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Navigating post-peace agreement plebiscites: Zimbabwe and Kenya's 2013 elections

By Martha Mutisi[1]

This Policy & Practice Brief is informed by the persistent problem of contested electoral processes and results in a number of African countries. These are often accompanied by violence, with devastating effects not only on human security, but also on the prospects of democratic consolidation in these countries. Paying attention to the reality that in 2013, both Kenya and Zimbabwe will undergo their first post-transition elections following post-election violence in 2008 and subsequent signature of peace agreements, this Brief seeks to examine the current state of affairs in the two countries. In particular, it will assess the conditions under which elections will be held and, ultimately, proffer some recommendations towards enhancing the credibility and outcomes of these elections.

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Introduction and background

Kenya and Zimbabwe, countries located in East and Southern Africa respectively, have over the past five years been compared on several occasions. The two countries are dissimilar economically and ethnically, yet very similar in certain political and historical aspects. In political science terms, Kenya has been categorised as an 'emerging democracy' while Zimbabwe is classified as a 'consolidated autocracy'.[2] One of the glaring similarities between Kenya and Zimbabwe is their colonial history. Both were colonies of Britain and had their independence negotiated by the British, with the outcomes being externally drafted constitutions.[3] In addition, both countries face significant land questions, owing to the emphasis on agrarian-based economies, even though valuable minerals were discovered later. In essence, Kenya and

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Zimbabwe are post-British colonial states that were initially dominated by liberation movements – the Zimbabwe African National Union Patriotic Front (ZANU PF) and the Kenya African National Union (KANU) – perceived by some as practising 'exhausted nationalism'.[4]

Furthermore, what brings forth this comparison consistently is that in 2008, both countries became theatres of post-election violence, which left populations displaced, and several people dead, maimed and traumatised. In both countries, youths were used by political elites as cannon fodder to commit violence and other atrocities. Political violence in Kenya and Zimbabwe dented the countries' economies, attracted regional concern, and ultimately invited international attention. What distinguishes the context of the post-election violence in the two countries is the reality that ethnicity played a major role in Kenya; while in Zimbabwe the conflict has often been defined as a reflection of diametric ideological differences and the quest for political survival.

Apart from experiencing similar effects of post-election violence, both Kenya and Zimbabwe ended up embracing mediation from third parties as an approach towards resolving the political impasse. Both countries opted for African mediators. Although the international community was interested in the outcomes of political processes in both countries, they ceded mediation to African regional organisations. While there are mixed assessments on whether African-led mediation delivered the desired results or not, the reality is that Kenya and Zimbabwe epitomise the more decisive roles being taken by the African Union (AU) and Regional Economic Communities (RECs) towards operationalising the regional peace and security agenda.

In 2008, following the negotiated talks facilitated by former United Nations (UN) Secretary-General Kofi Annan and the Panel of Eminent African Personalities (comprising Madame Graça Machel, a member of the UN Secretary-General's High-level Panel of Eminent Persons on the Post-2015 Development Agenda, and former Tanzanian President Benjamin Mkapa), conflict parties in Kenya – namely the Party of National Unity (PNU), led by President Mwai Kibaki, and the Orange Democratic Movement (ODM), led by Raila Odinga (now prime minister) – signed a national peace accord.

Similarly, mediated talks between the principal political parties in Zimbabwe[5], ZANU PF and two Movement for Democratic Change formations (MDC-T led by Morgan Tsvangirai and MDC-M led by Arthur Mutambara), resulted in the signing of what is known as the Global Political Agreement (GPA) on 15 September 2008. The GPA was essentially a power-sharing agreement brokered by the Southern African Development Community (SADC) through mediator Thabo Mbeki, then president of South Africa. The GPA allowed Robert Mugabe to retain the executive presidency and all its constitutional prerogatives. It also provided for the post of prime minister, filled by Morgan Tsvangirai, and two deputy prime minister positions (representing both MDC formations). Both Kenya and Zimbabwe established Governments of National Unity (GNUs) following mediation between the political parties. When the GNU in Zimbabwe was formed, 14 government ministries were allocated to ZANU PF, while the MDC-T received 13 ministries, and the MDC-M was allocated three ministries. The Kenyan GNU witnessed Kibaki retaining the presidency while Odinga became prime minister. The GNUs in both countries are credited for halting violence, ushering in temporal peace and facilitating conditions for transition.

The political fate of Kenya and Zimbabwe, epitomised in the upcoming elections, has a bearing on peace and stability not only in these two countries, but in their respective regions. Apart from its role as a political player and regional peace broker, Kenya has always been regarded as the anchor for security in East Africa and a buffer against security threats such as terrorism. On the other hand, Zimbabwe's economic and political haemorrhage impacts negatively on the region through the burgeoning of economic refugees in countries such as Botswana and South Africa.

Elections in any country are an important medium for populations to express publicly their choice of leadership. However, Kenya and Zimbabwe also inadvertently test the patience of citizens and, ultimately, their faith in the process of elections as a vehicle for achieving democratic change

In 2013, both countries are scheduled to undertake their post-transition elections, following roughly five years of peace agreement implementation and transitional governance. Kenya is set to conduct its elections on 4 March 2013, while elections in Zimbabwe have been announced for June 2013. Zimbabwe's elections were initially envisaged to take place 24 months after the signing of the GPA, which would have been in 2010. However, assessments by the mediators and SADC indicated that the country was not yet ready for these elections, as many of the agreed-upon reforms had not yet been implemented. Nonetheless, progress in Zimbabwe's constitution-making process has given the sense that this Southern African country is finally ready to move beyond the exhausted transitional phase of its politics. Both the MDC formations and ZANU PF envisage that Zimbabwe will go to the polls in mid-2013, despite the financial constraints the country must contend with by holding two elections in one year (it is also holding a referendum in March–April 2013).

