic transmission of data after suspecting a cyberattack on their election infrastructure. The minister also noted that after this, INEC decided to withhold electronic transmission of the election result, in order to preserve it. While this categorical statement by the nation's information minister appears to be at variance with INEC's position that there was no cyber-attack (Daramola 2023), it does suggest INEC's lack of cybersecurity readiness.

In addition, while the Ministry of Communications and Digital Economy announced almost 13 million cyberattacks directed at the country (Izuaka 2023), INEC has not issued any statement corroborating or refuting these claims. For a public-centric process such as general elections, with mixed stakeholders who all want information and transparency, this silence suggests either lack of capacity, or as an outside possibility, complicity. Several months have passed since the elections, and INEC has not yet released any official report, or even press statement, on the cybersecurity activities during and after the elections. This is curious, and may point to a lack of capacity in an organisation that should operate independently but has not yet issued any statement, and on the contrary allows other government agencies and political appointees to make statements apparently on their behalf.

Also, it is noteworthy that in Section 41 of the Cybercrimes (Prohibition, Prevention, Etc.) Act 2015, the Office of the National Security Adviser is empowered as the coordinating body for Nigeria's cybersecurity. According to the National Cybersecurity Strategy and Policy 2021 released by the Office of the National Security Adviser (2021), the National Security Adviser (NSA) shall establish the National Cybersecurity Coordination Centre (NCCC). Neither of these two statutory organisations has issued any categorical statements with respect to coordinated cyberattacks directed at Nigeria and INEC during the 2023 elections; yet, the Minister of Information, who bears no direct constitutional or technological responsibility, has issued direct statements in this regard.

### **Digital Forensic Readiness**

Even the most secure system does suffer attacks. Therefore INEC needs to be ready to carry out a full-scale forensic investigation in the event of a cyberattack. Does INEC have the technology (hardware and software), technical personnel, processes, and systems to commission digital forensic investigations if there is an incident? Also, given the involvement of technology in the Electoral Act 2022, most post-election cases will rely on digital evidence. Does INEC have the capabilities

to collect, preserve, and analyse digital data and present results in a forensically sound manner? Can INEC carry out a forensic investigation that could rely on digital artifacts to recreate the events and scenarios critical to solving electoral disputes beyond a reasonable doubt? How forensically ready is INEC?

While there is little or no information on the digital forensic readiness of INEC, there are facts pointing to their lack of readiness. First, a keyword search on Google and Google Scholar search engines for 'INEC's digital forensic laboratory', 'Digital Forensic Unit of INEC' and 'Forensic Department of INEC' did not return any meaningful result in this regard. Also, a search on the INEC portal did not reveal the presence of a dedicated digital forensic unit or expert personnel in this regard. Beyond this, the lacklustre way the Commission handled the alleged cyberattacks is an obvious pointer to their lack of digital forensic resources. If there were attacks, as alleged, the Commission should have commissioned digital forensic investigations. Almost three months after the presidential election, INEC has not made any clear statement corroborating or refuting the alleged attacks, nor initiated any arrests (through the relevant law enforcement agency) in this regard.

Given the lack of information on the digital forensic readiness of INEC, the Commission appears to rely solely on the law enforcement agencies for digital forensic investigation, rather than having first level in-house digital forensic investigative capability. The sad reality is that the Nigerian law enforcement agencies themselves are not ready, from a digital forensic readiness standpoint. They lack the requisite resources to cope with Nigeria's rising caseloads (Sibe 2021; Sibe & Muller 2022). Given the fact that these cases may end up in court, it is sad to note that the Nigerian justice system is also not forensically ready (Sibe 2021). With these emerging realities, INEC, as presently constituted, does not have the right level of digital forensic readiness to tackle the emerging threat landscape efficiently.

## SUMMARY OF FINDINGS

This article examined existing literature to analyse technological innovations and emerging risks in elections in Nigeria, with Estonia as a case study. The article shows that the BVAS and IReV, like other technological innovations, can improve the quality of our elections if properly implemented. The two sets of tables below summarise the findings of this study. Table 1 shows a comparative analysis of key themes in technological innovations in Estonia and in Nigeria. Table 2 depicts a summary of the findings from this study.

**Table 1: Comparative analysis of key themes in technological innovations in Estonia and in Nigeria**

S/N	Themes	Estonia
1	Electronic voting	Remote voting via the internet (iVoting)
2	Legal framework	Riigikogu Election Act 2002
3	Vote change	Votes cast electronically can be changed during the defined window
4	Votes verification	Voters can verify votes cast electronically
5	Voter identification	Relies on existing national ID
6	Voter anonymity	Uses advanced encryption technology
7	Vote transmission	Transmitted via the internet, using encryption technology to ensure voter anonymity
8	Trust and transparency	Source code released publicly Robust stakeholder demonstrations
9	Audit	<ul style="list-style-type: none"> <li>○ Use professionals and specialists for the audit process</li> <li>○ Use cryptographic proofs that can be relied on for independent verification</li> </ul>
10	Pilot testing	Went through public evaluation and pilot tests
11	Stakeholder evaluation	Went through robust multi-stakeholder evaluation
12	Single point of failure	Centralised architecture

**Table 2: Summary of key findings**

S/N	Themes	Research Findings	Literature
1	Legal and regulatory framework	<ul style="list-style-type: none"> <li>○ Technological engagement in a public-centric process such as an election requires an enabling law</li> <li>○ The Electoral Act 2022 provides the legal framework for the use of technology in elections in Nigeria</li> </ul>	Munya 2022; O'Meara 2013; Maaten 2004; Sibe 2015; and Sibe 2022
2	Reliability engineering	<ul style="list-style-type: none"> <li>○ Pilot tests are important in large-scale rollout of technology, such as in elections</li> <li>○ INEC did not carry out robust reliability tests involving critical stakeholders</li> <li>○ Reports of reliability issues in the 2023 election</li> </ul>	Cheeseman et al. 2018; Ali 2015; Yusuf & Akuva 2020; Alabiosu 2016; Odalonu & Ogu 2022; Abodunrin et al. 2018; Sibe 2015; and Sibe 2022

3	Impact of technology on Nigeria's elections	<ul style="list-style-type: none"> <li>Technology has improved the quality of elections in Nigeria</li> <li>Technology has improved voter confidence in the electoral process</li> </ul>	Yusuf& Akuva 2020; Munya 2022; Enwere & Ladan-Baki 2015; Agbu 2016
4	Existing technological infrastructure	<ul style="list-style-type: none"> <li>INEC relies on existing technological infrastructure outside of their control, such as internet service, network coverage, and electricity</li> <li>Reports of poor network coverage given as an excuse for some cases of failed result transmission</li> </ul>	Sibe 2022; Maaten 2004; Ehin et al. 2022
5	Privacy and security concerns	<ul style="list-style-type: none"> <li>Privacy and confidentiality are critical expectations of electoral systems.</li> <li>Voting systems should ensure voter anonymity</li> <li>Need for NDPR compliance</li> </ul>	Nurse, et al. 2017; Sibe 2015; Sibe 2022; Babalola 2021
6	Challenges with INEC's technologies	<ul style="list-style-type: none"> <li>Reported challenges with BVAS: <ul style="list-style-type: none"> <li>Failed facial recognition</li> <li>Failed result transmission</li> </ul> </li> <li>Failed IReV during the 2023 election</li> </ul>	Odalonu & Ogu 2022; Yusuf & Akuva 2020; Alebiosu 2016; Sibe 2015
7	Cybersecurity readiness	<ul style="list-style-type: none"> <li>Need for cybersecurity readiness</li> <li>Potential risk of hacking and manipulating the data stored on the BVAS, IReV</li> <li>Potential risk of interception of electronic transmission of votes</li> <li>Reported cyberattacks in the 2022 and 2023 elections</li> </ul>	Sibe 2022; Nurse, et al. 2017; Chaum 2009; Heiberg et al. 2011 September; Springall et al. 2014 November; Yavuz 2018; Ehin et al. 2022
8	Digital forensic readiness	<ul style="list-style-type: none"> <li>Need for forensic readiness</li> <li>No literature available that suggests that INEC is forensically ready</li> <li>INEC relies on law enforcement agencies for digital forensic investigation. Nigerian law enforcement agencies are not forensically ready</li> </ul>	Sibe & Muller 2022; Sibe 2021; Sibe 2022;

9	Jurisdictional challenges	<ul style="list-style-type: none"> <li>○ This study identified emerging cybercrime risks in the 2023 elections</li> <li>○ The cross-border nature of cybercrime poses jurisdictional roadblocks in investigating and prosecuting cybercrime</li> </ul>	Sibe 2022; Sibe 2021; Interpol 2017
10	Transparency of technology	<ul style="list-style-type: none"> <li>○ Need for transparency</li> <li>○ Estonia publishes source code</li> <li>○ INEC needs to do more to engender transparency and build trust</li> </ul>	Ehin et al. 2022
11	Integrity of voting system	<ul style="list-style-type: none"> <li>○ Voting systems should be robustly tested for integrity</li> <li>○ Citizens should be able to verify end-to-end the integrity of voting systems</li> </ul>	Chaum 2009
12	Auditing	<ul style="list-style-type: none"> <li>○ Electoral systems should be open to vote auditing</li> <li>○ Estonia utilised designated auditors</li> <li>○ INEC rely on staff to audit the process</li> <li>○ INEC needs independent professionals – auditors, information assurance experts, forensic experts, cybersecurity experts, reliability engineers, and others</li> </ul>	Ehin et al. 2022; Nurse et al. 2017
13	Public awareness	<ul style="list-style-type: none"> <li>○ Need for proper public awareness when introducing new technology</li> </ul>	Yusuf & Akuva 2020; Sibe 2015
14	Training	<ul style="list-style-type: none"> <li>○ Need for more training</li> <li>○ INEC ad-hoc staff show poor knowledge of the technology deployed</li> </ul>	Yusuf & Akuva 2020
15	Single point of failure	<ul style="list-style-type: none"> <li>○ Centralised architecture for electoral technology could be a source for a single point of failure</li> <li>○ The centralised structure of Kenya's election in 2012 was a source of a single point of failure</li> <li>○ IReV failed in the 2023 presidential election INEC's press release suggested a central point of failure</li> </ul>	Ali 2015; Yavuz 2018

## CONCLUSION

Over the past two decades, INEC has deployed technology to improve the quality of elections. From the digitisation of the voter register to the use of the direct data capture machine, and now the use of the Bimodal Voter Accreditation System, INEC has continued to rely on technology to improve the quality of Nigeria's elections. However, while these deployments have continued to improve the integrity, quality, and efficiency of Nigeria's elections, there are associated emerging risks. This study reviewed the historical and existing technological deployments in elections and identified the challenges faced by INEC in the 2023 elections.

These challenges include reliability, with reported failures of BVAS and the IReV portal; failure of BVAS to electronically transmit results from the polling units as promised; poor understanding of the inner workings of the BVAS and other associated technologies; reported cyberattacks on a large scale; lack of transparency; single point of failure; lack of a framework for a stakeholder audit of the electoral system; and poor cybersecurity and digital forensic readiness. These emerging challenges need to be mitigated to improve the quality of Nigeria's elections.

Findings from this study could potentially shape policy and may be useful to INEC as they plan for future elections. Specific recommendations include the following:

- There is a need for a more robust reliability tests with professionals and stakeholders. For instance, technology experts, reliability engineers, and related professional groups should be enlisted to join in the reliability tests. This would help detect reliability issues early, as well as build confidence in the electoral process.
- INEC needs to improve on its state of cybersecurity readiness and capability. The dangerously high figure of reported attacks is a sad reminder of the potential risk of cyberattack in an election.
- INEC needs to improve its digital forensic readiness. There are no completely secure systems. To this end, it is important for INEC to develop in-house competency in digital forensics.
- In the 2023 elections, there were reports of poor network coverage in certain rural areas. INEC needs to work with the relevant organisations and experts to ensure proper network coverage and bandwidth tests for contingent preparation.
- The reported cyberattacks are an indication of the possibility of data breach. Given the large voter database with PII, INEC needs to take reasonable steps to ensure data protection and NDPR compliance.

- There were reports of staff exhibiting poor knowledge of the election technology, indicating that more training is needed for both permanent and ad hoc INEC staff.
- More stakeholder engagement and public awareness campaigns are needed.
- There is a need for a proper election risk management system that looks at the risks, not in silos, but across the entire election value chain.
- The IReV failed in the presidential election, and days later, updated election results had not yet been reflected on the portal. Therefore, there is a need for a robust business continuity plan (BCP) and disaster recovery plan (DRP). This is even more important, given the barrage of cybersecurity attacks reported by the authorities.

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# NIGERIA'S 2023 PRESIDENTIAL ELECTIONS

## *The Question of Legitimacy for the Tinubu Administration*

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### ABSTRACT

*This article raises concerns about the legitimacy crisis likely to confront the government of Nigeria's President Bola Tinubu, following the nature of the conduct and outcome of the 2023 presidential elections. While legitimacy is crucial to government and governance, citizens' compliance and cooperation with the government, and how elections and their outcomes are perceived can influence the government's legitimacy. The study reveals how INEC'S conduct, Tinubu's personality crisis and the burdens facing the ruling APC in a pluralistic society, as well as the emerging youth category, would affect Tinubu's legitimacy as Nigeria's president. The analysis relies on careful observation of Nigerian politics and elections as well as the views expressed by experts, political parties, local and international observers and newspaper reports before, during and after the 2023 elections. It offers an empirical contribution to our understanding of the relationship between elections and the legitimacy of Nigeria.*

**Keywords:** presidential elections, Bola Tinubu, legitimacy, Nigeria, political parties

### INTRODUCTION

Nigeria held its seventh presidential and National Assembly (NASS) elections in February 2023. While the elections were marred by some irregularities, they were also adjudged by observers to be *relatively* free, fair and credible (Habib 2023; *Premium Times* 2023). The political parties in the elections shared the votes and NASS seats.<sup>1</sup> Unlike previous elections, where hundreds of lives were lost

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1 INEC Chairman, Mahmood Yakubu, stated that seven and eight political parties respectively won seats at the Senate and House of Representatives.

(Sanni 2019), the 2023 elections recorded fewer violent cases and casualty figures (Folorunsho-Francis et al. 2023).<sup>2</sup> Nonetheless, irregularities persisted during the elections (Akeaya-Inne 2023; Acheampong 2023; Ijaseun 2023).<sup>3</sup> Samson Itodo, Yiaga Africa's Executive Director, who followed the elections closely, states that all the concerns anticipated in the election manipulation risks index (EMRI) played out in the conduct of the elections (Itodo 2023). These relate mostly to the inability of the umpire, the Independent National Electoral Commission (INEC), to meet its own promises and curb political shenanigans.

During the elections, voters were attacked and there was an apparent manipulation of the election's outcome. In Lagos, cases of intimidation, violence and voter suppression were rife. One voter, Efidi Bina Jennifer, was attacked by thugs and her face was bruised (Folorunso-Francis et al. 2023). In Port Harcourt, attacks on voters were linked to former Rivers State governor Nyesom Wike, who worked for Bola Tinubu, the All Progressives Congress (APC) candidate (ibid.). According to Adeseye Ogunlewe, a leader in the APC, Wike was 'compensated' with a ministerial position for his role during Tinubu's election (*Channels Television* 2023a). There were cases of ballot box and BVAS snatching and the destruction of ballot boxes and papers in other parts of the country (ibid.). Journalist Reuben Abati (2023) opined that the elections were '...the worst in terms of management [as] violence raged [on] in Lagos, Rivers, Taraba [and] as political gladiators turned the elections into war and an opportunity for bloodshed'.

Irregularities indicate that the election results might have been altered. Furthermore, both winner and runners-up won in unexpected locations. Three major candidates unpredictably received a significant number of voters from across the country. Although the APC won the presidential election by a margin of less than two million votes, scoring 8 794 726 votes, and leading in 12 of Nigeria's 36 states, the other main opposition parties – the People's Democratic Party (PDP) and the Labour Party (LP), scored more than 13 million votes and won in 24 states.<sup>4</sup>

A key issue here is the diffused nature of the votes and the fact that the winner did not have a convincing majority of votes, which raises an important concern about the legitimacy of Bola Tinubu's presidency. In addition, Nigeria is a deeply polarised country (Mustapha 2002; Agbibo & Okem 2011) largely along differences in ethnicity, religion and region. There are three major ethnic groups – Hausa/Fulani, Igbos and Yoruba, but Nigeria has more than 250 ethnic groups. The country is 51% Muslim, 48% Christians and a small category that practise

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2 There were reported killings in Rivers and in Taraba.

3 Some of the irregularities include the late arrival of voting materials, breakdown of BVAS machine, poor technical skills by INEC staff, and IReV shut down due to a technical glitch.

4 Apart from previously belonging in the same political party, Atiku Abubakar and Peter Obi ran on a joint ticket in the 2019 presidential election.

African traditional and / or no religions (Agbiboa & Okem 2011, p.112). The major ethnic groups are found in the north, east and west. These ethno-religious-regional fault lines often threaten the existence of Nigeria even if it has managed to live together as one nation, surviving a civil war between 1967 and 1970. Nigeria's political elite often attempt to manipulate ethnicity, religion and region to advance their political objectives (ibid.; Rothchild 1986, pp. 66-68). With the outcomes of the elections, there is a chance that the divisions along these polarised lines would deepen inter-group tension, weakening cohesion and threatening the legitimacy of a government whose leader comes from the southwest.

A radical new bloc has recently added to these polarised categories: the category of young people. Aged between 18 and 35, and eager for a change in governance and welfare, these young Nigerians seek a different country. Although they have always existed, and are often described as a ticking timebomb, they have become more vocal with the use of technology, their coordinated resistance to official brutality with the #EndSARS protest being a case in point. As a former governor of Ekiti State, Ayo Fayose, remarked in a television interview in February 2023: 'don't let us deceive ourselves, they [the youth] don't want us [old politicians] again'. Many youth, particularly from the southern part of Nigeria, participated in the #EndSARS protest in 2020 and it appears many of them voted for Peter Obi, the LP's presidential candidate, in the elections (Obadare 2023; Adeoye 2023; cf. Mimiko 2022). Obi received 6 101 533 votes and led in 11 states and the Federal Capital Territory (FCT), Abuja. He also won in Lagos, Nigeria's commercial nerve centre and Tinubu's stronghold. Atiku Abubakar, the first runner-up and PDP candidate scored 6 984 520 votes.

The broad distribution of the votes and Tinubu's reception of only a small fraction of the 24 025 940 votes cast, scoring 36.6% of the total votes, and the fact that his victory is questioned by the runners up and their followers – numbering close to 15 million voters or 62% of the votes cast – raise legitimacy question for Tinubu. Legitimacy is about acceptance and trust. It is about citizens' compliance and cooperation with government and governance (Bermana et al. 2019, pp. 291-317), based on the fact that 'a rule, institution, or leader *has the right* to govern' (Encyclopedia Princetoniensis 2014). It refers to 'a *widespread belief* that current arrangements of power are *appropriate, proper*, just, and in keeping with agreed-upon rules' (ibid., my emphasis). If legitimacy rests on fairness, justice and widespread acceptance, and free, fair and credible elections increase government's acceptance and legitimacy (Bermana et al. 2019), its absence makes a government illegitimate, at least to the people that reject such a government. Today, it appears that a vast majority of the population questions Tinubu's legitimacy to rule over Nigeria. This is because they perceive Nigeria's presidential elections to be far from free, fair or credible (Akinterinwa 2023) and Tinubu's occupation as a fraudulent

appropriation of state power. This is reinforced by Tinubu's victory from a small number of voters, rather than widespread acceptance across Nigeria. Indeed, less than 10% of the total registered voters and less than 5% of the country's entire population – 200 000+ – voted for Tinubu, indicating that Tinubu is not a popular president.

The question of Tinubu's legitimacy is further compounded by the nature of the winner-takes-all approach of Nigerian politics, which automatically excludes other candidates and their followers from governance. It tends to worsen the underlying issues around ethnicism, religious suspicion, regional politics and the emerging youth category and anger that beg for serious attention. Against this background, this article examines the legitimacy question that besieges the Tinubu presidency. Many Nigerians, particularly the young people, neither accept nor trust Tinubu with state power. Nothing demonstrates this more than the trending tweets 'RevolutionNow' upon INEC's declaration of Tinubu as Nigeria's president-elect (Sahara Reporters 2023a). For many youths, the quest is for a better life, demonstrated by how they flee Nigeria in droves, embarking on sometimes dangerous trips through the Sahara Desert or Mediterranean Sea, because they have no faith in the country's future.

The lack of trust and legitimacy in Tinubu's presidency, I argue, stems from three interrelated factors: (1) the abysmal nature of the management and conduct of the 2023 presidential elections by INEC as well as the judiciary; (2) the perception of Tinubu's personality; and (3) the failure of Tinubu's network, party and their character to relate to Nigerians. This study is significant given the issues around the credibility of elections and election management in Nigeria, and the increasing mistrust – and lack of social contract – between the people and the impending government. This analysis is further significant in exploring the nature, quality and relationship between Nigeria's elections and democracy two decades after Nigeria's democratisation. Apart from a careful observation of the Nigerian polity, the article draws data from extant views of experts, election managers, political parties, local and international observers and media reports on the conduct and outcome of the elections. There are three substantive sections in the article, mapped according to the areas identified above, and a conclusion that reflects on the issues raised in the substantive sections.

## ELECTION CONDUCT, INEC AND THE JUDICIARY

### *Lack of Trust in the Independent National Electoral Commission (INEC)*

The aphorism: those who vote do not count but those who count the votes do, becomes apt when assessing the activities of INEC vis-à-vis the conduct of Nigeria's 2023 presidential elections. INEC, like many government institutions

in Nigeria, suffers from a trust deficit. One of the issues that plagues INEC's integrity is its management of elections. Apart from suffering from 'legitimacy and credibility' crises embedded in its 'institutional history', 'INEC has not been able to engender public confidence in the electoral process or organise transparent and credible elections' (Agbaje & Adejumobi 2006; Ibeanu 2022; Anifowoshe & Babawale 2003). The president appoints INEC's senior officials, including its chairman and commissioners. Even if their appointments are approved by the parliament, in a country where the majority of lawmakers belong to the ruling party and have tendency to rubberstamp the president's requests, legislative approval hardly increases the Commission's integrity before the public.

Many do not believe that INEC and its officials are neutral in the conduct of elections, neither do they perceive the challenges INEC confront as natural. There are many reasons for this. Almost all the previous elections INEC conducted are considered flawed, largely due to INEC's 'lack of professionalism' (Omotola 2010, pp. 535-553), with interference by politicians and manipulation of election results by INEC officials (*ibid.*). As many elections conducted by INEC were inconclusive, observers refer to INEC as the *inconclusive* national electoral commission (Adiorho 2019). Some INEC officials have been caught receiving payment to compromise the elections outcome (Sahara Reporters 2023b). Since Nigeria is a country where many believe that everyone has a price, the perception that INEC officials are compromised by politicians is rife.<sup>5</sup> It is also a country where many government officials are seen as corrupt and as a result there is a strong suspicion that INEC might have been compromised.

The logistical challenges that INEC faced during the conduct of the 2023 presidential elections were not seen as merely circumstantial. They were believed to have been orchestrated by top INEC officials to subvert the will of the people and alter the outcome of the elections. It is on this basis that the integrity of INEC's conduct of the 2023 presidential and NASS elections is being questioned, raising a legitimacy issue for the winner, Bola Tinubu of the APC. The manifestation of the compromise played as follows on 25 February 2023.

There were 18 presidential candidates for the 2023 presidential seat. INEC registered 93 469 008 voters and distributed 87 209 007 permanent voters' cards (PVCs) to voters across the country (Nathaniel 2023). The distribution of PVCs, many argue, is skewed to favour the ruling party's areas of strength. While many complained that they were not able to receive their cards, most of the voters in the ruling party's stronghold received their PVCs (Omorogbe 2022). Many others were dissatisfied with INEC's style of PVC distribution, which required registered

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5 In a discussion with an INEC official over the 2023 election, she states that INEC staff, especially their bosses, make excess money during elections.

voters to book a time, sometimes a whole day, to visit the INEC office and join a long queue before they could receive their cards. Since this exercise happened only on weekdays, it excluded workers who could not leave their workplace. INEC's strict deadline aggravated the problem, though INEC later extended the deadline and opened on weekends.

INEC promised free, fair and credible elections (Moses 2023), and received more than 300 billion naira from the federal government (*The Guardian* Editorial 2022).<sup>6</sup> During the election, police and security agencies supplied more than 400 000 security agents for the protection of INEC staff and voters (Taiwo-Obalonye 2023). Even the Economic Financial Crimes Commission (EFCC) deployed its staff to curb voter inducement and vote buying. In accordance with its authority to decide the conduct of elections, as stipulated in the electoral guidelines in Electoral Act of 2022, INEC publicly outlined how the election would be conducted (Dazang 2023). Election officials would arrive at the respective polling units by 7.30 am, set up their devices and brief voters on voting guidelines. Accreditation and voting would commence by 8.30 am. INEC was to accredit voters using the Bimodal Voter Accreditation System (BVAS), a technological innovation introduced to curb overvoting and rigging. After voting, votes would be collated, counted and recorded on the EC8A and E60 forms. Party agents would each receive a copy of the results and a scanned copy would then be uploaded on the INEC Result Viewing Portal (IReV), another innovation designed to enhance transparency and integrity between the polling units and the central collation centre. The INEC Chairman explained at Chatham House:

IReV is a dedicated web portal for the public view of polling unit results as soon as they are finalised on election day. This has been employed in several elections conducted by the commission in the past few years. In particular, the uploading of polling unit results to the IReV portal has been deployed in 105 constituencies, where the commission conducted off season election since August 2020.

(Channels Television 2023)

He added that election results on IReV reconciled with those from political party agents to a 99.9% accuracy rate (ibid.).

INEC claimed it had improved significantly from 2019 and had made sufficient preparations for the 2023 elections, including anticipating likely challenges and conducting mock elections in all 36 states (Suleiman 2023a). They dismissed concerns by some stakeholders about technological issues and, more

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6 INEC's budget for 2023 is almost double the sum of N189 billion spent on the 2019 elections.

importantly, that IReV might be abandoned on election day. In a press statement issued on 22 November 2022, INEC national commissioner and chairman of information and voter education, Festus Okoye, stated that:

The Commission has repeatedly assured Nigerians that it will transmit results directly from the polling units as we witnessed in Ekiti and Osun State Governorship elections and 103 more constituencies where off-cycle Governorship/FCT Area Council elections and by-elections were held.

Indeed, INEC had conducted many off-cycle elections and the processes were perceived to be relatively fair and credible (Ijaseun 2022). While this does not mean that the elections were perfect and free from irregularities, given the shenanigans of many Nigerian politicians determined to manipulate the elections through inducements, vote-buying and violence (Oguntola 2022), election outcomes were believed to represent the will of the people. Professor Yakubu on different occasions insisted that the election would pass the integrity and credibility test. 'As I have said *repeatedly*, the Commission's allegiance is to Nigeria. Our loyalty is to Nigerians who want free, fair, credible and *verifiable* elections supported by technology, which guarantees transparent accreditation and upload of polling unit results for citizens to view in real-time on Election Day'. He added: 'It is for these reasons that the BVAS and the IReV were introduced' (Suleiman 2023b).

What INEC did differently in these state and constituency elections, particularly the use of new technologies (which made overvoting impossible and the real-time recording of votes possible), it failed to effect in the presidential and NASS elections despite its verbal commitments to do so. Firstly, INEC officials failed to arrive and commence voting on time, contrary to the arrangement the Commission claimed it had in place (News Agency of Nigeria 2023), causing many to be disenfranchised. According to Itodo (2023), 'Yesterday, as at 7:30 am, only 27% of polling units recorded early arrival based on our sample size, and by 9:30 am, only 41% had recorded accreditation and voting'. He went on to state that 'We [the CSOs] foresaw this would happen because in our pre-election statement, we did note that this election was going to be a very challenging one, and it's now clear that all the predictions and projections were actually real'.

Secondly and perhaps more importantly, INEC failed to align the results at the polling units with IReV at its national collation centres. IReV for the presidential election results was down and there was no way that voters could receive and follow the results from the polling units across the country. Manual collation was thus adopted, tantamount to changing the rules in the middle of the game. INEC official, Festus Okoye, claimed that the Commission faced unexpected technical

glitches (Oladipupo 2023), contrary to the assurances INEC had issued to prior to the elections. Efforts by the parties to point this out for rectification during collation at the national collation centre failed to convince the Commission's chair, and INEC announced the election results with APC's Bola Tinubu declared winner. Interestingly, the result was declared at 4.00 am when everyone was asleep.

INEC adjudged the elections to be 'free, fair and credible' and urged aggrieved parties to 'approach the courts to ventilate their concerns and wait for the matter to be resolved' (Amodu 2023). Without IReV working fully, the declared results were not accepted by the political parties and many members of the public, challenging the legitimacy of INEC's results and questioning the emergence and presidency of Bola Tinubu.

The controversy trailing INEC's compromise would be further amplified when members of the APC undertook the task of defending INEC's inability to upload results from the polling units as promised by the Commission. Apart from claiming that no election is perfect, they aver that what happened on election day was not unexpected given the heavy traffic the INEC server experienced, even though fewer than 30% of registered voters participated in the elections. Without linking their sources to INEC, some APC members presented videos on social media to show that INEC turned off its portal to prevent hacking. However, the responses from INEC and the APC to the Commission's inability to upload results on IReV were inconsistent. When a report that 'hackers' had been arrested in Abuja surfaced on the internet (Obeche 2023), APC supporters circulated the video (on WhatsApp) claiming that there were 163 attempts to hack into INEC's results portal. Connecting the hack to a meeting the LP candidate had with some Nigerians in the diaspora, the APC defended INEC's decision not to upload results on IReV. It turned out, however, that those arrested in Abuja had no connection whatsoever with the meeting Obi had abroad and that those arrested were, in fact, members of Emperor Technologies, a software company consulted by INEC to supply the Commission with BVAS machines. On receiving this news, the police released them (Adejobi 2023).

APC members and supporters did not reject the allegation of rigging or electoral malpractices but claimed that all (major) parties were involved in their respective strongholds. Speaking with CNN's Zain Asher, for instance, Ajuri Ngilale, a presidential media aide and spokesperson of the APC campaign committee, claimed that there were irregularities in Eastern Nigeria, Peter Obi's base, and not just in Lagos and the southwest (Ngilale 2023). Put differently, APC implicitly admitted to 'winning' the elections not because it did not rig but because it outrigged its opponents. APC was, in effect, the smartest rigger.

The seeming compromise by INEC makes the declared result quite controversial and its winner unacceptable to all. As many have observed, the

failure to transmit results electronically undermined the integrity of the elections, casting serious aspersions on the outcome of the presidential election. According to the Justice Development and Peace Commission (JSPC):

in most polling units, accreditations and voting took place transparently...Results was also counted transparently and entered into the form EC8A transparently. ... By contrast, [however], the transmission of results failed transparency test. ... the high expectations of Nigerians for a credible, free and fair elections have not been met by the election held on Saturday, February 25, 2023. Rather than improve on the credibility deficit of the 2019 elections, the recent election seems to have increased them and weaken the process further.

(Sahara Reporters 2023c)

### *Lack of Trust in the Judiciary*

The transfer of the resolution of the election dispute to the judiciary is problematic in Nigeria where the judiciary is believed to be heavily compromised (Salahu 2022). As Ibeanu observes, the neutrality of the judiciary 'in electoral matters has been routinely questioned' (Ibeanu 2022, p.16). The Nigerian judiciary – from the bar to the bench - suffers from its own peculiar problems. The president of the Nigerian Bar Association (NBA), Yakubu Maikyau, admitted this much when he apologised on behalf of all lawyers to Nigerians for letting the country down and pleaded with the bar and the bench to do better (Agency Report 2023). Like INEC officials, judges in Nigeria's courts are not independent of political influences, including their appointment by politicians. Many judges have ethnic, religious, regional and political affiliations that make them lean toward the ruling parties. They are also susceptible to monetary inducements (Daniels 2016). At the valedictory session of the Nigerian Senate, Senator Bulkachuwa admitted to influencing his wife, who was the president of the Nigerian Appeal Court between 2014 and 2020, to help his colleagues retain their senate seats (Oyero 2023a).

