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Matters Arising: African Elections and The Problem of Electoral Administration

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I

This introductory essay is not an attempt to summarise the arguments in the articles that follow. What it attempts to do is draw attention to the problem of electoral administration in Africa. This is a problem which, though touched upon in various ways in the articles that follow, is not treated in any systematic manner. This is understandable, if only because there is a tendency to focus on the voting processes on election day or on the outcomes of elections, or to see election results as an end in itselves. Yet elections have to be organised and conducted; who does this and how it is done, the structure and processes for doing it, are all of paramount importance.

Elections are central to competitive politics. They are central because, ideally, they should provide the opportunity for yesterday's winners to become today's losers, and for yesterday's losers to become today's winners. The model of democracy on which this theory of elections is based is liberal democratic. The centrality of elections to liberal democratic politics also presupposes the importance particularly of impartial electoral administration. This is because the indeterminacy of elections-the possibility of erstwhile winners becoming losers and erstwhile losers becoming winners-which is an inherent and necessary prerequisite of liberal democratic politics is to a large extent a function of an impartial administration of elections. This is why we should turn our searchlight on electoral administration. Hopefully, this introduction will serve the purpose of focusing the attention of the reader on how some of the issues raised here are reflected upon, even if implicitly, in or have a bearing on, or illuminate some hidden aspects of, the articles that follow.

II

But what is electoral administration? Against the background of the articles that follow, we can say that electoral administration is the organisation and conduct of elections to elective public (political) office by an electoral body. It is important to emphasise that I use it to subsume both structure and process. By structure is meant the bureaucracy that is set up or established to organise and conduct elections. This is usually an electoral body, like the National Electoral Commission of Nigeria or the Zambian Electoral Commission. But apart from this specific bureaucracy, whose primary function is the administration of elections, there are agencies or institutions of the state, like the civil service, the police and security agencies and civil society groups whose support and cooperation through the provision of logistical support is vital to the operation of the electoral body. Also important for their oversight functions are the legislature and the judiciary, although in much of Africa, this oversight function has for obvious historical reasons been impaired, vitiated or in limbo.

By process is meant the rules, procedures and activities relating to, among others, the establishment of electoral bodies, the appointment of their members, the registration of voters, the nomination of candidates, balloting, counting of the ballots, the declaration of results, the selection and training of electoral officials, constituency delimitation, voter education and, in some cases, registration of political parties and supervision of party nomination congresses.

III

Let me try and provide some context for talking about the problem of electoral administration in Africa. The starting point is the fragile and stunted character of the electoral machinery inherited at independence. Much of it was rudimentary and ad hoc, based on a narrow and restrictive franchise in most cases and designed and contrived generally and in most cases to ensure succession favourable to the colonial regimes, although this objective was not always achieved.

The inherited electoral administration was in effect easy prey to manipulation and, in many cases, to outright control by the successor regimes to colonial rule, who, in their bid to retain power by all means and to monopolise the political market-place, saw no reason to develop strong, independent electoral administrations that would only serve to undermine or subvert their hegemonic drive. In this way electoral administration was politicised. In countries where the military took over power, electoral bodies were simply suspended or dissolved and electoral administration thrown overboard.

The politicisation of electoral administration was one dimension of a wider,

more disturbing, phenomenon which encompassed the gradual narrowing and eventual closure of the political space, and the politicisation of the bureaucracy and the judiciary, by the ruling party, whether in the one-party state or in the dominant single party state. In these circumstances, the vacuum so created has been difficult to fill when the military and one-party dictatorships are forced to liberalise or open up the political space and to set in motion a programme of transition to multiparty democratic rule. The problem of electoral administration in Africa, against this background of the departure from competitive liberal democratic politics, is therefore to focus on the conditions under which it (i.e. electoral administration) can and should be what it should be — namely, to ensure the indeterminacy of elections. The task includes changes in the structure and the process of electoral administration that must be introduced or effected, if the current wave of democratisation is not to be mere epiphenomenal window-dressing.

This is why I pointed out earlier on that we need to go beyond the outcomes of elections to focus on what might be called the situational factors that condition and influence the organisation and conduct of elections. These include the issue of fair and equal access, the autonomy of the electoral bodies and unhindered electioneering campaigns by all political parties.

