WHEN ELECTIONS BECOME A CURSE

REDRESSING ELECTORAL VIOLENCE IN AFRICA

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EISA strives for excellence in the promotion of credible elections, participatory
democracy, human rights culture, and the strengthening of governance institutions for the
consolidation of democracy in Africa.

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EXECUTIVE SUMMARY

This Policy Brief[1] synthesises the deliberations at the Electoral Institute of Southern Africa (EISA)'s 4th annual symposium which was held in 17-18 November 2009 on the theme 'Preventing and Managing Violent Election-Related Conflicts in Africa: Exploring Constructive Alternatives', and distils key policy issues that emerged from the discussions. It argues that although the factors which propel and trigger electoral violence in Africa are diverse, they generally revolve around the failure to identify structural and institutional flashpoints which create the potential for such violence. Consequently, responses to electoral violence tend to be confined to addressing symptoms rather than redressing structural causes.

This Policy Brief analyses the causes and patterns of election-related violence, interrogates the links between elections and conflict and their consequences, and considers the extent and context of electoral violence. In addition, it sets out the roles of intergovernmental institutions and international organisations and assesses the degree to which their work contributes to developing strategies to prevent and mitigate election-related violence. Finally the brief offers policy recommendations and conclusions emanating from the symposium.

In substance, the Policy Brief makes two key points. Firstly, electoral violence may arise at any point during the electoral cycle. Therefore a concerted effort should be made to entrench the quality of elections through an approach that gives support to the electoral cycle. This requires a recognition of the types, manifestations, and causes of election-related violence in a way that informs the strategic design of prevention and management programmes. Preventative activities should also be woven into each stage of the electoral cycle, as should the careful assessment and tracking of violent incidents. The continuum of various phases of the electoral process provides viable entry points which could allow for early interventions to obviate, resolve, or mitigate conflicts. The electoral cycle approach focuses on consistent and continuous conflict mapping, monitoring and networking and training and building the capacity of key election stakeholders and civil society components.

Secondly, in some countries the management of elections and subsequent violent outcomes indicate the absence of a democratic culture and dislocations in the broader structures of governance, including the equitable provision of socio-economic dividends which often results in exclusion and inequality and may sow the seeds of tensions. In these instances elections *per se* do not cause violence, rather it is the process of political competition which exacerbates existing tensions, exposing structural disparities and inequalities which stimulate the escalation of these tensions into violence.

The ability of states to consider electoral violence as being often a manifestation of unresolved socio-economic and political issues rather than emanating from an electoral event will inform their actions which should move beyond *ad hoc* interventions and towards approaches that focus on durable institutions of meaningful political change.

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1   This policy brief has been compiled by Dimpho Motsamai, a researcher with the Africa and Southern Africa programme of the Institute for Global Dialogue in South Africa. She is an analyst on policy issues related to security, development, governance and international relations in Southern Africa and Africa. She has published on governance, political security, infrastructure development, and social policy oriented issues.

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Dimpho Motsamai

BACKGROUND AND INTRODUCTION

Since the (re-)introduction of multiparty systems in Africa in the early 1990s electoral competition for state power has become a norm and most African states have now held more than three successive elections.

While the regularity and frequency of elections has generated a sense of demo-optimism (see Lindberg 2008) there has recently emerged a worrying trend of election-related violent conflict that threatens democracy, peace, stability and sustainable human development.

The factors that propel such violence are multifaceted, ranging from flawed or failed elections to structural issues such as poor governance and exclusionary political practices, to name but a few. In many cases elections have either precipitated political disputes or have escalated simmering tensions to an outburst of conflict. For example, in the past five years there has been violent election-related conflict in Kenya (2007/08), Zimbabwe (2008), Nigeria (2007), Lesotho (2007), the Democratic Republic of Congo (2006), Togo (2005), Zanzibar (2005), and Guinea Bissau (2008). The increasing prevalence of electoral violence on the continent highlights the challenges facing those who aim to prevent and manage such conflict nationally, regionally and continentally.

