

Are Africa's Elections Underscored by Accountability and the Social Contract?

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Prof Kealeboga J. Maphunye
WIPHOLD-Brigalia Bam Chair in Electoral Democracy in Africa
Department of Political Sciences, College of Human Sciences, University of South Africa,
Pretoria, maphukj@unisa.ac.za

Do Africa's elections enhance the social contract (relationship between ruler and subject)? Are they a pertinent yardstick for assessing public accountability and the social contract in Africa? In Africa, reference to 'elections' evokes mixed emotions because this technical and partly political psephological event engenders euphoria for the winners who experience immense relief, excitement, hope, and expect numerous spin-offs from their victory. But the losers confront sadness, uncertainty, embarrassment, fear, and repercussions of loss. This paper examines the relevance of Africa's elections to the invisible contract between the sovereign and the subject. Highlighting the pathologies, dilemmas, and opportunities in Africa's democratisation through elections, theoretically, the argument rests on Jean-Jacques Rousseau's and other social contract philosophers' ideas; especially Rousseau's idea of the "general will". Its argument rests on a review of the extant literature; primary and secondary data on African elections; legislation; official documents and reports; election observation; and inferences from South Africa's 2014-2015 multi-disciplinary election dispute resolution research the author conducted with Unisa's partner institutions in the disputed Ephraim Mogale Municipality, Limpopo. It concludes that sensitivity to the social contract can assist African leaders to account to the voters thereby improving the quality of Africa's elections through public accountability.

Keywords: Psephology; African elections; social contract; electoral democracy; public accountability; representative democracy; electoral systems; election dispute resolution

This paper firstly unpacks the nature of elections in Africa; secondly, it contextualises elections, accountability and the social contract in Africa; thirdly, it examines continental instruments, focusing on democratic elections and the social contract; fourthly, electoral management and the social contract are analysed; then it

scrutinises the pathologies, dilemmas, and opportunities about democratic elections, accountability and the social contract; followed by the conclusion.

Introduction

The seemingly dull relationship between public accountability and the social contract, seen through the prism of elections in Africa, provides a critical angle from which to examine its democratisation process. As Abuya notes:

Generally speaking, individuals participate in elections in order to elect or re-elect into office a government which they believe will improve, in particular, their economic situation. Whether or not a candidate ultimately delivers once he or she is in office is another inquiry. (Abuya 2009:128)

Abuya's statement summarises the predicament of Africa's experimentation with elections as a mechanism to ensure accountability; and consolidate the social contract — an invisible pact between citizens and their leaders.¹ Psephologists² want to understand this informal but discernible 'deal' between citizens and the leaders they regularly vote into office, because it keeps both sides of the governance spectrum believing that each side will 'honour' its part of the 'agreement'. According to Jean-Jacques Rousseau, a pioneer of this thinking:

It is purely a question of people acting as *if* there were a contract, not in the least of any actual contract ever being made...The contract is an idea rather than a necessary condition for [a good] society. (Field 1956:40, emphasis in original).

Further, Byerly (2013:4) states that the concept of the social contract is a "centuries old dominant theory [which] has proven to be highly influential in Western contexts, as it encompasses both institutional and moral considerations." For Africa, how far does this theory apply to its 54 countries given their diverse political systems and governance styles? Byerly further states that "[t]he earliest proponents of the social contract, Socrates and Plato, sought to provide a rational perspective of what is good and necessary to achieve a state in which we, as members of society, can depend upon and live well", (Byerly 2013: 5-6).

Translating this idea into governance through elections, it was hoped that citizens (voters) would always vote "rationally" and choose their leaders wisely come each election;³ whereas the leaders, once elected to office, would form a government and duly account to the voters on whose mandate they were to govern. Undoubtedly, such hopes and assumptions may be fallacious in contemporary societies given the

¹ Reference to how politicians behave once elected to office reminds us of Eggers' & Hainmueller's (2009) argument on the (ab)use of public resources by British politicians to enrich themselves.

² Psephology: scientific study of elections.

³ Some proponents of Rational Choice and Game Theories have argued that voter behaviour can be "rational" or viewed as a "game" complete with rules about winning and losing (Brams, 1975; Hindmoor 2006).

many independent variables that affect the relationship between voters and their elected representatives (Bogaards 2013; Eggers & Hainmueller 2009). One such variable is the fact that the Athenian democracy on which the above argument rests was underpinned by an unequal, biased, and exclusive franchise.⁴ Undeniably, “Athenian democracy was ostensibly democratic, but only for the ten percent or so of the overall population who were adult male citizens, and not women, slaves, children, or resident aliens,” (McBride 1994:12).