Acknowledging such influence, Senator Ali Ndume stated that being married to a judge has put him under intense pressure from fellow politicians (Oyero 2023b). Chidi Odinkalu, a lawyer, academic, and public commentator alleged that the vast majority of the judges in Nigeria today are related to those in positions of authority. At the same time, many judges have had their wards appointed to positions. Through this, he suggests that these judges have either been strategically positioned or sufficiently induced to compromise judicial process in favour of politicians in the ruling party who win elections fraudulently. These make judgements purchasable and questionable. Consequently, while judicial

pronouncements may not be based on the law or the delivery of justice, there is judgement that serves sentimental interests. These practices, which often seem hidden but are not unknown to the public, diminish the public's confidence in the conduct and outcome of the election's petitions' tribunals, thus weakening people's faith in the democratic arrangement.

Together, these question the integrity of the electoral process and the declared winner, as well as the outcome of election petition tribunal, and consequently undermine the legitimacy of Bola Tinubu as Nigeria's president.

### TINBU'S CHARACTER

Bola Tinubu is not new to Nigeria's politics. He has been involved since at least 1992. Elected as a senator in 1992 during the short-lived Third Republic (1992-1993), Tinubu went into exile shortly after the general elections on 12 June 1993, believed to have been won by Chief Moshood Abiola, were annulled by the Ibrahim Babangida military junta. He played a prominent role as a financier of the National Democratic Coalition (NADECO), a pro-democracy group established in 1994 to fight for the restoration of Abiola's mandate and democracy in Nigeria. Tinubu returned to Nigeria after General Sanni Abacha's death in 1998 and contested for Lagos governorship which he won, and governed Lagos from 1999 to 2007.

Ever since his days as governor Tinubu has played a significant role in the politics of Lagos and Nigeria. He is the godfather of Lagos politics, largely, if not singly, determining his successors. As Shaka Momodu (2023) observes:

From being selected as a candidate to fly the Alliance for Democracy (AD) flag for the Lagos governorship, Tinubu has become the Selector-in-Chief of candidates for elections, year in, year out... He [Tinubu] has become the who-must-be-obeyed regardless of any objection or dissenting views. He is the only one who must select every candidate for every elective position and to a large extent, nearly all appointive positions in Lagos, in particular and some South-west states under the then ACN control.

Tinubu allegedly, and unsuccessfully, attempted to prevent his immediate successor, Babatunde Raji Fashola, from having a second term in 2011 before he was persuaded by the leaders of the Action Congress of Nigerian (ACN) and Oba Rilwan Akiolu to allow Fashola to continue as Lagos Governor (Akanni & Olowoapejo 2011; Oyebade 2015). Lagosians believe Fashola performed better than Tinubu, but Tinubu and his followers did not believe that Fashola had

executed Tinubu's blueprint for Lagos according to plan (*Premium Times* 2023). Tinubu prevented Akinwumi Ambode, Fashola's successor, from returning to Alausa in 2019 and replaced him with Babajide Sanwo-Olu, widely considered to be Tinubu's stooge and a rubber stamp governor with no real power (Adenekan 2018).

Tinubu played a prominent role in the spread of his political party, the Action Congress of Nigeria (ACN), to the South West and was a frontline figure in the coalition between ACN and other political parties, including the Congress for Progressives Change (CPC), the new PDP (nPDP) and a faction of the All Progressives Grand Alliance (APGA). The alliance produced the APC in 2014 which presented Mohammadu Buhari as their presidential candidate and won the presidential election in 2014. Tinubu contributed to the formation of Buhari's cabinet, nominating Yemi Osinbajo as vice president. He won the party's presidential nomination in July 2022, defeating 13 other candidates, some of whom conceded on the grounds of the primary elections. The victory is said to be dependent on the winner's ability to financially induce voters, an area in which Tinubu is believed to be well acquainted (Mojeed 2023).

Tinubu is a wealthy man. He owns choice property and businesses in Lagos and other parts of Nigeria as well as Europe and America. The source(s) of his stupendous wealth, estimated at four billion dollars, is, however, unknown. Tinubu is reported to have been indicted for peddling and/or benefiting from the proceeds of drug trafficking while he was based in the United States in the 1990s (Raji 2023). This illicit activity, many believe, was Tinubu's initial source of wealth, contrary to the claim by his campaign organisation that he made money 'selling rice and chemicals' (Adeh 2022). On one occasion, Tinubu claimed he made money through investments in stocks and shares. On another occasion, he told BBC's Peter Okwoche that his wealth came from the inheritance of real estate (Adeh & Adewale 2022), yet he was not known to be financially buoyant when he took office as Lagos State governor in 1999. Some consider that Tinubu has become wealthy through corruption and by gaming Lagos state (Olawoyin 2020). Bode George accused Tinubu of establishing Alpha Beta, a financial consultancy firm, to siphon nine billion naira monthly from Lagos State's internally generated tax revenue of about 50 billion naira monthly (*Arise News* 2023).

Admittedly, Tinubu had been the governor of the richest state in Nigeria. But the perception of a highly corrupt politician sticks to him. Rather than use his access to power and state resources to build institutions in Lagos, it could be argued that he has personalised state powers and used the resources of Lagos state to build an edifice of patronage, drawing his clients from an array of highly accomplished professionals and the informal sector (Agbiboa 2018). Tinubu used state power to tacitly endorse the management of the National Union of

Road Transport Workers (NURTW), notorious for engaging in unruly behaviour, extorting commission (tax) from motorists in Lagos and living off their earnings (Agbibo 2022). The sprawling network of people and groups around Tinubu owe their ascendance in politics and public life to the landlord of Lagos, also known as the Lion of Bourdillon. The public perception is that these networks use their connection to Tinubu to coerce people for rewards, widely considered to be a classic case of patrimonialism. The implication is that such a political actor would extend his style of rule from Lagos to Nigeria and make it difficult to prioritise national interest.

Tinubu's emergence as Nigeria's president-elect has not erased these defects. If anything, it has amplified them, raising questions about the type of presidency Tinubu intends. In particular, it highlights the concerns of Nigerians, particularly the youth and the opposition parties, about Tinubu's character. Clearly, the youth, who are in the vanguard against Tinubu's presidency, are in no illusion about Tinubu. For many of these young people, Tinubu has neither a clean past nor a transparent present and there is nothing to indicate that his future would serve their or national interest. There would be no good governance with such and they fear that Tinubu would probably rule Nigeria as he does Lagos, and that things would be worse in the country. These character flaws form the basis upon which many young Nigerians rejected Tinubu as their president, thus detracting from his legitimacy (Anyebe 2023). Tinubu agreed with the youth by saying:

Now, to you, the young people of this country, I hear you loud and clear. I understand your pains, your yearnings for good governance, a functional economy and a safe nation that protects you and your future. I am aware that for many of you Nigeria has become a place of abiding challenges limiting your ability to see a bright future for yourselves. Remodelling our precious national home requires the harmonious efforts of all of us, especially the youth. Working together, we shall move this nation as never before.

(Ajayi 2023)

However, many Nigeria youth do not believe Tinubu, their distrust stemming from the way Tinubu had attended to youth concerns during the #EndSARS protest in October 2020.<sup>7</sup> When the youth in their hundreds of thousands protested against police brutality, Tinubu not only failed to publicly condemn police brutality on the youth, he is also believed to have orchestrated the invitation of the military on the protesters on 20 October at the Lekki Toll Gate (Aiyitogo 2020). For Tinubu,

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7 #EndSARS was organised by young people in Nigeria protesting against the Nigerian police unit's extra-judicial attacks on the youth. The unit is known as SARS – acronym for Special Anti-Robbery Squad. Its operatives were accused of extortion, attacking and killing (young) people.

the protesters 'have made considerable gains within a very short period. ...they should also be careful not to fritter away such gains due to lack of moderation and strategic thinking' since the peaceful protest had been seized by 'hoodlums, thugs and assorted criminals...to perpetrate violence, disrupt civil life and harass, intimidate and assault innocent persons going about their lawful business'.<sup>8</sup> The fact that thugs attacked the protesters in Lagos State – under Sanwo-Olu's governorship – and those who attacked the protesters were never punished, gave the impression that there may be the hidden hand of a politician in the protest disruption.

Accordingly, the youth, including those of Yoruba and other ethnic groups in the East and the Middle Belt, voted against Tinubu in the 2023 presidential elections, rejecting his impending presidency. How widespread this view is can be further gleaned from the presidential election result in which Tinubu lost to the LP's Obi in Lagos.

#### THE FAILURE OF TINUBU'S NETWORK, PARTY AND CHARACTER TO RELATE TO NIGERIANS

Tinubu's presidency may suffer a crisis of legitimacy because of a combination of his brand of politics, the acerbic nature of his network of followers, and the failure of the APC to deliver change to Nigerians.

Tinubu's large cult following understands issues only from their own perspective. As far as they are concerned, Tinubu can do no wrong and any attempt to point out his flaws is treated as a personal attack on their leader. Tinubu himself makes provocative utterances and appears to be politically manipulative. He is perhaps the only major presidential candidate to hurl insults at his opponents and leave the real issues unaddressed during political campaigns. In one of his campaign rallies, he described Peter Obi as 'import and export', words whispered to him by Sanwo-Olu, Lagos State Governor. This moniker depicts Obi in a derogatory way as lacking any knowledge of governance and only capable of petty trading. Tinubu and his supporters refer to Labour Party as 'labourers', another disparaging term. Tinubu openly called Atiku a thief who breached civil service rules by running a private business while in government, and called for Atiku's disqualification (Ajayi & Alechenu 2023). Frustrated by Buhari's policy to redesign the naira, Tinubu extended his vituperation to the then president of his own APC party, and accused Buhari of using the naira notes redesign policy and fuel scarcity to sabotage his presidential ambition (Jimoh et al. 2023).

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8 See <https://saharareporters.com/2020/10/20/endsars-ex-lagos-governor-tinubu-justifies-use-force-peaceful-protesters-president> (accessed March 4, 2023)

The use of hate rhetoric, and the perception that Tinubu has a tendency to deploy thugs, even if clandestinely, in brutal attacks on political opponents and critics, worry those who oppose Tinubu's victory at the presidential polls. Prior to the elections, Tinubu had stated in a private discussion with his supporters that 'political power is not going to be served in a restaurant. They don't serve it a la carte. At all costs, fight for it, grab it and run with it' (Ajuwon 2022). Although some of his supporters depict this as a mere figure of speech, others have taken it literally, connecting the violence in Lagos and other parts of the country to Tinubu's supporters' determination to 'grab, snatch and run with power at all costs'.<sup>9</sup>

While Tinubu has substantial wealth to hire the most effective handlers and spin doctors, this has become a potential source of fear that may rob his presidency of legitimacy. Although Tinubu has succeeded in using his wealth to attract many followers who are strategically placed in politics, media, blue chip corporations, and other areas of social and political life, these followers do not have total control of every sector. Tinubu's acerbic commentaries about his opponents have also received vitriolic counters from the opposition, particularly Peter Obi's supporters and the PDP. Despite Obi distancing himself from such toxic reactions, they continue. Many of Obi's supporters are Igbos, making it easy for Tinubu's supporters to draw a parallel between them and IPOB. This further widens the gap between the APC-led presidency under a Yoruba person and the Igbos of the South East, Peter Obi's home.

While views are divided over IPOB, even among the Igbos, the Biafran identity is a popular, yet unresolved national question in Nigeria. Proof of this could be found in a call made by the Governor of Anambra State, Charles Soludo, for the federal government to release Nnamdi Kanu, the leader of IPOB, to him (Ugwu 2023).<sup>10</sup> Soludo's request came after the Igbo leader had made a similar request to Buhari (Adenekan 2023). An interesting dimension is that Tinubu's position on IPOB and Nnamdi Kanu is unknown. If Tinubu decides to pander to the sentiments in the northern part of Nigeria, Kanu would remain in state custody and continue to face trial. This suggests that the IPOB conundrum would remain as during Buhari's presidency IPOB members would neither accept nor submit to the state.

While Obi promised to negotiate with all armed violent groups if elected president, Tinubu is evasive on how to deal with the Biafra question. He is also unpopular in the South East. His most impressive performance was 66 405 or 13% of the votes in Imo state, where the APC has a sitting governor (*Vanguard Newspaper* 2023). If there are no concerted efforts to treat the region fairly and integrate it into

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9 <https://www.youtube.com/watch?v=dg2Zl3kDgcE> (accessed March 10, 2023).

10 Nnamdi Kanu is in detention and standing trial for treason, inciting the public and starting the Eastern Security Network, a militant arm of the Indigenous Peoples of Biafra (IPOB).

the federation, Tinubu's victory may reverse the chance of integrating the Igbos in a united Nigeria. The view by Tinubu's deputy that restructuring is irrelevant may widen this gulf, raising further concerns about the performance of the APC in government in Nigeria. With a promise to change Nigeria, and in power since 2015, the APC has performed below expectations (Aytogo 2021). Nigeria is now badly divided, is in deep debt and suffers from economic malaise. Food prices are high and security is far worse than in 2015. Even Tinubu has on an occasion distanced himself from his party, and on different occasions has criticised Buhari for this poor performance (Adenekan 2023).

It should be noted that the north did not give Tinubu most of their votes. Although he won in some northern states, former Vice President Atiku Abubakar, a Fulani man from Adamawa, and the PDP candidate, had more votes than Tinubu in the region. And while Tinubu is a Muslim from the south, southern Muslims are not considered serious Muslims by northern Muslims. This may explain why Tinubu opted for a northern Muslim rather than a Christian as his running mate. More importantly, the Boko Haram insurgency and banditry are serious issues that the president-elect must deal with. The failure to win massively in the north, despite having a northern Muslim running mate, also raises some question about Tinubu's acceptance in the north.

## CONCLUSION

While the presidential and NASS elections have been held and 'won', Tinubu, the declared winner, faces a serious legitimacy crisis. How he is able to manage this will determine whether Nigeria will survive or descend into a serious imbroglio on his watch. At the moment, there is much apprehension about Tinubu and loyalties are divided in the country. INEC's inability to conduct what everyone would consider free, fair and credible elections, Tinubu's personality and the tenor of discourse around Tinubu's network of supporters during the campaigns, have a tendency to widen the gap between him and the people who do not believe in his presidency. The vices that characterise Tinubu's politics are antithetical to the aspirations of Obi's supporters, most of whom are Igbos, the young and the educated.

Although INEC declared Tinubu the winner of the presidential elections, he is not considered the winner nor accepted by the majority of voters, including people from his own southwest region, as the rightful president of Nigeria. For example, Pa Ayo Adebajo, the leader of Afenifere, a pan-Yoruba socio-cultural organisation, stated emphatically that Nigeria would not remain the same if Peter Obi did not win the elections. He rejected the results that produced Tinubu. The PDP staged a protest and headed for the courts, just as the LP has approached

the court. After the verdict at the presidential election tribunal, PDP and LP have headed for the Supreme Court. Should Tinubu win the court cases before him, the widespread concern that the courts are compromised would not go away. At the same time, Tinubu and his party have the difficult task of healing, reconciling and uniting the nation.

What the analysis above indicates is that the Nigerian state is so badly divided that the president will have a major task in building trust and mending the broken ties between and among Nigeria's divided categories, especially the youth who have no faith in the country. As Babajide Ogunsanwo, an analyst on *Channels Television* programme asserts, any candidate who wins the presidential elections must first jettison their manifesto and work for the unity of the country. This is the urgent task to which Tinubu should commit himself.

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# PREPARATIONS OF THE INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) AND THE OUTCOME OF THE 2023 GENERAL ELECTIONS IN NIGERIA

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## ABSTRACT

*While many scholarly works have been dedicated to the study of elections in Nigeria, the preparations for and outcome of the 2023 elections have not received adequate attention. This article seeks to address that gap with an assessment of the preparations of the Independent National Electoral Commission (INEC) and the outcome of the 2023 general elections. Despite earlier concerns about the conduct of Nigeria's 2023 general elections, assurances from the electoral umpire calmed this anxiety and raised some hopes. However, the outcome of the election betrayed the hopes of not only most of the electorate but also local and international observers. The article argues that the outcome should not be a surprise because of the failure to reckon with endemic problems. These include the nature of Nigeria's politics, its elite, a lack of political will, lack of rule of law and constitutionalism, unpopular government policies, and a distrust of the system, particularly INEC and the judiciary.*

**Keywords:** electoral reforms, technology, INEC, electoral malpractice, Nigeria

## INTRODUCTION

Election management covers activities from pre-election to election day and post-election. These range from the registration and accreditation of voters, recruitment and training of ad-hoc staff, collation and announcement of results, and post-election audits and litigation. Carter and Farrell (2010) explore the relation between electoral systems and election management as well as the key challenges and opportunities associated with various electoral systems. They emphasise the importance of institutional design, voter behaviour and political context in shaping electoral system effectiveness. They also delve into various aspects of election administration, such as voter registration, candidate nomination, ballot design, polling procedures and results management and examine how different electoral systems affect these processes. The findings of the study show that electoral systems have a significant impact on the quality and legitimacy of elections, but these effects vary depending on the system's specific context and implementation. James et al. (2019) argue that ideal electoral democracy depends on integrity as well as the electoral body.

In Nigeria, scholars documenting elections in Nigeria include Omotola 2011; Olaniyan 2020; Onapajo 2020; and Uchendu and Egbe 2022. Other studies on election management in Nigeria found that thuggery, poor implementation of information and communication technology, poor planning, insecurity, and logistics have diminished the quality of the country's elections (Jinadu 2011; Shuaibu et al. 2019; Iwuoha et al. 2021; Igiebor 2022). Jinadu (2011) traced the various reforms and development trajectory of the election administration. He concluded that ethnicity has not only affected reforms but that the state has never insulated itself from the activities of the supposedly independent electoral umpire. Jinadu highlights the challenges that override Nigeria's election including the abuse of incumbency power, financial and logistical constraints, unreliability of voter register, manipulated nomination process, electoral malpractices, falsification of results, electoral violence, the partisan role of security agencies, and tardy and expensive adjudication processes. Nevertheless, there is still a gap in literature on the conduct of the 2023 elections, which this article addresses.

The article adopts the institutional theory and capacity development framework. Institutional theory explains why organisational structures and practices become entrenched, and also how and why change occurs. The foundations of current institutional theory took root between 1977 and 1983 amid a broader search for understanding the elements that support successful and sustained organisational performance. The theory originated in an article by March and Olsen (1984) on a revolt against the methodological individualism of both behaviouralism and rational choice approaches. Scholars in other fields of

sociology and economics later modified this study. Peters et al. (2000) define an institution as a formal or informal, structural, societal, or political phenomenon that transcends the individual level, which is based on more or less common values, has a certain degree of stability and influences behaviour.

This article explores the preparations of Nigeria's Electoral Management Body and the outcome of the 2023 presidential election, answering the following questions:

- What preparations were made?
- How were the general elections conducted?
- To what extent did it meet the aspirations of the people?
- What factors were responsible for the outcome of the general?

The article argues that the outcome of the general elections failed to meet the expectations of the citizens and observers because it failed to reckon with endemic problems and inadequacies.

The article has six parts: introduction; the structure of the electoral management board; preparations for the general elections; outcome of the general elections; factors responsible for the outcome of the general elections; and conclusion. The study uses the qualitative method and thus relies on both primary sources through participant observation, and secondary sources from textbooks, peer-reviewed journals, and internet documents.

## UNDERSTANDING NIGERIA'S ELECTORAL MANAGEMENT BOARD

Nigeria has a long history of military rule which has affected the psyche of the emerging elite, leaders and followers. These military rulers established the 1999 Constitution which included the electoral umpire, the Independent National Electoral Commission (INEC) in terms of Decree No.17 on 5 August 1998 (Sule et al. 2017). INEC has the authority granted by Section 225 Sub-Sections 1-6 and Section 226 Sub-Sections 1-3 of the 1999 Constitution to oversee and regulate all electoral processes and activities in Nigeria. This was further strengthened by Sections 88-92 of the Electoral Act of 2010 which empowers INEC to carry out a variety of tasks, including the registration and deregistration of political parties, monitor their activities, oversee their finances (including income sources, expenditure and campaign spending limits), conduct financial audits and impose sanctions for regulatory violations (Sambo & Sule 2021).

The chairman of INEC is the chief executive and is appointed by the president of Nigeria with the approval of the National Assembly. The chairman is supported by twelve national commissioners, two from each of the country's six geopolitical

zones, namely the North-East, North-Central, North-West, South-East, South-South and South-West. INEC has seven departments: Personnel, Finance and Audit, Political Party Monitoring, Works and Housing, Information and Publicity, Legal Unit, and Operations and Logistics. Members of the governing board, who are directly appointed by the president, oversee the organisation (Sule et al. 2017).

Since 1999, the legal framework governing elections in Nigeria has undergone numerous reforms. The Electoral Act was passed in 2001, and it was followed by four subsequent acts in 2002, 2006, 2010 and 2022. Notably, the 2006 act made significant changes, granting the commission the authority to appoint its secretary, conduct voter education and prosecute violators. Furthermore, the law clarified the uncertainties surrounding the appointment and removal of resident electoral commissioners (RECs). The primary goal of passing the 2010 Electoral Act was to correct flaws in the 2006 act and align it with the revised constitution, resulting in a more cohesive and effective legislative framework (Jega 2012).

Despite some of these amendments, the chairman of the Commission has yet to be appointed by the president and the appointment ratified by a partisan National Assembly dominated by the ruling and majority political party. This also applies to its other officials. For example, several opposition members queried why Professor Yakubu Mahmood would succeed Professor Attahiru Jega who are both from the northern part of the country and from the same geo-political zone as President Buhari.

INEC receives direct funding from the Federation Account, a change made after the 1999 Constitution was amended. Previously, INEC had to submit its budget for approval by the National Assembly and then go through bureaucratic processes to disburse funds, which caused significant delays in the 1999, 2003 and 2007 elections. The establishment of the Independent National Electoral Commission Fund (INEC fund) in the Electoral Acts of 2006 and 2010 enabled INEC to prepare its budget, which is then disbursed directly from the Consolidated Revenue Fund. This funding procedure enables the Commission to independently manage the disbursement of its funds (Guobadia 2009).

By July 2021, INEC had rolled out the schedule for the registration and display of voters and the voter register for the 2023 elections. Registration would commence in September 2021 and end in July 2022 (Gana 2021a).<sup>1</sup> It also introduced some technological innovations. Pilot tests on electronic voting especially the Bimodal Verification Accreditation System (BVAS) were held in Isoko with assurance that all was set to be deployed at later stages (Gana 2021b).

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1 Voter registration is both manual and online. The manual registration is by INEC staff in the designated local governments while the online is through the INEC portal. The portal allows a two-step registration process in which prospective registrants login by providing their basic bio-data. They then complete the registration by appearing at designated registration centres. The process also allows for the transfer of voters' card and collection at wherever they reside on election day..

INEC also deployed the Automated Biometric Identification System (ABIS) to clean up its voters register in order to weed out invalid registrations such as under-age voters and double registrations. Professor Yakubu announced that of the 2 523 458 individuals who had completed their registration within June and December 2021, 44.6 per cent (1 126 359) were invalid (Gana & James 2022). This indicates that while there was an attempt to sanitise the system, it did not state or adequately prepare for how these uncollected permanent voters cards (PVCs) would reach their owners. It was also a sign that there were inadequate awareness programmes for the electorate on how to obtain their PVCs. Fundamentally, it could have also been as a result of mistrust of the Commission or the Nigerian state and deliberate and random action by some staff of the commission.

Nigeria is a rogue, post-colonial, appropriated, unproductive and rentier state, according to Whitaker (1991 in Ifidon 1998) and Ebohon (2013). Thus, the state is not only prone to political instability and disregard of the rule of law and constitutionalism. It is also characterised as artificial, underdeveloped, dependent, weak, predatory and neo-patrimonial. Its federal character lies only in its constitution and this character is reflected in almost all its institutions, including the fiscal and monetary responsibilities of states as well as among the elite. This explains the inter- and intraparty issues leading to litigation. INEC chairman Mahmood Yakubu raised the alarm in November 2022 noting that the Commission had been joined in more than 600 cases relating to the conduct of primaries and nomination by political parties for the 2023 general elections. He stated that the situation became worrisome when a political party served 70 court summons on the electoral body in one day on the same issue (Oyeyemi 2022).

The implication of this infighting and litigation would manifest in the electorate either having to vote for other choices or not voting in areas or places where their choices were not on the ballot box. For example, the court voided all the senatorial candidacies and State House of Assembly candidacies in Lagos State. In some other states, gubernatorial candidates were declared illegitimate by the courts. The nature and character of the state has also trickled down to most of its institutions, including security. Nigeria's security sector suffered from inadequate and undisciplined personnel, was underfunded, had inadequate weapons, working tools and equipment. It also had a problem culture of corruption and lack of morale among its personnel (Thompson 2023a). All the security agencies take their orders only from the presidency, and in particular the president. States and local government areas which are closer to the people and are supposed to be autonomous are thus rendered ineffective. Over the years, these enforcement agencies have had neither local trust nor international regard (IPSA 2016; UNODC-NBS 2019; Thompson et al. 2020b; Thompson 2023b).

## PREPARATIONS FOR THE ELECTIONS

Imbaruddin (2003) posits that for effective governance or public institutions, certain elements or analysis must be adhered to. These are: public sector dimension, task, and organisation and human resources dimensions. This can also be summarised as individual, organisational and systems.

Not much was done at the national or action level, comprising the social, political and economic conditions. Fuel scarcity added to the abject poverty exacerbated by federal government policy to redesign the naira, and this had begun to take its toll on the nation. Rumours that the fuel subsidy was to be removed had triggered fuel scarcity, and these twin issues of fund and fuel scarcity dominated the public space, leading to anarchy across the country. A few days before the election, Professor Mahmood received assurances that the Central Bank of Nigeria would release the appropriated funds for the election and the fuel issue would be settled. This was a belated respite from the Central Bank of Nigeria; however the issue of fuel scarcity and how the money would get to the 36 RECs including the FCT Abuja, was another hurdle which was eventually settled. There was a sense of insecurity and a tense political atmosphere across the country.

Speaking at the second quarterly meeting of the Inter-agency Consultative Committee on Election Security (ICCES) held at the Commission's headquarters in Abuja on 13 May 2022, INEC Chairman Professor Yakubu noted concerns regarding the security situation. However, while INEC appreciated the cooperation and support of all ICCES members in providing security for the deployment of election materials, protection of INEC officials, party agents, election observers, journalists and voters, the security situation was concerning. He then urged heads of security and law enforcement agencies to increase close monitoring and profiling of political actors, even thugs and their sponsors, no matter how highly placed, who exhibited tendencies to subvert the electoral process, and to trail, arrest and prosecute such persons (Gana 2022a). However, the chairman did not understand the modalities and framework or receive assurances from the security operatives on how they would secure voters in every corner of the country. The insecurity and tension across the country were palpable. On 25 November 2022, 24 lives were reported to have been lost and about 20 people injured in pre-electoral violence. Professor Yakubu decried the worrisome denial of public space for campaigns, and the violence and violations of Electoral Act 2022 by political parties and their candidates. He also warned that such acts could jeopardise the prevailing insecurity in the country and assured them and their supporters once again that votes would count as technology would be deployed (Ibrahim 2022).

The second aspect of analysis is the public sector. This includes rules and regulation, rewards and incentives. Though the Electoral Act of 2022 remained the

most tenable of current rules and regulations, it had many lapses which the elite had realised but failed to address. Following the motion to amend the Electoral Act of 2010 by the Senate Leader, Senator Yahaya Abdullahi in October 2021, the members endorsed the re-committal of some clauses of the Electoral Act No. 6 2010 (Repeal & Re-enactment) Bill, 2021 (SB. 122) to the Committee of the Whole (Ajibola 2021).

By January 2022, INEC announced the deployment of technology to ensure that the will of the people prevailed (Gana 2022b). Professor Yakubu issued an assurance that technology had come to stay, and the teething problems associated with it would be addressed (Gana 2022b). INEC also supported the Electoral Act 2022. After considerable politicking, the bill was finally approved in 2022 (Ajibola 2022) which meant that litigation in the use of technology was now a thing of the past.<sup>2</sup> Incentives for the ad-hoc staff were disappointing as the honorarium was only slightly more than what was paid in 2019, despite inflation.

The third dimension concerns how to include other sectors or government parastatals to ensure a smooth election. Understanding the role of logistics in elections as a cause of election postponement in Nigeria, INEC inaugurated the Electoral Logistics Committee (ELoC),<sup>3</sup> to ensure the safe and speedy delivery of large quantities of sensitive and non-sensitive materials for the 2023 general elections (Gana 2022c). The committee unveiled revised regulations and guidelines for the conduct of elections (2022), seeking the assistance of the Nigerian Air Force (NAF) for the effective delivery of election materials. It also assured local and international stakeholders and civil society organisations (CSOs), including youth and celebrities, that no eligible Nigerian would be excluded and that all eligible voters would receive their permanent voters' card before the elections. Surprisingly, when the Nigeria Computer Society (NCS) offered to assist the Commission by preparing against cyberattacks from the Ekiti and Osun off-cycle gubernatorial elections which took place in June and July 2022 respectively (Adejumoh 2022), INEC rejected the gesture. Yet the NCS went ahead and recommended the need to test for efficiency, penetration testing of the system, and vulnerability analysis, ensuring that the platform was robust and that they

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2 See, Wike Ezenwo Nyesom V Hon. Dr. Dakuku Adol Peterside & Ors (2016) 7 NWLR (part 1512) 452 At Page 522 A; Shinkaji v. Yari (supra); Okereke v. Umahi (unreported) SC. 1004/2015 delivered on 5/2/2015 at pages 31- 34."

3 The three-armed services (Army, Navy, and Air Force), Nigeria Customs Service (NSC) and the Nigeria Ports Authority (NPA) Federal Airports Authority of Nigeria (FAAN), the Nigeria Civil Aviation Authority (NCAA), and the Nigerian Air Space Management Agency (NAMA), Nigerian Aviation Handling Company (NAHCO) and Skyway Aviation Handling Company (SAHCO), Nigerian Meteorological Agency (NiMET), staff of the Commission, heads of the Nigerian Immigration Service, the Federal Road Safety Service Corps (FRSC), the Federal Fire Service, and various Aviation agencies. Others are the President of the Nigeria Union of Road Transport Workers (NURTW), and heads of other transport unions in the country are all members of the ELoC

could conduct trial elections (Jaiyeola 2023). Nevertheless, the contribution of the society may have helped address these teething problems.

The fourth aspect regarding the organisational dimension, has to do with structure, processes and resources. The successful conduct of the elections in Ekiti and Osun States not only used technology but was adjudged free and fair by local and foreign observers; Professor Yakubu reiterated the need to repeat a similar process at national level. While receiving two foreign election think tanks, the International Republican Institute (IRI) and the National Democratic Institute (NDI), led by the State of Ohio Secretary of State (United States of America), Frank LaRose, at the Commission's Headquarters, Abuja on Tuesday, 19 July 2022, Professor Yakubu repeated the pledge that he would conduct the best elections in Nigeria's history:

We promised Nigerians that Ekiti was going to be good and Ekiti was a good election. We promised that Osun was going to be better and Osun was (indeed) a better election. We are promising that the 2023 general election will be our best election ever and we are committed to delivering best election ever.

(Gana, 2022e)

Prof Yakubu reiterated this call while delivering a keynote address at the 4<sup>th</sup> Abubakar Momoh Memorial Lecture with the theme, 'Electoral Act 2022: Imperatives for Political Parties and the 2023 General Election', held on Wednesday, 23 August 2023 at The Electoral Institute (TEI), Abuja. He further noted that winners in the elections would be determined by eligible voters as the Commission had no anointed candidate (Gana 2022f).