IV

Let me also briefly refer to another important context within which to situate the problem of electoral administration in Africa. This is the fact of underdevelopment and the current economic crisis facing African countries. A number of the weaknesses and constraints of electoral administration identified in the articles that follow are fundamentally due to underdevelopment.

Electoral administration entails huge economic costs and financial outlays which African countries undergoing structural adjustment may find difficult to bear. Poverty makes the electorate susceptible, although not necessarily, to the unwholesome influence of money. Political parties, especially opposition ones and individual candidates can barely bear the cost of electioneering. They have difficulty raising funds even where, as in Nigeria, there are constitutional provisions for the state to make allocations to them, although in some cases they may be able to raise funds from abroad or from local sponsors or sympathisers.

Lack of communications facilities and other logistical requirements leads to delays in transporting electoral officials and material. This imposes severe strain on the preparation and coordination of electoral activities by the various electoral bodies, as well as on electioneering by the political parties and their candidates. Illiteracy poses its own problems, e.g. how are electoral regulations or the use of ballot papers to be explained to illiterate voters?

In short, the limitations, indeed the imperfections of electoral administration

must be realistically set against the problem of underdevelopment and the economic crisis of the state. For, even if the structure for electoral administration is in place, underdevelopment poses a powerful constraint on the electoral process.

What I have characterised as the problem of electoral administration in Africa-ensuring the indeterminacy of African elections-has several dimensions. In what follows, I indicate some of the more important and pervasive ones.

V

Let me begin with the structure of the electoral body itself. How many such bodies can or should there be in an individual country? There can be either one such body, statutorily charged with organising and conducting elections for the entire country. Or there can be at least two of such bodies, independent of each other and charged with the organisation and conduct of different elections, as was the case under the 1979 Federal Constitution of Nigeria when there were state electoral commissions, charged with the conduct of local government council elections, and the Federal Electoral Commission charged with conducting federal and state elections.

Virtually all English-speaking countries in Africa, including Nigeria, now have only one electoral body with powers to conduct all elections in the country. For example in Zambia, the Zambian Electoral Commission conducts presidential and legislative elections at the national level and local government elections at the local level. In Nigeria, the National Electoral Commission is empowered to conduct all elections to elective public office at the federal, state and local government levels.

However, there is necessarily a degree of decentralisation and delegation of powers to field offices of these electoral bodies. This is because of the extensive scope of the task assigned to these electoral bodies. But there are substantial variations from country to country in the extent of the decentralisation of responsibilities and in the nature of the decentralised bureaucracy.

In Zambia, for example, the District Executive Secretary is responsible for administering the elections in his or her district. In Nigeria, there is a Resident Electoral Commissioner in each state of the federation and the federal capital territory. He or she is appointed to oversee the organisation and conduct of all federal, state and local government elections in the state, on behalf of the National Electoral Commission. He or she is assisted by a State Administrative Secretary. Further decentralisation is achieved by the establishment of local government electoral office in each local government area in the state, under a local government electoral officer who is responsible to the State Resident Electoral Commission.

In Ghana, the erstwhile National Commission for Democracy undertook the decentralisation of electoral administration in the country between February and May 1987 by creating new administrative units for purposes of electoral administration. This resulted in the division of the 110 districts in the country into electoral

areas, with decentralised authority conferred on volunteer District Election Commissioners (DECs) to conduct district elections.

VI

Another dimension of the problem of electoral administration is about the composition and mode of appointment of the electoral bodies. This is an issue which recurs again and again in some of the articles that follow. It is of course a critical issue that bears on the autonomy of these electoral bodies and, therefore, on the possibility for ensuring the indeterminacy of African elections.

In the Zambian elections of 1991 and the Kenyan and Ghanaian elections of 1992, opposition parties and civil society groups made the composition of and the modality for the appointment of members of existing electoral bodies an issue in pre-election discussions. At issue was their demand to make an in-put into the process of selecting or appointing members of the electoral bodies, as a way of ensuring fair and equal access to, and the impartiality of these bodies. The concern, in other words, was to insulate the process for the appointment of the members of these bodies from undue interference by the executive branch of the State.