In Africa, political leaders frequently sign election and pre-election pacts, codes of conduct, agreements or even ‘peace pledges’ such as in the Nigerian elections of March 2015 (between Goodluck Jonathan and Muhammadu Buhari) promising, among others, to safeguard peace and the interests of their supporters and voters before and after elections. The victors are normally sworn into office at formal ceremonies during which they commit to uphold the rule of law and the national constitutions of their countries. Yet, it appears that they very rarely consider the constitutional process as a formal contract with the voters to whom they are obligated by assuming public office. Moreover, mere occupation of public office can result in huge benefits accruing to the incumbent politicians. As the evidence indicates, members of Parliament in the British House of Commons benefited financially from wielding political influence and, in turn, receiving kickbacks from firms that receive political favours (Eggers & Hainmueller, 2009:1-2). In Africa, such information is rarely documented; or often remains shrouded in secrecy and censorship.⁵

A growing body of literature examines the relevance of concepts such as the social contract, accountability and elections on the continent (Sisk 1995; Ojo 2011, Leonard & Samantar 2011), but not much is written on these topics collectively. A possible explanation for this apparent anomaly might be that this aspect of ancient Greek culture and civilisation has not been practiced for long in Africa and remains strange (but this is also contentious given Africa’s ancient civilisations which, undoubtedly, dealt with succession issues that entailed choosing leaders). This is partly owing to slavery and partly because of centuries of colonialism since slaves and colonised people never had franchise rights and, therefore, could not choose their own public representatives. In a liberal democracy, politicians and politically appointed leaders; public officials and agencies, including non-governmental organisations, are accountable to their respective constituencies to whom accountability is owed (Brinkerhoff 2001:16). But such accountability cannot be conceptualised without reference to the social contract; and in Africa such contract manifests itself in the collective will and efforts to guarantee communal well-being.

Unpacking Elections in Africa

⁴ Woodberry (2012: 248fn) argues that “Athenian democracy was direct, limited to elite hereditary Athenian families, excluded more than 80% of Athenians, never expanded to Athenian-controlled territories, and was unstable.”

⁵ In South Africa and elsewhere in Africa, powerful, well-connected lobby, business and interest groups often exert heavy influence on politicians by sponsoring certain candidates and parties; this dilutes the voter-candidate “contract”.

In this paper the term 'elections' encapsulates the whole gamut of issues and practices on voting; the appointment of public representatives through the ballot; the adoption of electoral systems by countries; and what is often subsumed under the term "election management" (Ace Project 2015; Maphunye 2010; Sebudubudu & Botlhomilwe 2010). Thus, "[a]n election is a huge, complex and costly event involving large numbers of people all of whom should be accountable to the law and fully aware of their responsibilities in the electoral process," (Ace Project 2015). This links elections to the law, and accountability and alludes to Rousseau's social contract with its reference to "responsibilities" by the ruler ("sovereign") and "...the citizenry taken collectively and acting together" in what he terms the "general will" (McBride 1994: 56; Bluhm 1967). Admittedly, such responsibilities are not always clear to all the actors involved although they offer the rationale for participatory democracy.⁶

We assume that elections are an embodiment of the 'general will' and, therefore, play a critical role in a country's democratisation;⁷ leaving aside the common phenomenon of elections that normally go wrong especially in Africa (Matlosa et al 2010; Motsamai 2010; Abuya 2009). We agree that "...elections are not new in Africa, but competitive elections are only about two decades old, products of the vital political events of the 1990s that ushered the wave of multiparty democracies," (Matlosa et al 2010:1).

In Africa's case, however, how electoral integrity could be advanced as suggested in the extant literature (Annan et al 2012; Norris et al 2014; Shah 2015) remains a glaring gap. Shah (2015:45) notes that "[t]here is virtual consensus among politicians, practitioners, and academics that 'free and fair' elections are critical to the emergent and established democracies, but for many years there was relatively little information regarding what 'free and fair' meant in terms of measurable standards." The global focus on electoral integrity (Norris et al 2014) suggests that scholars and role players in the area of elections should think beyond making elections 'free and fair' (Elklit & Svensson 1997). In Africa, we need to contextualise this in the idea of the social contract that underpins public accountability.

Contextualising Elections, Accountability and the Social Contract in Africa

To understand the role of elections in a country, we need to examine the context in which they are held. Thus, it is argued that "[e]lections, while commonplace, have a checkered history in sub-Saharan Africa. In the colonial period, very few elections were held and these were restricted to the European population and selected African elites," (Mozaffar 2002:85). Once again, this is contentious as it suggests that Sub-Saharan elections should be 'perfect'; but there is no perfect election anywhere in the world. Yet, the first challenge noted here refers to Africa's colonial and racial

⁶ Accordingly, Rousseau believed that when "...a group of citizens unites to create a general will or, periodically in a general assembly, to reaffirm it, they are expected to place their private interests in brackets and to consider only the good of the whole" (McBride 1994: 56). Also, see Fredrick Watkins 1953 Translated and edited text of Rousseau's Political Writings.

⁷ Ironically, Rousseau's writing is continually characterised by a recurring theme that suggests that "the people cannot be trusted by the statesman [as] men are evil in society" (Crocker 1968: 7); which itself presents a paradox.

legacies whereas the second refers to the role of the elite in elections. While Africa's elections are no longer defined by colonial and racial systems, the question of the role of the elite in such elections is still a worrisome feature of its elections. Moreover, any reference to contemporary elections inevitably evokes concerns of, or demands for, accountability given the global spread of liberal democracy.

Elections are about choosing leaders or public representatives based on, among others, a country's electoral laws, electoral system, and legislation. Ideally, democratic elections are about openness and transparency, but also competition among the different candidates and parties to produce a legitimate outcome that reflects the will of the electorate. "Democracy is attractive because it offers people a public-oriented state. This is a guarantee founded on the idea that sovereign power belongs to the citizenry" (Lagunes 2012:814). One challenge that most democracies face, however, is that often the "will of the people" nowadays refers to the small numbers of those who vote in an election; the percentage of voters tends to be proportionately small compared to a country's entire eligible voting population. Yet, this process is intertwined with accountability, because the elected representatives must account for those who voted them into office, including those who did not. How they account is not a linear or straightforward process. Arguably, such accountability requires continuous engagement and affects different actors; and accountability at citizen, corporate, and various public administration and governance levels. The failure of elected representatives to account is a perennial challenge in African countries that subscribe to legitimising their governments through elections. Another is the half-hearted attempts at accountability e.g. in South Africa when Parliament hesitates or fails to exercise its oversight role over public representatives.