Another issue that further illustrates the level of partisanship is the printing of ballot materials, which is still handled by politicians mainly from the ruling elite. There were claims that one of the ruling party candidates for the gubernatorial election had the contract to print the electoral materials (Akintade 2023). The distribution of sensitive materials by interested parties in the elections also demeans INEC independence. For example, INEC stated that it had no choice but to employ the services of an APC chieftain to distribute materials in Lagos and environ (Agency Report 2023), when getting funds for the elections was his next target. However, not only funding but defending the budget to fulfill these promises must be granted to the Commission. The Commission reiterated its need for ₦305 billion for the successful conduct of the 2023 general elections during its budget defence in November 2022. This was an exponential increment from the ₦234.5 billion used for the 2019 general elections and the ₦18.8 billion used for the 2015 general elections (SB Morgen 2023). Of this amount of ₦305bn (US\$555million), the Commission required ₦161.9bn for electoral operational and

administrative costs, ₦117.1bn for electoral technology costs; ₦18.5bn for electoral capital costs, ₦7.4bn (2.5 per cent of the electoral operational and administrative, electoral technology and electoral capital costs is set aside as contingency for unforeseen electoral expenses) (Adepegba et al. 2022). Non-disbursement of much needed monies before elections would no doubt have dire consequences on preparations, election day activities and outcomes as well as image. Apart from the fact that some ad-hoc staff were stranded, ancillary service providers such as tricycle and motor cycle operators hesitated to operate in the middle of elections, thereby causing delays in delivery to collation centres and the announcement of the results.

Finally, the human resources dimension deals with the management of individuals and the individuals heading the Commission. When INEC initiated a mock exercise, some of the challenges that were identified at the end of the exercise were voter apathy, faulty BVAS, poor BVAS visuals, lack of awareness, and failure of the technology (BVAS and IREV). There were issues of late arrival and low voter turnout, the reassignment of voters to new polling units without prior knowledge, and the high-handedness of security operatives stationed at the mock centres (Nigeria Civil Society Situation Room 2023a). There was understandable concern that these problems would be repeated in the general elections. Youth Initiative for Advocacy, Growth and Advancement (YIAGA) Africa and Nigeria Civil Society Situation Room recommended that INEC must take its cue from the mock elections to prevent a repeat in the general elections (Nigeria Civil Society Situation Room, 2023a). Nonetheless, INEC downplayed these early warnings and reiterated that these issues were insignificant and would be corrected on election day. Training was held for all ad-hoc staff members who would take part in the elections. However, aside from the fact that many of them did not know if they would be selected, the notice of the timing was short and poor, with little or no post-training assessment and poor selection.<sup>4</sup> The polling unit officers who are usually the first contact in the field and who enter the figures that would determine what is collated at the centre, were trained for only three days under harsh conditions and with low morale.<sup>5</sup>

There was no doubt that conducting such an assignment in a very short time has implications for learning, outcomes and productivity. While speaking during the training on strategic communication for heads of voter education and publicity from the Southern Zone in Lagos ahead of the 2023 general election, Festus Okoye once again listed preparations made. These included that 'the Commission will

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4 A woman in a University in Ogun felt that she was not considered for the exercise because her name sounded Igbo and related to the candidate of the Labour Party candidate. The reason she gave was that though she has the requirements those below her level were selected.

5 One of the authors was a polling unit agent in Oyo State.

also upload Polling Unit level results (Form EC8A) and the accreditation data to the INEC Result Viewing Portal. This is also a mandatory provision of section 50, 60 and 64 of the Electoral Act 2022' (@INEC Nigeria, 2023, <https://twitter.com/inecnigeria/status/1622829543022100480>). It thus appeared that all was set for the elections with constant assurances regarding the level of preparations INEC had made. However, while administrative, logistical, technological and manpower preparations were sufficient, the final assessment would be on election day and the election outcome.

### ELECTION DAY CONDUCT AND OUTCOME

On 25 February 2023, election day for both presidential and National Assembly elections, complaints ranged from the late arrival of the INEC presiding officers to intentional delay in sending electoral material to opposition strongholds. There were failures of the Bimodal Verification Accreditation System (BVAS) and the transmission of results from the polling units to the INEC Result Viewing Portal (IREV), as well as instances of voter suppression, sophisticated vote buying as a result of the cash scarcity, and ballot snatching. However, the failure to transmit the results from the polling unit was the main concern as both local and international observers expressed their displeasure at the conduct of these elections. At the collation centre in Abuja, the nation's capital, most of the party agents staged a walkout because INEC had failed to transmit the results despite having assured Nigerians and the international community that it would do so, as stipulated in the Electoral Act 2022. After three days, the election results were announced as follows: the All Progressives Congress (APC) Ahmed Bola Ahmed Tinubu scored the highest vote with 8 794 726 (36.61%) votes as against the PDP candidate Alhaji Atiku Abubakar who scored 6 984 520 (29.07%) votes; Peter Obi scored 6 101 533 (25.4%) votes and Rabiu Kwankwaso scored 1 456 687 (6.23%) votes; the others totalled 648 474 votes (<https://liveresults.civichive.org/presidential/2023>).

The result and turnout of about 25 million voters remains the lowest in the country's history. Tinubu's 8.7 million votes were the lowest number scored by any presidential candidate and further tested the issue of legitimacy and future elections. This challenge also applied to the National Assembly elections (Senate and House of Representatives) held the same day, though National Assembly results were transmitted to the IREV during voting.

After the presidential elections, international observers from the African Union, European Union and the US gave some highly critical assessments of the INEC. The EU Observation Mission raised concerns about the presidential elections. It praised the work done by INEC for not postponing the elections despite considerable challenges but noted that INEC's lack of both efficient planning

and effective public communication reduced trust in the process, including on election day. The efforts of INEC were therefore impeded by insufficient planning, insecurity, the prevailing exchange rate of the naira and fuel shortages, abuse of incumbency, vote buying, late deployment and opening. Polling procedures were not always followed, many polling officers failed to paste results at polling units after elections, and despite the introduction of technology as a game changer, they failed to upload the results in real time. The uploading of results long after the event raises more questions than answers about the conduct of the elections (EU EOM, 2023b).

**Table 1: Election Results of the 18 Presidential Candidates**

Candidate Name	Party	Total Votes
Imumolen Christopher	A	61 014
Hamza Al-Mustapha	AA	14 542
Omoyele Sowore	AAC	14 608
Dumebi Kachikwu	ADC	81 919
Yabagi Sani Yusuf	ADP	43 924
Bola Tinubu	APC	8 794 726
Peter Umeadi	APGA	61 966
Princess Ojei Chichi	APM	25 961
Charles Nnadi	APP	12 839
Sunday Adenuga	BP	16 156
Peter Obi	LP	6 101 533
Rabiu Kwankwaso	NNPP	1 496 687
Felix Johnson	NRM	24 869
Atiku Abubakar	PDP	6 984,520
Kola Abiola	PRP	72 144
Adewole Adebayo	SDP	80 267
AAbdul-Malik Ado-Ibrahim	YPP	60 600
Dan Nwanyanwu	ZLP	77 665

Source: Bolaji (2023)

Knowing that the election had not met its own standards, the INEC chairman demanded that all the polling agents should be retrained in order to address the many controversies that beset the election in order to prevent a repeat in the gubernatorial / Houses of Assembly elections. In one of his remarks a week after the first election, Professor Yakubu noted (2023b):

As we approach the Governorship and State Assembly elections, we must work harder to overcome the challenges experienced in the last election. Nothing else will be acceptable to Nigerians. All staff found to be negligent, whether they are regular or ad hoc officials, including Collation and Returning Officers, must not be involved in forthcoming elections. RECs must also immediately initiate disciplinary action where prima facie evidence of wrong doing has been established... Election Day logistics must be finalized days before the election and handled by the Electoral Officers (EOs) at Local Government level. This has been our standard practice. Centralising the process as was done in some States resulted in delayed deployment of personnel and materials and late commencement of polls. RECs will be held responsible for any tardy arrangement or the failure to deploy electric power generators to collation centres or polling units where such facilities are needed. The Commission has enough facilities in all the States of the Federation. Failure to deploy them is simply inexcusable. Refresher training must be conducted for ad hoc staff that participated in the last election. Where they are replaced for good reason, they must be properly trained so that processed are not delayed or compromised at any stage

After the presidential elections, INEC stated that it was going to re-configure the BVAS. This came as a shock to all the stakeholders because nothing of the kind had been mentioned during the preparations and at the various sessions with the National Assembly and stakeholders. This led to another round of litigation until the court gave it the go-ahead to re-configure the BVAS but ensure that the data were backed up. The gubernatorial elections held on 18 March 2023 were considered an improvement on the presidential / National Assembly election. The polling officers generally reached their polling units on time and the BVAS were used for accreditation. Where it failed to work, it was replaced. The security agents conducted themselves in like manner. However, violence marred the conduct in Ogun State, Lagos State, Enugu, Abia, Kano State, Edo Oyo, Kaduna, and Rivers States (EU Election Observation Mission, 2023), and there was ethnic violence in Lagos State. The European Union in its report (p. 3) noted that:

The 25 February post-election environment was largely peaceful, with parties appealing to supporters for calm. However, a few days before the 18 March elections, violence abruptly increased with more than a dozen attacks and abductions of candidates by thugs and unidentified gunmen, some of which resulted in fatalities. Violence

shortly before and on Election Day appeared to strategically suppress voter participation.

After the gubernatorial elections, the EU EOM (2023c) observed that public confidence and trust in INEC were severely damaged during the elections on 25 February due to a lack of transparency and operational failures in the conduct of the federal level polls; multiple incidents of thuggery and intimidation which interrupted polling in various locations; results displayed on the IReV portal varied across states varied from 62 to 97 per cent; the low participation of women in elective positions; intra-party conflicts compounded by protracted legal deadlines; and that only a few civil society organisations played an active role in raising awareness. This tone was similar to that of the US which noted that the 25 February election in Nigeria ‘failed to meet’ the expectations of Nigerians, but commended the other candidates who lost the elections for comporting themselves and following legal channels (Isilow 2023). The NDI/IRI (2023, pp. 1-2) shared similar views with the US mission. In its report it noted that:

Despite the much-needed reforms to the Electoral Act 2022, the election fell well short of Nigerian citizens’ reasonable expectations. Logistical challenges and multiple incidents of political violence overshadowed the electoral process and impeded a substantial number of voters from participating. Ongoing currency and fuel shortages also imposed excessive burdens on voters and election officials, and Nigerian marginalized groups, especially women, continue to face barriers to seeking and obtaining political office. The delegation observed that late opening of polling locations and logistical failures created tensions and the secrecy of the ballot was compromised in some polling units given overcrowding.

It unequivocally condemned the disturbing acts of violent voter intimidation and suppression that took place during the gubernatorial polls in Lagos, Kano, and other states. The United States Mission Nigeria (2023) observed the elections in Lagos and elsewhere and witnessed some of these incidents first-hand. The use of ethnically charged rhetoric before, during, and after the gubernatorial election in Lagos was particularly concerning.<sup>6</sup>

The inconclusive elections in Kano, Kaduna and Adamawa states which were supposed to redeem its reputation over the presidential and gubernatorial

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6 The mission commended all Nigerian political actors, religious and community leaders, youth, and citizens who have chosen to speak out against such violence and inflammatory language, affirming Nigerians’ commitment to and respect for the democratic process.

elections held in February and March, was even farther off. Specific concern was in Adamawa State, with the dubious behaviour of the resident electoral commissioner (REC), the conduct of security operatives and federal apparatus during the announcement of the alleged runner-up, Mrs Aishatu Dahiru Binani as the supposed winner.

Section 25 of the Electoral Act (2022) gave the categories of officers and place/ centre to announce the categories of results. Section 25 (1)(d) notes that the State Collation Officer shall announce the result at the State Collation Centre. Regarding the venue and category of offices, Section 25 (2)(f) states that result shall be announces in 'State Collation Centre in the case of election of a Governor of a State'. However, the REC, Mr Hudu Yunusa-Ari backed by the Commissioner of Police, Mr Mohammed Barde, and an unnamed official of the Department of State Security (DSS) announced Mrs Aishatu Dahiru Binani of the APC as the winner of the Adamawa State election (Ekpu 2023). Usurping the role of the returning officer, Professor Mohammed Mele indicated the level of complacency of the federal authority and perhaps the ruling class. The acceptance speech given by Mrs Binani was a display of a hastily arranged 'civilian coup', displaying the desperation of the ruling class, ruling elite and the banality of the Nigerian state. Although the INEC chair and commissioners had to be deployed to the state to finish the exercise and resolve the issue by announcing the winner, Mr Ahmadu Umaru Fintiri,<sup>7</sup> the shameful show had further exposed the flaws of the INEC, the flippancy of the federal government and the shallowness of Nigeria's democratic outlook.

### FACTORS RESPONSIBLE FOR THE OUTCOME OF THE 2023 GENERAL ELECTIONS

Understanding the factors responsible for the public outcry against the 2023 general election results is necessary to assist future elections and restore confidence in the voters to trust the system. Using institutional analysis, these factors will be divided into three levels, namely: individual; organisational; and system level.

#### *System / Macro Level*

The nature and character of the state and politics (Uwais 2008) as well as the weak democratic culture which exudes the 'do-or-die' mentality of the elites are some of the factors responsible for the uproar over the outcome of the general elections.

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7 At the end of the voting on March 18 2023 Mr Fintiri scored 421 524 votes while Mrs Binani scored 300 275 votes. However after April 15, Fintiri scored 430 861 as against Binani's 398 788 votes.

State capture is synonymous with elitism, which explains why the elite use all means possible to capture the centre and corruptly acquire wealth. The weak democratic culture also indicates that the elite had not fully embraced the ethos and values of liberal democracy and that elections remain simply a means to an end. For example, 15 298 candidates vied for only 1 491 elective positions. And those not fortunate enough to capture the centre either cross the floor or become willing stooges. The implication of this strips the political elite of ideology or conviction.

This explains why some think-tanks had warned in advance that the 2023 elections would be a repetition of preceding ones. Thus, the usual commentaries that follow Nigeria elections was predicted even before the election and despite the promises of INEC (CAPPA, 2023; Nigeria Civil Society Situation Room, 2023b).

### **Unpopular government policies**

Prior to the election, the fuel scarcity and currency redesign created much hardship across the country. Though the CBN stated that the purpose of the policy was to address incessant insecurity, kidnapping and vote buying, all sectors were affected and INEC claimed that the fuel scarcity and naira redesign would affect its logistics. Although respite came a few days before the election, the impact had already taken its toll on voters, particularly those who would like to travel out of state to cast their votes, and all institutions in general. For example, some of the elite claimed that they were also in need of hard cash (Abubakar 2023). One governor in particular lamented that even in his position, he could not boast of ₦20 000 (US\$40) in cash (Bamigbola 2023).

### **Distrust of the system, in particular the EMB and judiciary**

Polls before the election had shown that many Nigerians did not trust the electoral system. Aside from the electoral system and the EMB, the judgements in the court cases regarding Governor Ademola Adeleke of Osun State at the tribunal and that of the Senate President, Dr Ahmad Lawal at the Supreme Court were two factors which further raised doubts regarding the entire election and judiciary (Ugwu 2023). This distrust was revealed by the poll conducted by a think-tank in 2023 which revealed that only 23% of Nigerians trusted the Independent National Electoral Commission (INEC) 'somewhat' or 'a lot', while more than three-fourths (78%) expressed 'just a little' or no trust at all in the election-management body. Finally, trust in the INEC had declined by 12% since 2017 (NOI Polls 2023). This distrust had its impact on the low voter turnout for the presidential election, as President Tinubu is believed to have had the lowest number of presidential votes since 1999.

**Table 2: Leading Presidential Candidates and Declared Results since 1977  
General Elections**

S/N	Year	Leading Candidates and Political Parties	Election Results
1	1979	Shehu Shagari (NPN)	5 668 857
		Obafemi Awolowo (UPN)	4 916 651
2	1983	Shehu Shagari (NPN)	12 081 471
		Obafemi Awolowo (UPN)	7 907 209
3	1993	MKO Abiola (SDP)	8 341 309
		Bashir Tofa (NRC)	5 952 087
4	1999	Olusegun Obasanjo (PDP)	18 738 154
		Olu Falae (AD/ APP)	11 110 287
5	2003	Olusegun Obasanjo (PDP)	24 109 157
		Muhhamadu Buhari (ANPP)	12 710 022
6	2007	Umaru Yar' Adua (PDP)	24 638 063
		Muhhamadu Buhari (ANPP)	6 605 299
		Atiku ABubakar (CAN)	2 637 848
7	2011	Goodluck Jonathan (PDP)	22 495 187
		Muhhamadu Buhari (CPC)	12 214 853
8	2015	Muhhamadu Buhari (APC)	15 424 921
		Goodluck Jonathan (PDP)	12 853 162
9	2019	Muhhamadu Buhari (APC)	15 191 847
		Atiku Abubakar (PDP)	11 262 978
10	2023	Bola Ahmed Tinubu (APC)	8 794 726
		Atiku Abubakar (PDP)	6 984 520
		Peter Obi (LP)	6 101 533
		Aliyu Kwakwanso (NNPP)	1 456 687

Source: Yusuf (2023) and authors compilation

### **Weak, failing or failed institutions**

Most of the institutions from the judiciary, legislature, security, and intelligence, media, and civil society including student unions, political parties, religious organisations, schools, and traditional institutions either failed to promote or support the electoral process, or did so weakly. It appears as if they were all partisan. Nigeria today is replete with academics, media, police, judges, and law enforcement agents who are partisan. Although most literature has espoused the

weaknesses and failures of institutions across Africa in general and Nigeria in particular, this was further exacerbated by the political atmosphere. For example, a local traditional ruler in Lagos was alleged to have warned some non-Yorubas in Eti-Osa community of Lagos State to either vote for a particular political party and candidate or be banished from the community (Adelagun 2023). In the rerun in Adamawa state, some security officers had provided cover for the REC who usurped the role and responsibilities of the returning officer. In a viral video, a purported intelligence officer from the state secret service or self-styled Department of State Service (SSS/DSS), was alleged to have confessed that they were paid two billion naira to support the runners-up. It further shows how the DSS has over the years been politicised and weakened (Thompson 2023b).

### *Organisational/ Meso Level*

#### **Complacency of the security operatives**

In all the elections, presidential/National Assembly, gubernatorial/ state House of Assembly and the rerun elections held in April 2023, the security agency was partisan. In Lagos, there were viral videos of how police officers looked the other way when suspected political thugs prevented non-Yoruba from voting for a particular candidate. They were equally complacent in Rivers State and other states. To show how partisan the security operatives were, the police immediately moved against a monarch in Lagos who stated that he was going to invite IPOB to Lagos to protect Igbos; while the same police, through its public relations officer, asked Nigerians to take the statement of an APC-cum-transportation chieftain, Musiliu Akinsanya (AKA MC Oluomo) as a joke (Oluwasanjo 2023). This discriminatory practice reveals the lack of professionalism on the part of the police and security agencies as well as weakness of its institutions (Owen 2014; Thompson et al. 2020a; Omeni 2022). As Ikome (2007) posits, 'state security apparatuses have mostly been instruments in the hands of the ruling classes, generally used to eliminate any perceived or imagined threat to their interests'.

#### **Poor or inadequate training and selection framework**

The poor and inadequate training given to the polling officers and the lack of framework for the selection of ad-hoc staff also marred the election. A BBC report on a collation officer who had announced one of the results in Rivers State observed that INEC acknowledged that it lacked the wherewithal to properly scrutinise those who took part in the state election. This is indeed an indictment of both the commission and the electoral process.

#### **Poor implementation and the failure to abide by its promises and guidelines**

In spite of the promises, laudable plans and assurances that votes would count

and results transmitted on the Independent National Election Commission Result Viewing (IREV) Portal, INEC failed to implement its promises. They stated that its failure to transmit the result from the polling unit was unintentional; the Minister of Information and Culture stated that it was the other way round. Questions arise as to whether the Minister was the mouthpiece of INEC, or the reason for the varying response to the failure to transmit the result in spite of the hope of not only transmitting results but of a credible, fair and inclusive election (*Premium Times* 2023). On this basis over 70 members of CSOs under the auspices of the Nigerian Civil Society Situation Room called for an independent inquiry into the procurement, logistics management and abuse of electoral process in the 2023 general elections (Ogune 2023). One of the implications of this poor implementation was the litigation and few protests that emanated from the conduct of the election, as well as voter apathy that followed in the off-season elections. It also has an impact on the regression of Nigeria's democracy and, indeed, the beginning of its end, leading Cheeseman and Elklit (2020) to aver that there is a global concern over the increasing rate of democratic recessions.

### *Individuals/ Micro Dimension or Level*

#### **Partisanship of the Electoral Management Board**

A recent revelation by a former Minister of Transportation, Rotimi Amaechi, and an aspirant of the APC presidential primary election, was that Professor Mahmood was selected from Bola Tinubu's camp prior to the election (Babalola 2023). Amaechi further claimed that:

There are those of us who opposed the reappointment of Mahmood [INEC chairman]. The person who nominated him for appointment is a member of Tinubu's camp. So what are you expecting? Success? Here in Rivers state, Mahmood worked under Wike as executive secretary of TETFUND.

(Babalola 2023)

Aside the chairman, the selection and appointment of some of the national commissioners and resident election commissioners (REC) raised suspicions as to whether the government wanted a credible election. The REC should be non-partisan, but as in past elections, most of the commissioners were selected by cronies of the ruling class. A good example which raised a national outcry was the selection of a purported APC stalwart, Mrs Lauretta Onochie. The controversy sparked a debate about the need for transparent and non-partisan appointments in public institutions, particularly those responsible for conducting free and fair

elections. Though she was later dropped, it took the efforts of many Nigerians across party lines and even in the ruling party itself to do so.

### **Lack of political will and transparency in the process**

It can be argued that from the outset there has been no political will for credible elections. This is deduced from the reappointment of the INEC chairman for a second term even when the 2019 election did not reach the threshold of previous elections. Again, there appears to be a lack of political will in the back and forth that characterised the making and assent of the Electoral Act. The failure of the president to assent to the bill before the 2019 elections indicated that the president lacked the will for a credible election. Professor Yakubu claimed that there were attempts to hack INEC's server during off-season elections in Ekiti and Osun. However nothing seems to have been done to secure the server despite the time INEC had to do so. The Adamawa election could have attempted to atone for the 2023 general elections, but again INEC failed to prove that it was ready to learn from past lessons. The failure to allow the media to cover the gubernatorial elections in states such as Lagos, Rivers, Enugu, and Ogun indicated the lack of transparency of INEC (Ogune 2023).

## **CONCLUSION**

The study has discussed the preparations made by the INEC for the 2023 general elections, ranging from funding and the creation or delineation of more polling units, to the provision of law to support the use of technology. However, all these came to nought when the elections and post-election results ended up much like those in the past, with violence, post-election litigations and distrust or bad blood. The dramatic run-off election in Adamawa State, which would have been used to consolidate and make amends for the general elections, was even worse and further exposed the weakness and failings of the Electoral Management Board (EMB).

However this should not come as a surprise because of the failure to reckon with some factors such as the nature of state and politics, the absence of the rule of law and constitutionalism, unpopular government policies, distrust of the system, in particular INEC and the judiciary, the failure or weakness of institutions, and the lack of political will. The article advances the need for stakeholders to look beyond the prism of the current, narrow, ad-hoc measures to a more permanent holistic resolution.

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# ELECTORAL MANIPULATION IN THE GREY ZONE

*Evidence from Ghana's Parliamentary Elections in  
2008 and 2012*

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## ABSTRACT

*Electoral manipulation undermines the function of elections as a mechanism of representation and accountability, and erodes public trust in government institutions; however, our theoretical understanding of its causes is still limited. Research has focused on the blunter forms of electoral manipulation. Less attention has been given to the more subtle forms, although these are more common. This paper investigates one type of subtle electoral manipulation: miscounting, meaning election officers who selectively reject ballots during the counting. It suggests that miscounting (one of the ways in which political candidates can rig elections) is characterised by low risks and high direct costs. On one hand, it is almost invisible, embedded in the sociocultural norms and practices surrounding elections in many African countries. On the other, it is expensive, requiring large amounts of patronage to co-opt election officers. This makes miscounting attractive only to incumbents who fear electoral defeat and have deep clientelist networks. The paper tests this argument against data from the 2008 and 2012 parliamentary elections in Ghana. It shows that the number of ballot rejections is positively correlated with the number of years the party of the incumbent MP has held the constituency seat, but negatively correlated when this variable is interacted with the win-margin in the last parliamentary election. This pattern is consistent with the model, supporting the argument that the effect of electoral uncertainty on miscounting is conditional. When MPs do not have resources at their disposal, they choose other types of electoral manipulation or opt out of electoral rigging altogether.*

**Keywords:** electoral manipulation, ballot rejection, miscounting, political parties, Ghana

## INTRODUCTION

Today, nearly all countries in the world hold elections. However, the elections they hold are often rigged:<sup>1</sup> voter registers are inflated, ballot boxes are stuffed or destroyed, and voters are threatened or prevented from going to the polls. The Varieties of Democracy (V-Dem) dataset suggests that nearly one third of all legislative elections held in Africa since 2010 were either fundamentally flawed (8%) or flawed to extent that irregularities likely decided who won the legislative majority (22%) (Coppedge et al. 2001). Another 21% were ambiguous, making it difficult to determine whether the irregularities decided who won the legislative majority.

Electoral manipulation undermines the function of elections as a mechanism of representation and accountability and erodes public trust in government institutions. However, our theoretical understanding of its causes is still limited. Research has focused on the blunter types of electoral manipulation: vote buying (Nichter 2014), violence (Birch et al. 2020), and ballot stuffing (Mebane 2008; Myagkov et al. 2008). Less attention has been given to the subtler types – what I refer to as *electoral manipulation in the grey zone* – although the subtler forms are probably more common.

In this paper, I look at one type of grey zone electoral manipulation: miscounting, which means that election officers selectively reject ballots during the counting. Ballot rejection or invalid voting has been studied in recent years both at sub-national level (Aldashev & Mastrobuoni 2019; Dejaeghere & Vanhoutte 2016; Driscoll & Nelson, 2014; Fatke & Heinsohn, 2016; Katz & Levin, 2016; Pachon et al., 2017; Zucco Jr & Nicolau 2016) and cross-national levels (Cohen 2017, 2018; Kouba & Lysek 2016; Lysek et al. 2020; Martinez i Coma & Werner 2019; Moral, 2016; Singh 2017). It has been attributed to voter error, poor electoral administration, distrust in government, social marginalisation, and political unrest (Kouba & Lysek 2019). A few studies have noted the correlation with electoral competitiveness (Aldashev & Mastrobuoni 2019; Dejaeghere & Vanhoutte 2016; Kouba & Lysek 2016) but only one has considered the possible link to electoral manipulation. Aldashev & Mastrobuoni (2019), in their study of invalid voting in parliamentary elections in Italy, explicitly examine the effect of electoral manipulation. However, they conclude that ‘there is no evidence that electoral fraud explains the empirical relationship [between invalid voting and electoral competitiveness]’ (ibid., p. 306).

In this paper, I model ballot rejections as a function of miscounting. I argue that miscounting (one of the ways in which political candidates can rig elections) is characterised by low risks and high direct costs. On one hand, miscounting is

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1 I use the terms electoral ‘manipulation’, ‘rigging’, and ‘fraud’ interchangeably.

almost invisible, embedded in the sociocultural norms and practices surrounding elections in many African countries. On the other, it is expensive, requiring large amounts of cash and other goods to co-opt election officers and deploy and maintain agents to monitor and enforce compliance during the counting. This makes miscounting attractive only to incumbents who fear electoral defeat and have deep clientelist networks. I test my model against data from the 2008 and 2012 parliamentary elections in Ghana. I find that the number of ballot rejections is positively correlated with the number of years the party of the incumbent MP has held the constituency seat, but negatively correlated when this variable is interacted with the win-margin in the last parliamentary election. This pattern is consistent with my model, supporting the argument that the effect of electoral uncertainty on miscounting is conditional. When MPs do not have resources at their disposal, they choose other types of electoral manipulation or opt out of electoral rigging altogether.

The paper contributes to the academic literature in three ways. First, it points to the effect of electoral manipulation on invalid voting, which has previously been overlooked in the literature. Certainly in the context of Ghana, electoral manipulation should be taken into consideration. Second, the paper draws attention to some of the subtler ways in which elections are rigged. They may have been described qualitatively but rarely have they been examined quantitatively. Finally, the paper contributes to a more nuanced theoretical understanding of electoral manipulation by demonstrating the variable costs. Miscounting is not an option that is available to all political candidates.

The paper is structured as follows: Section 2, background, describes the counting procedure in Ghana. Grey zone electoral manipulation tends to exploit minuscule loopholes in the electoral process. This is also the case with miscounting, where the counting procedure and specifically the procedure for rejecting ballots permit electoral manipulation. Section 3 develops the model, drawing on existing theory about elections in Africa in general and in Ghana specifically. Section 4 tests the model against data from Ghana. Finally, section 5 draws conclusions.

## BACKGROUND

Excluding the 1992 elections, where most voters voted for the first time, the number of ballot rejections in parliamentary elections in Ghana has remained relatively constant. In the last four elections for which data are available, 1.6% of the ballots cast were rejected. Compared with other countries in Africa, this is relatively low. In Cote d'Ivoire, for example, a country with an electoral system similar to Ghana's, 5.2% of the ballots cast in the 2021 parliamentary elections were rejected. Similarly, in Uganda, another country that combines a presidential

system with first-past-the post (FPTP) parliamentary elections, 4.9% of the ballots cast in the 2016 parliamentary elections were rejected. Table 3 in the appendix compares the number of ballots rejected in recent parliamentary elections in Africa. The continental average is 4-5% (3-4% when extreme outliers are excluded).<sup>2</sup> The average for countries with political and electoral systems similar to Ghana's (presidential or semi-presidential systems and FPTP or two-round system parliamentary elections) is 5-6% (around 4% when extreme outliers are excluded).

Although relatively few ballots are rejected in Ghana, ballot rejections may have been decisive in around 7% of all parliamentary elections since 1996 and may have determined the legislative majority in three of the last six parliaments. Table 1 illustrates that in 2000, there were 18 constituencies where ballot rejections exceeded the win-margin, while the margin of majority in parliament was seven seats. In 2008, there were also 18 elections where ballot rejections exceeded the win-margin, while the margin of majority was nine seats. Finally, in 2020, there were 21 elections where ballot rejections exceeded the win-margin, while the two dominant parties, the ruling New Patriotic Party (NPP) and the opposition National Democratic Congress (NDC), won the same number of seats. Table 1 also indicates the number of ballots rejected in first round presidential elections.

**Table 1: Rejected ballots in Ghana's parliamentary elections**

	1992	1996	2000	2004	2008	2012	2016	2020
Constituencies	200	200	200	230	230	275	275	275
Ballots rejected (% of ballots cast)	3.0	1.1	2.1	1.6	1.6	1.6	1.0	1.4
Constituencies where ballots rejected exceeded the win-margin	*	6	18	14	18	17	16	21
Margin of majority in parliament (seats)	178	72	7	34	9	26	63	0
Ballots rejected in (first round) presidential elections (% of ballots cast)	3.6	1.7	1.6	2.1	2.4	2.2	1.6	2.3

Source: Data extracted from official electoral results and Duodo (2021)

\* Data unavailable

<sup>2</sup> The 2013 parliamentary elections in Mauritania, where one third of the ballots were rejected.

This differs considerably from the number of ballots rejected in parliamentary elections, supporting the claim that ballot rejections are not just a result of voter error; and that miscounting in parliamentary elections is not simply a reflection or extension of miscounting in the presidential elections. In other words, while parliamentary and presidential elections held on the same day are naturally linked, they also have their own identities.