In Lesotho in 1991, there was extensive discussion on the modality for the appointment of the country's Chief Electoral Officer, whose impartiality and general acceptability would ensure confidence in the electoral processes leading to the return to democratic civilian rule. This was the background to the aproach which the government of Lesotho at that time made to the United Nations for assistance in the recruitment and subsequent appointment of an expatriate Chief Electoral Officer for the country.

The modality for the appointment of electoral bodies in the French-speaking states in Africa is different from that in the English-speaking ones. For example in Senegal, the organisation and conduct of elections is under the supervision of the Ministry of the Interior. It must be noted, however, that some English-speaking African countries have operated a modified version of this practice. In Lesotho, the Electoral Act of 1968 empowered the Minister of Law, Constitutional and Parliamentary Affairs to appoint a public officer, specifically the District Secretary to serve as the electoral officer in a number of constituencies. But the District Officer, in performing his or her functions and in exercising his or her powers as electoral officer would be answerable to another minister for his or her electoral duties and not to the Minister of the Interior to whom he or she would be answerable for his or her functions as District Secretary.

The general tendency has been to establish what are regarded or described as non-partisan electoral bodies by excluding from their membership party members or those who had previously taken part in partisan party politics. For example, a member of the National Electoral Commission in Nigeria was replaced shortly

after his appointment in 1987 when it was alleged that he had been involved in partisan party politics during the Second Republic. In Zambia, a member of the Electoral Commission resigned his membership of the electoral body in 1991 to join the fledgling Movement for Multiparty Democracy.

There have, however, been suggestions that African countries adopt or adapt the practice in the United States where membership of the Federal Electoral Commission and of the various state electoral commissions is bi-partisan. For example, one of the options considered at great length by Nigeria's Political Bureau in 1986 but ultimately rejected by it was for party representation on electoral commissions. In Kenya during 1992, the Ford-Kenya and other opposition groups canvassed the idea of an electoral body in which the major political parties would be represented.

VII

A related dimension of this concern with the modality for appointing members of the electoral bodies is the requisite number of members of these bodies, the tenure of the members, including the circumstances and modality for their removal, and their relationship to the central executive and administration. In Nigeria, for example, the Federal Electoral Commission under that country's 1979 Constitution comprised about 25 full-time members, with each of the then 19 states of the federation represented by a member in addition to federal government appointed members. This was thought to be unwieldy and prone to internal and externally-induced conflict. This membership structre was replaced in 1987 by a much more compact membership structure of 9 members, with no member representing any state, although it reflected the significant ethno-communal and regional diversities in the country.

At the other extreme was the composition of the Zambian Election Commission in 1991 which was problematic because it was too compact. It was a 3-member commission, only 2 of whom were *in situ* in the months before the October 1991 elections. Of these 2, one was away from the country with the Zambian national soccer team during part of the months before the elections. The result was that the chairman of the commission who was the only one effectively *in situ* throughout the critical months before the elections was overworked. His situation was made even more burdensome by the fact that he combined his election administration functions with his judicial functions as a sitting judge of the Zambian High Court.

What, then, should be the minimum and maximum number of members of these electoral bodies? There is no easy answer to this question other than to say, perhaps, that local conditions and specificities have a role to play in their constitution and composition.

A related issue is whether membership of these bodies should be on a full-time

or part-time basis. The problem with part-time membership is that it may create conflict of authority and, therefore, of responsibility between the members and the permanent staff, especially the top bureaucrats in the commission. It seems also that the responsibilities which these bodies are called upon to shoulder and carry out are of such significance and magnitude that their members should serve on a full-time basis, should be given full executive authority, and given remuneration commensurate with the heavy responsibilities they have been called upon to shoulder.

VIII

This leads me to questions pertaining to how these electoral bodies are structured or organised to perform the functions of electoral administration. Among such questions are the following: should they, as in Nigeria, have permanent offices throughout the country? Or should they, as in Lesotho, delegate their functions and therefore their authority, as well, to District Officers who are not their own personnel? Or should they, as in Zambia, in 1991 be assisted by an elections directorate, made up of civil servants headed by the Director of Elections, with field offices and field agents in the various districts in the country, carrying out electoral functions on behalf of the Zambian Election Commission and the elections directorate?