Accountability, as used in political science and other social science disciplines, implies the extent to which duly elected public representatives are duty-bound to answer to the electorates on issues that may raise concern or dissatisfaction among the electorates (Brinkerhoff 2001). According to Schedler (Hale 2008:75), accountability is "...the synthesis of two concepts: answerability—'the right to receive information and the corresponding obligations to release details'—and enforcement 'the idea that accounting actors do not just <call into question> but also <eventually punish> improper behaviour.'" Scholars argue that such accountability includes but goes beyond mere answerability adding that "...democratic/political accountability ... is a core feature of democracy itself, where societies select their leaders via periodic elections. This dimension of accountability is a measure of democratic quality, and is necessary for democratic systems to be sustainable," (Brinkerhoff 2001:5).

In the extant literature, accountability is commonly linked to public representation and elections (Manin, Przeworski & Stokes, in Przeworski et al 1999:29). Accordingly, it "...extends beyond holding leaders accountable through elections, to touch upon the administrative machinery of government that elected leaders direct to achieve public purposes," (Brinkerhoff 2001:5). Ideally, it has to manifest itself primarily through the legislature or Parliament; but also at the various levels of

government, public institutions and civil society bodies. Evidence similarly suggests that business institutions also rely on the idea of the social contract to succeed (Byerly 2013; Cragg 2000, Neimann 2013). In Africa, accountability remains the missing or weakest link in the chain of governance, because many political leaders sometimes overlook or ignore the mandate they carry from the voters once they are elected to office. Consequently, such an attitude has spawned a culture of entitlement and created leaders who are typically reluctant to vacate the seat of power once their term of office ends. Some, for example, Burundi, Rwanda, and Eritrea will even amend or suspend their national constitutions merely to extend the incumbent's tenure of office.

Among the “assumptions embedded in the works of classic Western social contract theorists” (Leonard & Samantar 2011: 559) is the idea that society is ruled according to an imaginary pact or “social contract” that binds ruler and ruled. However, if one considers what scholars normally term “failed states” in Africa, especially Somalia (Leonard & Samantar 2011:559-560), Eritrea (Crisis Group Africa Report 2008:10), and the Central African Republic, it becomes unclear to what extent the concept of the social contract applies to some African countries. But it could be asked as to whether these are “failed” states or states that fail their people. The latter seems to be more applicable. It is particularly unclear as to whether the classic social contract theorists, Grotius, Hobbes, Locke, Rousseau, and Kant (Leonard & Samantar p.561) accommodated the idea of multiple inter-ethnic inter-relationships such as those presupposed by the Ubuntu philosophy (Tshishonga & Maphunye 2013), which imply different forms of governance and social order. This also refers to the role of traditional leaders in Africa's governance. In such social order, elections might play a trivial role in the governance process; and the term “accountability” might need to be redefined since the state as used in the contemporary era (Sachikonye 1995; Ake 1996) might not be “the only form of governance that can deliver an acceptable level of social order” as posited by Hobbes, Locke, Rousseau and Kant (Leonard & Samantar 2011: 561 citing Dunn, 1984: 53, 54, 55; Locke, 1967 [1689]; Scruton 2001).

Continental Instruments, Democratic Elections and the Social Contract in Africa

In Africa, the following 'instruments', including each country's electoral laws, constitutions, and other legal frameworks, arguably support the consolidation of democracy and, by extension, the social contract:

- African Charter on Democracy, Elections and Governance
- OAU/AU⁸ Declaration on the Principles Governing Democratic Elections in Africa (2002)
- SADC Principles on Election Management, Monitoring and Observation
- ECOWAS⁹ Protocol

⁸ Organisation for African Unity; African Union

- Bamako Declaration (2000)

The latter 'instrument' was adopted by the International Organisation of *La Francophonie* (IOF) which caters to mainly French-speaking Africans and other countries in the French sphere of influence (European Commission 2007:214). According to this organisation, “[d]emocracy presupposes the existence of political parties with equal rights, free to organise and express themselves, in so far as their programme and actions do not challenge the fundamental values of democracy and human rights.” (p.215). This essentially prescribes a liberal or neo-liberal approach to the social contract because if another ideological persuasion, say communism, were to prescribe something else, for example, the “dictatorship of the proletariat” (Foreign Languages Press 1959) or “suppression of reactionaries and running dogs of imperialism” (Hung 2011) this would fundamentally contradict this line of thought.

The biggest challenge facing such 'instruments', though, is implementation once they have been signed and ratified by the respective national governments; further, very few citizens know about them (Maphunye 2015).