The counting procedure and the procedure for rejecting ballots has not changed substantially since 1992. Ballots are counted at polling station level. Immediately after the close of voting, the presiding officer opens the ballot box and sorts the ballots. Ballots that do not bear the official mark of the Electoral Commission, that do not clearly indicate for whom they have been cast, that are not thumb printed, or that contain writings or marks by which the voter could be identified, are rejected. Rejected ballots are shown to the polling agents who are given the opportunity to express their opinion. The word 'REJECTED' is endorsed on the ballots, and if a polling agent disagrees with the rejection, the words 'REJECTION OBJECTED TO' are added. The presiding officer then counts the ballots and records the results on the declaration form (Electoral Commission of Ghana 2016, regulations 37-39).<sup>3</sup>

The procedure has both advantages and disadvantages. An advantage is that it obviates sensitive ballot box transfers before the ballots have been counted. Another is that it allows the political parties and election observers to conduct parallel vote tabulations. A disadvantage is that it places considerable responsibility in the hands of the election officers. Rejected ballots are kept separately and submitted to the returning officer, together with the declaration form and other electoral material. The returning officer may decide to review the ballots that have been rejected but this rarely happens, unless the number is abnormally high. Overall, this makes the counting procedure one of the most delicate steps of the Ghanaian electoral process.

Rejected ballots are generally attributed to voter error, usually meaning illiteracy, inexperience, and misinformation: voters who do not mark their ballots, voters who mark their ballots incorrectly (with a pen, with the wrong finger,<sup>4</sup> or outside the designated boxes), or voters who mark their ballot multiple times. Gyimah-Boadi (1997, p. 83) remarks about the 1996 elections that 'the relatively high incidence of rejected ballot papers [...] suggests inadequate voter education', while Debrah (2011, p. 36), in his review of the Electoral Commission's performance since 1996, blames 'the incidents of rejected ballot papers and

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3 The language of the relevant regulations was obtained from the Electoral Commission of Ghana (2012).

4 In 2008, voters were told they could use any finger. However, the Electoral Commission, in consultation with the Inter-Party Advisory Committee (IPAC), subsequently decided that only the thumb could be used. On election-day, the little finger was dipped in indelible ink, which added to the confusion. As a result, some voted with their little finger instead of their thumbs.

problems associated with counting [...] on the EC's inability to provide adequate voter information and education'. Similarly, the Coalition of Domestic Observers (CODEO) (2009, p. 4) has recommended '[a] comprehensive and focused voter education in all facets of the electoral process, including incidence of rejected ballots'. The former Commissioner for Human Rights and Administrative Justice, Francis Emile Short, has stressed 'the need for the Electoral Commission (EC) to collaborate with the National Commission on Civic Education (NCCE) to sufficiently educate electorates on proper thumb printing to ensure that the incidence of rejected ballots is reduced to the barest minimum' (Asiamah 2012). This reflects the literature on electoral administration, where rejected ballots have been used as 'an indicator of the combined quality of voter education, ballot paper design and counting instructions (including rules for acceptance of cast votes)' (Elklit & Reynolds 2002, p.102).

A few papers and reports have also linked rejected ballots to electoral manipulation: 'partisan electoral officers who deliberately spoil ballot papers with ink so as to render those ballots invalid to the advantage of another political party' (Gyampo 2009, p. 292). The Carter Center (2009, p. 45), for example, in its report on the 2008 elections, notes that it 'observed one counting in the Akwatia district of the Eastern Region where more than 200 ballots were ruled invalid despite their clearly illustrating the correct intent of the voter' and that 'the invalidated ballots in this case were overwhelmingly for one candidate'.

In sum, in Ghana ballots are counted at polling station-level. An advantage is that this obviates sensitive ballot box transfers. Also, it allows political parties to conduct parallel vote tabulations. A disadvantage is that it places considerable responsibility in the hands of the election officers. Rejected ballots are generally attributed to voter error but have also been linked to electoral manipulation.

## THEORY

In the following model I argue that miscounting is characterised by low risks but high direct costs. The MPs are unlikely to get caught but they need deep clientelist networks, including election officers who can selectively reject ballots in their favour (or look the other way when polling agents destroy ballots cast in favour of other parliamentary candidates). The low risks and high direct costs make miscounting attractive to MPs who fear electoral defeat and have considerable resources at their disposal.

### *Goods Distribution and Co-optation*

Elections in Ghana have been described as harvesting season: 'when it is time to reap the fruits from the parliamentary tree' (Lindberg 2003, p.127). Lindberg

(2003, p. 135) further argues that 'the culture of gift-giving has always existed in Ghana' but that 'this has been turned into a weapon in the political war over parliamentary and executive power'. Nugent (2007, p. 256) argues that Ghanaian 'voters expect to be showered with gifts as evidence that the candidate genuinely does have local interests at heart'.

In addition, Lindberg (2003, p. 131) reports that in 2000, 57% of Ghanaian MPs spent more than 25% of their campaign budget on 'personalised patronage'; and that, in 2008, 85% of Ghanaian voters expected their MP to 'first and foremost deliver personal or very narrow, small-scale "club" goods' (Lindberg 2012, p. 949). His findings lead him to the conclusion that, in Ghana, '[l]egislative elections are not about legislation, or executive oversight for that matter. They are about local small-scale club and private goods' (ibid.).

These goods are not single transactions. They are part of 'complex, continuing webs of exchange, obligation, and reciprocity' (Kitschelt & Wilkinson 2007, p. 19) in which the MPs distribute goods 'in exchange for contributions to their electoral efforts' (ibid., p. 8). The purpose is 'to establish and reproduce pacts of mutual loyalty' (Lindberg 2003, p. 124): the clients are '(re-)assured that the "big man" (or "big woman" for that matter) will attend to their needs in times of hardship' (ibid.), while the MPs secure potentially decisive votes.

The election officers are part of these networks. They are recruited from the electoral areas to which they are deployed on election-day and are employed for only a few days around the elections. After that they return to their regular jobs (or unemployment). The MPs and their parties know this and use it to co-opt election officers. Asunka et al. (2017) suggest the election officers respond by turning 'a blind eye on fraudulent activities' or agreeing to 'inflate vote tallies' (ibid., p. 133). I argue that another way is by considering the incumbent MP's interests during the counting: by allowing polling agents more space to challenge ballots and by scrutinising ballots cast for other parliamentary candidates more closely. This argument is consistent with the limited literature on the recruitment and training of election officers (Cantú & Ley 2017).

Obviously, not all election officers reciprocate. There are competing norms, overlapping networks, and costs associated with renegeing contracts with the Electoral Commission (namely the opportunity to work as an election officer in the future). Some election officers may reciprocate spontaneously, for example, when what they receive is sufficiently valuable or when they attribute little value to other, competing norms (Lawson & Greene 2014). Lawson and Greene (2014, p. 63) have explored the conditions under which 'feelings of obligation become activated to serve clientelism'. They point to two factors: the value of what is provided, and the value of other obligations. Others must be reminded to 'uphold their end of the bargain' (van de Walle 2007, p. 64). The polling agents serve as

brokers in this relationship between the incumbent MP and her party and the election officers (Ascencio & Rueda, p. 2019). First, they are part of ‘the complex pyramidal network’ through which MPs ‘organize the flow of material resources’ (Kitschelt & Wilkinson 2007, p. 8). Second, they are the ‘means to monitor and enforce the terms of the clientelistic bargain’ (ibid., p. 12).

Two properties characterise miscounting. The first is that *the risks are low*. Miscounting is practically invisible, embedded in the sociocultural norms and practices that surround elections in Ghana. The parliamentary candidates are expected to distribute goods and the election officers are mandated to reject ballots during the counting. Miscounting constitutes electoral manipulation in the grey zone. Election observers can increase the risks (Asunka et al. 2017) but only marginally. They may be present at a polling station where ballots are rejected in favour of the incumbent MP but are still unable to detect the manipulation.

The second property is that *the direct costs are high*. First, even when election officers reciprocate, the returns are low. Miscounting in a single polling station rarely generates more than 20-30 votes.<sup>5</sup> By contrast, many types of wholesale manipulation can generate hundreds of votes. For example, a single stolen or destroyed ballot box can remove an entire polling station from the election results.<sup>6</sup> This means the MPs must run multiple parallel operations to affect the electoral outcome; i.e. they must distribute goods and co-opt election officers in multiple polling stations and they must deploy and maintain polling agents to monitor and enforce compliance during the counting.

Second, miscounting is committed by election officers on the margins of campaign organisation; or, rather, outside the organisation itself. While this reduces the risks, it also introduces agency loss. The goods that are distributed through the polling agents may not reach the election officers, and the election officers may accept bribes from other parliamentary candidates.

### *A Model of Miscounting*

Building on these arguments, I propose the following model. The model assumes that the marginal benefit of electoral manipulation is highest around the winning

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5 In 2008, the average number of ballots rejected per polling station was 6.6. In 2012, it was 6.9. Data disaggregated at constituency-level are available only for 2012. They suggest the average number of ballots rejected per polling station varied from less than 0.1 in Madina, Greater Accra, to 21.5 in Tempane, Upper East. The data are approximately normally distributed with more than two-thirds of the observations falling within one standard deviation above or below the mean. Assuming similar distributions at polling station-level, even in Tempane, Upper East, it should be unlikely to find polling stations with more than 30 ballots rejected (less than 5% in the constituency).

6 In 2008, the average number of votes per polling station was 407. In 2012, it was 425. By carefully selecting and targeting specific polling station, parliamentary candidates can remove hundreds of votes cast for their opponents from the election results.

threshold, meaning that MPs invest in electoral manipulation when they fear electoral defeat. The risks associated with miscounting are low, making it preferable to other types of electoral manipulation. However, the direct costs are also high, meaning it is expensive and therefore an option available only to MPs with deep clientelist networks.

The model emphasises the direct costs of electoral manipulation: what the MPs have to pay. Birch (2011) discusses the 'human resources costs' of electoral malpractice: 'the participation of relatively large numbers of political actors' and the 'considerable costs associated with inducing them to behave in the manner required and monitoring their behaviour so as to prevent agency loss' (Birch 2011, p. 57). In addition, Birch discusses the 'external (international) costs' of rigging, arguing that 'states that are heavily dependent on international trade, aid, and /or foreign direct investment (FDI) can ill afford to see the legitimacy of their regimes plunge precipitously in the international arena' (*ibid.*, p. 58); and the 'domestic legitimacy costs', understood as 'the proportion of the population that can be expected to acquiesce to having their contribution to public choice taken from them or distorted (as perceived by the leader in question)' (*ibid.*, p. 59).

Similarly, both Simpser (2013) and Collier & Vicente (2012) include cost functions in their models of electoral manipulation. My understanding of the direct costs of electoral manipulation is closest to that of Collier & Vicente (2012). Like them, I allow the price to vary, depending on the type and the context, and recognise that some MPs have better access to resources than others. Miscounting is more expensive than other types of electoral manipulation, making it more attractive to MPs with deep clientelist networks.

## DATA

To test the model, I created a dataset containing information about every regular constituency-level parliamentary election in Ghana in the 2008 and 2012 electoral cycles. Data on ballot rejections were collected from the regional offices of the Electoral Commission.<sup>7</sup> In addition, I collected data on other aspects of the parliamentary elections, including the name and party affiliation of the incumbent MP; the number of years the party of the incumbent MP had held the constituency seat; whether the incumbent MP was a minister or deputy minister; the number of candidates contesting the seat; the size of the constituency; the number of voters registered; the election results; the name and party affiliation of the MP-elect; whether the constituency was urban or rural; education and literacy rates; employment rates and the rates of people employed by the

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7 Kumasi, Sunyani, Cape Coast, Koforidua, Accra, Tamale, Bolgatanga, Wa, Ho, and Sekondi-Takoradi.

government; mobile ownership rates; the rates of people belonging to different ethnic groups, etc. Data were extracted from official election results, the 2010 Population and Housing Census, and media coverage of the elections.

To create the dataset, I had to make several adjustments. First, district-level data (from the 2010 Population and Housing Census) were applied to all constituencies within a district, meaning that the literacy and employment rates for district A were applied to all constituencies in district A. Second, data from the 2010 Population and Housing Census were applied to both election years in my dataset, meaning that the literacy and employment rates for 2010 were applied to both 2008 and 2012. Finally, data from 'parent' constituencies that were split before the 2012 elections were applied to all 'offspring' constituencies. I recognise that the adjustments violate the assumed independence of observations. Therefore, I exclude the affected cases when I test the robustness of my results. I capture the temporal dimension of my data by including election year dummy variables in my models. The appendix contains an overview of the main variables and summary measures.

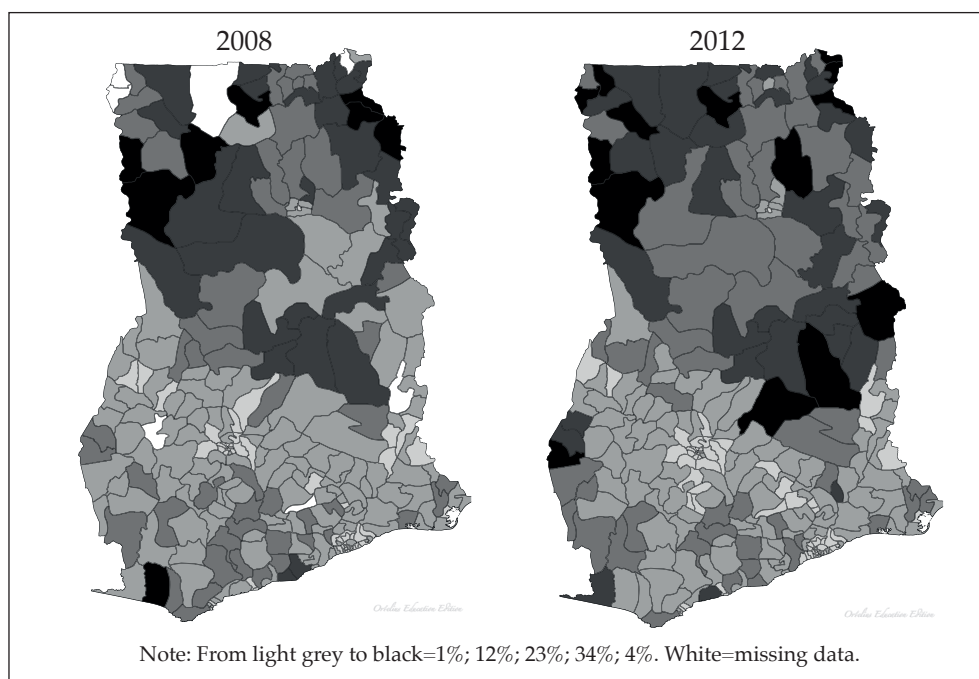
## ANALYSIS

In the following analysis I test my model against the dataset described above. As a first cut, I visually inspect the patterns. Figure 1 maps the number of ballots rejected, relative to the number of ballots cast in the 2008 and 2012 parliamentary elections. The darker the constituency, the more ballots were rejected. White indicates that data were unavailable.

There are two noteworthy findings. First, more ballots were rejected in the three northern regions (Northern, Upper East, and Upper West), where literacy, employment and mobile ownership rates were among the lowest in the country.<sup>8</sup> This underlines the importance of controlling for voter error in my models. Second, visibly fewer ballots were rejected in the Ashanti and the Volta regions, the electoral strongholds of the NPP and the NDC respectively. This suggests that electoral uncertainty has a positive effect on the number of ballots rejected.

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8 In the three northern regions, the average education rate is 49%, while the average mobile ownership rate is 14%. In the remaining seven regions (Ashanti, Brong Ahafo, Central, Eastern, Greater Accra, Volta, and Western), the average education rate is 81%, while the average mobile ownership rate is 34%.



**Figure 1: Map of ballots rejected in parliamentary elections**

### *Variables and Model: Regression Analysis*

As the dependent variable, I use *Parliamentary ballots rejected*, which counts the number of ballots rejected. It ranges from zero to 5 590, the highest number of ballots rejected in any election in my dataset (the 2008 election in Ellembele). Data were collected from the Electoral Commission. No further adjustments were necessary.

My model suggests that MPs rig elections in the grey zone when they fear electoral defeat and have deep clientelist networks, which means they can distribute goods to co-opt election officers and deploy and maintain polling agents to monitor and enforce compliance during the counting. To capture the first factor, the MPs' fear of electoral defeat, I use *Parliamentary win-margin<sub>t-1</sub>*, which measures the win-margin in the last parliamentary election. Past win-margins have been used as a measure of electoral confidence in other studies, and, in the context of information scarce environments, where pre-election polls are either unavailable or unreliable, have been found to perform better than other measures (Eibl & Lynge 2017). MPs in Ghana will most certainly use all information available to them when they gauge their electoral prospects. I simply argue that the informational weight they give to past win-margins is higher than the weight

they give to other sources, which means they follow a pattern of Bayesian learning under conditions of limited information.

To capture the second factor, their clientelist networks, I use *MP party tenure duration*, which counts the number of years the party of the incumbent MP has held the constituency seat. My assumption is that the longer a party has held a constituency seat, the more established are the party's clientelist networks. This assumption is supported by a large body of research, arguing that clientelism increases when there is limited party competition (e.g., Della Porta 2004; Heidenheimer & Johnston 2002),<sup>9</sup> including a few studies that have specifically examined the effect of party tenure duration. Zeng (2019, p. 76), for example, in a comparative study of 30 African countries drawing on Afrobarometer data, finds that party tenure duration is positively correlated with the distribution of personalised and club goods, leading him to the conclusion that 'lengthy party duration makes the promise of distributing selective goods more credible and facilitates the politicization of bureaucracy and other state resources essential for clientelist exchanges'. Paget (2014) comes to similar conclusions in his case study of the Multiparty Movement for Democracy (MMD) in Zambia. In the year after winning the first multiparty elections in 1991, the MMD's 'infrastructure was anaemic, unable to effectively access resources or reach out to votes to mobilise support' (ibid., p. 154). However, after the 2001 elections, when the party's vote share dropped to 29%, the MMD responded by 'shifting its electoral base away from urban areas that proved elusive and malcontented, towards rural areas where the party could channel state resources into patron-client relationships' (ibid., p. 163).

While these studies have focused on party competition and clientelism at national level, the argument may be extended to include constituency level, certainly in the context of Ghana. In Ghana, local politics is dominated by the MP and the district chief executive (DCE). The MPs derive their mandate from the local party branches and voters more generally. The district chief executives are appointed by the president, but they require approval by the District Assemblies where the MPs are *ex officio* members, which means they also tend to 'emerge from within the party's local branch' (Driscoll 2018, p. 408). The MPs have access to funds through the District Assemblies Common Fund (DA CF),<sup>10</sup> but the DCEs control the district administration, and hence most of the local level spending and patronage jobs. This means the MPs and the DCEs must cooperate to optimise their party machines. However, even when they do not, meaning when they represent different parties, opposition MPs are still able to maintain considerable

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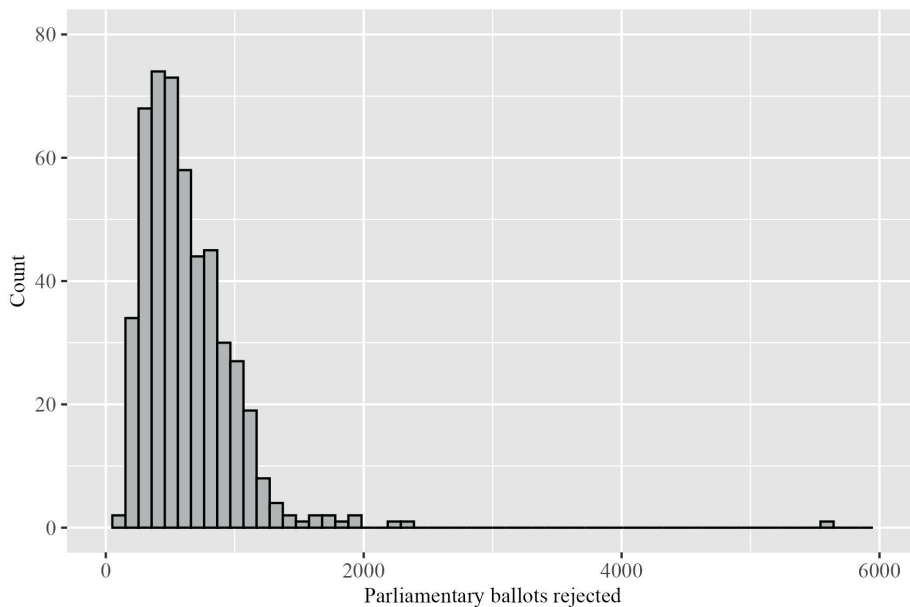
<sup>9</sup> I recognise that some studies have reached the opposite conclusion (e.g., Driscoll 2018).

<sup>10</sup> In 2020, the MPs share of the DA CF amounted to GHC 420 000 (USD 75 000) for each MP (Suhuyini et al. 2023, p. 2)

clientelist networks. With three alternations of power since 2000, they can make credible promises about future goods especially in party strongholds, where the relationships between parties and voters have been forged over multiple electoral cycles. With resources MPs can build clientelist networks. However, it takes time and most likely multiple parliamentary candidates to perfect them and develop the norms that drive some election officers to silently rig the elections in favour of the incumbent MP.

The interaction between *Parliamentary win-margin<sub>t-1</sub>* and *MP party tenure duration* captures the conditional effect. All data were extracted from official election results.

A party's clientelist networks may suffer shocks when the incumbent MP decides to run as an independent candidate. To control for this, I include *MP running independent*, which indicates whether the incumbent MP ran as an independent candidate. The number of ballots rejected captures both electoral manipulation and unintentional violations of the electoral laws, caused by voter error or errors by the election officers (Challú et al. 2020). I use three different variables to control for this: *Population literate*, which measures the fraction of the constituency population that was literate; *Population employed*, which measures the fraction of the constituency population that was employed; and *Population with a mobile*, which measures the fraction of the constituency population that owned a mobile phone. Data were extracted from the 2010 Population and Housing Census. Census data are available only at district-level. Some districts contain more than one constituency. In those cases, I had to apply district-level census data to all constituencies within a given district. Also, I had to apply data from 2010 to parliamentary elections in both 2008 and 2012. This violates the assumed independence of observations. I therefore use an alternative control variable, when I test the robustness of my results: *Constituency metropolitan*, which indicates whether the constituency was in one of the six metropolitan districts. *Constituency metropolitan* is closely correlated with *Population literate*, *Population employed*, and *Population with mobile*, and captures many of the same underlying dynamics. The marginal direct benefit of electoral manipulation depends on the number of voters registered. In constituencies with more voters registered, the parliamentary candidates must steal more votes to change the electoral outcome, making expensive retail manipulation less attractive. To control for this, I include *Voters registered (log)*, which provides the natural logarithm of the number of voters registered in the constituency. Finally, there may be temporal shocks in my data caused by the 2008 presidential election, which was very close. To control for this, I include an election-year dummy variable, with 2008 as the reference category.



Note: Data extracted from official election results

**Figure 2: Histogram of parliamentary ballots rejected**

Figure 2 provides a histogram of the dependent variable. It shows that it is bounded below zero and positively skewed, meaning that in most constituencies, relatively few ballots are rejected. This suggests that a linear least square model would be inappropriate. Instead, I use a negative binomial model, which is the appropriate model for over-dispersed, event count data (event count data where the variance is greater than the mean). Failure to account for over-dispersion could bias the standard errors downwards (Long 1997). Note that the negative binomial model assumes the mean differs from the variance. It captures the difference by estimating a dispersion parameter that is held constant in the Poisson model, which is the model most often used for event count data. The Poisson model is therefore nested in the negative binomial model. The fully specified model looks as follows:

$$E(Y) = \beta_0 + \beta_1 \text{MP party tenure} + \beta_2 \text{Parliamentary win margin}_{(t-1)} + \beta_3 \text{MP party tenure} \times \text{Parliamentary win margin}_{(t-1)} + \beta_4 X + \varepsilon + \text{offset}(\log(\text{Parliamentary ballots cast}))$$

where  $\beta_0$  is the constant;  $\beta_4 X$  is a vector of control variables; and  $\varepsilon$  is the error term. Following Brambor et al. (2006), I include the constitutive terms of the interaction variable, although I do not necessarily expect any independent effect

of *Parliamentary win-margin*<sub>t-1</sub>. Also, note that the model offsets the number of registrations challenged by the number of voters registered, which means it estimates the dependent variable as fraction.

### Results

The results are reported in Table 2. Model 1 maximises the goodness of fit (minimises Akaike's Information Criterion). Model 2 includes all control variables. Model 3 replaces *Population literate*, *Population employed*, and *Population with mobile* with *Constituency metropolitan*. Model 4 excludes the interaction term. The results are consistent with my model. *MP party tenure duration* is positive and statistically significant in all models, while the interaction between *MP party tenure duration* and *Parliamentary vote-margin*<sub>t-1</sub> is negative and statistically significant. In other words, more ballots were rejected when the last election was won by a smaller margin and the party of the incumbent MP had held the constituency seat for more years. As expected, *Population literate*, *Population employed*, and *Population with mobile* are negative and statistically significant in all models, where included, as is *Constituency metropolitan*. This confirms the effect of voter error. Finally, *Voters registered (log)* is negative and statistically significant in all models, suggesting that miscounting is less attractive in constituencies with fewer voters registered, while *MP running independent* is positive and statistically significant, implying that it is more attractive when the incumbent MP ran as an independent candidate, whether because the incumbent MP brings the clientelist networks of their former party or because it drives the new parliamentary candidate to rig the elections.

**Table 2: Regression results**

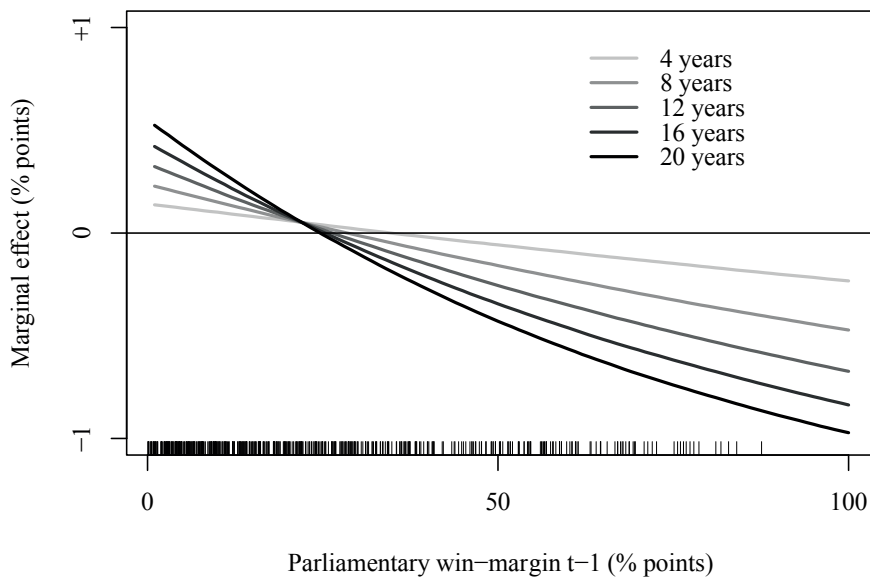
Models	(1)	(2)	(3)	(4)
<b>Parliamentary ballots rejected</b>				
MP party tenure duration	<b>0.013**</b>	<b>0.013**</b>	<b>0.014**</b>	0.002
	(0.005)	(0.005)	(0.007)	(0.004)
Parliamentary win-margin <sub>t-1</sub>	0.421	0.391	0.051	<b>-0.392***</b>
	(0.302)	(0.318)	(0.381)	(0.103)
MP running independent	<b>0.248*</b>	<b>0.249*</b>	<b>0.346**</b>	0.218
	(0.142)	(0.142)	(0.171)	(0.143)

Population literate	-1.103***	-1.102***		- 1.089***
	(0.318)	(0.318)		(0.321)
Population employed	-1.347***	-1.347***		-1.429***
	(0.503)	(0.503)		(0.506)
Population with mobile	-2.567***	-2.563***		-2.555***
	(0.262)	(0.262)		(0.264)
Constituency metropolitan			-0.691***	
			(0.074)	
Voters registered (log)	-0.109**	-0.110**	-0.478***	-0.115**
	(0.053)	(0.053)	(0.054)	(0.053)
2012		-0.012	-0.061	
		(0.040)	(0.049)	
MP party tenure duration x Parliamentary win-margin <sub>t-1</sub>	-0.061***	-0.059***	-0.057**	
	(0.021)	(0.022)	(0.027)	
Constant	-0.763	-0.742	1.203**	-0.508
	(0.664)	(0.667)	(0.590)	(0.664)
N	505	505	505	505
AIC	6,959.991	6,961.903	7,156.597	6967

Notes: Negative binomial models. Standard errors in parenthesis.

\*p<0.10, \*\*p<0.05, \*\*\*p<0.01.

Figure 3 plots the marginal effect of *Parliamentary win-margin*<sub>t-1</sub> for different values of *MP party tenure duration*. The coefficients are extracted from model 1 in Table 5.2 (see appendix), which produces the best goodness of fit. The figure shows that for values of *MP party tenure duration* between four and eight, the marginal effect of *Parliamentary win-margin*<sub>t-1</sub> is below 0.5% point, across the range of the variable. For values between 16 and 20, the marginal effect is around 1.5% points in a 'typical' constituency, with 52 000 registered voters and a voter turnout around 75%, that is 585 votes. By comparison, there are 29 cases (6%) in my dataset, where the win-margin was below 585 votes.



Notes: Coefficients extracted from Model 1 in Table 2

**Figure 3: Marginal effect of interaction**

### *Robustness Tests*

The appendix contains several robustness tests which further explore the data. First, I replace *MP party tenure duration* with the interaction between *MP tenure duration* and *MP running*, which counts the number of years the incumbent MP has held a constituency seat and indicates whether they ran for re-election; and with *Minister running*, which indicates whether a minister or deputy minister contested the election (Table 5 in the appendix). Second, I replace *Parliamentary win-margin<sub>t-1</sub>* with *Presidential vote-margin<sub>t-1</sub>*, which measures the vote margin between the NDC and the NPP presidential candidates in the last presidential election in the constituency (Table 5 in the appendix). Given the presence of independent candidates, it is possible that the MPs use the win-margin in the last presidential election as a more accurate reflections of the popularity of the two dominant parties. Third, I introduce the following, additional control variables: *Candidates*, which counts the number of parliamentary candidates contesting the election; *Constituency size*, which measures the size of the constituency in squared kilometres; *Ethnic voters*, which measures the fraction of the constituency population that is Akan and Ewe; *Ethnic fractionalisation*, which provides the (one minus the) Herfindal index score for the nine ethnic groups used in the 2010 Population and Housing Census; and *Ethnic polarisation*, which the Montalvo and Reynal-Querol (2005a; 2005b) index score also provides for the nine ethnic

groups used in the census (Table 6 in the appendix). Finally, I exclude elections where the adjustments made to the data violate the assumed independence of observations (Table 7 in the appendix).

The results are almost identical to the results in Table 2. *MP party tenure duration* is positive and statistically significant in all models, where included, while the interaction between *MP party tenure duration* and *Parliamentary win-margin<sub>t-1</sub>* is negative and statistically significant. Similarly, *Population literate*, *Population employed*, and *Population with mobile* are negative and statistically significant, as is *Voters registered (log)*. Note that the interaction between *MP tenure duration* and *MP running* and *Minister running* are not statistically significant. In other words, it appears to be the clientelist networks of the parties, rather than those of the incumbents, that enable them to co-opt election officers.

### *Alternative Interpretations*

In this section, I briefly consider three alternative interpretations. The first is that the results are driven not by election officers who reject ballots correctly cast in favour of the challenger, but by election officers who count wrongly cast ballots in favour of the incumbent MP. This could explain why fewer ballots are rejected in constituencies with lower levels of electoral uncertainty. Votes represent capital and the incumbent MP would prefer to win by large margin. While I cannot rule out this possibility, I do not believe it is the primary explanation. If so, I would expect the distribution of *Parliamentary ballots rejected* to be negatively skewed; i.e. the mean should be lower than the median. As Figure 2 demonstrated, this is not the case. On the contrary, the distribution is positively skewed, meaning the outliers are located above the mean and the median.