Against this background the Electoral Institute of Southern Africa (EISA) convened a symposium from 17-19 November 2009, titled 'Preventing and Managing Violent Election-Related Conflicts in Africa: Exploring Good Practices'.[1]

The primary object of the symposium was to identify strategic approaches and forms of institutional best practice that might help to anticipate and prevent the type of electoral violence that has accompanied elections in Africa. The secondary object was to contribute to a discussion of and knowledge about practical methods of encouraging adherence to the principles of a consensus-based political and electoral process, the peaceful resolution of political and electoral conflicts, and electoral norms and standards.

The multi-stakeholder nature of the symposium made it possible for participants to exchange information about their experiences of peaceful and democratic transitions and offer lessons about and possible solutions to electoral conflict mitigation. This Policy Brief synthesises the deliberations at the 2009 symposium and distils key policy issues that emerged from the discussions.

It argues that although the factors which propel and trigger electoral violence in Africa are diverse, they generally revolve around the failure to identify structural and institutional flashpoints which

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1   The 2009 annual symposium was the fourth such gathering organised by EISA as part of its contribution to building democracy and promoting governance, human rights and citizen participation on the African continent.

create the potential for such violence. Consequently, responses to electoral violence tend to be confined to addressing symptoms rather than redressing structural causes.

The first section of this Policy Brief analyses the causes and patterns of election-related violence, interrogates the links between elections and conflict and their consequences, and considers the extent and context of electoral violence. The second section sets out the roles of intergovernmental institutions and international organisations and assesses the degree to which their work contributes to developing strategies to prevent and mitigate election-related violence. The final section offers conclusions and policy recommendations emanating from the EISA 2009 Annual Symposium.

THE CAUSES, PATTERNS AND CONTEXTS OF ELECTION-RELATED VIOLENCE

The restoration or establishment of multiparty systems in most of Africa in what has been termed the 'third wave of democratisation' saw an opening up of political space and the formation or re-emergence of opposition political parties. Almost all African countries adopted new constitutions which reflected these developments, including the principle of regular legislative / parliamentary and presidential elections. However, the violence which ensued after an apparently peaceful presidential poll in Kenya in December 2007 and the circumstances that surrounded the 2008 presidential election in Zimbabwe have recently ignited debates about the challenges to the democratic process in Africa.

The post-election political impasses and their devastating consequences in both Kenya and Zimbabwe have compelled analysts and policy-makers alike to ponder the complex question of whether elections in Africa are a curse on or a cure for democratic advancement. Many keen observers of Africa's political scene have pointed to these and other events, particularly the unconstitutional changes in governance, as a manifestation of the regression of the democratisation process on the continent, inferring that democracy is either at a standstill or is backsliding (see Sorensen 2008). Although the Kenyan and Zimbabwean cases have given these debates fresh impetus it is important not to overlook the fact that Kenya was still in the phase of 'democratic transition' and the violence was the result of certain structural deficiencies in the country's socio-political structure, not merely of problems within the electoral cycle *per se*.

Thus, while the electoral violence which has dominated Africa's transition to democracy in the past two decades may be attributed to disputes over the rules governing elections during the electoral cycle, there are deeper systemic and structural causes, which are deeply embedded within the political economy of each African state.

The argument that follows is that the post-election power-sharing agreements reached in the two countries have set an unfortunate precedent and that such agreements are becoming a trend in Africa. In this regard the issue of 'context' must be highlighted, since previous power-sharing agreements followed armed conflicts and not multiparty elections. However, it should be noted that power-sharing agreements are short-term transitional arrangements and that a return to democratic normality should be initiated.

In terms of the contexts in which electoral violence ensues democratisation theorists have identified three main phases or sequences of the democratisation process. According to O'Donnell & Schmitter

(1986), Linz & Stephan (1996), and Rakner, Rocha Menocal & Fritz (2007) the democratisation process involves three phases: liberalisation and 'political opening', transition, and consolidation. Although the phases are not specifically defined they provide a useful analytical framework for judging the level of progress of the democratic process in a given country or region and its susceptibility to election-related violence.

Three main contributing factors to post-election violence have been identified (see Khadiagala 2009; Baregu 2009) as: socio-economic divisions, arising primarily from poor governance; regimes which have no stake in political change; and weak institutions and institutional rules governing the election process.