Since the signing of the National Accord in 2008, Kenya has even made more significant progress in instituting legal and administrative reforms, which include a review of the constitution and electoral laws. As such, the 2013 elections

will be governed by new election laws, which facilitated the establishment of the Independent Electoral and Boundaries Commission (IEBC). The IEBC introduced new voter registration and the delimitation of constituencies. Kenya has also instituted reforms in the security sector and judiciary, especially Article 140(1) of the 2010 Constitution, which grants the Supreme Court jurisdiction to determine the winner in the presidential elections, should the outcome be contested.[6] The operationalisation of this legal framework ensures that candidates can seek recourse in courts, as opposed to the mass action that catalysed the 2008 post-election violence.

Understanding elections in the context of peace agreements

Elections in any country are an important medium for populations to express publicly their choice of leadership. However, Kenya and Zimbabwe also inadvertently test the patience of citizens and, ultimately, their faith in the process of elections as a vehicle for achieving democratic change. Past elections in these countries have been characterised by allegations of vote rigging and observer reports cited violence as an impediment to free and fair elections.[7] It is hoped that the 2013 elections in both Kenya and Zimbabwe would be the vehicle towards ending impunity, strengthening economic growth and facilitating transitional justice. Practically, the forthcoming elections in Kenya and Zimbabwe will be a bridge between stagnation and progress, as sentiments are to the effect that the GNU mode of governance was stalling on key decisions and reforms.

The political fate of Kenya and Zimbabwe, epitomised in the upcoming elections, has a bearing on peace and stability not only in these two countries, but in their respective regions

Overall, in contemporary Africa, elections represent the political nexus between democracy, governance and peace, especially against the background of several episodes of election-related violence. The context of this competition must be well understood. Most political and electoral systems in Africa were inherited from the Westphalian system of the former colonial powers. These systems are reflective of the winner-takes all paradigm (both Kenya and Zimbabwe use the British 'first-past-the-post' electoral system), which ultimately results in zero-sum outcomes granting victory to one political party at the expense of the rest of the competitors. There are limited instances of proportional representation, which is a system designed to ensure a positive-sum approach towards the exercise of democracy.

Elections in the aftermath of a peace agreement and transitional government become even more important symbolically and practically. Symbolically, post-peace agreement elections signify the breaking away from the shattered and violent past which necessitated that peace agreement in the first place. These elections will be an expression of the determination of conflict parties and citizens to move ahead and forge a more concrete future. There is a sense of anticipation that the 2013 elections will usher in a new era of political decisiveness, as opposed to the current political jockeying characterising the GNUs. In addition, it is envisaged that elections conducted on the heels of a peace agreement will be more credible, given that transitional processes, such as constitutional review and electoral reforms, would have created a somewhat 'level' electoral playing field.

In practical terms, conducting elections in the immediate aftermath of peace agreements can be risky because these elections represent the first formal competitive political process between the conflict parties, following a brief interlude of collaborative and transitional governance. There is the risk of a resurgence of violence should the electoral process and outcomes be poorly handled. Although the transitional period is expected to have transformed the 'enemy images' between parties towards portraits of partners working together in government, the reality is that GNUs are strange marriages of uncomfortable bedfellows. While in transition, political parties would have been busy planning for the post-transitional era, highlighting their own strengths while refuting the others' abilities.

An analysis of elections in Africa reveals a trend that is in favour of incumbency. In other words, there is overall consensus that opposition parties perform far worse when running against a sitting president, except for a few occasions such as Zambia (1991), Kenya (2002) and Senegal (2012). This is because incumbent presidents enjoy a considerable amount of power and control over the electoral process. A sitting president retains control of the state's coercive capacity until the election results have been announced.[8] In addition, incumbent leaders have a past performance that voters can evaluate, whereas opposition leaders often have no benchmark upon which to be measured.

Kenya will experience a different situation in 2013. It will have no incumbent leader running for the presidency because of the country's two-term limit, which will see Kibaki stepping down. Deputy Prime Minister Uhuru Kenyatta and Eldoret North Member of Parliament (MP) William Ruto entered into a coalition agreement known as *Jubilee*. In this arrangement, Kenyatta will be the coalition's presidential nominee, whilst Ruto remains the vice president-designate. The Kenyatta-Ruto pact is set to galvanise supporters of the two individuals, thereby posing credible competition to Odinga. Meanwhile, Odinga of the ODM chose Vice President Kalonzo Musyoka, leader of the Wiper Democratic Movement, to be his running mate for the presidential race, under the auspices of the Coalition for Reforms and Democracy (CORD). These developments depict the growing trend of coalition politics in Kenya.

Zimbabwe's scenario differs from the Kenyan context. The country's 2013 elections will witness incumbent President Mugabe flexing his political muscles and visibly demonstrating the advantages of having built a strong political machinery over the past three decades in power. Mugabe will be competing with a fragmented opposition, comprising three MDC formations[9] and other political parties such as the Zimbabwean African People's Union (ZAPU), led by former ZANU PF stalwart Dumiso Dabengwa. In the upcoming elections, the most formidable challenge to ZANU PF and Mugabe will be Tsvangirai's MDC-T. However, the elections will likely be characterised by 'credible clientelistic appeals'[10] made by the ruling party, reminding the population of how much the party has done for the country since the liberation struggle of the 1970s. Even though Tsvangirai is currently prime minister in the GNU, in practice Mugabe has retained control of the powerful executive branch and security sector, and still fully controls the political and electoral machinery.

