



Challenges of
democratic succession in Africa

International Conference



**The Electoral Process and the Democratic Changeover of
Political Power between Parties**

By

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Fellow Africans, conference organizers it is an honour for me to participate in this important conference that seeks to tackle perhaps one of the most important challenges facing our young democracies. My contribution will be in the discussion on the *Electoral Process and the Democratic Changeover of Political Power between Parties*.

We have come a long way as a continent, in the conceptual understanding and practice of democracy. We still remember the idealism of the early days of independent Africa. The dawn of a liberated Africa generated across the continent, an unprecedented nationalistic fervor. The “Founding Fathers” of independent Africa, who were revered by all, took their mission of liberating Africa to the institution of the Organization of African Unity with high spirits of solidarity for the common good of all Africans.

However, as we now all know, that idealism was not to be sustained. In his *Africa – a Biography of the Continent*, John Reader writes (p.663, 1999 edition):

“The dreams of Africa becoming a continent of peaceful democratic states quickly evaporated. More than seventy *coups* occurred in the first thirty years of independence. By the 1990s few states preserved even the vestiges of democracy. One-party states, presidents-for-life, military rule became the norm”

It was in the midst of this, that, Africa went through what has been generally termed ***the second wave of liberation or independence*** as many authoritarian and military regimes crumbled under the weight of protests, and accepted multi-party democracy. These changes were far more dramatic and rapid in Africa than in any other region of the world with only Eastern Europe that was in many respects, comparable. To illustrate this point, between 1990 and 1995 the number of African countries holding competitive legislative elections quadrupled to 38 out of the total number of 47 countries in the sub-Saharan region. In 35 countries the opposition won these legislative elections. In terms of the leadership alternation or presidential elections, 15 incumbents were re-elected whereas 14 were replaced (Bratton & Van de Walle, *Democratic Experiments in Africa*, 1997; p.7-8).

These political changes were just as significant as the wave of decolonization and democratization of the 1960s. This period held up the promise of reviving the aspirations of the people which had been crushed by the surge of autocratic regimes that came in all forms and guises. By the late 1990s virtually all countries in sub-Saharan Africa had accepted multi-party democracy.

Frantz Fanon, one of the seminal thinkers of the 20th century, makes a profound statement in his book, *The Wretched of the Earth*. He asserts that “each generation must discover its mission, fulfil it or betray it”. This is a clarion call for our generation to search for and identify its important mission or task in our nation states – fulfil or betray it! This statement, therefore, has both the conceptual identification aspect of mission, and an action dimension to it, which action will either affirm the mission or deny it. That is the challenge of this generation with regard to democracy.

We are the generation of the African Union that was determined in Lome, Togo, through the Constitutive Act of the African Union. Through this Constitutive Act, the member states of the Union have redefined and declared their common mission towards a new era of mutual accountability and democratic practice, suggesting that the Continent is:

1. Committed to promoting unity, solidarity, cohesion and co-operation among the peoples of Africa and African States;
2. Accepting that it would be guided by a common vision of a united and strong Africa and by the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector...;
3. Determined to promote and protect human and peoples’ rights, consolidate democratic institutions and culture , and to ensure good governance and the rule of law;
4. Further determined to take all necessary measures to strengthen (their) common institutions and provide them with necessary powers and resources to enable them to discharge their respective mandates effectively.

A punch line of the new spirit of the African Union's mission is in Article 30 of the Constitutive Act, which makes it very clear that "Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union". In this it categorically exhorts African States toward democratic changeover of government. Therefore, in my view, as Frantz Fanon says, the Founders of the African Union stated their "mission" with a clear imperative for action, giving effect to that defining mission of a democratic Africa. The question remains whether this mission is being fulfilled or betrayed. Are we as Africans consumed by the mission to make our states truly democratic?

Those of us who are optimists observe [these developments] the new spirit of the African Union with hope for a better Africa of democratic principles and human rights. The mid and late 1990's for instance saw a proliferation of human rights institutions in the continent increasing from one in 1989 to 24 by 2008. (Zimble Shea Daniel; Africa's Human Rights Architecture, 2008). We see this period as that of entrenchment of rights, freedoms and citizens' responsibilities. Under the African Charter on Human and People's Rights and those of the Declaration of Human Rights, this generation subscribed to:

1. Good governance including accountability, transparency, rule of law, elimination of corruption and unhindered exercise of human rights;
2. Respect for and promotion of human rights, rule of law and equitable social order;
3. The rejection of unconstitutional changes of government;
4. The conduct of electoral processes in a transparent and credible manner.

Towards ensuring that the rights of African citizens are protected and promoted institutions have been created by the AU. Key amongst these is The Africa Commission for Human and People's Rights. Some of the rights to be promoted and protected are the political right and freedoms.

In July 2002 the foundation for the protection of these political rights was laid by the OAU in Durban where *Principles Governing Democratic Elections* were agreed upon

by the Heads of States. The leaders affirmed that “the will of the people expressed through free and fair elections (is) a basis of the authority of government.”. They further affirmed and recognised “the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives”. They took on the responsibilities and made certain commitments as member states. They further guaranteed certain rights and obligations towards ensuring democratic elections.