There is probably a good case to be made for African electoral bodies to begin to have permanent bureaucracies of their own and to have their own pool of permanent staff, if only to begin to reduce their dependence on the civil and public services for critical staff. Whether African governments can be so persuaded to enact the enabling laws to make this a reality and to respect and enforce or implement such laws is a different matter. But it is a sad reflection on how elections have not been taken seriously in Africa, that most electoral bodies on the continent do not have fully-fledged bureaucracies of their own. Among factors that are responsible for this situation are the decline in competitive electoral politics between the 1960s and the 1980s, the emergence of single-party and military dictatorships and intolerant dominant parties in so-called multiparty states.

With what some have described as the second wave of independence now ascendant and with it the renewed emphasis on competitive electoral politics as the sine qua non of liberal democratic politics, African electoral bodies must now assume a central place in the electoral process and must be provided with the independent bureaucratic wherewithal to ensure effective performance of their supremely important, democratic electoral administration functions.

IX

A critical and central dimension of the concern over the modality of appointing

members of the various electoral bodies, and therefore of their autonomy and insulation from the executive branch, is that of funding. Who funds the electoral bodies? How are they to be funded? The general practice tends to be for the government or rather the state to make annual budgetary allocations or subventions for the recurrent and capital expenditures of these electoral bodies and to make special allocations for election-related activities.

This has been a source of worry to those who believe that the government of the day, in the absence of a strong legislature, may deliberately starve the electoral body to acquiescence in retaliation for the body's independent posture. This is why, in Nigeria, for example, there has been the suggestion at various times that, to strengthen the independence of the electoral body, especially from harassment by the executive branch, the remuneration of members of the electoral body as well as its recurrent and capital budgets should be charged on the Consolidated Revenue Vote.

The operational costs of an electoral body, especially for the logistics of electoral administration, can be so prohibitive that even the state may not have the funds to allocate to the electoral body to enable it to conduct credible, free and fair elections. In the 1991 Zambian elections, funds and logistical support were provided by a consortium of western European countries to help the electoral body meet a substantial part of the cost of conducting the elections. In Ghana, during the 1992 elections, a number of foreign countries and international organisations also assisted with funds and grants.

Even where the electoral body is allocated sufficient funds either from internal or external sources or from both sources, there are substantial hidden costs which are necessarily borne by executive branch agencies and institutions, because of the inter-agency and collaborative nature of electoral administration and elections, to which I have referred earlier on. For example, the electoral body necessarily depends on the executive branch for the deployment of public servants to perform electoral or election-related functions and duties; or for the deployment of public buildings, vehicles, speedboats, helicopters and in some cases aeroplanes for electoral purposes.

This fact, especially where there is little distinction drawn between the government and the state, between the party in power and the government, further underscores the concern for the autonomy of African electoral bodies and the sanctity of the electoral process. Underlying this concern is the fear that the incumbent governments, through their control of the executive branch, and particularly the politicisation and personalisation, in some cases, of the civil and public services, and as a result of the absence of a culture of accountability and due process, as well as a system of checks and balances, are strategically positioned to subvert the electoral process and elections.

X

Let me now turn to a brief discussion of a number of questions in electoral administration which are raised in some of the articles that follow.

The first is voter registration. Who gets on the voters' register is a fundamental issue for obvious reasons relating to the exercise of a fundamental right. More important are the possibilities that voters' registration exercises would be open to manipulation, and by that the perpetration of electoral malpractices. In this latter respect, political parties in countries like Nigeria see the voters' registration exercise as the first step in positioning themselves to win elections. Consequently, they go all out to mobilise their cadres for the exercise. Therefore, how the voters' registration is or should be conducted, by whom, when and where are critical to the successful conclusion of African elections.

Also important for ensuring the conduct of free and fair elections is the impartial implementation of the provisions in the electoral law regarding the display of voters' register and the filing of objections and claims in respect of the register to be entertained by the electoral body. And ideally, the voters' register should be made available to all political parties and candidates.