The 2013 elections: A proactive assessment

Both Kenya and Zimbabwe have proposed to hold harmonised elections in 2013, which include presidential, senate, parliamentary and council elections. In Kenya, a High Court ruling instructed that general elections be held on 4 March 2013 to choose a president, members of parliament and local representatives. The main candidates for the presidential elections will be Odinga[11] and Kenyatta[12].

Zimbabwe's electoral calendar is less certain as the polls have not yet been given a specific date. However, the recent announcement of the constitutional referendum in Zimbabwe to be held in March 2013 implies that the elections are unlikely to take place before the middle of the year. In addition, the candidates for the presidential elections have been announced. President Mugabe was once again nominated as ZANU PF's presidential candidate. He will be competing against various opposition party candidates, including Tsvangirai (MDC-T), Welshman Ncube (MDC-N), Job Sikhala (MDC-99) and Simba Makoni of the political party Dawn/Mavambo/Kusile, among others. As such, despite the absence of a specific date, there seems to be consensus that Zimbabwe's elections will be held in the first half of 2013.

Trends and dynamics of the 2013 elections

The 2013 elections in Kenya and Zimbabwe are likely to be as competitive as those that were held four to five years ago. Both countries have faithfully conducted regular elections since independence, despite commentaries on the unfairness and irregularity of these elections – and, in some cases, violence surrounding the polls. Even though the 'winds of change'[13] could partly explain the rise of multi-party politics in Kenya and Zimbabwe, the regular conducting of elections could also be interpreted as a strategy for political elites to acquire legitimacy. This dedication to hold elections, no matter how badly they are conducted, is what Bratton and Masunungure label as a 'militarised electoral authoritarianism'[14] and what Collier has termed 'democrazy'.[15] The superficial form of democracy, which is election-focused and does not pay attention to other expressions of democracy, such as media freedom, has unfortunately become the norm on the continent. Collier asserts that 'democrazy' has increased political violence instead of reducing it.[16]

Zimbabwe's 2013 elections will witness incumbent President Mugabe flexing his political muscles and visibly demonstrating the advantages of having built a strong political machinery over the past three decades in power

Nonetheless, there is a sense that elections this year, whilst fiercely competitive, will not necessarily be accompanied by an upsurge of violence reaching the levels of 2007 and 2008. A Freedom House survey on Zimbabwe reports that 55% of respondents indicated that they were more confident that the upcoming elections would be less violent.[17] The expectation of less violence is explicable by a number of factors, including an unanimous political stance by political party leaders against violence, a changing electoral field and national psyche wherein the citizens and stakeholders actively denounce violence, the media which is playing its watchdog role against violence, and a lack of tolerance by the regional and international community on violence-ridden elections. The unreserved and unanimous condemnation of violence by the AU, SADC, the East African Community (EAC), the International Criminal Court (ICC) and other members of the international community has had the effect of making the choice of violence as a strategy for resolving electoral issues risky. As such, full-blown violence of the kind that was witnessed in 2007 and 2008 will not likely happen. This is not to say that caution should not be exercised. As it is, the situations in both Kenya and Zimbabwe are a bit worrisome, given the continued reports of politically motivated violence and abductions. Kenya has also experienced several politically motivated killings since mid-2012, taking place in areas such as the Rift Valley and Eldoret.

Opinion polls conducted in late 2012 in Kenya indicate that voters prefer the Odinga-led ticket. For example, 53% of respondents in a survey by Infotrack indicated that they would vote for the Odinga-led coalition.[18] However, Kenya's upcoming elections are full of paradoxes. For example, opinion polls conducted after the 11 February presidential debate indicated that Uhuru Kenyatta was most favoured. Another contradiction is that while some Kenyans support

the ICC process, which has indicted Kenyatta and Ruto, inter alia, other Kenyans simultaneously support the ICC suspects in their capacity as candidates in the polls.

In Zimbabwe, recent developments highlighted by research institutions seem to indicate some changes in the trends and dynamics of political support for both ZANU PF and the MDC formations. A study conducted by Freedom House in 2012 reveals that ZANU PF has gained popularity, moving from 17% to 31% between 2010 and 2012. During the same period, the MDC experienced a decline in support, from 38% to 20%. In the same survey, 52% of respondents said they trusted ZANU PF, while only 39% indicated that they trusted the MDC-T.[19] The Freedom House survey came in the wake of a 2010 Afrobarometer survey, which also presented evidence of declining MDC-T support.[20]

Practically, the forthcoming elections in Kenya and Zimbabwe will be a bridge between stagnation and progress, as sentiments are to the effect that the GNU mode of governance was stalling on key decisions and reforms

The erosion in the MDC-T's popularity can be explained by the high expectations towards the party's performance in the GNU; its failure to ideologically and practically distinguish itself from ZANU PF during the transitional phase; faction fighting within the MDC; financial and personal misdemeanours committed by the movement's leaders; and the neglect of political organisation within local structures. Ultimately, these factors have led to a mistrust of the MDC, thereby galvanising a sense of 'opposition fatigue' which has witnessed some sections of civil society withdraw its support for the MDC-T. This change in the political numbers game could mean that ZANU PF will not necessarily have to resort to violence, as its public support and popularity have significantly surged.