Electoral management and the social contract in Africa

According to James (2014:135), “[u]nderstanding the causes, consequences, and remedies for defects in the practice of elections is being subjected to renewed scrutiny.” This renewed scrutiny is normally part of electoral management or ‘electoral administration’ (Otlhogile 1998:158) and encompasses various election management processes. However, as observers note, the assessment of election management processes is complex:

Assessment of an election process is extremely complex, with consideration needed of technical, political and social factors. Analysis of strengths, problems, potential problems and possible solutions is not an exact science with judgement needed to identify key issues and potential remedies. Thus analysis of an election process is vulnerable to the shortcomings and political biases of the individuals involved. (European Commission 2007:2)

Furthermore, election management bodies help to consolidate democracy through elections; an invisible but equally critical contract between the voters and candidates. This might explain the apparent anomaly cited by some scholars who wonder why Africans continue to vote whereas they “...are among the world’s poorest and least educated citizens” (Inman & Andrews 2015: 100, citing Easterly & Levine 1997; World Bank Development Report 2000/2001). Additionally, some argued that “...research on citizens in the world’s advanced industrialized democracies has consistently found that poverty and lack of education decrease the likelihood of voting” (Inman & Andrews, p.100, citing Brady et al 1995; Verba and Nie 1987;

⁹ Economic Commission for West African States

Wolfinger & Rosenstone 1980). Yet, even in South Africa poor voters continually endorse the governing party election after election, which sometimes baffles scholars of elections especially those who subscribe to the idea of “rational” voters who can carefully weigh the options before casting their ballots.¹⁰

In many African countries, this picture changes continually during each election, especially given recent changes of government via the ballot box in Ghana, Senegal, Malawi, Mauritius (Chatham House 2015) including Zambia, Lesotho, and Nigeria. Still, these examples are insignificant considering Africa’s 54 countries. These elections gave Africa’s electorates hope that change of government through the ballot box is possible if the playing fields are level and legitimate; and credible elections (e.g. as defined by trained and impartial observers) which ensure fairness and electoral justice (Mozaffar 2002; Elklit and Svensson, 1997) are held based on international best practices.¹¹ However, more such examples are needed in the case where the incumbent parties do not fulfil the voters’ expectations.

Finally, the immense contribution of election management bodies (EMBs) to the manifestation of the social contract in Africa cannot be overlooked; but, as one observer notes, “[t]he success of electoral processes depends largely on the independence, impartiality, professionalism, integrity, and responsiveness of the EMB,” (Kadima 2006:11). Ideally, such EMBs require an independent judiciary which can exercise further checks and balances in terms of the separation of power principles.

Pathologies afflicting elections, accountability and the social contract in Africa

The term “pathology” refers to “the symptoms of a disease” (Concise Oxford Dictionary 1990) or the scientific study of diseases and their symptoms. In terms of Africa’s elections, many instances and incidents that perennially beset the continent’s polls can be identified as symptoms of such pathologies. These include fraud; vote rigging; gerrymandering of election boundaries; stuffing of ballots with fake ballot papers; threats and intimidation of opposition supporters and candidates; the use of security agencies to harass, torture, and imprison political opponents; staffing of EMBs with party apparatchiks, cadres or loyalists, bribery, cheating and several types of dishonesty (Abuya 2009; Collier & Vicente 2012; Motsamai 2010; Shilaho 2014). Other scholars worry about the challenges of “corruption and voting”, referring to Senegal (Inman & Andrews 2015: 100). Such pathologies can contaminate EMBs, parties, candidates, governments, and legislatures and may also dilute the social contract together with other Machiavellian tendencies, for example,

¹⁰ This excluded the “floating” or vacillating vote phenomenon of voters who remain undecided on whom to vote for right up to the last minutes of Election Day.

¹¹ However, the situation in countries such as Angola and Ethiopia may undermine such hopes.

state-sponsored electoral violence, suppression of democratic rights, the use of food parcels and other material benefits just before a major election.

A serious pathology confronting elections, accountability, and the social contract in Africa is election-related violence (Abuya 2009; Matlosa et al 2010; Masterson 2009:511) especially if one considers the previous elections in Côte d'Ivoire, Mozambique, Kenya, Madagascar, Nigeria, and Zimbabwe. Electoral violence has been described as "...one of the major democracy deficits confronting contemporary Africa... (Matlosa et al 2010: 232). This pathology undermines accountability and the social contract, because once a country is engulfed in violence one compromise mechanism that is usually employed to contain such violence is the dreaded "government of national unity" solution. Such compromise tends to suspend the voters' choice or will, and might even result in the suspension of the constitution that guarantees citizens' fundamental rights and freedoms; typical examples are Madagascar, Zimbabwe, and Lesotho recently. Thus, as Abuya argues, Kenya's 2007 election was marred by horrific attacks and violence that resulted in arson, murder, and criminal acts during the post-election flare-ups that engulfed the country (Abuya 2009:158). Given the acknowledgment that "[o]ur world is one where politicians care primarily about winning the elections" (Collier & Vicente 2012:118), Monga (1997:159) cites the manipulation of the electoral process as a serious problem besetting African politics.

All these pathologies undoubtedly pose severe hurdles to Africa's attempts to consolidate democracy; improve accountability, and strengthen the social contract through elections.

Dilemmas facing Africa's elections, accountability, and the social contract

A dilemma is a predicament or uncertainty. It is acknowledged that "... there is no election that is 'absolutely fair'" (Abuya 2009:158, citing Thorpe and Hornsby 1998). However, several dilemmas can be associated with electoral malpractices that undermine public accountability and the social contract in Africa.