In the 1991 Zambian elections and the 1992 elections in Kenya, voters' registration issues loomed large in the controversies surrounding pre-election discussions to seek consensus on the election process. For example, the fears of Kenyan opposition parties were that, as part of the Kenyan government's efforts to influence the elections in favour of the ruling party, there would be deliberate under-registration, i.e. low registration and, therefore mass disenfranchisement of voters sympathetic to the opposition parties, in constituencies where they had strong support.

The issue of a credible voters' register is also affected by the problem of the reliable compilation of vital statistics such as registration of births and deaths in African countries and the issue of national identity cards. It also impinges on citizenship issues, especially in border areas where it is sometimes difficult to distinguish citizens from non-citizens and where interested groups or parties seek to inflate the voters' register by recruiting people from across the border to register. In countries like Nigeria the problem of voters' registration is compounded by its intrusion into local rivalries for social amenities based on population figures. As a result, local communities are mobilised to turn out for voters' registration exercises and, where possible, efforts are made to inflate the registration recorded.

The second issue regarding the electoral process is the training of election officials. It has been suggested that African electoral bodies should retain a pool of volunteers from which they can draw from time to time for election and election-related duties.

The third is about access to voting centres and the number of such centres that

will sufficiently ensure access by all voters. But even more important is the concern that such centres should be widely advertised well ahead of the polling day and that last minute switches of such centres should be prohibited or avoided, as far as is possible.

Another dimension of the access issue is the voting period, the secrecy of the voting and how this is to be safeguarded against abuse and manipulation, such as ballot (box) stuffing, switching of ballot boxes and other ways of tampering with the ballot boxes and ballot papers. In a number of African countries, the practice has been to use one ballot box, to mark the ballot paper in a secret place but put it in the ballot box in full view of everyone present, for the votes to be counted at the voting centres where the ballot is cast, and for party agents to follow the ballot boxes to the vote counting or collation centres.

The ballot paper as a source of power, has acquired strategic importance and extreme political significance. Thus, there are serious contentions over its size, its colour, in what order the names of candidates or party symbols should appear on it, where it should be printed, where it should be stored before election day, and how and when it should be transferred to the voting centres.

It is in an attempt to demystify the ballot paper and the ballot box and to avoid some of the abuses associated with their use that open-balloting by queueing and raising of hands by electors or voters in open spaces to show their preferences was adopted and used in Kenya, Nigeria and Uganda in recent years. This method has also been justified on cost-saving grounds, although the Nigerian experience has shown that it is also open to abuse during both the counting stage, with deliberate skipping of counts and during the paper-work stage when results have to be entered on *declaration of results* forms. Where results entered on the forms are challenged, votes cannot be recounted because there are no ballot papers from the exercise. To recall voters to cast their vote by open balloting again become cumbersome and impossible. It is above all to conduct another exercise altogether.

XI

Let me conclude with the following observations. At the policy level, there is need to strengthen and empower African electoral bodies. Reforms and changes need to be introduced to ensure the autonomy of these bodies, to provide them with their own bureaucracies and to improve pre-election activities like voters' registration. These changes will not come easily and it may be necessary to take a long-term perspective in talking and strategising about them. Persistent advocacy and demand for their adoption must necessarily be an integral part of the democratic struggle in Africa. Such reforms will not be won on a platter of gold.

More perplexing are the structurally-induced problems arising out of the underdevelopment of much of Africa. On a larger plane, such problems pose even

more serious problems for the democratic prospects in Africa. The problem of electoral administration and, by implication, of the liberal democratic project in Africa cannot, therefore, be *dissociated* from the possibilities for resolving the fundamental problem of underdevelopment and the prospects for the structural transformation of African economies. At the level of research, there is much that is encouraging in the recent outpouring of African electoral studies. But we need to be conscious of questions of methodology and data reliability and the limitations they impose on research work in this area. As some of the articles that follow show, too much reliance tends to be placed on secondary sources like newspapers, while too little survey research and field work is conducted. Additionally, one will be surprised to find out that there is a lot of primary data out there waiting for the enterprising researcher to mine. What is offered in the articles that follow is a beginning, a small but vital step in this direction. It is hoped that others will follow from where they have left off.

Note

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