The second interpretation is that the election officers contribute to the rigging not by selectively rejecting ballots during the counting but by looking the other way when agents of the incumbent MP destroy ballots before they are counted. While this certainly contributes to the results, I do not believe it is the primary driver. The agents are not allowed to touch the ballots before they are counted, and when they do, it is usually challenged by other agents or election observers. By contrast, the election officers are required to reject wrongly cast ballots and during any given counting there are many genuine grey zone cases.

The final alternative interpretation is that the results are entirely driven by voter error. All measures of electoral manipulation are liable to bias. The one I use in this paper is no exception. Ballot rejections capture both electoral manipulation (possibly even multiple types of electoral manipulation) and unintentional violations of the electoral laws. I have tried to address this bias by using multiple and different control variables. However, illiteracy, inexperience, and misinformation, certainly still contribute to the results.

## CONCLUSION

This paper has examined miscounting, one of the subtler ways in which political candidates can rig elections. It has shown that the effect of electoral uncertainty on miscounting is conditional on resources. All political candidates who fear electoral defeat have an incentive to rig. However, only political candidates with established clientelist networks can choose this specific type of electoral manipulation. The model proposed in this paper is restricted to parliamentary elections in FPTP systems, where the interests of the parliamentary candidates tend to take precedence over those of the presidential candidates, and where electoral manipulation is an option. That being said, the basic arguments about risks, direct costs, and resources, should apply also to other elections, including parliamentary elections in proportional representation systems and in presidential elections. Future research should explore this further.

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## APPENDIX

**Table 3: Ballots rejected in recent parliamentary elections in Africa**

Country	Year	Constitutional system	Electoral system for parliament	Ballots rejected (% of ballots cast)
Angola	2017	Presidential	List PR	3.9
Benin	2003	Presidential	List PR	13.8
Botswana	2014	Parliamentary	FPTP	1.2
Burkina Faso	2020	Semi-presidential	List PR	4.8
Burundi	2015	Presidential	List PR	4.2
Cameroon	2013	Presidential	Parallel	4.4
Cape Verde	2021	Semi-presidential	List PR	2.4
<b>Central African Republic</b>	<b>2016</b>	<b>Presidential</b>	<b>TRS</b>	<b>4.7</b>
Chad	1997	Presidential	PBV	3.3
Comoros	2020	Presidential	TRS	4.6
Congo-Brazzaville	2017	Presidential	TRS	2.2
Congo-Kinshasa	2011	Semi-presidential	NA	4.1
Cote d'Ivoire	<b>2021</b>	<b>Presidential</b>	<b>FPTP</b>	<b>4.2</b>
Djibouti	2013	Semi-presidential	PBV	1.8
Equatorial Guinea	2004	Presidential	List PR	0.4
Eritrea	NA	One-party	NA	NA
Eswatini	NA	Monarchy	FPTP	NA
Ethiopia	NA	Parliamentary	FPTP	NA
Gabon	NA	Presidential	TRS	NA
Gambia	2007	Presidential	FPTP	0.0
Ghana	2020	Presidential	FPTP	1.6
Guinea	2020	Presidential	Parallel	4.2
Guinea-Bissau	2019	Semi-presidential	List PR	6.5
Kenya	2017	Presidential	FPTP	2.0
Lesotho	2017	Parliamentary	MMP	1.0
Liberia	2017	Presidential	FPTP	5.1
Madagascar	2014	Semi-presidential	FPTP	4.7

<b>Malawi</b>	<b>2014</b>	<b>Presidential</b>	<b>FPTP</b>	<b>1.4</b>
<b>Mali</b>	<b>2020</b>	<b>Semi-presidential</b>	<b>TRS</b>	<b>4.5</b>
<b>Mauritania</b>	<b>2018</b>	<b>Semi-presidential</b>	<b>TRS</b>	<b>31.6</b>
Mauritius	2010	Parliamentary	PBV	0.9
Mozambique	2019	Presidential	List PR	10.4
Namibia	2009	Presidential	List PR	1.3
Niger	2020	Semi-presidential	List PR	7.6
<b>Nigeria</b>	<b>2003</b>	<b>Presidential</b>	<b>FPTP</b>	<b>3.2</b>
Rwanda	2018	Presidential	List PR	0.2
Sao Tome and Principe	2018	Semi-presidential	List PR	4.1
Senegal	2017	Semi-presidential	Parallel	0.8
Seychelles	2020	Presidential	Parallel	2.7
<b>Sierra Leone</b>	<b>2018</b>	<b>Presidential</b>	<b>FPTP</b>	<b>7.4</b>
Somalia	1984	Parliamentary	NA	0.1
South Africa	2019	Parliamentary*	List PR	1.3
Sudan	2015	Presidential	Parallel	8.3
<b>Tanzania</b>	<b>2005</b>	<b>Presidential</b>	<b>FPTP</b>	<b>5.3</b>
<b>Togo</b>	<b>2018</b>	<b>Presidential</b>	<b>TRS</b>	<b>6.3</b>
<b>Uganda</b>	<b>2016</b>	<b>Presidential</b>	<b>FPTP</b>	<b>4.9</b>
<b>Zambia</b>	<b>2021</b>	<b>Presidential</b>	<b>FPTP</b>	<b>2.3</b>
<b>Zimbabwe</b>	<b>2013</b>	<b>Presidential</b>	<b>FPTP</b>	<b>1.9</b>
Mean				6.4

Notes: The table includes the last parliamentary elections in each country for which data on ballot rejections were available. Elections in bold are elections in countries with political and electoral systems similar to Ghana's. FPTP=First-past-the-post; List PR=List proportional representation; Parallel=Parallel system; PBV=Party block vote; TRS=Two-round system. Data from International IDEA (2016).Data from International IDEA (2016).

\* South Africa has a president who is elected by parliament.

**Table 4: Descriptive statistics**

Variable name	Variable description	Mean	SD	Min	Max	N
Election year 2012	Variable indicating whether the election year was 2012	0.545	0.499	0	1	505
Ethnic fractionalisation*	Variable measuring the level of ethnic fractionalisation	0.423	0.217	0.024	0.852	503
Ethnic polarisation*	Variable measuring the level of ethnic polarisation	0.571	0.222	0.048	0.901	503
Population educated	Variable indicating the fraction of the constituency population with primary education	0.740	0.161	0.290	0.948	505
Population employed	Variable indicating the fraction of the constituency population that is economically active	0.522	0.060	0.333	0.711	505
Population with mobile	Variable indicating the fraction of the constituency population that owns a mobile phone	0.293	0.147	0.055	0.718	503
Constituency metropolitan	Variable indicating whether the election was in a sub-metro	0.121	0.326	0	1	505
Constituency size km2	Variable indicating the size of the constituency	1,006	1,220	0,016	10,831	505
Voters registered	Variable counting the number of voters registered for the election	52,500	25,381	12,082	185,627	505
Parliamentary win-margin <sub>t-1</sub>	Variable indicating the difference, in votes, between the winner and the runner-up in the last parliamentary election	9,842	9,951	13	55,506	505

Presidential vote margin <sub>t-1</sub>	Variable indicating the difference, in votes, between the candidate with the most votes and the candidate with the second most votes in the last presidential election	11,420	10,621	12	60,360	505
MP party	Variable indicating the party of the incumbent MP (1=NDC; 2=NPP; 3=PNC; 4=CPP; 5=Independent)	1.600	0.653	1	5	505
MP party tenure duration	Variable counting the number of years the party of the incumbent MP had held the constituency seat	11.747	5.279	4	20	505
MP running	Variable indicating whether the incumbent MP ran for re-election	0.681	0.466	0	1	505
MP running independent	Variable indicating whether the incumbent MP ran for re-election as an independent candidate	0.018	0.132	0	1	505
Minister running	Variable indicating whether a minister or deputy minister contested the seat	0.150	0.358	0	1	505
Candidates	Variable counting the number of candidates running	4.707	1.291	2	9	505
Parliamentary ballots cast	Variable counting the total number of ballots cast in parliamentary election	39,398	18,467	9,409	118,814	505
Parliamentary ballots rejected	Variable counting the number of ballots rejected in parliamentary election	628	395	0	5,590	505
Parliamentary votes NDC	Variable counting the number of votes for the NDC parliamentary candidate	17,574	10,537	0	77,837	505

Parliamentary votes NPP	Variable counting the number of votes for the NPP parliamentary candidate	18,379	12,535	0	65,978	505
Parliamentary votes other	Variable counting the number of votes for other parliamentary candidates	2.817	3.827	0	34.950	505
Parliamentary win-margin	Variable indicating the difference, in votes, between the winner and the runner-up	9.379	10.289	3	73.715	505

\* Montalvo and Reynal-Querol (2005a; 2005b).

**Table 5: Alternative independent variables**

	(1)	(2)	(3)
	<b>Parliamentary ballots rejected</b>		
MP tenure duration	-0.007		
	(0.014)		
MP running	-0.198		
	(0.139)		
Minister running		-0.064	
		(0.083)	
Parliamentary win-margin <sub>t-1</sub>	<b>-1.056***</b>	<b>-0.417***</b>	
	(0.377)	(0.103)	
MP party tenure duration			<b>0.013**</b>
			(0.006)
Presidential vote-margin <sub>t-1</sub>			0.242
			(0.243)
MP running independent			<b>0.259*</b>
			(0.142)
Population literate	<b>-0.890***</b>	<b>-1.083***</b>	<b>-1.079***</b>
	(0.319)	(0.321)	(0.322)
Population employed	<b>-1.309***</b>	<b>-1.391***</b>	<b>-1.346***</b>
	(0.500)	(0.506)	(0.505)
Population with mobile	<b>-2.646***</b>	<b>-2.552***</b>	<b>-2.592***</b>
	(0.262)	(0.264)	(0.265)
Voters registered (log)	<b>-0.125**</b>	<b>-0.119**</b>	<b>-0.127**</b>
	(0.052)	(0.053)	(0.053)
MP tenure duration × MP running	0.023		
	(0.017)		
MP tenure duration × Parliamentary win-margin <sub>t-1</sub>	0.046		
	(0.042)		

MP running × Parliamentary win-margin <sub>t-1</sub>	<b>0.742*</b>		
	<b>(0.438)</b>		
MP tenure duration × MP running × Parliamentary win-margin <sub>t-1</sub>	-0.039		
	(0.052)		
Minister running × Parliamentary win-margin <sub>t-1</sub>		0.265	
		(0.263)	
MP party tenure duration × Presidential vote-margin <sub>t-1</sub>			<b>-0.043**</b>
			<b>(0.017)</b>
Constant	-0.517	-0.494	-0.569
	(0.663)	(0.664)	(0.669)
N	505	505	504
AIC	6,961	6,968	6,952

Notes: Negative binomial models. Standard errors in parenthesis.

\*p<0.10, \*\*p<0.05, \*\*\*p<0.01.

**Table 6: Alternative control variables**

	(1)	(2)	(3)	(4)
	<b>Parliamentary ballots rejected</b>			
MP party tenure duration	<b>0.013**</b>	<b>0.013**</b>	<b>0.014**</b>	<b>0.014**</b>
	<b>(0.005)</b>	<b>(0.005)</b>	<b>(0.005)</b>	<b>(0.005)</b>
Parliamentary win-margin <sub>t-1</sub>	0.448	0.421	0.406	0.418
	(0.302)	(0.302)	(0.303)	(0.303)
MP running independent	0.195	<b>0.248*</b>	0.259*	0.247*
	(0.144)	(0.142)	(0.142)	(0.142)
Population literate	<b>-0.958***</b>	<b>-1.104***</b>	<b>-1.479***</b>	<b>-1.102***</b>
	<b>(0.328)</b>	<b>(0.325)</b>	<b>(0.503)</b>	<b>(0.319)</b>
Population employed	<b>-1.314***</b>	<b>-1.346***</b>	<b>-1.306***</b>	<b>-1.299**</b>
	<b>(0.501)</b>	<b>(0.504)</b>	<b>(0.503)</b>	<b>(0.517)</b>
Population with mobile	<b>-2.656***</b>	<b>-2.568***</b>	<b>-2.409***</b>	<b>-2.547***</b>
	<b>(0.265)</b>	<b>(0.266)</b>	<b>(0.303)</b>	<b>(0.265)</b>
Voters registered (log)	<b>-0.130**</b>	<b>-0.109**</b>	<b>-0.113**</b>	<b>-0.109**</b>
	<b>(0.054)</b>	<b>(0.053)</b>	<b>(0.053)</b>	<b>(0.053)</b>
Candidates	<b>0.028*</b>			
	<b>(0.016)</b>			
Constituency size km2		-0.001		
		(0.002)		
Ethnic supporters			0.102	
			(0.110)	
Ethnic fractionalisation				-0.035
				(0.104)
MP party tenure duration × Parliamentary win-margin <sub>t-1</sub>	<b>-0.062***</b>	<b>-0.061***</b>	<b>-0.061***</b>	<b>-0.062***</b>
	<b>(0.021)</b>	<b>(0.021)</b>	<b>(0.021)</b>	<b>(0.021)</b>
Constant	-0.777	-0.763	-0.549	-0.775
	(0.663)	(0.664)	(0.700)	(0.666)
N	505	505	505	505
AIC	6,958	6,961	6,961	6,961

Notes: Negative binomial models. Standard errors in parenthesis.

\*p<0.10, \*\*p<0.05, \*\*\*p<0.01.

**Table 7: Subset**

	(1)	(2)	(3)
	<b>Parliamentary ballots rejected</b>		
MP party tenure duration	<b>0.014**</b>	<b>0.014**</b>	<b>0.015**</b>
	(0.006)	(0.006)	(0.008)
Parliamentary win-margin <sub>t-1</sub>	0.529	0.415	0.167
	(0.332)	(0.345)	(0.423)
MP running independent	<b>0.280**</b>	<b>0.285**</b>	<b>0.373**</b>
	(0.138)	(0.138)	(0.172)
Population literate	<b>-1.112***</b>	<b>-1.100***</b>	
	(0.342)	(0.341)	
Population employed	<b>-1.873***</b>	<b>-1.896***</b>	
	(0.546)	(0.547)	
Population with mobile	<b>-2.776***</b>	<b>-2.769***</b>	
	(0.273)	(0.273)	
Constituency metropolitan			<b>-0.714***</b>
			(0.077)
Voters registered (log)	-0.023	-0.023	<b>-0.437***</b>
	(0.058)	(0.058)	(0.062)
2012		-0.048	-0.074
		(0.042)	(0.053)
MP party tenure duration × Parliamentary win-margin <sub>t-1</sub>	<b>-0.078***</b>	<b>-0.071***</b>	<b>-0.071**</b>
	(0.024)	(0.025)	(0.031)
Constant	<b>-1.377*</b>	<b>-1.350*</b>	0.762
	(0.731)	(0.730)	(0.678)
N	420	420	420
AIC	5,759.118	5,759.867	5,946.994

Notes: Negative binomial models. Standard errors in parenthesis.

\*p<0.10, \*\*p<0.05, \*\*\*p<0.01.

# ENSURING PEACEFUL ELECTIONS IN GHANA

## *The Role of Civil Society Organisations in the 2020 Elections*

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### ABSTRACT

*This paper explores the role civil society organisations (CSOs) play in promoting peaceful elections in Ghana. Preventing electoral violence is a key factor in the support of functioning democratic societies, and the role of CSOs in promoting peaceful elections continues to grow with each electoral contest. This paper reviews secondary sources to interrogate the questions about the nature, interventions, impact, and challenges of CSOs in Ghana before, during and after general elections. Specifically, the paper examines the 2020 presidential and parliamentary elections using the West Africa Network for Peacebuilding (WANEP) and the Coalition of Domestic Election Observers (CODEO) as case studies. Overall, the recommendations in this study suggest CSOs must build synergies to increase collaboration in order to promote peaceful elections and political transitions. In addition, to strengthen their election observation, civic/voter education, peace promotion and violence monitoring roles through sustainable funding, CSOs in Ghana must review their funding strategies to include donations from non-partisan organisations and individuals. Furthermore, to maintain the integrity of CSOs in Ghana, they must develop internally-built transparency and accountability mechanisms such as legal structures to govern their operations.*

**Keywords:** civil society organisations, peacebuilding, peace and governance, electoral violence

## INTRODUCTION

The 2021 Global Peace Index (GPI) ranks Ghana as the 38th most peaceful country in the world, and the second most peaceful nation in sub-Saharan Africa. The 2021 ranking is an improvement from Ghana's 2019 GPI ranking where Ghana was ranked as the 44<sup>th</sup> most peaceful country in the world, and the fourth most peaceful nation in sub-Saharan Africa. Since the inception of the Fourth Republic in 1992, Ghana has held eight successful elections in 1992, 1996, 2000, 2004, 2008, 2012, 2016 and 2020. The relatively peaceful conduct of these successive elections has made Ghana a beacon of hope for democracy, good governance, peace, and stability in Africa (Issifu 2017).

Historically, Ghana's track record supports claims of relatively peaceful elections, and overall a less hostile security environment. According to Issifu (2017), the country has not experienced any form of large-scale violence or civil war since its independence in March 1957. Since 1992, the country has witnessed relatively peaceful democratic transitions, with political power alternating between an incumbent government and an opposition party. The presidential and parliamentary elections in 2000, 2008 and 2016, for instance, represented the first, second and third time respectively that a democratically-elected incumbent president uninterruptedly handed over power to the opposition political party (Arthur 2010). In other words, the Ghanaian electorates have freely ensured a turnover of government between the two main political parties, the New Patriotic Party (NPP) and the National Democratic Congress (NDC), without large scale violence (*ibid.*).

It is widely acknowledged that civil society organisations (CSOs) have significantly contributed to the country's enviable record of relatively peaceful elections and political transitions (Aubyn 2012). All past eight elections have witnessed the active support and participation of CSOs whose diverse interventions have complemented the work of key election stakeholders such as the Electoral Commission (EC), the National Commission for Civic Education (NCCE), the security agencies, the National Peace Council (NPC) and the National Media Commission (NMC). The role of CSOs in the past eight elections has focused mainly on election observation, civic/voter education and peace promotion, violence monitoring, peace support interventions, media monitoring of hate speech and language use, as well as efforts around manifestos and media monitoring of mis/disinformation and fact-checking (Asante & Osei-Afful 2021).

However, apart from media reports and information on CSO websites, not many systematic studies have been conducted to comprehensively appraise the roles of CSOs during and after elections. This article, therefore, examines the role of CSOs in ensuring peaceful and credible elections in Ghana. It focuses specifically on the 2020 presidential and parliamentary elections using the West

Africa Network for Peacebuilding (WANEP) and the Coalition of Domestic Election Observers (CODEO) as case studies.

While WANEP is a regional peacebuilding organisation with a strong network of CSOs across West Africa, CODEO is an independent and non-partisan network of civil society groups, faith-based organisations and professional bodies which observe Ghanaian elections (WANEP 2023; CODEO 2023). On one hand, WANEP election activities are designed to mitigate election violence through the National Early Warning Systems (NEWS) by monitoring, reporting, analysing, and facilitating responses to incidents which may threaten the peaceful conduct of elections. On the other hand, CODEO's activities focus on promoting free, fair, and transparent elections, preventing electoral fraud, encouraging citizen participation in elections, promoting issue-based campaigns, and enhancing the credibility of electoral outcomes (CODEO 2023). Put together, the election activities of both organisations demonstrate the diverse but unique roles CSOs play in ensuring peaceful elections and democratic transitions in Ghana. Accordingly, this article interrogates their respective roles and challenges during the 2020 elections to inform CSO participation in future elections. The article is guided by the proposition that CSOs have a significant role to play in strengthening the quality of democratic elections in general, and complementing the efforts of state institutions in mitigating election violence and ensuring transparent, free, fair, and peaceful elections.

The article is divided into five different but interrelated sections. The first section provides an overview of elections in Ghana with a specific focus on the 2020 elections. This is followed by a general discussion on CSOs and elections in Ghana in the second section. The third section analyses the roles of WANEP and CODEO during the 2020 elections. The fourth section interrogates the challenges confronting CSOs in their efforts to promote peaceful elections. The last section concludes the discussions with some pragmatic policy recommendations.

## UNDERSTANDING ELECTIONS IN GHANA'S FOURTH REPUBLIC

Throughout democratic societies worldwide, presidential elections are popular, and the risk of violence in presidential elections is high, especially in a hotly competitive contest. Ghana is unique, as mixed assessments of the overall climate of its elections, both municipal and presidential, are often described as relatively peaceful and non-violent. Ghana is among the few African countries that have not 'experienced any form of large-scale violence or civil war since its independence in March 1957. Therefore, the country has often been described at both the local and international levels as an oasis of peace and stability on a continent besieged by conflicts' (Issifu 2017, p. 2).

Table 1: History of Ghana’s Elections

Election Year	President	Political Party
1993-2001	Jerry John Rawlings	NDC
2021- 2009	John Agyekum Kufuor	NPP
2009-2012	John Evans Atta Mills	NDC
2012-2017	John Dramani Mahama	NDC
2017-2020	Nana Akuffo Addo	NPP
2020-Present	Nana Akuffo Addo	NPP

Source: Authors

Historically, the political trends of presidential and parliamentary elections in Ghana since 1992 have yielded eight consecutive general elections resulting in generally peaceful handovers, as indicated in Table 1. The 2020 Ghanaian presidential elections can also be added to the list of relatively peaceful elections, although a minimal number of incidents of violence were reported by both CSOs monitoring the elections and media outlets. According to Asante and Osei-Afful (2021):

Most previously held elections since 1992 were generally assessed to be free, fair and peaceful. Electoral competition, particularly among the two leading political parties, the National Democratic Congress (NDC) and the New Patriotic Party (NPP) is keen, with both parties having roughly equal chances of winning elections. This keen electoral competition has produced three electoral turnovers, with the two main parties alternating power since 1992. A prevailing vibrant media space and an active civil society environment continues to support the electoral process. Peaceful transfer of power since the year 2001 has been the feather in the country’s cup.

However, in Ghana’s election cycle, electoral violence remains protracted, adversely affecting lives and properties. The climate of political elections in Ghana is changing as outbreaks of violent events before, during and after elections increase with each election contest. In the opening executive summary of the recent *Ghana: Freedom in the World 2021 Country World Report* by Freedom House (2021, p. 1), the growing concern regarding electoral violence is clearly expressed:

Since 1992, Ghana has held competitive multiparty elections and undergone peaceful transfers of power between the two main

political parties. Although the country has a relatively strong record of upholding civil liberties...there are some weaknesses in judicial independence and the rule of law, corruption presents challenges to government performance, and political violence is a growing concern.

The same concern is echoed in Badasu's research (2018, p.1) where he points out that:

Ghana has had several successive presidential and parliamentary elections resulting in peaceful turnovers from one political party to another, and other intervening elections such as by-elections, re-runs, district level and internal political party contests. However, none of these elections have been conducted without some forms of violence, and the violent incidents keep intensifying with increasing competitive election.

Similarly, according to the Center for Democratic Development (CDD-Ghana) none of the eight consecutive elections have been conducted without some form of violence, and the violent incidents keep intensifying with increasing competition. Aside the national level elections, Ghana has also experienced violence connected to other subnational electoral process. For example, during a constituency election held on 31 January 2019, there was an outbreak of violence in the Ayawaso-West Wogon district in the Greater Accra region of Ghana. According to the 2019 Civil Society Organization Sustainability Index report (p. 20), 'Chaos erupted when masked vigilante groups wearing uniforms of national security forces and allegedly allied with the ruling party invaded some polling stations and attacked suspected opponents, injuring twenty-six people'.

However, the violent incidents experienced overall during Ghana's elections cannot be compared to those that happen in many other countries in Africa, especially West Africa, such as Côte d'Ivoire and Guinea. For instance, in Côte d'Ivoire more than 50 people were reportedly killed in street clashes and violent episodes after the recent controversial presidential election in October 2020 (Human Rights Watch 2020a). Similarly, in Guinea, more than two dozen people were reportedly killed after the country's hotly contested elections on 18 October 2020 (Human Rights Watch 2020b). In both countries, the violence in the streets fueled vitriolic speech among the electorate and problematised the democratic process of free and fair elections. In Ghana, however, violence surrounding both presidential and municipal elections has occurred, but many peace and governance experts have described the overall electoral climate as 'docile' when compared to other violent presidential elections on the African continent.

The 2020 elections which are the focus of this article, were held in a very tense political atmosphere due to several contentious issues. These include the EC's decision to compile a new voter register, the phenomenon of political vigilantism, and the sudden outbreak of the COVID-19 pandemic which influenced the conduct of the elections (Asante & Osei-Afful 2021, p. 9). Regarding the voter register for instance, while the NPP supported the EC's compilation of a new register, the NDC disagreed because the party described it as a wasteful expenditure since the EC had an existing register that they found credible (*ibid.*). After a Supreme Court ruling on the matter, the EC went ahead with the voter registration process, but the exercise was marred by violent incidents, tension, and chaos. Beyond the voter registration challenges, the 2020 elections were also characterised by growing concerns over the possible spread of COVID-19 in the electorate, security challenges including secessionists threats in the Volta region, and concerns about security deployment to border regions. The collation of election results also encountered some chaos and violence at collation centres, resulting in the loss of human lives.

Although the results of the presidential election became the subject of an election petition in the Supreme Court for the second time after 2012, a ruling by the court affirmed the EC results in March 2021 (*Citinewsroom* 2021). However, there were a few parliamentary candidates who challenged the outcomes of their constituency elections results with some cases still pending in the courts. The Star Ghana Foundation notes that 'although the 2020 elections were generally peaceful, the incidence of violence at various phases of the electoral process means that a lot more still has to be done to sensitize citizens against electoral violence' (Asante & Osei-Afful 2021). Over the years, electoral violence has clearly become a growing concern which validates the need for CSO interventions to promote peaceful elections, especially in a nation that is viewed as a leading beacon of peace in West Africa.

## CIVIL SOCIETY AND ELECTIONS IN GHANA

CSOs, or non-governmental organisations (NGOs), are defined by the United Nations (2021) as:

any non-profit, voluntary citizens group which is organized on a local, national, or international level. Task-oriented and driven by people with a common interest, civil society organizations (CSOs) perform a variety of services and humanitarian functions, bring citizens' concerns to Governments, monitor policies, and encourage political participation at the community level.

In Ghana, CSOs have a clear and noticeable stance. Krawczyk (2020) notes that Ghanaian civil society is vibrant, with thousands of registered CSOs. While a complete database of registered CSOs is not available, data indicates that over 33 000 organisations were registered between 2000 and 2012, with steady increases in the number of CSOs registering in each of those years (Krawczyk 2020, p. 7). The work of Barnes (2006, p. 8) also emphasises that the role of CSOs in supporting an atmosphere of peace throughout the election process is vitally important:

In an attempt to help ensure sustainable peace in violence prone communities in Ghana, the role of CSOs cannot be overemphasized. In recent years, there has been increased recognition of the role CSOs can play as partners with government and intergovernmental organizations in the conflict resolution and peacebuilding agenda.

Studies regarding the types of CSOs that are prevalent in Ghana, and what introduced the emergence of CSOs specifically in the electoral process, indicate emerging trends. These range from reports of incidences of occasional election-related violence that have increased with each election cycle, to reports of questionable voting practices throughout various polling sites in Ghana. Recounting Ghana's eight consecutive presidential and parliamentary elections since constitutional rule in 1992, the Star Ghana Foundation (2021) reports that in the elections held on 7 December 2020, '...the results management processes including the collation of results and declaration encountered some incidents of crowding, chaos and violence including the loss of some lives'. Hence, CSOs are needed to support the electoral process to ensure violence-free and credible elections.

Generally, the Ghanaian CSOs work in four main categories during elections: service delivery, advocacy, in watchdog roles, and as collaborative partners with the government, engaged in research and planning related to national development (GIZ 2013). Focusing on the roles of CSOs in the advocacy, watch-dog and service-delivery sectors, there are many CSOs in Ghana purely focused on peacebuilding, preventing conflict, election governance, and preventing electoral violence. For example, the West Africa Network for Peacebuilding (WANEP) is a CSO which works throughout West Africa focused on peacebuilding, and advocacy in peace, democracy, and good governance. In Ghana's previous presidential contests, WANEP has been instrumental in voter education by promoting peace before, during and after elections. Equally, the Coalition of Domestic Election Observers (CODEO) is also recognised as an effective front-runner in supporting the promotion of credible and peaceful elections in Ghana. Established in 2000 and composed of 41 organisations drawn

from civic, secular, religious, professional, and non-governmental institutions, CODEO, under the auspices of the Ghana Center for Democratic Development (CDD-Ghana), is focused on supporting and contributing to peaceful elections in Ghana (CODEO 2023).

The emergence of CSOs in the realm of electoral peace promotion is increasing, although the specific number and the rate of the emergence of CSOs is still being quantified. This is an area that continues to evolve and needs more tracking attention. However, the lack of data does not diminish the need for CSOs in promoting peaceful elections in Ghana. Civil society organisations became prominent in the country due to the democratisation process and the quest for enhancing state capacity through a broad-based participatory approach in development. The urgent need for peace, security and development created the environment for civil society to assume critical roles in the democratic process (CODEO 2021). Thus, a democratic process supported by CSOs in promoting peaceful elections is having an impact in Ghana.

CSO interventions in the 2020 elections mirrored traditional areas of support such as election observation, civic/voter education and peace promotion, violence monitoring, peace support interventions, and media monitoring of hate speech and language use (Asante & Osei-Afful 2021). Collectively, the interventions by CSOs such as the Institute for Democratic Governance (IDEG), Institute of Economic Affairs (IEA), CDD, WANEP and CODEO, to name a few, fostered an environment of trust, synergy and motivation among voters, helping to promote peaceful elections. The presence of CSOs throughout communities helped to create harmony and positive sentiments among the electorate. This was effected by building trusted relationships with voters and genuinely engaging with citizens through voter education activities and voter registrations. Building and maintaining trusted relationships with all stakeholders in the electoral cycle has proven to have an impact on the behavior.

CSOs engaged in election observation and monitoring also contributed significantly to the credibility of the process and the prompt resolution of electoral irregularities. CSOs such as CODEO, the Civic Forum Initiative (CFI) and WANEP have over the years become more systematic with the deployment of election observers to the field to help deter fraud and electoral malpractices. For instance, election observers/monitors used Short Messaging Service (SMS) technology and WhatsApp to send instant messages about irregularities to a situation room or data processing centre, which helped to relay timely information directly to the EC officials concerned for prompt redress. The same method was used to track and report incidents involving violence or intimidation to the security agencies for immediate action. The use of eminent persons with influence and convening power to follow up on the reported cases of irregularities to the EC and security agencies helped for a prompt resolution of most of the reported cases at various

places across the country on election day (NPC and WANEP 2020b). Depending on the cases reported, the EC and the security agencies often deployed security personnel, issued press releases, organised press conferences and appealed to the public through the media to manage and resolve the situation.

Several CSOs also developed educational materials and resources including posters, short videos, banners, leaflets, stickers, and t-shirts to promote civic and voter education. Some of these educational materials targeted the youth, women, conflict hotspot communities and people with disability (PWDs) using channels like social media, newspapers, radio, TV, churches, and mosques. CSOs like Media Foundation for West Africa (MFWA) and others used radio, TV and social media platforms like Facebook, WhatsApp, Twitter, and YouTube to educate, inform, track and report on incidents using crowdsourced videos and pictures. The MFWA's monitoring of indecent language on radio, naming, and shaming political actors who had breached electoral rules contributed immensely to reducing the abusive language and personality attacks during the election campaigns (MFWA 2021). The project helped to promote decent language and issue-based discussions by political actors in the media.

In addition, community forums, dialogue sessions, durbars, and radio/TV programmes were organised by CSOs to educate people about why they should vote, how to vote, the use of non-violent approaches to address concerns, avoiding the use of vituperative language, and the consequences of engaging in election violence. All these interventions by CSOs contributed to minimising the high incidence of rejected ballots, violence, vote buying and the politics of insults which had characterised previous elections.