First, is "the persistent crisis of legitimacy of the African state" (Baregu 2010: 27; Bayart 1993). Admittedly, this crisis has been attributed to the colonial era and the legacy it has bequeathed to the post-independence state, and no "free and fair" declaration of its polls by any observer mission will resolve the inherent crisis besetting such a state; far more comprehensive regional, international and even citizen interventions are required to resolve these dilemmas.

Second, and notwithstanding Rousseau's "...passion that all government must rest upon the consent of the governed" (Commins & Linscott 1947:264), the current phenomenon of shrinking voting populations increasingly affects the legitimacy of African countries that subscribe to democratic elections. Sadly, this is a global

phenomenon because “[v]oter turnout has been dropping in numerous democracies throughout the world including countries with PR¹² systems such as Netherlands, Ireland and Finland,” (Chiroro 2008:14). Thus, if legitimacy requires of multitudes of voters to confer the mandate to govern on parties or candidates, then small numbers of actual votes (total valid votes) on election day can drastically reduce governments’ or rulers’ legitimacy. Consequently, some suggest that Africa is now witnessing a phenomenon of “rule by the minority” who vote (Gutto 2015). Thus, South Africa’s voter turnout has experienced a steady decline (Chiroro 2008:14) since the country’s founding election in 1994 (1994: 85%; 1999: 63% 2004: 61%) (Chiroro 2008); and rose a bit in 2009 (77.3%, IEC, 2004) In the May 2014 elections voter turnout declined to 73.4%, but 18 million voters voted out of a total 25 million registered voters in a population of 52 million.¹³ Table 1 below outlines the trend in South Africa’s voting statistics since 1994, showing particularly the reduction in total valid votes in the last two decades.

Table 1: VOTING STATISTICS – SOUTH AFRICA 1994-2014

National Election Year	Registered Voters	Total Votes Cast	Total Valid Votes
1994	0	19 533 498	19 533 498
1999	18 172 751	15 977 142	15 977 142
2004	20 674 923	15 863 558	15 612 671
2009	23 181 997	17 919 966	17 680 729
2014	25 388 082	18 654 771	18 402 497

Source: News24, 2015 (<http://www.news24.com/elections/results#year=1994>)

Coupled with the continental advent of unelected traditional leadership or chiefs is the fact that sometimes they enjoy greater legitimacy and are more accountable than elected representatives; although such legitimacy might be difficult to verify or quantify and could be based on perpetuating “differing degrees of inequality” (Commins & Linscott 1947: 289). Given that “[t]he practice of the social contract operates with reliance on the sovereign for direction and enforcement” (Smith, 2014: 4), in this case, it becomes questionable as to who the “true sovereign” is, based on the idea of classical social contract thinkers.

A third dilemma is compulsory voting; well-known examples are Australia (Evans, 2008; Mackerras & McAllister 1999) and Peru (McClintock 2006; Panagopoulos 2008).¹⁴ Here, the counter-argument could be that if a country’s constitution recognises voting as a source of legitimacy and the votes of only those who partake in elections as valid, then “if you don’t vote, you have no right to complain,” (Bleeding

¹² Proportional Representation

¹³ In comparison with international trends on turnout (Chiroro, 2008:14), these are remarkably high figures but the point being made is the steady decline since 1994.

¹⁴ In 2006, the Australian Electoral Commission stated that there were “32 countries with compulsory voting, of which 19 (including Australia) pursue it through enforcement.” (Evans, 2006: 6). In Africa, only Egypt and Gabon appeared in this list. Further, it is reported that Argentina and Luxembourg “make non-voters explain why they didn’t turn up [to vote]”; “in Belgium non-voters might find it difficult to get a job in the public sector if they don’t make the ballot”; whereas in Australia “non-voters could be slapped with a \$20.00 fine if they don’t vote” (Skynews 04/05/2015)

Heart Libertarians 2015). To problematise this further, a pertinent question to ask is: Is an enforced franchise preferable to a voluntary one in Africa?¹⁵ Given Africa's history of colonial oppression and post-independence authoritarianism which suppressed citizens' franchise rights, many Africans would probably prefer a voluntary voting regime, which would rhyme with Rousseau's idea of the "general will".¹⁶

The fourth dilemma encompasses political instability and governance problems like electoral violence (Motsamai 2010), including defiance of legitimately elected authority as happened in Tunisia, Algeria, and Egypt, especially during the "Arab Spring" revolts. Likewise, the continuing South Sudan post-election conflict poses problems in Darfur and countries in the region. Such problems confront the United Nations, African Union, and SADC¹⁷ and include the conflict in the Great Lakes Region, particularly the Democratic Republic of Congo and the Central African Republic (CAR), the situations in Mali and the Sahel region, Libya, Somalia and Nigeria (especially the Boko Haram threat). In these countries, including Eritrea with its suspended elections and constitution, how can elections be the yardstick for assessing the social contract, given the looming threat of warfare, authoritarianism, and violence? One observer argues that "[t]he 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" (Motsamai 2010: 1).

An analysis of these conflicts and incidences of political instability suggests that elections may be part of the solutions to such conflicts but are certainly not the 'final' or only answer since these skirmishes have deep-seated origins and, therefore, need sustainable solutions. Where elections are offered as part of other solutions to these conflicts, the fundamental issues of state power; nature of the state; division of governing powers among the warring parties (or parties to a dispute), and the kind of electoral system must first be resolved.