Elections in Kenya are complicated by the existence of ethnic rivalries as Kenyatta and Odinga represent two different and fairly large ethnic groups. On the Kenyatta-Ruto ticket, Kenyatta is a member of the Kikuyu ethnic group, whilst Ruto is Kalenjin. Odinga, on the other hand, is a Luo, while his running mate, Musyoka, is from the Kamba ethnic group. Both Kenyatta and Odinga are building multi-ethnic coalitions.[21]

In contrast, Zimbabwe represents deep political divides rather than ethnic rivalries. There is no specific ethnic group that supports either ZANU PF or the MDC formations. However, some leaders in the Matabeleland region have tended to support ideas of devolution of political power to the provinces in order to bring to the fore their perceptions of exclusion. Despite the fact that the MDC-N, led by Ncube (who is Ndebele), has more prominence in the Matebeleland region, it is still difficult to ethnicise Zimbabwean politics. Given the virulent ethnic rivalries in Kenya, and polarised political ideologies in Zimbabwe, both situations present recipes for election violence if not managed well. Countries with strong authoritarian legacies or deep ethnic cleavages – which are what Kenya and Zimbabwe epitomise – often find it more difficult to manage political opposition.

Neither Kenya nor Zimbabwe has significantly accorded adequate space for women's participation in the upcoming polls. Political parties in Kenya could not achieve the constitutionally guaranteed 30% gender quota in parliament, despite active lobbying of women groups. Against this background, in December 2012, the Kenyan Supreme Court ruled against the implementation of the quota ahead of the 2013 general elections. Political parties in Kenya have also paid lip service to the need to ensure that women are active candidates in the upcoming elections. There are few instances where women's political participation stands out in Kenya. One example is the current bid by MP Martha Karua to run for the presidential post. In Zimbabwe, there is also limited active participation of women as candidates in the upcoming polls. However, both ZANU PF and MDC-T have women in high ranking political positions; that is, the vice president, Joyce Mujuru, and the deputy prime minister, Thokozani Khupe, respectively. It is expected that Mujuru will remain in her position following the 2013 elections. Nonetheless, this does not really prove that there have been concerted and significant efforts to actively promote women's participation in decision-making roles and politics.

Although the levels of violence might be lower than those experienced in 2008, given the above context, it is most likely that elections in 2013 will be competitive, and some incidents of violence cannot be ruled out. Both Kenya and Zimbabwe have always experienced intense competition for political power, and varying levels of political violence during elections. As such, the need for the proactive prevention of any potential violence cannot be underscored enough.

Given the virulent ethnic rivalries in Kenya, and polarised political ideologies in Zimbabwe, both situations present recipes for election violence if not managed well

Forecasting the 2013 elections: Scenario building

Elections in both Zimbabwe and Kenya are likely to change the political make-up of their legislative bodies from their current ambivalent and stagnating state. Kenya and Zimbabwe's politics are similar in the sense that they are not only complicated

but paradoxical. These dynamics and contractions mean that various scenarios could play out during and after the 2013 elections.

Kenya's possible scenarios

Odinga-Musyoka carry the day

This is the most likely scenario and is substantiated by recent surveys. In this scenario, Odinga may decisively win the first round of the elections. First, to some Kenyans, voting for Odinga would be tantamount to making a statement against impunity, as Odinga is one of the few Kenyan politicians who have spoken for accountability for crimes committed during the post-2007 election violence period. Second, the merger of the Luo and Kamba ethnic groups in the Odinga-Musyoka ticket might break the Kikuyu dominance in the Kenyan presidency (since independence, most of the Kenyan presidents were Kikuyu, except for Daniel Arap Moi who is Kalenjin). In addition, other smaller ethnic groups who had earlier supported Odinga during the 2007 elections might join forces with Luo voters to galvanise massive political support to CORD. An Odinga win will possibly be received favourably by Kenyans (especially Luos) and the international community.

The unattainable 50+%: No clear winner, elections run-off

This scenario will witness the Kenyatta-Ruto ticket posing significant levels of threat to the Odinga-Musyoka ticket. The Kenyatta-Ruto ticket comprises Kenyatta of The National Alliance (TNA) and United Republican Party (URP) leader Ruto, who signed a coalition agreement (*Jubilee*) in Nairobi on 4 December 2012.[22] Since this coalition is likely to threaten the Odinga-Musyoka ticket, the race might be so tight that the outcome of the elections would have no clear winner, thereby requiring a run-off vote. This can trigger a political lacunae as well as an unprecedented constitutional crisis. An ICC subpoena could perhaps resolve the crisis, which might mean that the ICC trial, which will commence on 11 April 2013 in The Hague,[23] will divert attention away from this political conundrum.

The power of Uhuruto

Uhuruto is the colloquial name for the *Jubilee* coalition between Uhuru Kenyatta and William Ruto. This scenario will occur when the Kenyatta-Ruto ticket outruns the Odinga-Musyoka ticket. A poll conducted by CPS Research International says the Kenyatta-Ruto ticket will get 52.2% of the vote while the Odinga-Musyoka coalition will have to contend with 39.1% of the vote.[24] Voters might elect Kenyatta and Ruto for patriotic reasons. Most supporters of *Uhuruto* would be voting to make a political statement against Kenyatta and Ruto's ICC indictment. Termed 'a referendum on the ICC',[25] a vote towards the two ICC defendants would be Kenyans' strategy of expressing their national sovereignty and protest against the ICC indictment.

Given the above reasons, this scenario might witness Kenyatta emerging as the winner of the 2013 elections – a situation that might be gladly accepted by his supporters, especially those who are against the international community's interference in Kenyan politics. However, a win by Kenyatta will possibly lead to a constitutional crisis. With both the president and vice president facing charges of war crimes, and the ICC prosecutor recently announcing that she has found more incriminating evidence against Kenyatta and Ruto, a Kenyatta-Ruto win poses the threat of a leadership vacuum, should the ICC proceed with the cases following the announcement of election results.