The abuse of incumbency has always been a major issue during elections. These transgressions included free access to media time from the state broadcaster, Ghana Broadcasting Corporation (GBC), abuse of public functions and platforms, access to public facilities, and use of state-funded projects to solicit votes. During the 2020 elections, the advocacy campaigns, tracking, and reporting of various abuses of incumbency by CSOs not only served as a restraint to political actors who planned to use state resources for their private political campaigns. These also helped to promote a more level political playing field for all political parties, and the legitimate use of public resources (Awelana Adda 2020). Organisations such as the Ghana Integrity Initiative (GII), the Ghana Center for Democratic Development (CDD-Ghana) and Ghana Anti-Corruption Coalition (GACC) are some of the key CSOs whose intervention contributed to reducing the abuses of incumbency and electoral corruption to ensure a free, fair, transparent, and peaceful election.

Furthermore, in an effort to thwart election-related conflicts and vigilantism in the 2020 elections, CSOs worked with government agencies to establish plans

and implement interventions at the national and local level. For example, WANEP played a direct role in collaborating with other CSOs in the development of a roadmap and code of conduct to eradicate politically violent vigilante activities. According to Asante & Osei-Afful (2021, p. 17):

... the passage of the Vigilantism and Related Offenses Act (2019), the National Peace Council, worked with some CSOs such as the Institute of Democratic Governance (IDEG), WANEP and CDD on a framework for ending violent vigilantism in the country. These efforts resulted in a Roadmap and Code of Conduct to Eradicate Politically Violent Vigilante Activities which was signed by the NPP in February 2020 and subsequently by the NDC in June 2020 after the party (NDC) raised some initial misgivings about the roadmap including the specific role of key electoral stakeholders in the implementation of the roadmap. The signing of the roadmap and code of conduct committed the two main political parties to the elimination of violent vigilante activities.

The roadmap was not the only key intervention spearheaded by CSOs as an action item toward promoting a peaceful pre-elections climate. CSOs also led the way in supporting a presidential election peace pact (PEPP) on the theme 'Eradicating vigilantism: The role of political parties' that was signed by both frontrunners in the 2020 Ghanaian presidential election (Emmanuel 2020). The objective of the PEPP was to get a firm commitment from the candidates to follow electoral rules and ensure that Ghana should remain peaceful after the election. The Peace Pact which was at the instance of the National Peace Council, the National House of Chiefs, and the National Chief Imam was supported by IDEG and other CSOs such as NORSAAAC.

The PEPP partly contributed to the use of the court system by the main opposition party, the NDC, to challenge the outcome of the 2020 presidential elections at the Supreme Court instead of engaging in widespread violence. Indeed, the acceptance of the Supreme Court verdict by the NDC despite losing the case demonstrated the commitment of the political actors to the objectives of the PEPP. In addition, the significant reduction in political vigilantism before and after the 2020 general elections highlighted the impact of CSOs interventions, although some analysts attributed this reduction to COVID-19 restrictions.

In the post-election period, there were efforts to reduce tension and urge public calm. A number of civil society organisations involved in election programming included IDEG, Civic Forum Initiative (CFI), CDD, Ghana Integrity Initiative (GII), Media Foundation for West Africa (MFWA) and Northern Sector On Action Awareness Centre (NORSAAAC), among others. They utilised the

power of their collective voice to wade into certain post-election developments which they believed had the potential to undermine national peace and security (Asante & Osei-Afful 2021).

## THE ROLE OF WANEP AND CODEO IN THE 2020 ELECTIONS

### *The West Africa Network for Peace building (WANEP)*

The West Africa Network for Peacebuilding (WANEP) is one of the organisations that has for two decades participated directly in promoting a peaceful electoral process. Established in 1998, WANEP is a regional CSO focused on peacebuilding, conflict prevention and providing non-violence education throughout West Africa. Headquartered in Accra, Ghana, the nonprofit organisation was founded by Emmanuel Bombande, a noted Ghanaian peacebuilding practitioner, and Samuel Doe, a Liberian peacebuilding advocate. These two respected founders established WANEP on the heels of the civil wars in Liberia and Sierra Leone; their concern propelled a desire to establish an organisation aimed to ‘prevent, resolve, and transform violent conflicts through collective and coordinated efforts of non-governmental institutions, organizations and individuals actively engaged in peacebuilding’ (WANEP 2022). WANEP has extensive regional reach throughout the West African region, specifically in all 15 member states of the Economic Community of West African States (ECOWAS) (WANEP 2020a):

WANEP has been involved in mediation and peacebuilding initiatives throughout Ghana... and is known for its instrumental role in the formation of the National Peace Council. .

WANEP established a Ghana-focused network, referred to as GHANEP in 2002 (ibid.):

GHANEP seeks to facilitate the creation of a sustainable culture of non-violence, justice, peace, and social reconciliation in Ghanaian communities by ensuring coordination and effectiveness among peacebuilding practitioners in order to avoid duplication of efforts and maximize resources for more effective responses to conflict situations.

In Ghana’s 2020 presidential and parliamentary elections, WANEP together with its partners launched its well-known election situation room (ESR). ESR is a situational analysis platform to observe, report, analyse and facilitate responses to violent threats, voter corruption, compliance to electoral code and human

rights abuses that could threaten the peaceful conduct of the presidential and parliamentary elections. The ESR is a component of the 'Electoral Violence Monitoring, Analysis and Mitigation' project funded by the European Union, with implementing support from the UN Office for West Africa and the Sahel (UNOWAS), and ECOWAS (GNA2020). WANEP worked with the National Peace Council (NPC), NCCE, Star-Ghana and other CSOs, including the Institute for Democratic Governance (IDEG), to operationalise the ESR before, during and after the elections (GNA 2020). The ESR was staffed with both men and women who were trained to monitor, report, and analyse claims of voter intimidation, voting malpractice, violence, and non-compliance with procedural election compliance laws.

The operational setup of the ESR comprised a headquarters in Accra at the Movenpick hotel and three additional satellite monitoring sites in Ho, Kumasi, and Tamale. The central ESR was divided into three sections: the data gathering room, the analysis room, and the decision room to ensure the effectiveness of data collation, analysis, and response to election violence (WANEP 2016; 2020a). The data gathering room constituted the technical room, where data collectors could communicate directly with observers in the field to send data through an online system. For three days, from 6 to 8 December, 350 accredited election observers were deployed across 16 regions of Ghana to areas classified as potential hotspots for electoral-related violence. They provided the early warning information to the data gathering room.

The analysis room was mainly responsible for interpreting the data received from the data gathering room for informed and swift responses and actions by eminent persons in the decision room. The decision room comprised eminent persons of influence who used their good offices to influence positive responses to identified electoral threats.

Aside from these three sections, there was a communication team that focused on crowd sourcing and aggregating data from citizens on social media, namely Twitter and Facebook, for appropriate response. Outside the ESR headquarters, the satellite situation rooms in Ho, Kumasi, and Tamale led by the chair of the NPC in those regions liaised directly with the headquarters in Accra (central situation room) to deliberate and agree on appropriate responses to regional issues that threatened the peaceful conduct of the elections in those regions.

Before and after voting on 7 December 2020, the NPC led several press briefings by the central ESR and the satellite ESRs to present preliminary findings regarding the conduct of polls. Some of the findings included the late arrival of voting materials in some polling stations; the absence, or late arrival of security personnel in some polling stations; cases of verification machine failure in some polling stations; persons arrested for attempting to vote twice; incidents of physical

and verbal abuse among voters in queues and around polling stations; and the disruption of the voting process by voters (NPC & WANEP 2020b). In response to these findings, a delegation of the ESR decision room embarked on preventive diplomacy with key political leaders, the EC and security agencies to discuss solutions to the challenges identified. In most cases, the intervention of the ESR decision room helped to resolve most of the issues identified by the observers in the field and on social media platforms.

The security agencies and the EC were all engaged at some point to intervene in different situations to ensure the peaceful conduct of the elections in the polling station and collation centres across the country. Depending on the nature of the situation, the EC and the security agencies often responded to the reported cases with swift personnel deployments to contain the situation, arrest and detain electoral offenders, issue press releases, organise press conferences and media briefings to address any misinformation or disinformation, and appeal to the public to be law abiding. In other instances, they engaged the leadership and supporters of the concerned political parties and key stakeholders through phone calls and emergency meetings to swiftly resolve the situation in order to mitigate any potential violence.

The public were also encouraged through the press briefings to have faith in the EC to deliver a credible electoral outcome, which helped to reduce political tensions in the country. The press briefings also provided recommendations to the relevant authorities to respond to the issues identified in the voting process. For instance, following the delay in the announcement of the presidential results after 24 hours of voting (from 5 p.m. on 8 December), the ESR decision room, led by the NPC, engaged the EC in a meeting to discuss the reasons for the delays and measures to address them to reduce the political tensions. The outcome of the meeting led to a press conference / release by the EU on the night of December 8 apologising for its inability to declare the election results by 5 p.m. as it had previously promised (*Myjoyonline* 2020). The Commission noted that it was waiting to receive collation results from two remaining regions to enable it to declare the presidential election results. It consequently called on the public to remain calm as the political party agents were reviewing all results prior to certification by the chairperson of the Commission, who is the returning officer for the presidential election (*ibid.*).

In addition, the ESR led by the NPC, worked behind the scenes to resolve issues raised by the National Democratic Congress (NDC) about the Electoral Commission's declaration of the presidential poll results in favour of President Nana Addo Dankwa Akufo-Addo (*Citinewsroom* 2020). The NDC had rejected the results and claimed that it won the presidential and parliamentary elections. The intervention of the eminent persons led by the NPC encouraged the NDC to go

to court to seek redress of its grievances instead of employing violence, to ensure that the country remained peaceful. Overall, the outcome of the ESR operations contributed to the relatively peaceful conduct of the elections despite the isolated cases of violence.

The successful operationalisation of the ESR was partly due to the stakeholder engagements and preparations made prior to the elections in December 2020. Thus, in preparation for the elections, WANEP focused on early warning interventions through various community engagement across the country. In collaboration with the NPC, in September 2020 WANEP established the National Election Response Group (NERG) which comprised eminent persons including representatives from several state and nonstate institutions. These included the NPC, the EC, the NCCE, and STAR-Ghana. The NERG had responsibility for discussing, developing, and recommending response strategies to violent threats to the 2020 elections (Asante & Osei-Afful 2021, p. 17).

WANEP also focused on engaging and educating the youth on the need for peaceful elections. Specifically, in collaboration with the Youth Empowerment Synergy (YES-Ghana) group (recently renamed as the Youth Opportunity and Transformation in Africa organisation (YOTA)), 60 young peace ambassadors were trained and deployed to three regions in northern Ghana ahead of the elections. The peace ambassadors had the responsibility for facilitating communal peace by responding to early warning signs of conflict and mobilising other young persons to promote peace. WANEP also facilitated and trained inter-party youth dialogue committees and women caucuses in eleven constituencies in four northern regions. The intervention sought to promote incident-free elections by providing relevant skills and knowledge to the committee members as agents of dialogue and peace (Star Ghana Foundation 2021). Pre-election peace promotion was also promoted through civic and voter education of various forms.

### *The Coalition of Domestic Election Observers (CODEO)*

In the year 2000, the Ghana Center for Democratic Development (CDD-Ghana) established CODEO, a non-partisan organisation comprising a network of CSOs ranging from professional to faith-based organisations working together to observe elections in Ghana (CODEO 2016). With a focus on preventing electoral violence, CODEO aims to work with Ghana's Electoral Commission to help ensure that elections are peaceful, transparent, and credible. As noted by Badasu (2018), CODEO was primarily formed to provide a complementary role in ensuring credible, peaceful, free, and fair elections in Ghana. Apart from the 1992 and 1996 general elections, CODEO has observed all elections in Ghana since 2000. CODEO, with its principle of impartiality, operates through 42 faith-based CSOs

and professional associations to prevent electoral fraud and violence and to enhance the credibility and acceptability of electoral results in Ghana (Badasu 2018). In addition, CODEO's website states that: 'CODEO is the largest and most organized domestic election observation network in Ghana. CODEO's strategic focus is preventing violence, monitoring, and documenting any reports of electoral violence with all stakeholders in the Ghanaian electoral process'.

In past elections, including Ghana's 2020 presidential election, CODEO prioritised its role in electoral violence prevention by participating in all three phases of the electoral process. According to the report by Asante & Osei-Afful (2021, p. 20) on the 2020 Ghanaian elections, CODEO observed nearly all aspects of the electoral process from voter registration through long-term observation of the pre-election environment to observation of the post-election environment. Beginning with an emphasis on the pre-election environment, observers were trained extensively in identifying 'red-flag' indicators regarding electoral violence, voting discrepancies and other election-related irregularities in communities, constituencies and regions designated as possible flashpoints for violent outbreaks. Working alongside constituency and regional coordinators in the field, CODEO observers followed strict rules in documenting reports of actions regarding multiple actors, political parties and others working closely in the stages before, during and after elections. These eye-witness observations help CODEO board members and partnering stakeholders to effectively plan peace-promoting engagements aimed at preventing violence throughout the electoral process, especially on and after election day.

Furthermore, civic/voter education also received widespread support from various formal and informal civil society groups as part of efforts to enhance election peace. For instance, CDD Ghana and CODEO partnered with the NCCE to roll out a five-to-six-week community-level civic and voter education programme in all 260 districts across the country (Star Ghana Foundation 2021). Additionally, CODEO worked with other entities such as the CDD-Ghana in conducting nationwide activities targeting peace promotion through conflict mediation committees. These engaged directly with voters and conducted activities such as distributing peace board games throughout communities.

Apart from pre-election observation, CODEO mobilised and deployed 4 000 observers across the country to all constituencies in Ghana on election day (Star Ghana Foundation 2021). To enhance the quality of election day observation, election results tabulation transparency, and the credibility of election outcomes, CODEO implemented a Parallel Vote Tabulation (PVT) for the presidential polls (CODEO 2020). The PVT is a powerful citizens' tool for monitoring polling conduct on election day and for verifying official results as announced by the EC. In operationalising the PVT system, CODEO established

a tally headquarters at the Kofi Annan International Peacekeeping and Training Centre (KAIPTC) with a mandate to transmit results from polling stations. The tally headquarters were made available to international observers, selected members of the security agencies, leaders of faith-based organisations, and the Electoral Commission. Using SMS-technology, the tally headquarters at KAIPTC received information from election observers to make precise estimates of the outcome of the presidential polls. Thus, the PVT allowed observers to transmit their findings from polling stations via SMS text messaging to a central database, monitored by data clerks specially trained to process the data at the KAIPTC (CODEO 2020). Apart from enabling observers to provide the public with more accurate and detailed information about the conduct of an election, the PVT helped to independently verify the accuracy of the official presidential results declared by the Electoral Commission.

From voter education to in-field voting observations, CODEO's role in promoting peaceful elections continues to evolve with each election. The organisation's use of best practice and its diligence in maintaining and strengthening key partnerships with voters and election stakeholders, has garnered a credible reputation for it as an impactful CSO in the prevention of electoral violence. 'The attempts by CODEO over the years have contributed positively to Ghana's peaceful atmosphere and international admiration as the doyen of democracy in Africa, with accompanying benefits and international support' (Issifu 2017, p. 2).

### CSO CHALLENGES IN PROMOTING PEACEFUL ELECTIONS

Although it is noted that CSOs contribute to promoting peaceful elections in Ghana, they also face numerous challenges which encompass a wide range of issues. These challenges are both internal and external, as well as those that focus on structural and operational issues.

To start with, there is the major challenge of funding. Though some CSOs have development partners that support them in their projects, they still have the problem of unsustainable funding which impacts their ability to attract and sustain qualified staff. Moreover, there is unnecessary rivalry among CSOs which prevents collaboration, access to information, and how to ensure the recruitment of non-partisan officers for election-related activities (IJON 2017). Additionally, some CSOs face questions surrounding the way they conduct their internal affairs. Thus, they often lack accountability measures and oversight mechanisms, which would ensure that their actions would be regulated by both the state and by the populace (Annan 2013). The lack of legal structures governing the operations of CSOs is problematic for those CSOs trying to ensure a trustworthy public reputation in

order to maintain trusted relationships with stakeholders and, more importantly, the electorate, working together in efforts to promote peaceful elections in Ghana.

CSOs also face security challenges in promoting peace during all phases of the electoral cycle. The pre-election environment in 2020, for example, was characterised by some security challenges including political vigilantism, the COVID-19 pandemic, political intimidation, hate speeches, and secessionists threats to national peace and security. Some CSOs were attacked in the media by political party supporters for speaking out on various issues concerning voter registration and the conduct of the polls. Some members of the ESR led by the NPC were also attacked by NDC supporters after they tried to mediate between the party and the EC over the former's refusal to accept the results of the presidential election.

Furthermore, there is also the challenge of mistrust between political parties and some CSOs. There is a belief that some CSOs exist to pursue the parochial interests of either the ruling government or the opposition party. This belief is held by both government officials and opposition parties; but it becomes more entrenched whenever CSOs make pronouncements or publish research findings that seemingly contradict the positions of any of the political parties. Another key challenge is how to effectively measure the impact of the interventions and actions of CSOs in the electoral process in Ghana. There are inadequate scientific studies and reviews of the various electoral interventions by CSOs and how these interventions influence the electoral process (Claes 2016, p. 198). However, with each electoral cycle and contest, more CSOs are entering the arena, participating in direct electoral peacebuilding actions, and employing various and even renewed interventions toward supporting a culture of peace during all phases of the election cycle.

## CONCLUSION

This article sought to explore the role, contributions, and challenges of CSOs, specifically the West Africa Network for Peacebuilding (WANEP) and the Coalition of Domestic Election Observers (CODEO) in promoting peaceful elections in Ghana. Based on the analysis, it can be concluded that Ghana's track record of conducting peaceful consecutive elections leading to a stable democracy could not have been achieved without the contribution of CSOs. Especially for the 2020 elections, the analysis has shown that the interventions of CSOs like WANEP and CODEO contributed to the relative success of the elections despite isolated cases of violence. There is no doubt that CSOs involved in promoting peaceful elections in Ghana have had an impact in the electoral process and will hopefully continue to make positive contributions toward promoting peaceful elections in the future.

## RECOMMENDATIONS

Based on the challenges faced by civil society organisations in promoting peaceful elections in Ghana, the following recommendations could help address these issues:

- *Diversify funding sources and enhance sustainability*  
CSOs should explore and establish relationships with a variety of funding sources, including international donors, local businesses, foundations, and individual supporters, without compromising their neutrality and objectivity, to reduce dependence on a single source of funding. They must have sustainable fundraising strategies that focus on long-term financial stability, allowing CSOs to plan and execute election-related activities effectively.
- *Promote collaboration and information sharing*  
CSOs should actively seek opportunities for collaboration and partnerships with other CSOs working towards similar goals. This can lead to more effective use of resources and a stronger collective impact. They should establish platforms for regular information sharing and knowledge exchange among CSOs to foster a sense of unity and cooperation. This will help to avoid duplication of efforts, enhance the cost effectiveness of interventions, and maximise the impact of these interventions.
- *Enhance accountability and transparency*  
CSOs should implement robust internal governance structures, including accountability mechanisms and oversight procedures, to ensure that their actions are transparent, ethical, and aligned with their mission. They must engage in regular audits and reporting to demonstrate accountability to both their donors and the public.
- *Government must intensify efforts around conflict prevention*  
There should be effective monitoring of the anti-vigilantism law to identify progress and challenges and how to enhance enforcement where necessary. There should be more sensitisation training with political parties and the public to minimise the violence meted out to CSOs before, during and after elections in Ghana.
- *Advocate for legal framework and regulation*  
CSOs should collaborate with relevant stakeholders, including the government and regulatory bodies, to establish clear legal frameworks and regulations that govern the operations of CSOs. This can help build public trust and credibility. They must proactively participate in the formulation of policies that support the role of CSOs in promoting peaceful elections and democratic processes.

- *Mitigate security challenges*  
CSOs need to prioritise the safety and security of their staff by investing in security training, risk assessments, and contingency plans. They must collaborate with security agencies to ensure a safe environment for both CSO members and the public during election periods.
- *Build trust with political parties*  
CSOs should work on building strong relationships with political parties by engaging in open and transparent dialogue. They must develop clear communication strategies to address concerns of bias or partisanship and showcase the neutral and impartial nature of their work.
- *Conduct impact assessments and research*  
CSOs should invest in rigorous research and impact assessment studies to evaluate the effectiveness of their interventions and their influence on the electoral process. They must publish research findings to demonstrate the value of their work and contribute to the knowledge base of electoral peacebuilding.
- *Capacity building and training*  
CSOs should invest in training and capacity-building programmes for their members to enhance their skills in conflict resolution, election monitoring, communication, and other relevant areas. By having well-trained and qualified staff, CSOs can effectively navigate the challenges they face.
- *Engage in early conflict prevention*  
CSOs should focus not only on responding to conflicts during elections but also on proactive conflict prevention strategies. They must engage with communities, political parties, and relevant stakeholders to address underlying tensions and promote dialogue and understanding.
- *Public awareness and education*  
CSOs should continue to raise public awareness about the importance of peaceful elections through campaigns, workshops, and community engagement initiatives. They should foster a culture of inclusivity, tolerance, and peaceful political participation among citizens.

Overall, these recommendations and the experiences of Ghanaian CSOs can usher in new information that can offer guidance to CSOs in other countries in working toward the best outcome of elections for peaceful democracies. Thus, from a practical perspective, CSOs in other African countries should be looking at what structural factors must be addressed in both the short and long term to replicate the operational interventions that have been highlighted in the Ghanaian context.

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# POLITICAL VIGILANTE VIOLENCE IN GHANA

## *Its Human Rights Implications*

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### ABSTRACT

*The primary goal of this paper is to consider the incontrovertible links between political vigilante violence and human rights violations in Ghana. In particular, it pays attention to the ways in which politically-related violence thrives. To achieve this, the paper will be guided by the following research objectives: First, to explore the nature of political vigilantism in Ghana's Fourth Republic. Second, to analyse the human rights issues in political vigilantism within this period. Drawing mainly on experiences of general elections of Ghana's Fourth Republic, the paper purposes to interrogate the scale of political vigilante violence in Ghana. It contends that there is an intricate link between political vigilante violence and human rights. The paper relies on frustration-aggression theory to consider the ways in which the desire to gain political power leads to rivalry and eventually to violence.*

**Keywords:** political vigilantism, human rights, Ghana, democracy, violence

### INTRODUCTION

Ghana is widely acclaimed for its democracy and good governance. It is thereby dubbed as a social laboratory for certain liberal experimentation in sub-Saharan Africa, including democratic governance (Nugent 1995, p. 16). After decades of military takeover, Ghana has since 1993 attained a considerable feat in organising eight successful general elections that have culminated in three successful transfers of power between the two dominant political parties, the National Democratic Congress (NDC) and the New Patriotic Party (NPP) in 2001, 2009 and 2017.

Notwithstanding these remarkable democratic strides, Ghana's electoral processes have suffered a series of worrying setbacks. Of even more concern is the fact that all the eight general elections and other by-elections and re-runs have witnessed varying levels of politically-sponsored violence. Through the years, government use of security agents to intimidate the electorate has been largely condemned, yet the situation persists (Graphic 2019; Kwakofi 2019). While political vigilante violence has not translated into significantly widespread conflict, incidents of such violence are perturbing especially when issues of human rights violations are taken into consideration. These events leave some pertinent questions unanswered: Why is it that despite the comparably significant strides made in its democracy, episodes of political vigilantism continue to occur during and after elections in Ghana? What is the scale and nature of political vigilantism in Ghana? How does political vigilante violence in Ghana frustrate the protection and promotion of human rights?

In this paper, we consider ways in which politically-related violence thrives, exploring its human rights implications and focusing on Ghana's Fourth Republic. To achieve this, the paper will be guided by the following research objectives: First, to explore the nature of political vigilantism in Ghana's Fourth Republic. Second, to analyse the human rights issues in political vigilantism within this period.

Drawing on the experiences of the last two general elections of Ghana's Fourth Republic, the paper purposes to interrogate the scale of political vigilante violence in Ghana. The paper contends that there is an intricate link between political vigilante violence and human rights. The paper relies on frustration-aggression theory to account for the ways in which the desire to gain political power leads to rivalry and eventually to violence.

### FRUSTRATION-AGGRESSION THEORY

This paper employs the frustration-aggression theory to provide a context for appreciating clashes between opposing political forces under Ghana's Fourth Republic. The frustration-aggression theory draws a link between frustrating episodes and aggressive responses (Breuer & Elson 2017). Largely credited to the integrated study by Dollard et al. (1939) on aggressiveness, the theory has been influential in many fields of study. This theory provides a psychological insight into the way in which aggressive behaviour emanates from the frustration of goals. Frustration-aggression suggests that aggression is only one of many different forms of frustration. Dollard et al. (1939) suggested that aggressive inclinations happen whenever humans or animals experience frustration.

Frustration, the theory suggests, is a built-up tension that occurs when efforts to reach a goal are blocked. Dollard et al. (1939, p. 1) observed that as the urge to

attain a goal is thwarted by external factors, people experience frustration which can lead to aggressive behaviour. They further suggested that 'the occurrence of aggressive behavior always presupposes the existence of frustration and, contrariwise, that the existence of frustration always leads to some form of aggression' (ibid.). Contrary to the dominant understanding of frustration to mean an emotional feeling, Dollard et al. (1939, p. 7) employed it as 'interference with the occurrence of an instigated goal-response'. Frustration-aggression has been a useful theory in relation to scholarship on scapegoating, suggesting that frustration provides a motivation for aggressive behaviour toward the object of frustration. As frustrated people cannot unleash their accruable frustration, they channel it to a convenient social target.

Following Dollard et al., scholarship has paid significant attention to the relation between frustration and aggression. Berkowitz (1983) and Scott (1948), among others, have generally applied the theory to the behaviour of animals. Breuer et al. (2015, p. 126), in applying it to humans, for example, have noted that 'an unfavorable outcome (i.e., losing) can increase postgame aggression, whereas trash-talking by the opponent had no such effect'.

The frustration-aggression theory is usefully employed in this paper to account for episodes of political vigilante violence in the Ghanaian public domain, and particularly the social-political context where political parties compete for scarce political power and influence. As we demonstrate, blocking young foot soldiers from attaining a political goal can, and often does, result in vigilante violence. The theory is useful in framing political vigilante violence (aggression) as a result of hindering a political party's ability to attain political power. We demonstrate how the foot soldiers in a political party feel frustrated when expectations which are formed and motivated by promises made by ruling governments and opposition parties are not met in their bid for political power. We show how this frustration-aggression, emanating from unfulfilled promises such as job opportunities and political appointments, is manifested in violent actions adopted by these party vigilante groups.

The frustration-aggression theory is also employed to account for the incidence of violence in democratic and competitive societies where political parties compete for scarce political power and influence (their objective). We use it to demonstrate how these parties eventually shift their focus from political power and influence and try to limit each other's ability to win political power through brutal and violent means. We thereby demonstrate how this situation leads to antagonism referred to as political vigilantism, and how political parties employ the scapegoating mechanism. In doing so, moreover, we pay heed to the ways in which the individual's fundamental human rights have been violated and abused during electioneering activities in Ghana. Furthermore, we deploy

the frustration-aggression theory to elucidate how this vigilante violence occurs in both intra-party and inter-party competitions in Ghana, something which is lacking in existing academic studies.

The increasing rate of unemployment among graduates in the country has, very often, been a key trigger of frustration. Most of the youth who are recruited by parties as foot soldiers are either unemployed or underemployed. These unemployed youths tend to engage in activities such as bodybuilding as a subcultural lifestyle and livelihood option, which is where political parties identify them and employ them as personal bodyguards. These bodyguards are then used to engage in offensive electioneering activities, an area which offers room for further academic interrogation.

### POLITICAL VIGILANTISM

In Africa, political vigilante violence is not uncommon as elections frequently experience incidences of violence (Adolfo et al. 2012; Kovacs & Bjarnesen 2018; Taylor 2018). Studies have noted that violent episodes characterised 60% to 80% of the elections held in the continent between 1990 and 2008 (Lindberg 2006; Strauss & Taylor 2009). Other studies report that violent pre-election incidents occurred in 81.48% of the elections held between 1997 and 2009, and at least one such incident occurred in 65.7% of the elections held in the same period (Daxcecker 2012). According to Mares & Young (2016), 48% of all voters from 33 nations surveyed during the fifth round of the Afrobarometer survey reported having concerns about electoral violence.

As noted, a variety of factors account for these occurrences, ranging from poor leadership to a desperate desire for political power. Höglund (2009), for instance, contends that a key motivation for vigilante violence in the continent has been the desire to influence the outcome of elections. In most of Africa, as elsewhere, political actors view elections as a path to achieving and maintaining political power. Höglund identified three main elements that influence political vigilante violence: the nature of politics, democracy, and election processes. Höglund asserts that the culture of impunity, the heavy reliance on patron-client relationships for political power, and participation in the politics of violent actors, collectively yield political vigilante violence. The nature of democracy itself, she notes, can encourage violence because of the competitive environment that elections create. Moreover, the election procedures (system management and design) encourage political actors to behave violently.

In a related study, Balcels (2015), has noted that institutions act as a platform for using violence and justifies why violence should be used to influence electoral processes and results. Institutions contribute to election violence by favouring

some candidates over others. While institutional design and development are a useful means for empowering some groups, they have been identified as a potential mechanism for stifling others. In many parts of Africa where the legal structure governing election management bodies grants the incumbent significant control over the electoral commission, the incumbent and its allies tend to take advantage of that control (Hafner-Burton, Hyde, & Jablonski 2014). In addition, Omotala (2010) claims that the neo-patrimonial nature of African states, the nature of power struggle, the deployment of the military in the democratisation process, and feeble democratic structures, among other factors, play a significant role in the continuous resort to political vigilante violence.

However, the impact of political vigilante violence on the democratic process is still a topic of ongoing scholarly discussion. Its impact is felt in many facets of the African political economy, jeopardising the legitimacy of governments and frustrating political participation as well as the advancement of fundamental rights (Omotola 2010; Sosu 2021). In Angola, Cote d'Ivoire and other parts of the continent, political vigilante violence, disguising itself in ethnic and other tensions, has led to war. The literature suggests that by weakening the bonds of representation between voters and elected officials, political vigilante violence has had a negative impact on the democratic consolidation of African nations (Burchard 2015). Political vigilante violence has, in various forms, undermined the core tenets of democracy; and as citizens begin to link elections with predictable patterns of violence, their interest in and support for democracy ultimately dwindles (Sosu 2021).

Political actors variously employ violence for different reasons including deterring rivals, forcing minorities to vote or preventing them from doing so, and motivating their followers by instilling in them the belief that an election is a must-win affair (Boateng 2021; Dercon & Gutierrez-Romero 2012). The increasing use of intimidation to drive away people perceived to be 'hostile voters' during voter registration drives has been identified as a significant feature of political vigilante violence in Africa (Burchard 2015).

### POLITICAL VIGILANTISM IN GHANA

The sustainability of Ghana's democratic gains since its Fourth Republic is a telling indication that elections and multi-party system have gradually been recognised as a cardinal means to legitimately attain and transfer political power (Asekere 2021). In doing so, the 'foot soldiers' who are young party supporters between the ages of 18 and 35 have been a crucial means of carrying out election mobilisation, campaigning and other political engagements. These young party workers are mostly uneducated or poorly educated and are typically unemployed

or underemployed. While some hold membership cards from political parties, the majority are devoted supporters of just one candidate (Bob-Milliar 2014). These foot soldiers are used mainly by political actors to undertake certain tasks for their political parties and/or candidates. In particular, foot soldiers have been useful in the organisation of anti-government demonstrations and political mobilisation, especially in relation to party rallies and canvassing support for political candidates.

In Ghana, the deployment of 'macho men', large and well-built young men who are principally employed as political mercenaries, has been a critical challenge in the public domain. In a clientele environment where it is believed that the party in power utilises its position of authority to award favours, the foot soldiers of political parties commonly base their behaviour on the notion of reciprocity and the provision of personalised goods (Bob-Milliar 2014). According to Gyampo et al. (2017), these young members of vigilante groups operate on the assumption that public office holders are wealthy and hold significant authority and will distribute the state's wealth to them once they are in office. These factotums go beyond the call of duty to gain and maintain power for their political elites, and accordingly think they deserve jobs and the advantages that come with possessing authority. Because of this, these party mercenaries resort to any strategy necessary to take advantage of opportunities, resources, and state assets. Their illegal behaviour, particularly during elections, has sparked tension and animosity in Ghana's public domain. Both Ghanaians and non-Ghanaians who care about the country's peace and stability are beginning to understand that these groups and the patrons who support them pose a threat to the democratic development of the nation.