The nature, intensity and consequent outcomes of electoral violence in African countries have varied and within a country there may be different levels of violence at different times. This has certainly been the case in Zimbabwe, where varying degrees of violence have flared up consistently in elections since 2002. The 2007 presidential election in Kenya, where a contested outcome led to violent protests and mass displacements of populations, is another example.

Consequently, consensus has emerged that electoral violence may emanate from deficiencies in the electoral process itself as much as it may be stimulated or catalysed by underlying social, political and economic cleavages or tensions.

Among the explanations for conflict are the stakes involved; expectations relating to victory or loss; and political interest in the incentives created by an electoral system. Observers have noted that electoral conflict and violence may occur at any one of the three stages of the electoral cycle – pre-voting, voting and post-election. Experience has indicated that once the poll has been concluded violence tends to erupt over allegations of fraud and corruption or when there is dissatisfaction with the result.

Some challenges to the conduct of democratic and peaceful elections in Africa are identified as follows:

- Protection of incumbency: Elections, by their very nature, are uncertain and competitive processes. Violence ensues in situations where there is a strong possibility of changing existing power relations and the incumbents are unwilling to cede power. This has been the case in Africa, as elections are often associated with tension and the eruption of social antagonism over the capture and control of the state. Much can be attributed to the dominance of one party and an intolerant political culture relating to the opposition. In the context of authoritarian regimes the strategic intent and practical consequences of violent acts are designed, in many ways, either to vitiate the elections altogether or to influence voting behaviour through threat or intimidation.

- Absence of a tolerant political culture and the entrenchment of a dominant-party system: The conduct of democratic and peaceful elections requires a tolerant political culture, which seldom exists in former one-party state systems and/or dominant-party systems in Africa. In most illiberal democracies or hybrid regimes

political intolerance and repression are rife. [2] In the context of authoritarian regimes, the strategic intent and practical consequences of violent acts are designed in many ways either to vitiate the elections altogether, or to influence voting behaviour through threat or intimidation.

- The design of the electoral system: The structure of an electoral system can either exacerbate or de-escalate electoral conflict as it has a direct impact on identity and ideology. The extent to which a system is regarded as fair and inclusive may determine the possibility of post-electoral conflict. Violence often occurs when elections are 'zero-sum' events and 'losers' are excluded from participation in governance.

- The management and administration of elections: The roles of election management bodies (EMBs) are vital during the electoral cycle as, if the EMB is suspected of a lack of impartiality the credibility of the electoral process is diminished and there are high levels of violence when the results are announced. Further, it is important for EMBs to have conflict prevention and management systems in place to enable them to handle any incidents of violence that may emerge at any stage in the electoral cycle.

THE ROLE OF INTERGOVERNMENTAL INSTITUTIONS, INTERNATIONAL ORGANISATIONS AND PARTNER COUNTRIES IN THE PREVENTION AND MANAGEMENT OF ELECTORAL CONFLICT

It is important to note that the capacity to settle internal electoral disputes is frequently weak. Part of the problem lies in the design of the conflict-resolution structure. The traditional approach has been to be reactive rather than to emphasise proactive conflict prevention. Interventions also tend to be state-centred, excluding civil society groups and those who are particularly vulnerable during violent periods – women, for instance.

As countries have failed to address issues related to electoral conflict the role of external players such as the African Union (AU) and the regional economic communities (RECs) has been questioned. African countries should prioritise the prevention of electoral violence and far more effort should be made prior to elections to avoid crises. What is needed is an investment in early-warning mechanisms and interventions to redress problems as soon as they arise. However, it should be noted that continental and regional intergovernmental organisations have often failed to detect electoral conflicts and have not intervened early enough to nip a pending crisis in the bud.