Fifth, is the division and sub-division of the continent into Lusophone, Francophone, Anglophone and Afro-Arabic geo-political segments that do not always seem to identify with the broader continental agenda (Agenda 2063; New Partnership for Africa's Development, African renaissance, and African Peer Review Mechanism or APRM). This poses numerous dilemmas for election management, accountability and the social contract. Thus, as Monga (1997:159) observed, "[i]n many French-speaking countries, the entire electoral process falls within the purview of the

¹⁵ The social contract is a broader transactional relationship between citizens and rulers or governors, but another dilemma here is the question of ineligible voters and the apathetic whose voices are equally important to consolidate legitimacy.

¹⁶ This is in spite of the criticism of this concept by other scholars (e.g. Rousseau's contemporaries) (See McBride 1994). For instance, Buhm (1967: 137) argues that for such a "general will" to exist, the society must be "quite small", its members "share roughly equal socio-economic status", must be "simple in its way of life" and "simple in its economic organisation".

¹⁷ Southern African Development Community. Experimental studies on voter behaviour suggest that looming violence, ongoing insecurity and intimidation pose particular challenges for voters in fragile states such as Liberia (Mvukiyehe & Samii 2013:5).

Ministry of Territorial Administration or the Ministry of the Interior. Citing French tradition, such countries have always rejected the idea of an independent electoral commission.” In addition, Mozaffar (2002:89) argues that “[w]ith the exception of Sudan, anglophone African countries did not inherit autonomous EMBs at independence...,” Similarly, it is further argued that “African authoritarian regimes in francophone as well as Lusophone countries inherited the centralised institutional legacy inspired by the Jacobin statist ideology” (Mozaffar (ibid.)). Yet, in contemporary election management and Africa’s quest to enhance its election processes, reputation, and processes, it has now become imperative that a country should have an impartial election management body that is run along professional lines to guarantee high levels of efficiency, effectiveness, transparency and legitimate outcomes in all election processes.¹⁸

Sixth, is the absence of a free media (a critical element governing democratic elections) that is transparent, and impartial and gives coverage to all the parties contesting an election. Yet, as Monga aptly notes, a key challenge facing Africa is that of “a controlled press”; and “...to say that brutality [against journalists] and censorship have disappeared would be an exaggeration. What the authorities have given with one hand in the area of freedom of expression, they have taken back with the other in that of information availability,” (Monga 1997:164). The suppression of media freedom inevitably affects transparency in elections. While there may be some exceptions, this nevertheless undermines the full realisation of the social contract in the affected African countries.

The seventh dilemma is the perennial problem of glaring gender inequalities in Africa’s political arena, especially among candidates. Such inequalities suggest that there is minimal political will among Africa’s leaders for sustainable and meaningful equality between women and men politicians in their respective countries.¹⁹ If this did not pose such a big dilemma for the continent, African parties would have moved to appoint women leaders to the highest and most influential positions of president, deputy president and party secretary general; these positions are occupied by leaders who effectively take over the reins of a country once their party wins an election.²⁰

The eighth dilemma many EMBs have to face is the lack of independence, relative autonomy, and funds to run elections (Sesa 2014). The lack of independence makes an EMB vulnerable to the dictates of an incumbent such as the unilateral setting of national election dates, reluctance to undertake electoral reform (Kasennaly 2009), and the introduction of electoral innovations. Furthermore, an observer states that

¹⁸ In 1997, several African countries’ election administrators met in Ghana and established the Association of African Election Authorities (AAEA) probably aimed at transcending such divides but its momentum weakened over the years.

¹⁹ Ironically, the 25th Summit of AU Heads of States and Government (June 2015, Johannesburg) adopted a theme that underscores women’s empowerment and women’s roles in development

²⁰ These dilemmas were cited by delegates at the conference on *Women Political Participation Through Elections and their Role in Preventing Election Related Conflicts in Africa*, Bujumbura, 10-12 December 2014, which the author attended.

“...an election is a very expensive undertaking because it is necessary to set up polling stations across the country and ensure they are of a standard that facilitates free and fair elections,” (Oyugi 2003:2). Admittedly, elections generally drain the public purse of huge amounts of money although some countries like Botswana are better off (Shale 2006: 79); yet, if such expenditure is not authorised, elections might never be conducted. The dilemma here is that some African governments have no money to run elections and are, therefore, held to ransom by donors. This undermines the social contract and accountability and implies that Africans cannot fund their own democratisation projects. Some, still, refuse to invest financial resources to improve election management since more efficient elections might compromise their stay in power.

The ninth dilemma for Africa is that the winners habitually become condescending, undermine or victimise the losers, and exclude them from power. Subsequently, the losers refuse to congratulate the winners even in instances where they concur that the polls were fairly conducted.

The tenth dilemma is the pervasive threat of corruption, real or perceived, (Inman & Andrews 2015; Lagunes 2012) as seen even in the recent Nigerian election of 28-29 March 2015 during which it was a major concern of voters and candidates alike. Delivering a public lecture at the African Research and Resource Forum (ARRF) in Nairobi, Kenya almost a decade ago, Anyang’ Nyong’o stated that “[c]orruption is akin to cheating, but it goes beyond that. It is cheating in the use of public office to achieve personal gain in terms of resources such as money, services, and other goods. Corruption is also akin to bribery...” (Anyang’ Nyong’o 2006: 1). In the area of election management, it poses a looming threat that can undermine the legitimacy of citizen’s choices at the ballot box and is, therefore, a challenge to democracy (Lagunes 2012). It is argued that “[m]ost contemporary studies suggest that perceived corruption leads to worsening confidence in Government” (Inman & Andrews 2015:102, citing Anderson & Tvedova 2003; Tavits 2008; Bowler & Karp 2004; Redlawsk & McCann 2005; Manzetti & Wilson 2006).