The numerous incidents of political vigilante violence in general, and in the reruns and by-elections in Ghana since 1992, have been beset by wanton violations of human rights. Typical examples include the August 2009 incident of Akwatia. In this by-election, 23 people were injured during the violence, mainly by gunshots, and knife and stone wounds (*Peacefmonline* 2009). Similarly, the Chereponi electoral violence which occurred in September 2009 has also been a cause for alarm. In this particular case, four people were shot while over a dozen more sustained various degrees of wounds from stone-throwing (*Daily Guide* 2009). The case of the Atiwa electoral violence which occurred in August 2010 also typifies the ways in which political vigilantism impedes Ghana's democratic credentials and the associated human rights abuses and violations (Takyi-Boadu 2010). The electorate's rights to vote, to freedom of speech, the right to life, and freedom from all forms of discrimination and other inhumane treatments were threatened, abused and violated. Additional mention can be made of the July 2015 Talensi incident in which various forms of human rights abuses were recorded, including destruction of properties, assaults and life-threatening injuries.

Similar incidents occurred in revenge when the NPP lost power to the main opposition party NDC in 2009. These notorious incidents include the ousting of district chief executives (DCEs), managers and staff of state institutions such as the National Health Insurance Scheme (NHIS) and National Youth Employment Programme (NYEP) (Armah-Attoh 2017). The intractable nature of these episodes of political vigilante violence was validated in 2017 when NPP-affiliated vigilante groups, identified as the Invincible Forces, Delta Force and Kandahar Boys, marred the smooth transition process by engaging in a series of unlawful invasions, seizures and the forceful control of public assets and facilities. These and other situations prompted the passage of the Vigilantism and Related Offences Act, 2019 (Act 999). This Act seeks to disband political party vigilante groups; to proscribe acts of vigilantism in the country; and to provide for related matters.

Given that previously political vigilantism was not accorded the special attention it deserves, on 31 January 2019 Ghana experienced a major and devastating incident of electoral violence when a group of political thugs suspected to be emboldened by the national security operatives invaded the Ayawaso West Wuogon (AWW) Constituency by-election (Gyesi 2019; Dumenu & Adzraku 2020; Sosu 2021). During this by-election there was a shooting incident which led to many injuries and clashes between supporters of the opposition and supposed national security operatives. The irony is that ruling governments, which are expected to protect their citizens, tend to use party and state security apparatus to perpetrate violence against their own citizens. The Ayawaso West Wuogon (AWW) Constituency by-election on 31 January 2019 offers a good illustration of how violence characterises Ghana's electoral system. This incident offers a meaningful starting point from which to interrogate human rights and the national security concerns.

Studies suggest that political vigilante groups have evolved as a result of increasing electoral fraud and the inability of security agencies to provide adequate protection during general elections. For example, a study conducted by Edu-Afful and Allotey-Pappoe (2016), noted the ways in which political vigilante groups in Ghana have emerged as a response to incidents of theft and the destruction of ballot boxes, violence, and the inability of security agencies, particularly the police service, to provide adequate security, especially during electioneering periods.

## METHODOLOGY

This paper uses a qualitative content analysis and archival design augmented by interviews. Data was collected from primary and secondary sources. Secondary sources of information include online published articles on political vigilantism under the Fourth Republic of Ghana, newspaper reportage, magazine and

committee reports. The data collected from the archives were supplemented with primary data in the form of face-to-face interviews with some identifiable political vigilante group leaders. This was essential not only in verifying the data collected from archival sources but also to obtain first-hand information from these key actors in political vigilantism in Ghana. It also made it possible for us to seek clarification on existing news items about the activities of the vigilante groups of which they are part. Media reports on vigilante violence were drawn and subjected to qualitative content analysis.

To ensure an understanding of the nature of political vigilante violence, the paper was concerned with illuminating the motives of political vigilante violence in Ghana's Fourth Republic. The data gathered from reports, news articles and interviews with purposively identifiable vigilante group leaders revealed that political vigilante violence occurs as a result of the following: violation of identity; violence as a mechanism to restore peace; electoral violence as an alternative livelihood; inter-generational, intra-electoral violence; and the ecstasy of violence.

## POLITICAL VIGILANTE VIOLENCE IN GHANA

Below we discuss some of the pertinent issues concerning political vigilante violence in Ghana in four broad themes: violation of identity; violence as a means to restore peace; alternative livelihood option; and intergenerational violence.

### *Violation of Identity*

While political vigilantism occurs due to many factors, a key reason for its occurrence is the violation of identity. Research has demonstrated the manner in which vigilante groups have become a useful means of political mobilisation as well as the preservation of electoral prospects (Kyei & Berckmoes 2021). In Ghana, such groups are believed to be formally emboldened by high profile political actors and/or groups. Thus, violence towards political opponents is not a new phenomenon. The analysis of political vigilante violence discusses the ways in which the preservation of identity and violence are interlinked. Well-established studies suggest that the violation of identity is crucially taken to justify violence in general (Sen 2006). Political vigilante groups pride themselves not only on their ability to protect their political interests but also on how they defend themselves against external attack.

A distinctive instance of this is the Kumasi Circuit Court episode. In April 2017 the Ghanaian media reported on how a group of thirteen young men, all political vigilantes, were arraigned before the Kumasi Circuit Court for offensive misconduct as described above. The group had opposed President

Akuffo Addo's appointment of George Adjei as the Ashanti Regional National Security Coordinator by aggressively ejecting Adjei from his office (*MyJoyOnline* 2017; *Starfmonline* 2017). The group asserted that Adjei was unknown to them and that they would prefer the president to appoint someone they can relate to (*MyJoyOnline* 2017). When the matter was sent to court, the presiding judge, Mrs Mary Nsenkyire, remanded the thirteen into prison custody on 20 April 2017. A group of their supporters, however, invaded the courtroom freeing their colleagues, the thirteen detainees. The situation attracted widespread condemnation from individuals and local and international organisations ((*Africanews* 2017; *Frimpong* 2017).

Media accounts (*Starfin* 2017; *Citifmonline* 2017) described the scene thus:

the group vandalized some court properties, and almost assaulted the Judge, Mary Senkyire. The judge had ruled that they be remanded to appear before court on the 20th of April, 2017 after charges of conspiracy to assault a public officer and causing unlawful damage. The 13 were detained in connection with the group's raiding of the Regional Coordinating Council on March 24, 2017, where they were alleged to have assaulted the newly appointed Ashanti Regional Security Coordinator, George Adjei. After the judge's decision to remand the suspects, the members said they were not going to allow the ruling to stand, and demanded that the 13 leave the court with them.

According to the media, the gang would have assaulted the judge as well had it not been for the timely intervention of the police. This event leaves some questions unanswered: crucially, how does this act translate into a violation of identity? According to the Indian economist and philosopher, Amartya Sen (2006), violation of identity justifies violence. The group felt that their identity as the powerhouse of the ruling New Patriotic Party had been violated. First, their wish had been denied through the imposition of someone they considered a stranger to the party as regional coordinator. Second, by arresting and detaining some of their members, the group felt insulted and appeared to be weak. Interviews with some vigilante group leaders reaffirmed their belief that violation of identity justifies violence. This position clearly emerged in the interviews. An interviewee who had previously participated in political protest and vigilantism recounted that political provocation is a key factor accounting for vigilantism:

*It is annoying when people remove or deface your aspirant's posters; some use dirty engine oil to paint your aspirant's face for whatever reason I don't know. Sometimes too you will receive threatening messages. If you don't respond with equal measure, they will see you as weak.*

Another interviewee indicated that when this happens and the suspect is none other than the direct opponent, they seek revenge for these actions, very often resulting in violence towards the opponents. During electioneering, people take advantage of the political field and its activities to insult and tarnish the hard-earned reputation of others. In such situations tempers often flare up and this may lead to electoral violence. In this regard, one informant stated that:

*people who do not qualify to even talk to you take advantage of the campaign, especially on phone-in radio and television programmes to make all manner of invective and impertinences just to make you look bad in the face of people. In fact, some aspirants also pass comments that incite their followers to engage in violence during election time. If you fail to respond this gives the impression that you are weak and your opponent can take advantage of that.*

The implication is that the decision of the court to remand the thirteen members of the group as narrated above was interpreted by the group as a violation of their identity. Hence the violent acts by the group to defend their identity. If this interpretation is allowed to pass, then, as will be seen later, it will pose threats to fundamental human rights in Ghana.

Indeed, a key finding in the study showed that there is a sort of triumphant glee in violence. Interviews with some vigilante leaders indicated that they were ecstatic when they could defeat their opponents and 'scatter their plans'. According to informants, they resort to violence to prove to their opponents that they are not as weak as the opponent may think.

One informant indicated that:

*Sometimes people tell us that some people have come to take their voter identification numbers that they will call them to vote for them on the election day. When we hear this, we go and attack those people and stop them; when we successfully stop them, we become excited. Most of the time it is not easy, it tend [to become] into serious violence.*

Another informant stated that:

*During elections, some people offer material incentives to the electorates to convince them to vote for them, especially in the villages, others too in an attempt to assist proxy voters vote for their candidates, meanwhile that is not what the proxy voter asked the person to vote for. When this happen and we are able to stop them we become happy.*

### *Violence as a Mechanism to Restore Peace*

While studies have painted a bleak picture of political vigilante violence, it has ironically been justified as a useful mechanism to restore a fractured peace in society. In the heat of the controversy generated by the Delta Force saga, as narrated previously, on 30 March 2017 the media reported that a leading member of parliament (MP) for the ruling party, Kennedy Agyapong, warned the National Security Minister, Kan Dapaa, to refrain from effecting any arrests or prosecution of the members of the vigilante group (Obour 2017). Seen in this light, it may be said that the sole concern regarding violence is the manner in which it fractures the peace of society.

Violence is sometimes presented as a means of restoring social harmony. Violent perpetrators believe that after the violence is over, peace will be restored. Of greater interest is that information gathered on political vigilante violence reveals that political vigilante groups believe that they safeguard their political party by preventing real and impending physical violence. The problem, however, is that in the case of vigilante violence these people are not mandated authorities to ensure or bring about the supposed peace. Rather, they create some form of chaos. A report by the Emile Short Commission, established under Article 278 of the 1992 Constitution to investigate the events and related violence during the Ayawaso-West-Wuogon by-election on 31 January 2019, for example, stated that:

*While there was some semblance of security provided within the Ayawaso on the said day of the elections, the otherwise reasonable arrangement was abruptly disrupted by the SWAT team who, though [they] were not part of the arrangement, arrived on the scene unannounced.*

In an interview with some vigilante group leaders, it emerged that electoral violence is not as bad as is perceived. Rather, it is a mechanism to restore social interest in peace and order, and also to promote free, fair and transparent outcomes of elections, a matter about which scholars disagree. The legal and human rights concerns have been that peace cannot be provided by illegal or unlawful means. In the opinion of an informant, their presence as a vigilante group deters others from travelling the path of violence during elections:

*As for me, I don't understand why people talk about us, because what we are doing is a way of bringing peace; during electoral period, we prevent people from engaging in violence. Even though people think we are a violent people, we rather protect situations from erupting into violence.*

Furthermore, an informant disclaimed the assertion that peace gives way to violence in society. He is convinced, however, that their presence (i.e., that of the vigilantes) alone deters people from violence during elections.

*Sometimes you'll have the information that the opponent is hiding somewhere with ballot papers trying to stuff the election. When we hear that, we go there to 'scatter' them to bring peace. Sometimes, some people will be planning to come and scatter the stronghold of a political party, but what happens is that among them one person may leak their plans to the other party to send people to go and guide there before they arrive. When this happens, since those guiding the place are not police and we too are not police, we try to clash with those guiding there. But the police sometimes come in to restore the peace.*

This account echoes the Ayawaso West Wuogon episode in which supposed National Security operatives attacked a member of parliament and other residents of the area. This group claimed that they did so because they wanted to restore peace and calm. We see, then, a very limited understanding of how the illegitimate means of restoring peace can and actually does lead to violence. The vigilante activities lead to a violation of the electorates' voting rights, which in essence results in low voter turnout. While the informants' appreciation of peace agrees with the description of Johan Galtung on negative peace, there is an obvious danger when such understanding is allowed to pass.

### *Electoral Violence as an Alternative Livelihood*

Global efforts to mitigate electoral violence have been complemented by attempts to bridge social inequalities and other material advantages which pander to violent tendencies. This paper presents participation in political vigilante activities as an alternative livelihood option. As the example of Kennedy Agyapong warning the National Security minister cited above shows, vigilante groups execute the plans of their political party with the understanding that once their party succeeds in taking office, they will be well compensated, economically and politically. The frustration of the youth and denial of certain material advantages have thus been identified as a fundamental principle underlying the youth's involvement in political vigilante violence (Tweneboah & Clottey 2022). A key finding of this study largely ignored in existing literature is that political vigilante violence occurs as a means to an alternative livelihood. Contrary to accounts that suggest that political vigilante groups are fuelled by political parties, it emerged that some of these groups are not affiliated to any specific political party but rather they exist as what we refer to as 'electoral violence entrepreneurs'.

These 'electoral violence entrepreneurs' exist as entrepreneurs outside of the dominant political groups. They engage in providing protection for groups or individuals who need their services. They are largely energetic and socially, economically, and politically marginalised youth who depend on their strength as 'capital'. This finding supports the relationship between frustration resulting from unemployment and violence among the youth as pointed out in the work of Appadurai (2013). According to Appadurai, while the youth might not necessarily have essential skills, as the state claims, they have 'assets' as well as 'dreams'. 'These assets and dreams are being constantly turned into strategies' (Appadurai 2013, p. 1). The major asset of the youth in this context is their youthful exuberance (energy). To achieve their dreams, the majority of the unemployed youth resort to illegal activities including insurgencies, joining violent gangs, drug trafficking, vigilantism and other illicit activities which lead to violence in society (Kingston & Webster 2015; Kramer 2000; McAra & McVie 2016; Soyer 2018). In explaining the nature and activities of one of the groups, a participant and a leader of the group insisted that:

*Oh! As for us we are not affiliated to any political party like the Delta Force, Kandahar and the rest. No! no! I will say we are independent.... We don't get any support or instruction from any politician. We are actually into protection of individuals and groups.*

He maintained that his group was initially into body building and fitness, but sometimes they are approached by people who want protection when they organise events such as weddings, funeral celebrations, parties etc. and they anticipate that there may possibly be disturbances. After some time, he said, they became popular, because of their strength and efficiency.

*So I remember that one day during the 2012 election I had a call from Hon. XYZ that he wanted to meet me at a particular restaurant. When we met, we discussed so many things and he told me that he wanted to give me an assignment.*

According to this participant, after a lengthy discussion his host told him that he had had information that some groups were coming to town to register and so he wanted him [the informant] to be vigilant in order to prevent them from doing so. A few days later, he said, he had a phone call that some people had arrived claiming to be from the town were in fact from another place.

*I called one of my boys and asked him to verify, and when he went there it nearly resulted into a fight because the leader of that group didn't understand why*

*they should be questioned. So, my boy called me and I rushed there with three of my boys...to cut everything short, the fight became serious, as you can see from my hand here! That was the day I had this mark [scar] and this one too.*

With only four of his boys and himself, he claims, they defeated the entire group and drove them away. Because he was not affiliated to any party, people were initially surprised, but he was not concerned because he and his group were paid anyway by the party that hired them. This episode marked the beginning of his engagement with political actors as they started using his group. In 2012, for instance, they worked with both political parties (NDC and NPP) during the campaign activities, making sure no individuals or groups caused any violence. In the 2016 elections, however, they worked for only one political party 'because they paid us well', he said. He noted that sometimes 'they will send us to different constituencies and even regions for "operations'. On some occasions, he recounted, they even paid for their own flights to protect some important people. But after the election, he complained:

*Hon. XYZ was not minding me again. He did not fulfil any of the promises he made to me and my people. On one occasion, somebody hit me with a heavy block, in fact the entire block was broken into pieces but I managed to survive. When Honourable heard this, he called me to find out how I was doing but that was all. He never fulfilled any of the promises including facilitating the recruitment of some of my boys into the security agencies like the police, prisons, fire service and military. Because of that, during the 2020 election, I changed my mind when I realised Honourable was using me for his own gains.*

Because of his group's popularity in going to other regions for assignments, a politician from a different party invited him to join his team, to which he agreed. He quoted a price of GH¢2000.00 a month which the politician agreed to pay and 'this is where I have been working for some time now', he said. This participant concluded: 'Even though I protect a politician, my duty and support are not towards his party. I have told my mother and my sisters that they are free to vote for whoever they want'.

This account, as noted above, challenges the popular view that all electoral vigilante groups are politically affiliated.

### *Inter-Generational, Intra-Electoral Violence*

A key finding of the paper is inter-generational-intra-electoral violence. While conflict between rival political factions abounds, there are several instances of violence within the same political party and between the older generation and

the younger ones, between the top hierarchy and the masses – who are often referred to as the foot-soldiers. In particular, irregularities during the selection process have been one of the main reasons why conflict and violence occur. Data gathered from news articles and interviews suggest that there is inter-generational, intra-electoral violence in the political field in Ghana. These include attacks on party offices, burning of vehicles and homes of party officials, and locking up party officials, etc. (Adomonline 2020; *Starfm* 2019).

This finding corroborates the Techiman South constituency incident where an NDC secretary was beaten up by thugs during an executive meeting. There had been a disagreement during a meeting with other party executives where those who were unhappy with the outcome of the meeting engaged in a scuffle, resulting in the secretary, Suleman Brempong, being assaulted (Nukunu 2021). Interviews with some vigilante group leaders revealed electoral conflicts between the youth wings and the party elders. According to them, this has to do with ideological differences. An informant commented that sometimes even within the same party, there are violent incidents between the elderly and the youth. Most often the suggestions by the youth are not taken seriously and this triggers intra-party violence. This informant complained thus:

*Some party elders hold on to the old ways of winning elections forgetting that time changes, when we tell them, they will say we don't know how they suffered to build the party. For instance, while we the youth are saying they should provide us with resources to campaign, some elders will say we should gather the money and share it on the election day, meanwhile, on the election day, some greedy people will keep the money to themselves and if you are not lucky, the party will lose the election.*

Supporting this claim, another participant indicated how he became a victim of intra-party vigilantism. According to him, during the 2020 Assembly election, a leading figure in his political party informed him that they should support a particular member of the Assembly. Meanwhile the informant and his fellow members had different allegiance and preferences and therefore supported different aspirants. It became necessary, therefore, that they should go to the Honourable member. He narrated his story thus:

*We went there and discussed a lot of issues, but when we came back, some people were not convinced, so when they heard that Honourable gave me money to convince them, four of them attacked and assaulted me. I will blame the MPs because sometimes, they will tell you that 'support me, when I win,*

*I will help you'. Maybe for the first time you will support him but the help won't come. Then another person within the same party contacts you that 'I will help you'. Maybe immediately he gives you money, you will realise that the one who couldn't help you will go to the FM station and pass some comments that also generate intra-party violence.*

## POLITICAL VIGILANTISM AND HUMAN RIGHTS

This section addresses a central goal of this paper: human rights concerns in political vigilantism in Ghana's Fourth Republic. We observe that political vigilantism has direct effects on the rights of the electorate. This section discusses how political vigilantism affects a wide range of human rights including voting rights, the right to life and to human dignity.

### *Violation of Voting Rights*

The right to vote is widely recognised as a fundamental human right as it is the means through which citizens can influence governmental decision-making. Internationally, Article 21(1) of the Universal Declaration of Human Right (UDHR) states that 'Everyone has the right to take part in the government of his country, directly or through freely chosen representatives'. Article 21(2) further asserts that 'Everyone has the right of equal access to public service in his country'. The right of people to express their will is also recognised under Article 21(3): 'the will of the people shall be the basis of authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures'. At national level, Article 42 of Ghana's Constitution (1992) grants every citizen of Ghana of eighteen years of age or above and of sound mind the right to vote and be entitled to be registered as a voter for the purposes of public elections and referenda. Yet enjoying this basic right has been a challenge for most people, as vigilante violence creates certain impediments to many voters.

From the foregoing discussion, it is clear that the Fourth Republic of Ghana has been characterised by pockets of electoral violence and insecurity leading to injuries, and in some cases, loss of lives. For instance, when violence broke out during the August 2009 by-election at Akwatia in Ghana's Eastern region, 23 people were injured. A report by Ghana News Agency (2009) revealed that the victims suffered mainly from gunshots, knife and stone wounds. Similarly, during the runup to the Chereponi by-election in the Northern Region in September 2009 four persons sustained gunshots wounds while more than a dozen

sustained multiple wounds resulting from stone-throwing by irate party youth (Peacefmonline 2009). The case of the Atiwa electoral violence which occurred in August 2010 is another instance of the ways in which political vigilantism frustrates Ghana's democratic credentials and its human rights standards. During this period, there were grave human rights abuses and violations. For example, according to media reports Kofi Bremang 'arrived at the police station with blood all over his body, complained that he was beaten and hit with clubs by suspected NDC goons' (Takyi-Boadu 2010).

The implication is that while every citizen has the right to express their will through voting, the majority of the electorate do not exercise their franchise due to electoral violence. For example, the 2019 report from Coalition of Domestic Election Observers (CODEO) showed a generally low voter turnout in the Ayawaso West Wuogon by-election. The report noted in part that at most polling stations observed, only few voters trickled into polling stations from time to time for fear of being attacked. CODEO's observation corroborated the official voter turnout figure for the polls which stood at 19.83% (Zurek 2019). A whopping 80.17% of the electorate did not participate in this particular election. This situation can be partly blamed on the incidents of violence that ensued during the by-election. In their final report on the Ayawaso West Wuogon Constituency by-election, CODEO (2019, p. 3) observed that the election was characterised by violence and intimidation, as follows:

*[The] intimidating presence of masked security persons at some polling stations in the course of Election Day: In some cases, these masked security operatives who wore khaki and black attire loaded themselves in vehicles and hovered around polling stations for a while before leaving. Some observers indicated that the mode of driving by some of these security operatives, even around such polling stations, appeared quite reckless or dangerous. Some of the polling stations where these masked security operatives were sighted by observers included Opposite A&C Shopping Mall (East Legon), Restaurant C 23/29 (Okponglo), Meteorological Service Mpehuasem (Okponglo), Little Flowers Montessori Prim and JHS (Dzorwulu), Bawaleshie Primary School 1&2 and Akuafo Annex (Legon).*

This report confirms how political vigilantism has led to the violation of voting rights in Ghana's Fourth Republic and how it threatens its democratic governance. The implication is that any attempt to use political influence to interfere in elections is a fundamental breach of the rights of the electorate in particular and Ghanaians at large.

### *Right to Life and Human Dignity*

Another key concern is that political vigilante violence not only limits political participation but also, to a large extent, deprives some people of their right to life. It is a fundamental principle of human rights that no one must deprive the life of a person arbitrarily or unlawfully. Because of the crucial importance of this right, states are dutybound to take appropriate steps to ensure that the right to life is protected, and to investigate arbitrary or unlawful killings and punish offenders. Article 13(1) of Ghana's Constitution of 1992 states that 'No person shall be deprived of his life intentionally except in the exercise of the execution of a sentence of a court in respect of a criminal offence under the laws of Ghana of which he has been convicted'. The state has a duty to respect and protect the right to human life and human dignity.

Despite these provisions, electoral violence in Ghana's Fourth Republic has claimed many lives. For example, in Ghana's 2020 general election, the Ghana Police Service report indicated that over sixty episodes of violence occurred. About twenty-one of these events were a result of electoral violence, six of which involved gunshots leading to the death of five persons. Media reports indicate that the victims who lost their lives suffered mainly from gunshots from the security officers who were expected to protect them.

The father of an 18-year-old boy killed during the violence that rocked the Techiman South constituency during the 2020 general elections, recounts that he was able to see video recordings of the incident and the evidence indicated that the security personnel were shooting directly into the defenceless crowd (Hawkson 2021). The father had sued the government, seeking a total of GH¢25 million in compensation for the loss of his son.

### CONCLUSION

Over the years, there have been many reported cases of Ghanaian political vigilante groups, mainly youth, engaging in violent acts. These include the forceful seizure of public toilets after a change of government, vandalising or locking up party offices to demand attention, disrupting court procedures, forcefully removing appointed personnel from their offices, and removing ballot boxes during elections. This paper has, therefore, demonstrated how these situations lead to the antagonism which informs episodes of political vigilante violence. In doing so, moreover, we have paid heed to the ways in which such actions frustrate the protection and promotion of certain fundamental human rights, especially electioneering activities in Ghana. Deploying the frustration-aggression theory, we have elucidated how the Ghanaian youth have deployed political vigilante violence as a means to an alternative livelihood, asserting their identity in society.

We have paid heed to the manner in which political vigilante violence occurs in both intra-party and inter-party competitions in Ghana, something which is lacking in existing academic studies.

### RECOMMENDATIONS

Based on these findings, this paper recommends the following:

First and foremost, there is the need for *the intensification of public education*. The paper has revealed that people engage in political vigilantism as a mechanism to restore peace. We recommend that public education should be intensified on what constitutes peace and the effects of political vigilante violence. A holistic approach to understanding the concept of peace would serve a milestone in dealing with political vigilante violence in Ghana. Peace education should be encouraged at all levels of formal education in Ghana.

Second, there is the need to *prioritise youth employment opportunities*. It emerged in this paper that the youth engage in political vigilante violence as an alternative livelihood. We therefore recommend that the government and private developers should provide these young people with sustainable job opportunities to enable them to channel their energies into productive ventures.

Third, we propose *adherence to party principles*. This paper has revealed that inter-generational, intra-electoral violence yields to serious political vigilante violence in Ghana's Fourth Republic. In view of this, we propose the need for political parties to ensure effective and strict compliance with their party constitutions and also to open up spaces to accommodate innovative ideas and suggestions of the party youth wings.

Fourth, we recommend the need for the *prosecution of electoral and offenders*. A key finding in the paper is that there is a sort of joy or ecstasy in violence. Citing information from some vigilante leaders, we have indicated that these vigilante groups become happy when they defeat their opponents and 'scatter their plans'. Yet, given its grave human rights implications, we recommend that political parties should report all suspects of electoral misdeeds to the appropriate authorities, especially the Ghana Police Service, for further investigation and prosecution to deter others and also avoid electoral violence and its negative consequences.

Fifth and finally, *voting as a right* must be respected at all times and at all costs. The findings of this paper show that political vigilante violence affects a wide range of human rights including voting rights and the right to life and human dignity. To reaffirm an earlier proposal by Sosu (2021), we therefore recommend that political actors across all divides should see voting as a right and not merely a means of acquiring political power. This would not only strengthen the strict adherence to national and international human rights standards, but also allow for the democratic consolidation of an emerging democracy like Ghana.

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# PROMOTING ELECTORAL GOVERNANCE IN TOGO

*An Analysis of the EMB and the Electoral System,  
2010–2020*

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## ABSTRACT

*The death of Gnassingbe Eyadema ushered in a new era for Togolese politics. With the transition from military to civilian rule many political actors and citizens had renewed hopes for the birth of a new political dispensation. More than four decades later, under the new leadership of Eyadema's son Faure, they have been met with scepticism, even though considerable measures have been taken to ensure the promotion of electoral governance. Most political actors continue to question the legitimacy of elections held, and the alternation of power remains highly unlikely. This has led to voter apathy and deepening distrust in electoral management bodies and the electoral system. This paper therefore examines efforts by the Togolese government to promote electoral governance between 2010 and 2020 by analysing two of its important instruments: the electoral system, and the electoral body, the CENI. The paper argues that, despite all efforts made by the government to validate the credibility of elections, ensuring that the proper functioning of these mechanisms is credible, inclusive and transparent remains of paramount concern for the promotion of electoral governance in the country.*

**Keywords:** electoral governance, electoral management body, electoral system, Togo, democracy

## INTRODUCTION

Faure Eyadema was sworn in as president of Togo on 4 May 2005. He attained a landslide victory in the 2005 presidential elections following the untimely death of his father, Gnassingbe Eyadema in 2005 after nearly four decades of autocratic rule. According to the Constitution, the president of the National Assembly Fambaré Natchaba Ouattara was entitled to become the head of an interim government. However, this was rejected by the army, which proclaimed Faure as the new head of state. Confronted by massive international and local resistance over this appointment, the Togolese Parliament held an extraordinary session and amended the Constitution giving the military the authority to install Faure as the new president. This move again outraged the regional and international communities. The African Union, European Union, the Commonwealth, the United States and La Francophonie condemned the installation of Faure which they labelled a coup d'état (Dickovick 2013; Banjo 2008, pp. 151-158).

Efforts by the international and regional communities to condemn the military's unconstitutional imposition of Faure as president on the Togolese population could be viewed as an important step in ensuring the promotion of democracy in Togo. Faure subsequently yielded to pressure and, in a brief broadcast on state radio and television, agreed to conduct presidential elections within 60 days, as required by the Constitution, that is on 24 April 2005. Faure won the elections in a landslide victory, which was followed by protests with the opposition claiming massive electoral irregularities. The protests were brutally quashed by the military (Osei 2018, p. 1467).

With Faure's rule came the adoption of the Global Political Agreement (GPA) following negotiation talks between his ruling Rassemblement du Peuple Togolais (RPT), opposition parties and civil society groups in August 2006. The GPA laid the groundwork for constitutional and institutional electoral reforms, which included, *inter alia*, presidential limits, two rounds of voting in presidential elections and the establishment of different frameworks for an independent electoral commission and the different processes needed for the holding of credible elections (Kohnert 2018, p. 2). However, since the adoption of the GPA, subsequent presidential elections in 2010, 2015 and 2020, and legislative elections in 2013 and 2018, have been held in a tense political climate. Most opposition parties either protested, boycotted, or rejected the electoral outcomes, citing massive electoral irregularities. This has resulted in large wins for the ruling RPT party in both the presidential and legislative elections, much to the dismay of opposition parties.

Opposition parties and other political actors have consistently voiced their concerns over the lukewarm attitude of the government towards fully implementing all the provisions of the GPA and carrying out electoral reforms.

The inability of the Commission Electorale Nationale Indépendante (CENI) or the Independent Electoral Commission (IEC), for example, to act independently and transparently whilst executing their duties, has continually fuelled discontent amongst the population. Due to its structure, the CENI has very little control over the design and procurement of election materials, as this falls under the control of the Ministry of Territorial Administration and another structure, the Election Administration (EA), situated within the Ministry (NDI/IRI/IFES 2005, p. 11). Since the authority for decision-making on key electoral issues rests within the EA and the Ministry, it is therefore difficult to regard the CENI as an independent body. Findings of a 2019 Afrobarometer Report reveal the lack of trust citizens have in the CENI, as it is often accused of bias and of certifying disputed results (Isbell & Achinocho 2019).

The electoral system has been another bone of contention in Togo's political sphere. Previously, presidential elections conducted in 2010 and 2015 were in line with the 2002 constitutional provision, which provided for simple majority rule. This meant that in the first round, a candidate did not need an absolute majority to be the winner of the elections. This system of voting was strongly rejected by the two main opposition parties, the Union des Forces de Changement (UFC) led by Olympio Gilchrist (son of the first president of the country), and the Comité d'Action pour le Renouveau (CAR), under Dodji Apevon, who consistently preferred the two-round system of voting (Seely 2011, p. 373; Al Jazeera 2015). Though a constitutional amendment in May 2019 approved the changing of the electoral system from the single voting system to the two-round system, and reinstituted the two five-year presidential terms limit that had been repealed in 2002 and proposed by the Economic Community of West African States (ECOWAS), it failed to garner citizens' confidence and support. The constitutional amendment was not applicable retrospectively, meaning that when the February 2020 presidential elections (conducted under the two-round voting system) resulted in a 71 per cent win for Faure, he was re-elected for his fourth term (Boucher 2020). He was then allowed to serve two more terms in addition to the three he had already served, much to the dismay of the main opposition leader, Agbeyome Kodjo of the Patriotic Movement for Democracy and Development, who accused the ruling party of widespread fraud and intimidation (BBC News 2020).