A Kenyatta-Ruto win will likely be accompanied by international condemnation of Kenya. Already, the incoming United States (US) Secretary of State, Senator John Kerry, has expressed sentiments that the US will ensure that the pending ICC trial of Kenyatta and Ruto is accelerated – a strong statement that the international community is against the idea of the ICC-indicted duo becoming the leaders of Kenya.[26]

Zimbabwe's possible scenarios

Winning back the prodigal voters: ZANU PF consolidating power

This is the most likely scenario to emerge from the 2013 elections, and evidence from the 2012 Freedom House survey corroborates this assertion. ZANU PF has managed to divide the opposition, as demonstrated by the numerous MDC factions (MDC-T, MDC-N, MDC-99 and MDC-M) and the mushrooming of other opposition parties. Such factionalisation of the opposition gives the ZANU PF ruling party and Mugabe the opportunity for a clear win.

In addition, the growing levels of the population's mistrust towards the MDC might lead even traditional MDC voters to cast their ballot in favour of the ZANU PF candidate, Mugabe. The votes might not signify agreement with ZANU PF policies, but rather would be in protest of the lethargy and indecisiveness of the MDC.

Although many Zimbabweans credit the MDC for stabilising the economy and restoring the international community's confidence in Zimbabwe during the transitional phase, the four years spent by the MDC as a junior partner in the GNU have been telling of the major weaknesses of the MDC. These include infighting, corrupt officials and the failure to successfully challenge ZANU PF or reform the party from within, as promised earlier. Voting for ZANU PF might be evidence that Zimbabwean voters are not yet prepared to deal with the opposition's ambivalence and underperformance.

In addition, these elections may be marred by voter apathy. There are sectors of the Zimbabwean population who are no longer interested in the country's politics, which of late has been characterised by a lot of political bickering and stalling. After four years of seeing the MDC in action in the GNU, these voters realise that there is not much difference between ZANU PF and MDC politicians. Ironically, voter apathy works in Mugabe and ZANU PF's favour, because ZANU PF is assured of getting votes from its traditional voters' base in the rural areas.

A Mugabe win might stun and upset the international community, who may have envisaged that Mugabe's advanced age will prevent him from running. However, this win could also convince the international community that ostracising Mugabe and ZANU PF is not a credible and sustainable strategy towards addressing the Zimbabwe issue.

Political stalemate: No clear winner – run-off

In this scenario, voters would be torn between endorsing ZANU PF and voting for the MDC. This choice may be difficult for the average informed voter who surmises that ZANU PF's patronage politics and recalcitrance were largely responsible for Zimbabwe's unprecedented economic woes and violence that characterised the post-2000 era. Even strong ZANU PF supporters might be worried about re-electing Mugabe, given his advanced age.

On the other hand, other voters may be worried about voting for the MDC – a party that is slowly losing ground based on the perception that it is not yet politically mature and has not yet amassed adequate intellectual and political muscle to steer Zimbabwe in the right direction. The MDC-T is further likely to lose votes – not only to ZANU PF but also to the Ncube-led MDC-N and to Makoni of Dawn/Mavambo/Kusile. Although their votes will in no way come close to those for Tsvangirai, Ncube and Makoni are certainly playmakers in the 2013 elections. Their votes will determine whether or not there would be a run-off, and if history is to be a reference point, votes going to Ncube and Makoni will likely prevent a decisive 50% win for either Mugabe or Tsvangirai. In 2008, Makoni garnered 8.3% of the presidential elections vote, thereby denying both Tsvangirai and Mugabe the 50%+ votes which were required for a decisive win.

This voter indecisiveness would contribute to a political checkmate, manifested by neither ZANU PF nor the MDC-T garnering 50% of the votes required for the presidency. This could lead to calls for a run-off, which will most likely be accompanied by political violence, as ZANU PF will throw all caution to the wind in a bid to collect enough votes to ensure a decisive win. The situation would be a repeat of the March 2008 elections that preceded the May 2008 presidential run-off.

Using 2008 as a reference point, the 2013 run-off elections will likely see Mugabe and ZANU PF emerge victorious, and the same international condemnation that characterised the aftermath of the May 2008 run-off elections will ensue. This might reverse the economic revitalisation that took place in Zimbabwe during the GNU era.

United opposition front assault on ZANU PF

A win for the MDC formations is possible under specific circumstances. One such circumstance would be when the opposition forms a united alliance against Mugabe and ZANU PF. The media in Zimbabwe has covered stories that hint on the possibility of unification between the MDC-T and MDC-N. This MDC merger, with Tsvangirai as the presidential candidate, may likely witness the end of ZANU PF's dominance in Zimbabwean politics.

A win for the opposition can be explained by the electorate's dissatisfaction with ZANU PF's patronage politics. The practice of voting as a political statement will lead voters to vote for Tsvangirai and the MDC-T, not because of a good track record of the opposition, but because of the symbolic meaning of that vote. Voting for the MDC would be synonymous with voting against ZANU PF. Traditional MDC-T supporters still feel furious about the losses they suffered in the hands of ZANU PF in 2008. They will likely cast their vote in favour of the opposition – a statement highlighting their discontent with the ruling party's politics, ideology and practice.

This scenario would witness the MDC-T emerging as a clear winner in the 2013 presidential elections, while the distribution of parliamentary, senate and council elections would not be as decisive. The MDC-T will not likely gain a majority in parliament and senate, thereby making it difficult for Tsvangirai to govern effectively as president.