Although instruments like the African Charter on Democracy, Elections and Governance (ACDEG) are in place they seem to have already been reduced to mere paper tigers, given the lack of urgency

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2. An illiberal democracy is a political system where democratic elections exist, and the government is elected by a democratic majority, but is not restrained from encroaching on the liberty of individuals and denying their political rights. The term is also used to denote a particularly authoritarian kind of representative democracy (also referred to as semi and quasi democracies), in which the leaders and lawmakers are elected by the people, but tend to be corrupt and often divert from respecting the law. Thus, this kind of democracy facilitates democratic procedures but fails to provide essential civil liberties. (See Engberg J and Ersson 1999:2)

from many countries to ratify the Charter. Furthermore, few African states have incorporated regional and continental provisions in their legal frameworks. The resolution adopted by the 10th Ordinary Session of the Assembly of the African Union in February 2008 underlined, *inter alia*,

> the need to initiate a collective reflection on the challenges linked to the tension and disputes that often characterize electoral processes in Africa, including the strengthening of the African capacity at national, regional and continental levels to observe and monitor elections.

This is an affirmation that, although the continental body has a fully-fledged peace and security architecture (including the Peace and Security Council, the proposed African Standby Force, the Panel of the Wise and the Continental Early Warning System) and the RECs also have conflict resolution mechanisms and structures, there have been major challenges to their ability to operate and contribute to democratic advancement and the consolidation of peace and security.

The necessity for continental, regional and sub-regional responses to conflict prevention and management cannot be over-emphasised. However, it has become apparent that successful intervention is contingent on the commitment of African states to redefining their relationship with continental, regional and sub-regional bodies. This would require countries to pool their sovereignty and give much more power to supranational organisations to allow for effective regional interventions without necessarily compromising the national interests of each state.

As states recognise the supranational attributes of inter-governmental organisations and their usefulness in terms of the security and development of sovereign countries the mandates of intergovernmental organisations will, in turn, be strengthened.

It will fall to the AU and the RECs to impress upon their member states the necessity to espouse the principles of democracy, good governance and the transparent management of electoral processes, including the protection and promotion of human rights, in order to prevent, manage, and resolve conflict.

In addition to such intergovernmental organisations, the role of the international community during the electoral cycle is critical. Broadly speaking, international participants have been lauded as effective when they have engaged in critical election-related administrative tasks such as voter registration and training the security forces (as in Nigeria). Donors have also increasingly created guidelines for development aid to include governance and conflict prevention. Still, the challenge is to include these ideas more consistently and effectively in domestic instruments to address the causes, manifestations and consequences of election violence.

There are key lessons to be drawn from past election crises on the continent which may provide some insight into ways of instituting a new ethos of electoral management. Among these are:

- Election-related violence is a particular type of political violence which occurs within the context of the overall process of democracy and democratisation. Although it may occur within countries that are putatively 'consolidated' it can also happen in less consolidated democratic systems.

- Electoral violence may be a sub-type of political violence in which actors employ coercion as a strategic instrument to advance their interests or achieve specific political goals.

- Electoral dispute settlement mechanisms are not properly institutionalised in most countries. Failure to resolve promptly problems raised in petitions relating to electoral processes may serve as a catalyst for conflict.

- The tendency for last minute or *ex post facto* attention to conflict prevention is un-strategic and insufficient for managing the complex dynamics and causes of electoral conflict. Tools for preventing violence must be woven into each stage of the electoral cycle.

- Lack of public confidence in the electoral machinery and government institutions as a whole sows the seeds of mistrust and discontent.

- Although regulatory legal arrangements exist at national and continental levels they are not always enforced and there is often an interval between the acceptance and signature of an instrument and the point at which the stipulated ratifications are effected.

- Technical assistance with electoral processes has been effective in providing compliance standards and capacity building for EMBs, political parties and non-governmental and media organisations. This should be encouraged.

CONCLUSION

There is no doubt that Africa has made some advances in electoral democracy since the re-introduction of multiparty politics in the 1990s. Evidence suggests that the transition to electoral democracy was easier than the process of building and sustaining democracy. This is partly so because elections are only one aspect of a larger process of democratisation and democracy building. Although elections provide opportunities for improved governance and conflict management, they continue to pose challenges to African political systems.

Continental initiatives such as the African Peer Review Mechanism (APRM), as well as other African Union processes and instruments (including the ACDEG), acknowledge the loopholes in Africa's electoral architecture and have evolved frameworks through which they can be addressed.