Despite these concerns, it is evident that the holding of credible elections is an important democratic element in Togo, although opposition parties have constantly rejected the electoral outcomes. This poses the question of whether regularly unfair elections sustain authoritarian rule, creating the foundation for its downfall, or provide both the opposition and elites with reasons to abandon the ruling government (Morse 2018).

The promotion of electoral governance highlights the importance of ensuring the transparency and credibility of democratic institutions and mechanisms. This article is therefore an overview of a decade of the organisation and administration of credible elections in Togo. It also analyses the role of the CENI and the provisions of the electoral system to ensure that electoral governance is guaranteed. The article adopts a case study qualitative approach allowing the researcher in-depth exploration from different angles. This qualitative approach investigates the unique complexity of a particular policy, programme, institution, system, or project (Simons 2009, p. 21). The article uses an explanatory research design, which allows for an increased understanding of the term 'electoral governance' and how it has been promoted in Togo during the last decade through an analysis of the electoral system and the electoral management body, the CENI. Secondary sources were used, with relevant literature sourced from journal articles, textbooks, official gazettes, textbooks, documents and newspapers.

The paper is divided into five sections: an introduction, which provides a background; the second section presents a thematic understanding of emerging literature on electoral governance by focusing on its steps, structure and processes; the third section presents an analysis of the CENI and the electoral system as the main drivers of electoral quality; the fourth section highlights reasons for the current state of electoral governance in the country; and the fifth and final section contains the conclusion.

## ELECTORAL GOVERNANCE: AN UNDERSTANDING

Holding credible elections is widely viewed as a significant bedrock of democracy, and election organisation has been scrutinised by many scholars and practitioners of democracy. This may be due to the challenges around electoral outcomes, especially after highly contested elections. Historically, elections in Africa were restricted to a limited number of African elite and people of European descent, but this changed after the independence of many African countries in the 1960s (Mozaffar 2002, pp. 86-87). Since then, there have been competitive elections across the continent, albeit in some cases having only a semblance of democracy. This has led to the participation of a large number of people using their vote for the alternation of power. Contested elections have thus become a significant feature, if not an instinctive and legitimate practice in nascent democracies across the continent. They may also be deeply flawed in some societies which have been domestically or internationally pressurised to 'adopt – or at least to mimic – the democratic form' (Diamond 2002, p. 24). This significance has also highlighted the importance and challenges of electoral governance on the continent.

Electoral governance therefore entails the interplay of institutional, legal and constitutional rules and organisational practices that dictate the basic rules for electoral competition and election procedures; voter registration; campaign organisation; vote counting; dispute resolution; and result validation. In other words, electoral governance operates on three levels: rulemaking, rule application, and rule adjudication (Mozaffar & Schedler 2002, p. 8). It is therefore evident that electoral governance entails more than the administration of elections. Rulemaking is legislative; application is administrative, and adjudication is judicial. Also, there is an initial phase in which resolutions are made regarding which authority will decide the goals, constitutional dimension and rules (*ibid.*, p. 20).

Electoral governance can be simplified into two dimensions: electoral bodies as institutions of governance; and, secondly, the different stages of elections and the link between the different bodies that consist of the electoral system, including both judicial and administrative elements. Pastor (1999, pp. 12-13) believes that since elections are a precondition for democracy, electoral bodies play a vital role in ensuring the organisation of credible elections in democratic transitions. To achieve this, he outlines five ways to categorise them: an electoral office accountable to parliament; an electoral office with government supervision; an independent electoral office; a multiparty electoral office; and an electoral body supervised by a judicial body (*ibid.*). To guarantee internal governance, emerging African democracies usually create independent electoral bodies to coordinate the organisation and management of elections. Some of these bodies are tasked with ensuring the smooth overall running of the different stages of the electoral process (pre-election, election and post-election) to safeguard the credibility of elections.

In this regard the structure of Electoral Management Bodies (EMBs) as an element of governance is important. Lopez-Pintor (2000, pp. 201-221) states that in many new African democracies, EMBs are legally protected by the constitution as instruments to control abrupt change by normal legislative processes or executive action. As such, they are given a constitutional status. He further states that permanent EMBs are more professional and less expensive than those created on a temporary basis. For this reason, it is essential for permanent EMBs to secure the participation of political parties, foster transparency at all stages of the electoral process, be answerable to the public and legislature, implement cost-reducing measures, promote civic education for voters, and disseminate information (Lopez-Pintor 2000). Medina Torres and Ramirez Diaz (2015) opine that although Lopez-Pintor's recommendations are crucial, they could automatically generate enormous work for EMBs, as they will not only investigate cost-saving measures, promote its activities and provide education, but also conduct elections. As a result, the responsibility of EMBs is extensive, as they involve not only organising elections, but also managing them.

Recent studies on democratic elections in Africa have emphasised the importance of electoral governance due to the steady rise in façade democracies. Incumbents in authoritarian regimes conduct elections that do not meet democratic standards of fairness and freedom, and this often facilitates victory for those incumbents. Accordingly, some scholars posit that such regimes focus on the duration of their authoritarian rule and scout for different ways in which elections could benefit them or carry out measures to ensure that authoritarian institutions continue to favour the incumbent (Riedl, Slater, Wong & Ziblatt 2020; Morse 2018). This compromises those institutions responsible for ensuring the quality of competitive elections and has also created a favourable institutional context for the enforcement of long-term limits. Many African countries have developed stable patterns to effectively enforce them, while others have established a tradition of circumventing them (Hartmann 2022). As a result, most authoritarian governments find it hard to hand over power, especially when leaders declare themselves to be ‘president for life’, thus making them irreplaceable. This can only be addressed through constitutional provisions that regulate the transition of power, thus solving problems arising from peaceful entry to peaceful exit (Meng 2021, p. 951).

The effectiveness of electoral governance is therefore critically important in ensuring the holding of credible elections. Electoral governance involves providing procedural certainty which regulates ‘free and fair’ elections, and managing the uncertainties in elections. In weak democracies in Africa and elsewhere, designing and implementing the rules of electoral governance is of specific concern to political actors (Mozzafar 2002, p. 87). For instance, the disputes and controversies surrounding transitional elections uniformly and principally focused on elements relating to the opposition’s limited access to state-controlled media; incomplete or inflated voter registers; and pro-incumbent bias in applying the law (Bratton & Van de Walle 1997, pp. 201-203). In particular, the opposition places specific importance on the success of electoral governance due to their obvious organisational and political disadvantage in relation to autocratic incumbents who would, if possible, avoid holding competitive elections. But, when forced, the opposition would choose rules that would assist in reducing the uncertainties of competitive elections in order to guarantee their victory. This contrived plan even expedites the prospect of formulating rules on electoral governance in transitional elections, which provide some façade of procedural legitimacy (Mozaffar 2002, p. 88). In democratising countries where the electoral process is not deliberately manipulated and no systemic fraud recorded, both incumbents and opposition have similar interests in the conduct of credible elections. This facilitates the designing of electoral governing rules (Chao & Myers 2000).

The article has described how the promotion of electoral governance warrants the creation of rules, laws and bodies to enhance the integrity of elections. In order to understand the promotion of electoral governance in Togo during the last decade, the following section will examine the main drivers of election quality (in this case, the CENI and the electoral system) in Togo.

### COMMISSION ELECTORALE NATIONALE INDEPENDANTE (CENI)

For many countries, the management and supervision of elections have been under the auspices of EMBs which are considered to be critically important entities that ensure the conduct of credible, inclusive, peaceful, and transparent elections. To do this, EMBs are expected to conduct activities ranging from determining the conditions for selecting and electing candidates and the eligibility of voters, to conducting polling, counting and validating votes. In addition, they must also manage and adjust the delimitation of electoral districts, carry out candidate and voter registration, and ensure the successful running of campaigns, finance and media monitoring, voter education and the adjudication of post-election disputes (Elklit & Reynolds 2005).

The CENI was created in 2006 after the revisions to the Electoral Code in 2002 and 2003 and as part of the negotiations led by former Burundian President Blaise Compaoré, which sought to end the political crisis stemming from Faure's victory in the 2005 presidential election (Dickovick 2013). Articles 6, 11, 12 and 13 of the Electoral Code created two bodies: the CENI and the EA. The role of the CENI is to ensure that elections and referenda are conducted according to the law; and the EA (situated in the Ministry of Territorial Administration) was tasked with the responsibility of organising elections (NDI/IRI/IFES 2005, pp.9-10; The Electoral Code 2012).

As alluded to previously, the CENI was given the mandate to conduct and manage elections. As such, it convenes during elections or referenda; to address any post-election dispute up to 40 days after the announcement of election results; during revisions to the legal framework; and in the wake of the annual revision of the voters' lists (NDI/IRI/IFES 2005, p.10). Its birth can be traced back to the GPA, where, during negotiation talks, opposition parties and civil society requested the creation of an independent electoral body to oversee elections and to promote democratic reforms. It consists of 17 members: five represent the parliamentary majority and five the parliamentary opposition. It also includes three members from civil society, three from 'extra-parliamentary political parties' and one from the administration (AU EOM 2018). Article 36 of the Electoral Code requires that the CENI's decisions are taken by consensus. However, in cases of dispute among

members, the Article also requires a vote. In the first round, a qualified majority of two-thirds is needed, while in the second round, a simple majority of members is required. Ten members are required to form a quorum, and theoretically, a decision by the CENI would be validated by six votes (The Electoral Code 2012).

Despite the aims and objectives of the CENI (that is to ensure that elections and referenda are conducted according to the law), it can be argued that it is not independent nor is it fully in control of the organisation and management of elections. The Ministry of Territorial Administration appoints its members at the national level and is responsible for the design and procurement of election materials. The CENI can only appoint polling staff working in the organisation of local elections (CELI), while other administrative staff are appointed by the EA, which is an extension of the Ministry of Territorial Administration (NDI/IRI/IFES 2005, p. 11). Since the authority for decision-making on key electoral issues rests within the department of the EA and the Ministry of Territorial Administration, it is difficult to regard the CENI as an independent body that can address critical electoral management issues.

### THE ELECTORAL SYSTEM

Electoral systems are sets of by-laws that provide blueprints on how votes should be cast in an election and how they are translated to seats in a representative democracy (Menocal 2011, p. 6). The political structure of a country is determined by electoral systems because they are 'the cogs which keep the democracy wheels to function in a proper manner' (Farrell 1997, p. 2). Electoral systems are diverse and complex; therefore, their selection is an important aspect in any representative democracy. This is because an electoral system consists of all facets of elections, such as the capacity to stand for and vote in an election; voting procedures; rules on candidacy; control and administration of elections; principles of elections; and regulation of elections (Menocal 2011, p. 3). In addition, an electoral system can help to 'engineer' particular results, such as encouraging accommodation and cooperation in a divided society, as well as being the important link between leaders and their citizens (e.g., political responsiveness, representativeness, and accountability).

In order to promote electoral governance, Togo has two different electoral systems: the Togolese Constitution provides for the use of a proportional, closed party list system for legislative elections, and the absolute majority system for presidential elections. In the proportional system, political parties submit their lists, consisting of twice as many candidates as the seats to be occupied in the relevant constituency. The distribution of these seats is carried out according to the quotient derived by the highest average system, thus preventing any

threshold from winning a seat. It also allows for the election of substitutes and titular members simultaneously to occupy vacant seats that come up between general elections (IPU 2016).

The absolute majority system (also known as the run-off system, which allows the two best candidates to contest against each other) was used for several decades until it was replaced in 2003 by the relative majority / plurality system following the revision of the 2003 Electoral Code. This new system allows the candidate with more votes to win an election (NDI/IRI/IFES 2005, p. 9). The opposition strongly rejected the plurality system, and they had consistently expressed their frustration following the outcome of presidential elections (Seely 2011, p. 373). The May 2019 Constitutional Amendment Bill, however, replaced the plurality system with the absolute majority system previously used (Roberts 2019).

The essence of the proportional representation system is to promote equal representation as it provides for an equal number of votes for each representative in an assembly, and allows voters to choose their preferred candidate. However, it does not reduce the gap between the number of constituency seats and the sizes of the electorates. For example, across the 30 existing districts, 85 000 voters were allocated one seat in the Ewe Stronghold in the Grand Lomé electoral district, while in the Binah a Kabye stronghold, one seat was given per 20 000 voters. Also, with the implementation of the highest average rule, 26 (out of the 30 districts) had only two or three seats. These conditions therefore allowed the party with the largest number of votes in a district to gain extra seats to the detriment of a weaker party (Tobolka 2014, p. 2). It is therefore evident that in this case, the proportional representation system might strengthen the strongest party (in this case, the incumbent) to the detriment of a divided and weaker opposition.

With the reintroduction of the absolute majority system through the May 2019 Constitutional Amendment Bill, the government ignored calls by opposition leaders, civil society groups and the Emeritus Archbishop of Lomé for the postponement of the 2020 presidential elections, to give adequate time for carrying out reforms. This included, *inter alia*, reorganising the CENI; establishing a credible electoral register; and reorganising the Constitutional Court (CISA 2020). However, this led to big wins for the ruling UNIR party, and the opposition rejected the outcome of the elections, citing fraud.

## PROMOTING ELECTORAL GOVERNANCE

Election contestation and respect for election procedures underpin the significance of electoral governance in Togo. Electoral governance has highlighted the importance of accountability in the electoral management bodies and the different stages of the electoral processes. For several decades election stakeholders have

decried the poor management and administration of elections in the country. Despite the existence of legal institutions and a framework to oversee the organisation of elections, the lack of trust by the opposition in these frameworks consistently casts doubt on the quality of Togo's elections due to high levels of electoral malpractice. Since electoral governance has been one of the highlights in democratic states (and Togo in particular), its promotion is viewed as important. This is because elections are widely regarded as an important tool for the alternation of power and are believed to be the sole means for the voice of the people to be heard. Any attempt to subdue their relevance has, however, been met with resistance from political actors.

Three presidential elections (in 2010, 2015 and 2020) and two legislative elections (in 2013 and 2018) were held between 2010 and 2020. However, these elections were characterised by protests and opposition rejection of electoral outcomes. They cited extensive electoral irregularities, despite the fact that the elections had been validated by local and international observers. The focus of this paper has therefore been to analyse how the electoral body, the CENI and the electoral system promote electoral governance in Togo.

Since electoral governance is achieved when laws, rules and regulations that guide the electoral process are enforced and respected and a candidate is elected in a free and fair manner, it is therefore imperative to examine how this is achieved in Togo. For this reason, Diamond (2002) suggests four important elements:

1. free participation of all individuals in the electoral process;
2. independent political parties must be able to contest freely and fairly;
3. a legitimate vote counting process must be guaranteed; and
4. every adult voter must enjoy equal voting rights.

In addition, democratic institutions must be independent and credible to ensure all election stakeholders are given an equal opportunity to contest in an election.

As a driver ensuring credible elections in Togo, the CENI, as previously discussed, is regarded as one of the most important mechanisms to promote electoral governance. This is because EMBs are widely believed to be responsible for the administration of elections. They carry out activities which include applying and interpreting electoral laws, voter registration activities, counting ballots and running polling stations. Three models of EMBs exist: government, mixed, and independent. The government model, for instance, manages elections through a government ministry, while independent EMBs, on the other hand, are completely independent agencies and are not accountable to the executive branch of government. The mixed model is a combination of both models (Fall, Hounpke, Jinadu & Kambale 2011). According to Van Aaken (2009, p. 306), an

important benchmark to differentiate a government EMB from an independent one is whether they are structured legally and to whom they are accountable. The electoral tasks of government EMBs such as the drafting of laws and staff appointments are often fulfilled by the Ministry of Territorial Administration. This compromises the credibility of decisions taken due to the belief that they are politically influenced or fostering the agenda of the current government (Van Aaken 2009, p. 309).

Based on the preceding definition, it is evident that the CENI is a government model, as its tasks are supervised by the Ministry of Territorial Administration. Important functions such as the organisation of elections and procurement of electoral materials fall under the responsibility of the EA, as the CENI has little control over the management of elections. It is a fallacy for the opposition parties to expect different outcomes, as if the CENI were an independent model. But Van Ham and Garnett (2009) argue that, despite the existence of a widely-held belief that independent EMBs are best suited for the organisation, monitoring and validation of elections in an impartial manner, studies have revealed conflicting proof on the relationship between electoral integrity and EMB independence.

Regional studies conducted in Africa and Latin America reveal that independent EMBs have positively influenced the integrity of elections (Fall et al. 2011; Hartlyn, McCoy & Mustillo 2008). However, comparative data propound that their institutional blueprint is weak and that this negatively affects the integrity of elections (Birch & Van Ham 2017; Norris 2015; Birch 2011). Elements such as the rule of law, the presence of institutional checks and balances and the level of democracy will probably influence the extent to which EMBs can function independently (Norris 2015; Van Ham & Lindberg 2015). Where there is a history of autocratic rule and weak democratic institutions to foster accountability, the terrain for an independent CENI is shaky. However, Martini (2013) believes that many election stakeholders are not interested in the different models of EMBs, but on whether they support the principles of transparency, integrity and impartiality.

Nonetheless, these considerations do not ignore the fact that elections are poorly managed in Togo. The CENI operates on an ad-hoc basis, as it convenes only during times of elections and up to 40 days afterwards to address any post-electoral disputes. This does not afford them sufficient time in which to address electoral issues to avoid a recurrence before the next electoral cycle. Sola-Martin (2018) believes that some African states may consider elections an event rather than a cycle, and the reliance of funding from the government or donor community is one of the challenges encountered by EMBs. Appointments of senior staff are done by the Ministry of Territorial Administration and the CENI is expected to appoint junior staff such as polling officers. This gives the CENI very little authority or

time to build rapport with all staff as the majority are usually appointed close to the elections.

The responsiveness of the CENI to the needs of all election stakeholders remains remote and it is regarded as partisan because it seemingly promotes the ideals of the ruling RFT party. This creates an unequal playing field: opposition parties frequently question its decisions as they believe that most are designed to favour the ruling RFT party. This leads to a growing distrust in the CENI regarding the handling of credible elections. Due to its partisan nature, the promotion of electoral governance remains questionable as it could be seen as a tool for the ruling party to cement its grip on power, to the overall detriment of the opposition. Furthermore, this partisanship makes it difficult for the body to correctly address electoral complaints which are levelled against the ruling party. This supports the argument that though elections are conducted within the specific electoral framework, they have been regarded as an event, not as a process that fosters electoral governance. In addition, it could create a fertile ground for voter apathy and an election boycott as election stakeholders believe that electoral procedures are flaunted by the CENI in favour of the ruling party.

Elections can only be effectively managed if the CENI is given independence in terms of its composition, capacity, funding and structure since both winners and losers of elections do accept election outcomes when they are managed effectively. As mentioned above, the legal provisions for the structure and composition of the CENI do not promote transparency and credibility in the electoral process. The CENI is structured as a semi-government body within the Ministry of Territorial Administration and any expectation of different outputs will be misleading. Birch and Van Ham (2017) opine that when EMBs are independent, this limits political control and protects them from manipulation by political parties. An independent EMB also increases voter confidence in the electoral process and possibly reduces voter apathy.

Since electoral governance fosters accountability, the reporting system of the CENI casts doubts on its effort to promote electoral credibility. This is because, after elections, results gathered by local electoral commissions are sent to the CENI headquarters for announcement. Attempts by civil society organisations (CSOs) for results to be read within the voting precinct for the purposes of transparency have been rejected. The CENI prefers to retain a reporting system where all results are sent to its headquarters before they are announced, thus opening avenues for rigging. Efforts by the CSOs and the opposition to demand an end to this style of reporting were squashed by the Ministry of Territorial Administration which refused to authorise any election-related requests (Boucher 2020). Proper accountability within the electoral process might allow the community to validate

results within their areas before they are formally announced at national level. This would build more confidence for all electoral stakeholders in the entire process.

Furthermore, the choice of electoral system is a major issue for voters, and its complex nature has exacerbated this concern. To recap: the proportional representation system is used as the basis for legislative elections, while the absolute majority system caters for presidential elections. Thus, the use of both electoral systems has different consequences in promoting electoral governance. However, the use of proportional representation has been widely advocated as the most appropriate system, as it fosters equitability, and addressing the disparity between the size of the district and the number of seats is paramount. This has consistently been an issue in the country as the opposition feel that the seats are unequally distributed. In addition, though the proportional representation system purports to have equal votes and equal seats during legislative elections, it has failed to reduce the disparity between the number of votes and the available seats in Parliament. This has resulted in large wins for stronghold districts of the ruling party while smaller parties continue to suffer due to the uneven playing fields.

If seat allocation were to be based on population and not political strongholds, then there would be proportionate representation, where constituencies with larger populations have more seats than those with smaller ones. Based on the current system, the majority will remain excluded as the focus will remain on how the strongholds of the ruling party might win more seats. This highlights the fact that the ruling party manipulates the electoral system for its own benefit, and this has led to consecutive wins with large margins for them during the period of this study (61 seats out of 91 seats in the 2013 elections and 59 seats in the 2018 legislative elections, respectively).

In her study on electoral systems and electoral violence, Birch (2007) remarks on data proving that campaign violence and increased misconduct are noted among countries practising the majoritarian electoral system. This is because elections can result in violent local competition, especially when ethnic groups are excluded from political power. Though Birch's argument does not provide enough evidence as to why campaign violence occurs in some districts and not in others (Birch, Daxecker & Hoglund 2020), it does shed some light on the political situation in Togo. Chief of these is the constant rejection of electoral outcomes due to uneven playing fields.

Opposition outcry over the previous plurality electoral system, which they alleged was not representative, led to the reintroduction of the absolute majority system. However, this has yet to yield much fruit. Lindberg (2004, p. 69) argues that an absolute majoritarian system limits the participation of all stakeholders. He further states that over two-thirds of states using this model have been undemocratic. Incumbents conduct elections which barely meet the standards

of freedom and fairness and, as a result, voters lose interest in voting and only a few opposition parties take part in the (unfree) elections. In some cases, voter scepticism is extremely high, even when credible elections are conducted. This could explain why voter turnout has remained inconsistent during the period under review. For example, in 2010 this was 64.6 per cent; in 2015, 60.9 per cent; and in 2020 it was 76.6 per cent.

Voter apathy continues to increase as the number of voters fails to translate into those who actually turned up for the elections (IFES 2023). In addition, the system does not promote fairness, as the margin of difference between the second and third candidate might be small but, based on the provision, the third candidate is automatically eliminated. It could also result in a case whereby supporters of the losing candidate refuse to take part in the run-off, thereby jeopardising the whole process. Given the poor management and administration of elections in the country, it is unsurprising that by the time the second round of elections was announced, the opposition had lost confidence in the process as they believed that it had already been rigged.

## CONCLUSION

The promotion of electoral governance has highlighted the need to respect the election procedures of freedom, fairness and accountability. Its effectiveness hinges on several factors, including the fairness of the different electoral phases managed by the CENI, and the type of electoral system put in place to promote inclusivity. This study found that, to achieve electoral governance, the Togolese government designed the CENI and two electoral systems: the proportional representation for legislative elections and the absolute majority for presidential elections.

This article has established that while the creation of the instruments mentioned above is laudable, much still needs to be done to ensure that electoral governance is entrenched in the country. Since elections are viewed as the foundation of any democracy, their credibility, inclusivity, and transparency are also important. It is concerning that the CENI is regarded as a largely partisan body and appears to guarantee the ideals of the ruling party, much to the detriment of other political parties. As the CENI possesses traits of a government model it cannot be regarded as an independent body. The constant interference by the Ministry of Territorial Administration in the activities of the CENI has inhibited the body from being able to effectively manage its responsibilities as provided by the Electoral Code. As a result the opposition parties have become increasingly disillusioned and they consistently reject the electoral outcomes by carrying out protests or boycotts, which in some cases have turned deadly.

Regarding the electoral systems, the study affirms that both proportional and majoritarian representation favour the ruling party in both legislative and presidential elections, as they have consistently manipulated these provisions for their own benefit. This has resulted in the constant rejection of electoral outcomes by the opposition parties through protests, thus jeopardising the promotion of electoral governance. This then supports the argument that electoral governance is used in the country as a means of cementing the ruling party's grip on power. As a result, the opposition and other election stakeholders are left with no choice but to voice their grievances through protests or boycotts.

However, there is a more encouraging aspect. Elections in Togo are held frequently and within the specified timeframe and election stakeholders indicate a growing interest in the quality of elections. These indicate hope in fostering electoral governance. This in turn could create new opportunities for the opposition to devise novel strategies to address issues relating to electoral malpractices, much to the detriment of the ruling party. The lesson for future research is whether there might be such avenues to promote electoral governance within the current situation.

If an election is regarded as a strategic element of democracy and its conduct is not the start but the conclusion of the electoral process, proportional representation and absolute majority systems need to be more inclusive to promote electoral governance. Also, the CENI needs to be strengthened and endowed with the necessary authority it needs to carry out transparent and credible work.

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## BOOK REVIEW

*Everyday Identity and Electoral Politics: Race, Ethnicity, and the Bloc Vote in South Africa and Beyond*, Adam S. Harris, OUP, Oxford & New York, pp. 247, 2022

Author Adam Harris is an associate professor in Development Politics in the Department of Political Science and School of Public Policy at the University College London, who studies ethnicity, race, development, and African politics, focusing on political participation. In this recent publication he tackles the uncomfortable (in South Africa) subject of race or identity politics and how it relates to voting in post-apartheid South Africa.

In South Africa a book of this nature could be dismissed as yet another rant on race and politics. Yet, one way of understanding Harris's argument is to go beyond this traditional (South African) attitude and to examine how it closes the research gap and contributes to knowledge on identity and electoral politics in South Africa, as well as in the US, Uganda, and Zambia. The book straddles the usual binaries of race and non-racialism in the debate on electoral politics. It therefore tackles one or more issues on both sides of the debate, with implications for the relevant stakeholders (Chapter 8).

Using a combination of survey data, survey experiments, interviews, and focus group discussions, Harris skilfully outlines his argument on identity politics in South Africa, with a specific focus on the coloured community<sup>1</sup> in this country, and elsewhere, using a few other examples (e.g., Uganda and the US). The book examines ethnic identities in elections and the extent to which such identities are fluid or outstanding. Relying largely on sociological theory, Harris unpacks the empirical relationship between ethnic distance and voter behaviour (Chapter 6). This chapter also underscores much of the book's qualitative and quantitative argument on everyday identities and electoral politics.

The book's main message regarding the interface of politics (specifically elections) and race or racial identity, will probably appeal to readers who are interested in elections and racial issues. In addition, its social-psychological and sociological approaches and arguments should also be welcome among many

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1 This term, which describes South Africans of mixed descent, is used here as it appears in Harris's book. South Africa's post-apartheid legislation and the country's population statistics agency (Statistics South Africa) stipulate the country's four main race groups as black, white, Indian and coloured. Critics of the latter term often claim that the term is ambiguous at best, and racially offensive at worst as it also includes the indigenous KhoeSan. Moreover, many in the 'coloured' community often decry the fact that post-1994 South Africa retained this apartheid-derived racial term that some argue perpetuates their marginalisation. Yet, other sections of this community sometimes accept the term and do not see anything wrong with its use.

social scientists and social science researchers, especially given Harris's insistence (p. 36) that 'Theory seeks to explain how peripheral members [of racial groups] construct their identity and vote rather than explain how those of mixed ethnic heritage construct identity and vote'. Its topic will resonate in particular with readers in the country's Western Cape, parts of KwaZulu-Natal and Gauteng provinces, and the Northern and Eastern Cape provinces where many of the so-called coloured population reside.

While the country's election management body (the Electoral Commission of South Africa) does not collect voting statistics according to race, this topic clearly appeals to researchers and those who are interested in the relationship between voting and race, given the country's painful racial past. Furthermore, any book about race, racial or identity matters in South African politics should appeal to a wide spectrum of readers since the country still suffers a serious hangover from the era of apartheid and institutionalised racism.

Harris tackles the sensitive and, in South Africa controversial subject with a meticulous and systematic interrogation and clearly challenges even the oft-taken-for-granted racial issues about racial voting in South Africa. In Chapter 7 (pp. 155-172), he cites the US and Uganda as two examples with which to examine the concept of ethnic distancing in relation to electoral politics in South Africa, which provides a stark but summarised contrast.

Cynical South Africans might see the book as another example of their country as a race-obsessed society. Furthermore, given the fact that the coloured people are a minority in South Africa's population of population of 62 million,<sup>2</sup> some critics might wonder why the author selected this group for intense study, excluding others such as Indians or even Afrikaners. Another limitation of the book is that its narrative falls into the trap of using the term 'coloureds' for everyone who used to be lumped together under this term.

Those who maintain that South Africa has not resolved its racial legacy and societal racism will be keen to find out whether (and how) this book confirms their fears or anxieties. Yet, they would probably be disappointed to learn that this is not part of the book's argument. Admittedly, the book does not seek to interrogate new forms of racism in the post-1994 era, especially in relation to the coloured community. Neither does it make inferences about coloured identity in relation to the question of the power, role and status of the public representatives of this community after each election.

Harris certainly attempts to explain how identity construction and reconstruction within the coloured community are related to their conceptualising and reconceptualising of electoral politics in South Africa. Yet, the fluidity of

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2 (Census 2022, <https://www.statssa.gov.za/?p=16716>).

this community (i.e., the ambiguity of the concept of race specifically as derived from apartheid South African lexicon) could find some readers questioning the rationale of slotting communities into racial pigeon-holes, ostensibly to assess their pre-determined voter behaviour and voter preferences.

Vigilant readers might notice several (though minor) typographical errors e.g., a country that 'fit' the description', p.16); and [Patricia] De Lille as the 'Major' of Cape Town. This includes the use of phrases such as 'ruling party' (p.14) to refer to the governing African National Congress, the renaming of AZAPO (Azanian People's Organisation) to 'APO' (Table 4.2, p.74, fn.), and the use of 'Sub-Saharan Africa', which the scholarship on decoloniality and Pan-Africanism increasingly criticises.

Observant readers who perceive the country as a 'rainbow nation' might wonder why the book focuses on racial identity in electoral politics as South Africa does not collect voting statistics by race. In addition, the use of the US and Uganda as examples of ethnic distance might find some readers wondering why other equally relevant examples of race or racial identity in electoral politics, e.g., in Europe, Australia, India, and some parts of Latin America, are not cited prominently but merely alluded to.

Finally, the book seemingly overlooks how the traditional voters' penchant in South Africa for historical loyalty to certain parties, irrespective of the parties' campaign messages or political manifestoes, affects the 'typical' coloured voter. The concept of the 'undecided / vacillating voters' within the coloured community is also not discernible in the book. Its fundamental argument of the effects of ethnic distance on voter behaviour and preference also appears to overlook the question of absentee voters or abstentions, especially in 'ethnically charged and ethnic census elections' (p.7), such as are often held in South Africa.

The book's main contribution is Harris's assertion that 'Identity politics still plays a key role in SA's democracy' (p. 61). Its message will be welcomed as a fresh scholarly contribution to electoral politics and elections in Africa, with new insights into ethnic identity and ethnic distance in relation to one of South Africa's minority communities. Researchers in the areas of elections and electoral democracy will be keen to find out what proportion of 'ethnically distant voters' contributes to the continual voter apathy in South African elections. Some will also be interested in confirming (or questioning) the significance of the 'coloured vote' for parties to win in the Western Cape and other provinces, wards, and municipalities in the country.

The book's strong argument is presented in a readable but simple style that many general readers will find appealing. The cover illustrates the question and contradictions of identity and electoral politics. Its many data tables, graphs and graphics also enhance its appeal to policymakers and public officials, university

and other higher education institution students, election management bodies, members of diplomatic and public administration institutions, as well as disciplines in social science, humanities, arts, and researchers and intellectuals globally.

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