However, a Tsvangirai win might be received in a lukewarm manner in many circles, including SADC and the AU, which comprise statesmen who have strong feelings of distrust towards the MDC-T. Most African leaders belong to the pan-African liberation movement, and therefore identify with nationalists and liberation stalwarts such as Mugabe. As such, these statesmen tend to disapprove of emergent opposition parties whose ideals of neo-liberal democracy conflict with their version of sovereignty. As such, many African leaders have tended to display some sense of discomfort towards MDC-T owing to the party's perceived association with the West, especially former colonial powers such as the United Kingdom. The international community might also have mixed reactions to Tsvangirai becoming Zimbabwe's president, as some leaders in the West are not yet convinced about his political acumen. However, others in the same bloc are eager for change from the current ZANU PF preponderance, even if that change does not come as envisioned.

No elections: Long live the transitional government

It would not come as a huge surprise if the transitional government continues to operate beyond 2013. The Government of Zimbabwe promised to conduct elections following the birth of the GNU in 2009, and dates that were previously suggested included 2010, 2011 and 2012. These dates came and passed, and 2013 might not be an exception after all. Although there is significant progress in the implementation of GPA reforms, such as constitutional review and the upcoming referendum, other processes still remain wanting, particularly, the incomplete elections roadmap.

Structural and practical reasons could also prevent the electoral management body – the Zimbabwe Electoral Commission (ZEC) – from fulfilling its mandate. Currently, the ZEC is under-budgeted in terms of funds allocated by the Treasury towards the planning and running of the proposed 2013 elections.[27] Although the ZEC entered into a memorandum of understanding with the Electoral Institute for the Sustainability of Democracy in Africa (EISA) in November 2012 to facilitate support for the Zimbabwean elections, at this stage it is not clear whether the ZEC has managed to source funding for the logistical requirements of harmonised elections.

In addition, the call to postpone elections further could come from SADC. Informed by the post-GPA mediation efforts of South African President Jacob Zuma, SADC has set several preconditions for the conducting of polls in Zimbabwe. These include an agreed upon and implementable elections roadmap. At this stage, these preconditions are less than likely to be met in time for its long-anticipated post-transition polls. It is not clear whether both ZANU PF and the MDC will defy SADC's calls and go ahead with plans to hold elections in 2013. If the GPA principals defy SADC and continue with the elections in 2013, legitimacy challenges could emerge to whoever wins the polls.

This scenario would be accompanied by the continuance of the GNU and the institution of the necessary constitutional amendments that will legitimise the extension of parliamentary and presidential term. This development would not be in favour of many, especially the citizens, who would be forced to be subjected to a government characterised by interparty politics, infighting and competitive politics that are devoid of a developmental agenda.

In this scenario, the GNU will continue to run the country, while the elections roadmap and security sector reforms might not even materialise. A lengthened transitional government will result in the worsening of the governance deficit in Zimbabwe as competitive political bickering stands in the way of decisive reforms. The international community is also likely to continue its mixed position towards the GNU; on the one hand supporting the transitional structure, and on the other hand maintaining its diluted sanctions regime against ZANU PF.

Recommendations

The reality is that both Kenya and Zimbabwe's 2013 elections are important for the countries in question, as well as for the region and continent at large. Less-than-credible elections not only affect the prospects of democratic consolidation in Africa, but are a hindrance to sustainable peace. As such, to lay the foundation for sustained good governance, it is important for a variety of stakeholders to implement short-, medium- and long-term strategies to ensure credible electoral processes. The following are a set of recommendations targeted at political parties, the AU, RECs, civil society and election management bodies.

For political parties in Zimbabwe and Kenya

- In both countries, the leaders of the various political parties that are participating in elections should respect the people's wishes and let them peacefully decide the country's leadership via the ballot box. Political leaders should continue to underscore the importance of violence-free elections, not through rhetoric but through the practical and exemplary display of zero tolerance for violence.
- Political parties should uphold guidelines that seek to promote peaceful, credible, free and fair elections. In the case of Zimbabwe, these would be the SADC Guidelines for the Conduct of Credible Elections[28] and the fledgling elections roadmap. Provisions highlighted in the SADC Guidelines include the need for transparent ballot boxes, the imperative for displaying results at each polling site and the need to announce election results timeously.
- Political parties in both Kenya and Zimbabwe should respect the political party, constitutional and regional political quotas, which require that women have at least a 30% representation in the legislature. Zimbabwe is a signatory to the SADC 50-50 principle for the representation of women in politics while the Kenyan constitution provides for a 30% representation of women in parliament. It is important to ensure that there are enough female candidates to fulfil this quota.
- After elections, the major political parties and government departments should implement strategies that can lead to greater stability. These include consolidating political party development, strengthening the capacity building of institutions, and promoting re-engagement and dialogue in the post-election environment.

For the AU, RECs and mediators

- As the AU and RECs are mandated to secure peace and democracy on the continent, it is imperative that these institutions continue to provide oversight on the conduct of elections in member states. Institutions

such as the AU Panel of the Wise, the SADC Troika and the Common Market of Eastern and Southern Africa (COMESA) Committee of Elders, among others, should provide support to the two countries during this critical period. Such support may include preventive diplomacy and confidence building initiatives.