At the same time, however, since electoral processes are fundamentally about the attainment of political power, often in high-stakes contexts, they can be a catalyst for conflict. It is within these contexts that social tensions are elevated, often provoking violence. This is particularly true when the electoral process itself is not perceived to be free and fair, or when those seeking to retain or gain political power have no reservations about resorting to the use of violence. However, since not all elections lead to political violence and conflict it is crucial that interventions are tailored for countries where violence may occur. In managing future instances of political and electoral violence the AU, the RECS and international partners should craft measures that prioritise countries that are prone to problematic elections.

There are two key points to be noted. The first is that electoral violence may erupt at any point during the electoral cycle. Therefore a concerted effort should be made to entrench the quality of elections through an approach that gives support to the electoral cycle. This requires a recognition of the types, manifestations and causes of election-related violence in a way that informs the strategic design of prevention and management programmes. Preventative activities should also be woven into each stage of the electoral cycle, as should the careful assessment and tracking of violent incidents. The continuum of various phases of the electoral process provides viable entry points which could allow for early interventions to obviate, resolve or mitigate conflicts. The electoral cycle approach focuses on consistent and continuous conflict mapping, monitoring and networking and training and building the capacity of key election stakeholders and civil society components. This approach has been identified by institutions such as the United Nations Development Programme, the European Commission, the Institute for Democracy and Electoral Assistance, the International Foundation for Electoral Systems, and EISA as effective in preventing election violence and contributing to improving the efficacy and legitimacy of electoral processes.

The second point is that in some countries the management of elections and subsequent violent outcomes indicate two things: the absence of a democratic culture – a situation in which the capacity of institutions to carry out credible electoral processes is either lacking or is undermined; or deeper underlying structural issues, embedded within the broader political economy – dislocations in the broader structures of governance, including the equitable provision of socio-economic dividends which often results in exclusion and inequality and may sow the seeds of ethnic tensions. In these instances elections *per se* do not cause violence, rather it is the process of political competition which exacerbates existing tensions, exposing structural disparities and inequalities which stimulate the escalation of these tensions into violence.

Those electoral processes characterised by fraud, mismanagement, and political influence and which are accompanied by high levels of violence can be the stimulus for deeper, more serious social conflict and ultimately point to the failure of the state to address essential human security and human development.

Electoral democracy will be of little use if it is not accompanied by reforms which improve people's lives. So, the ability of states to consider electoral violence as manifesting unresolved socio-economic and political issues rather than emanating from an electoral event will distinguish between elections as contributing either to democratic consolidation or to state failure. There is, therefore, a need to move beyond ad hoc interventions and towards approaches that focus on durable institutions of meaningful political change. As Dahl (1973) suggests, democracy and electoral processes are mutual security pacts, operating correspondingly to frame rules and the social contracts that will stabilise African politics (see Khadiagala 2009)

POLICY RECOMMENDATIONS

❑ At the national level countries should mainstream conflict-prevention strategies in their electoral cycles and introduce conflict-prevention activities into the entire electoral cycle. This would contribute to promoting the function of elections as an alternative to violence.

❑ There is a need to establish facilitation mechanisms at national level to promote dialogue between the relevant national institutions such as the judiciary, the EMB, political parties and civil society, to reach consensus on methods of dealing with election-related conflicts.

❑ Those AU member states that have not yet ratified the ACDEG should do so. It is anticipated that ratification of the protocol will strengthen its implementation power. It is equally imperative that APRM countries ratify the charter and domesticate it in their election systems.

❑ Regional and continental organisations might explore the idea of establishing an apex body to help manage elections. Such a body could help to enhance the capacity of national election management bodies to organise elections more professionally as well as to ensure the independence of electoral bodies and ward off undue influence from undemocratic governments or external players.

❑ Two processes are suggested in order to ensure that elections add value to democracy: the implementation by individual countries of existing continental, regional and international principles of election management and the establishment of common standards for election observation.

❑ There is a need to enhance the capacity of the EMBs to enable them to carry out their mandates more effectively. This process should include technical assistance, training of staff in electoral management, and support for information technology capacities.

❑ Civil society's relationships with the African Union and RECs should be expanded and strengthened through, for instance, the establishment by regional bodies of new funding mechanisms for civil society programmes in the field of elections. The marginal participation of civil society in governance spheres remains a key impediment to countries broadening peace and security beyond the dominant and narrow state-centric approach.

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