Finally, perhaps the most critical dilemma facing the manifestation of true public accountability and the social contract through elections is the pervasive fear among the electorate to remove an incumbent government when it no longer delivers. Coupled with the advent of an electoral system that marginalises the opposition (Sebudubudu & Maripe 2013:15); this dilemma is associated with the pathology of fear and violence. This coerces the electorate to endure the punishment of an incumbent government even when it no longer represents its aspirations.

Opportunities for Consolidating Democratic Elections, Accountability and the Social Contract

An opportunity is a chance given to someone to do something. Thus, several opportunities are available to those in the election management fraternity —

scholars, election practitioners, researchers, and policy-makers — to improve the election processes thereby enhancing accountability and the social contract.

One opportunity that academics and practitioners in this fraternity have identified is to collaborate when training election officials and their executives. Subsequently, in conjunction with some EMBs, Unisa's Management of Democratic Elections in Africa (MDEA) course and other capacity-building programmes of the Chair in Electoral Democracy (e.g. the training of citizen election observers for the 2014 South African elections) seek to close this gap. Others include engagements and research that benefit communities such as the joint IDRA, IARS,²¹ and WIPHOLD-Brigalia Bam Chair research on electoral dispute resolution mechanisms in the Mpumalanga/Limpopo region, Moutse village (Ephraim Mogale Municipality, Marble Hall). This research (2013-2015) suggests that the community is adversely affected by election demarcation issues that are intertwined with a minimal understanding of South Africa's electoral system; lack of accountability and non-availability of elected public representatives in the area; and dissatisfaction with the quality of services in the village. In all these instances, the social contract was almost always alluded to by the villagers since they felt that the authorities were not doing their part to alleviate their plight.

The African Union and the Regional Economic Communities have started the debate about ensuring a turnaround in the quality of African elections. Yet, the weakest or missing link is a commitment by all the leaders of the 54 countries to holding "genuine and credible election[s]" (Murphy 2013:239) that are committed to the various continental instruments that have been adopted at several heads of state and government summits. Admittedly, a few seeds of democratic participation have been scattered haphazardly in parts of Africa. Some fell on good ground because, as an observer notes:

Ghana and Senegal are the two most successful cases of democratization by elections. Senegal started with multiparty elections back in 1978, long before the 'third wave' of global democratization reached Africa. The country qualified as an electoral democracy after the opposition defeated the long-ruling Socialist party in 2000... Ghana organized its first multiparty elections during the third wave in 1992, and became an electoral democracy at the time of its second elections, still won decisively by former military strongman Jerry Rawlings and his party. (Bogaards 2013:155)

Other promising examples include Mauritius, Seychelles, Zambia, Namibia, Botswana, and South Africa. Still, even in some of these examples, the one-party dominant phenomenon of parties that have not been seriously challenged at the polls or have not experienced a change of government through elections since independence, makes elections an unreliable mechanism for determining the extent of democratisation specifically in the case of Botswana (Molebatsi 2014:21) and South Africa (Maphunye et al 2014:44-45). Therefore, it is only when a change of

²¹ Institute for Dispute Resolution in Africa; Institute for African Renaissance Studies

government occurs through elections that they can be said to contribute to electoral democracy in these countries. Undoubtedly, such elections must enhance accountability and the social contract. However, if Africa can conduct its elections professionally based on psephological principles, Africans do not need selective international observers or monitors to “confirm” the legitimacy of their elections. The current practice of armies of international observers and monitors that continually arrive on African shores to “validate” elections, whereas the same gesture is not accorded to African election observers and monitors, is unfair and condescending.

In terms of the youth role in democracy, a new generation dubbed the “thumb generation” is increasingly replacing the so-called “BBCs” (born before computers/cell phones). Hopefully, they will urge the EMBs to use more electronic and technologically inclined election management techniques and innovations. The recent 2014 piloting of electronic voting machines in Namibia and biometric registration in Nigeria were ground-breaking moments and could herald a new era of enhancing the integrity of elections in Africa. The extent to which this will consolidate the social contract is unclear, but it should certainly be part of current debates, research, and policy-making among the EMBs and African governments. Understandably, many remain fearful that the arrival of electronic voting systems might compromise the secrecy of the vote; this raises another research question that is not answered in this paper. India, Brazil, and other countries, where electronic voting technologies are used successfully, present useful case studies for Africa; these include South Korea where discussions on terms such as “e-campaigning” and “cyber-exile” are now part of the lexicon of elections (Lee and Park 2013: 389-390).

Compulsory voting remains another hotly contested but under-researched opportunity.²² In 2014, Richard Mkhondo urged South Africans to “consider compulsory voting”, and lamented the “existence of a silent majority.” He explained that “[t]hese are eligible voters who, although eligible, did not register to vote and those who registered but did not bother to turn up on election day,” (*The Star*, 03/06/2014). Globally, comparative research has examined mandatory and voluntary voting (Mackerras & McAllister 1999; Krasa & Polborn 2009), but in South Africa, the debate has just started and perhaps Mkhondo raises a worthy point. Unfortunately, in South Africa’s one-party dominant system, compulsory voting cannot be considered unless it has been debated in the various sections of the governing party. If the opposition were to raise such an issue, they could be seen as engaging in party political point-scoring and not taken seriously. In the past two decades, the debate on compulsory voting increasingly arose almost at each election; ironically, numerous South Africans gallantly fought and paid the ultimate price so that everyone could enjoy universal franchise rights.