- The AU and RECs should make it clear to all parties involved in Zimbabwe and Kenya's 2013 elections that they will not accept the results of elections whose processes and procedures are not free and fair, and which do not reflect the democratic principles and wishes of the people.
- The AU and RECs should play an oversight role in shepherding peaceful elections in both Kenya and Zimbabwe by providing observer missions timeously and issuing objective and constructive election observer reports.
- Mediators in the two countries (President Jacob Zuma and Kofi Annan) should engage all political actors in mediation efforts that seek to support peaceful elections in 2013. These mediators should continue to play their role of guarantor by ensuring that the countries adhere to the election guidelines and rules.
- In Zimbabwe, heads of security actors such as the military and police were often identified as key actors in election violence and in the determination of the electoral outcome. However, their potential role in preventing and transforming election violence should also be acknowledged, hence the need to engage these officials in dialogue focusing on facilitating violence-free elections.
- Towards ensuring that women are actively represented as political actors in the forthcoming elections, the AU and RECs should push for the implementation of gender quotas in politics, underscoring the importance of violence prevention as a strategy for encouraging women's active participation in these polls. Paying attention to the gender dimension will ultimately ensure that these elections – and those in the future – are not only credible, but also inclusive.

For election management bodies

- A major precondition for successful policy implementation and monitoring is the mobilisation of requisite resources. The election management bodies in Kenya and Zimbabwe (IEBC and ZEC) need to be financed adequately in order to coordinate credible elections. Sound electoral policies need resources for implementation.
- Electoral management bodies should mainstream conflict resolution and management discourse into technical election management activities. This will create an important link between election management and conflict prevention, thereby ensuring that the problem of election violence is addressed proactively.
- Election management bodies should work closely with local communities and structures in preventive action. As such, election management bodies should liaise with local institutions proactively to address local level episodes of violence that may burgeon into bigger electoral conflicts. The efforts by Kenya's IEBC and the Commission for Integration and Cohesion towards creating conflict management committees at local level will ensure that these entities engage in conflict prevention for the consolidation of peace and democracy.

For civil society organisations, academic institutions and think tanks

- Following electoral violence, communities are shattered and the social fabric is often decimated. It is, therefore, important to work at both community and national level to reintroduce dialogue and promote trust building within affected communities.
- Civil society organisations should continue supporting efforts towards the conducting of peaceful, credible, free and fair elections by engaging in civic education, peace education and conflict management at local levels. After the 2013 elections, civil society should engage in conflict transformation initiatives, which include building the capacity of elected leaders in governance, accountability and responsibility.
- At national level, civil society should continue to be involved in efforts towards preparing the countries for elections. These initiatives include capacity building targeted at political parties, local leadership structures, electoral management commissions and other institutions that support and enhance the conduct of credible elections.
- For longer-term conflict prevention, it is important to understand the causes, drivers and dynamics of election violence, including specific conditions that produce and reproduce violence. As such, the importance of research cannot be underestimated as one of the longer-term strategies towards preventing and addressing election violence. Research will strengthen the economic, political and technical capacities of governments and other stakeholders to plan, implement and monitor elections. In addition, investigating the various systems of representation – including those of proportional representation and GNUs – will provide further insight into the relationships between elections, peace and democracy.

- The media should play an informative and watchdog role during these elections to ensure that the population, parties, local stakeholders and international community are informed objectively of developments relating to the polls. The media should desist from being polarised, as this will only heighten tensions and fuel violence, as has happened in the past.

Conclusion

The impending 2013 elections in Kenya and Zimbabwe require a concerted approach by political parties, mediators, regional organisations, civil society and electoral management bodies to ensure that there is no resurgence of the violence that characterised elections in these countries four to five years ago. Towards sustaining and promoting peace in both countries during and after the polls, it is recommended that political parties should respect the processes of conducting free and credible elections. Women should take up active roles in politics, while their political parties and civil society should support their participation. The AU, RECs and mediators who are guarantors of the peace processes in the two countries should unceasingly support and facilitate the peaceful conduct of elections by emphasising to parties that credible elections are a critical pillar of the peace implementation process.

Endnotes

1 The author would like to thank colleagues who reviewed this Policy & Practice Brief and offered their candid and constructive feedback. These include Senzo Ngubane, General Manager: Operations, ACCORD; Dr Buntu Siwisa, Manager of ACCORD's Knowledge Production Department; Sabrina Ensenbach, Coordinator of ACCORD's Knowledge Production Department; Deprose Muchena, Deputy Director of the Open Society Initiative of Southern Africa (OSISA) and Felix Odhiambo, Country Director of the Electoral Institute for the Sustainability of Democracy in Africa (EISA), Kenya.

2 Ochieng' Opalo, K. 2012. African elections: two divergent views. *Journal of Democracy*, 23(3), pp. 80–93.

3 The Zimbabwean constitution was negotiated at Lancaster House in Lancaster, UK while the Kenyan constitution was negotiated at Marlborough House (headquarters for the Commonwealth) in London, UK.

4 Campbell, H. 2003. Reclaiming Zimbabwe: The Exhaustion of the Patriarchal Model of Liberation. Trenton, NJ, Africa World Press.

5 This is a point of exclusion contested by pro-democracy civil society movements, led by the National Constituency Assembly (NCA) – an umbrella body of civil society movements led by Lovemore Madhuku. He claims that the mediation and constitution-making processes have not been 'people-driven' and excluded civil society and other smaller political parties.

6 Ongoya, Z.E. and Otieno, W.E. 2012. *Handbook on Kenya's Electoral Laws and System*. Nairobi, Electoral Institute for Sustainable Democracy in Africa (EISA).

7 Pan African Parliament. 2008. Report of the Pan African Parliament Election Observer Mission - Presidential Run-Off Election and House of Assembly By-Elections Republic of Zimbabwe, June 27, 2008. PAP/S/RPT/76/08. Available from: <http://www.pan-africanparliament.org/Search.aspx?txtSearch=REPORT%20OF%20THE%20PAN%20AFRICAN%20PARLIAMENT%20ELECTION%20OBSERVER%20MISSION> [Accessed 21 February 2013].

8 Cheeseman, N. 2010. African elections as vehicles for change. *Journal of Democracy*, 21(4), pp. 139–153.

9 The two Movement for Democratic Change (MDC) formations that were principals to the Global Political Agreement (GPA) are the MDC-T (led by Morgan Tsvangirai) and the MDC-M, which was then led by Arthur Mutambara. Following the split between Mutambara and the Secretary-General of the MDC-M, Welshman Ncube, there is now a formation called the MDC-N (led by Ncube).

10 Cheeseman, N. op cit, p.146.

11 Raila Odinga is currently the prime minister of Kenya and leader of the ODM. He gained prominence in 2007 following contested elections that kept Mwai Kibaki of the PNU in power. Odinga claimed the elections were fraudulent, hence the mediated talks between ODM and the PNU, which led to the GNU.

12 Uhuru Kenyatta is the son of Kenya's first president, Jomo Kenyatta. He was appointed deputy prime minister and minister of finance in 2008, but resigned following an International Criminal Court (ICC) indictment for crimes against humanity. The ICC case is pending, with court sessions expected to resume on 11 April 2013.

13 Huntington, S. 1991. *The third wave: democratization in the late twentieth century*. Oklahoma, University of Oklahoma Press.

14 Bratton, M. and Masunungure, E. 2008. Zimbabwe's long agony. *Journal of Democracy*, 19(4), pp. 41–55.

15 Collier's concept of 'democrazy' criticises the growing trend of election-focused strategies of democratisation. In essence, the term refers to half-backed modes of democracy wherein political elites use so called democratic processes to obtain power and legitimacy. The conduct of less-than-credible elections is evident of 'democrazy'. Election-focused democracy has allowed even authoritarian leaders to conduct regular elections so that the world can see their adherence to democratic processes. For details, see Collier, P. 2009. *Wars, guns, and votes: democracy in dangerous places*. New York, Harper Collins.

16 Ibid.

17 Freedom House. 2012. *Change and 'new' politics in Zimbabwe*. New York, Freedom House. Available from: <http://www.freedomhouse.org/sites/default/files/Change%20and%20New%20Politics%20in%20Zimbabwe.pdf> [Accessed 21 February 2013].

18 Soft Kenya. 2013. ODM and Raila Odinga the most popular party and candidate in Kenya. *Soft Kenya*, 19 January. Available from: <http://softkenya.com/odm-still-the-most-popular-political-party-in-kenya/> [Accessed 21 February 2013].

19 Freedom House. 2012. op cit.

20 Afrobarometer. 2010. *Zimbabwe: The Evolving Public Mood*. Afrobarometer Briefing Paper No. 97. Available from: <http://www.humansecuritygateway.com/documents/AB_Zimbabwe_TheEvolvingPublicMood.pdf> [Accessed 21 February 2013].

21 Macharia, J. 2012. Ethnicity and ICC cases heat up Kenya presidential race. *Chicago Tribune*, 24 December. Available from: <http://articles.chicagotribune.com/2012-12-24/news/sns-rt-us-kenya-electionsbre8bn05s-20121224_1_icc-probe-ken-wafula-william-ruto> [Accessed 21 February 2013].

22 According to the *Daily Nation*, the agreement between Kenyatta, Ruto and Mudavadi provides that the TNA would get 45% of the slots in the *Jubilee* coalition government, while the URP would get 35% and Mudavadi's United Democratic Forum (UDF) would take the remaining 20%. For details, see Leftie, P. 2013. Mudavadi pact was signed at Uhuru's house. *Daily Nation*, 1 January. Available from: <http://www.nation.co.ke/News/politics/Mudavadi-pact-was-signed-at-Uhurus-house-/-/1064/1655768/-/s9510h/-/index.html> [Accessed 21 February 2013].

23 Following the post-election violence in Kenya, both Kenyatta and Ruto were indicted by the ICC on charges of crimes against humanity. Both men have proclaimed their innocence, remain free and have promised to cooperate with the ICC.

24 Kenyan Daily Post. 2013. Uhuru Kenyatta will beat Raila Odinga hands down – Current and 2007 Statistics. *Kenyan Daily Post*, 7 January. Available from: <http://www.kenyan-post.com/2013/01/uhuru-kenyatta-will-beat-raila-odinga.html> [Accessed 21 February 2013].

25 Ruto is quoted by a newspaper as having said that the 2013 election will be a referendum on the ICC. He has also said that a massive win by *Jubilee* will be a vindication of their innocence to the ICC. For details, see Musau, N. 2013 Kenya: US risk firm warns of Uhuru, Ruto election crisis. *AllAfrica.com*, 1 January. Available from: <http://allafrica.com/stories/201301020221.html> [Accessed 21 February 2013].

26 Ibid.

27 Media reports indicate that the Zimbabwe Electoral Commission requires US$21 million to prepare for and conduct elections. However, the same reports indicate that the Zimbabwe Treasury is prepared to release only US$3 million towards the exercise. The Treasury has also called upon the United Nations Development Programme (UNDP) to assist with funding for the elections. For details, see Zulu, B. 2013. Zimbabwe voter registration fails to take off. *Voice of America*, 4 January. Available from: <http://www.voazimbabwe.com/content/zimbabwe-elections-voter-registration-fails-to-rake-off-no-money/1577947.html> [Accessed 21 February 2013].

28 Southern African Development Community. No date. *Guidelines for the Conduct of Credible Elections*. Available from: <http://www.eisa.org.za/PDF/sadcguidelines.pdf> [Accessed 21 February 2013].

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