²² Research evidence suggests that “Australia has the oldest and probably the most efficient system of compulsory voting among the established democracies,” (Mackerras & McAllister 1999: 217).

Many African voters could probably ask why mandatory voting should be considered when millions died fighting for this right during anti-colonial struggles. Actually, in the context of the social contract discussed in this paper, compulsory voting might be perceived as blatantly flouting the silent contract between the citizen (*voter*) and the ruler (*government*); and undermining the right to freedom of expression whereby one can abstain if one so desires. Yet, compulsory voting in South Africa could perhaps attend to the advent of a “silent majority” of non-voters at each election but only on two conditions. First, it may be justifiable and succeed only if the country votes directly for constituency members of Parliament and the President, and not indirectly through a party-list system that denies them this benefit. Second, it may also be justifiable if a new ballot paper format that contains extra space for “Not interested in any of the above parties” is created and becomes a feature in all the by-elections, local, provincial, and national elections. This would cater for those who may want to vote but are not catered for by the parties on the ballot paper.

Opportunities exist through the harnessing of initiatives such as NEPAD, APRM, “African Solutions for Africa’s problems”, African Renaissance and other solutions such as the “philanthrocapitalism” practice of the likes of Mo Ibrahim of awarding “...a huge prize for recently retired heads of government in Africa to encourage corruption-free leadership”(Bishop, 2013: 475). But the key challenge is how to align political will and the “general will” (Field 1956:41) via elections so that lack of accountability does not weaken the social contract; especially given Rousseau’s injunction that:

Whoever shall refuse to obey the general will must be constrained by the whole body of his fellow citizens to do so. (Bluhm 1967:373)

Conclusion

This paper has examined the relationship between public accountability and the social contract through the prism of elections in Africa. Are elections the answer? If so, what is the question? First, elections are not the answer or panacea to Africa’s numerous problems; neither are regular elections tantamount to democratic consolidation, otherwise, we risk falling into the “fallacy of electoralism” (Diamond 2008:38) which equates elections with democracy, and vice-versa; but the debate has just begun. In South Africa’s case, various attempts were made to reopen the debate on the reform of the electoral system, but these initiatives have been met with resistance from the incumbent and some opposition parties over the years (Faure 1999; Sisk 1993; Chiroro 2008). Admittedly, elections “...have become the organized method of peaceful democratic transition, a salient indicator of democratic consolidation, and the principal institutionalized means for large numbers of people to participate peacefully in forming and changing democratic governments afterwards,” (Mozaffar 2002: 86). Hopefully, such changes of governments will

enhance public accountability and help consolidate the social contract. Nevertheless, we acknowledge that "...the growing literature on electoral authoritarianism documents how non-democratic leaders perpetuate their rule not despite, but thanks to multi-party elections," (Bogaards 2013: 151).

Certainly, we cannot assume that all 54 African countries will share a uniform government system called democracy given its flaws as identified by researchers and scholars. Elections should, however, be given a chance as they are the only option, barring revolution, military coups, or insurgency, that is available for African voters to remove unscrupulous parties and leaders that are not accountable to the electorate; thereby flouting the social contract during their terms of office. Thus, elections in Africa mostly enhance the social contract but may also undermine it if they are rigged or not conducted according to international best practices.

Elections are critical but not the only means of consolidating the social contract. Given the complexity of modern democracies and societies, other mechanisms that are equally needed to reinforce the social contract include referenda, public participation processes (public hearings, parliamentary petitions); public protests (legal in South Africa, though often violent); free media campaigns by citizens; public advocacies; including the role of constitutional bodies (such as South Africa's Chapter 9 Institutions).

A concluding observation is that the continent's model of election quality assurance, monitoring or quality check, namely electro-tourism via continual election observation that usually seeks to rubber-stamp even the most dubious election outcomes, is unsustainable because it undermines Rousseau's idea of the "general will". Where observation is unavoidable, only experienced election officials and those working directly with elections should be deployed. Similarly, the kind of election system that a country adopts, whether it is Proportional Representation (PR), First-Past-the-Post or 'winner takes all', mixed member proportional (MMP), or some other versions, is also largely influential on the kind of electoral reform, accountability (Chiroro 2008:3; Faure, 1999) and social contract a country will experience. Admittedly, these systems are not discussed in this paper and are merely alluded to; but psephologists need to undertake further research to identify other mechanisms for improving Africa's elections in the 21st century, for example, Namibia's electronic voting and Nigeria's use of biometric systems to improve elections. Finally, elections promote democratisation in Africa, but their contribution to accountability and the social contract depends on political will; the presence of independent EMBs; the judiciary; and voters who are not intimidated by the dilemmas or pathologies discussed above should they wish to change government through elections. Decisions on the latter point should not rest on any incumbent political party but need to emanate from the people themselves at grassroots levels. Ultimately, Gene Sharp's (1993:6) observations ring true for South Africa, Africa and countries that were previously under the yoke of oppression:

The fall of one regime does not bring in a utopia. Rather, it opens the way for hard work and long efforts to build more just social, economic, and political relationships and the eradication of other forms of injustices and oppression.

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