They accepted that democratic elections should be conducted

1. freely and fairly;
2. under democratic institutions and in compliance with supportive legal instruments;
3. under a system of separation of powers that ensures, in particular, the independence of the judiciary;
4. at regular intervals
5. by impartial, all inclusive, competent, accountable electoral institutions staffed by well trained personnel and equipped with adequate logistics

As seen above, key to the sustenance of democracy is the practice of elections at regular and constitutionally predictable intervals enshrined in electoral legislation that creates the electoral system. Different countries use different electoral systems, the choice of which in any democracy, determines the efficacy of the system in promoting and sustaining a credible democratic practice. According to the SADC election manual titled *Principles for Election management, Monitoring and Observation in the SADC Region* (Elections Commissions Forum of SADC & Electoral Institute of Southern Africa 2006), the essentials for good electoral systems include that it should:

- Promote and protect fundamental human rights as well as the secrecy of the ballot.
- Be easy to understand in terms of its use: how the seats are determined; the nature of representation; and the political consequences of the chosen system

- Inclusiveness and participation of key actors, and be broadly representative of diverse political interests and population groups (race and ethnicity)
- Make for a transparent and legitimate election process and outcome
- Entrench a culture of intra-party democracy that ensures the credibility and legitimacy of the nomination process within political parties.

An Electoral Task Team (ETT) appointed by the cabinet of South Africa to evaluate the electoral system of South Africa agreed on core values for judging an electoral system viz. fairness, inclusiveness, simplicity and accountability. (Electoral Task Team Report, 2003)

These values of course require an informed and active citizenship; and political parties that are prepared to play by the rules of democracy. It is critically important that the electoral system is understood by all role players and stakeholders, as this helps to smooth any change over of political power resulting from an election. Fundamental to the electoral system should be the principle espoused in the *African Charter on Democracy, Elections and Governance* of strengthening political pluralism and recognising the role, rights and responsibilities of legally constituted political parties, including opposition political parties.

The two major types of electoral systems that are common in the SADC region are the Proportional Representation as used in South Africa, allowing space for minority parties; and the Majoritarian Model used in Zimbabwe where the winner takes all. Both of these systems are democratic and enable a political change-over between parties. However, recent developments have shown that each system is not without its challenges.

On the one hand the Majoritarian Model which gives total power to the one that gains the most votes, disregards the percentage size of the losing party or candidate; and that often becomes a source of conflict. Within the Majoritarian system there is also the model wherein the winner must obtain, not just more votes than the losing rival, but must in fact gain 50+1% of the total vote; otherwise a run-off is mandatory.

The Majoritarian System is least suited for transitional or post-conflict situations where reconciliation or inclusiveness is an essential ingredient for nation building.

On the other hand, the Proportional Representation, while hailed for its inclusivity, is criticised for providing for the dominance of party bosses who control the lists of access to the legislature. Another point of criticism is that the lack of clearly defined constituency roles minimises accountability by elected representatives.

There is a strong motivation for a mixed member proportional system that combines the two models – the Majoritarian and the Proportional Representation. The Democratic Republic of Congo is one example of a country with that model.

The new wave of democracy represented by the AU age advocates the creation of institutions of democratic governance. One such institution essential for democratic change-over or continued confirmation of political power is an election management body. There is a range of models of such institutions. What is expected of them is that they should be independent of political influence; have a clear mandate and be properly resourced so as not to be compromised. The appointment procedures of its members should be fair and transparent so as to engender trust and public confidence. Article 17 of the *African Charter on Democracy, Elections and Governance* makes it clear that State parties shall establish and strengthen independent and impartial national electoral bodies responsible for the management of elections.

An election that is acceptable to all players and their supporters should ensure that the winner wins with integrity and the loser accepts the result graciously. This can only be if elections are conducted in a climate that is conducive to free, fair, and credible processes. Such a climate is created through a number of basic conditions:

1. A transparent environment where all players are treated equally, given same information and are expected to adhere to same rules of the game.
2. An environment free of political violence and intimidation, with free access by all parties to all parts of the country, with a clear legal framework where infringements lead to prosecution.
3. There should be guaranteed secrecy of the vote to ensure that the voter exercises his or her right freely.
4. The process of vote counting should be open and transparent and be observed by participating parties and independent observers. This is important for the acceptance of results. Most conflicts over results occur as a

result of the mistrust on the result system and process. The recent disputes over results in Kenya and Zimbabwe are a few examples to cite.

5. Inequitable financing of campaigns by political parties and candidates may also contribute towards the loser discrediting the outcome. In cases where some parties are funded and others not funded by the state, the loser remains aggrieved if funding was a problem. For example, in most countries there remains a challenge of incumbency, where towards an election the ruling party increases the pace of service delivery, ingratiating itself to the voting public. One sees food parcels, health centres, houses and schools built at a pace previously unseen. Such actions are perceived as unfair by those parties who do not have access to state resources – the Incumbency Syndrome. SADC guidelines promote transparent funding of political parties based on an agreed formula with a set threshold.
6. Fair coverage in both private and public media in order for parties to present themselves to the voting public. Constitutions of most SADC countries guarantee freedom of the press; and as such there is an expectation by all participating political parties to get fair coverage. There is a strong temptation in most African countries for the official public broadcaster of the state to be biased in favour of the ruling party. Therefore it is a reasonable expectation that media coverage of elections should be subject to some enforceable code of conduct. The AU Charter calls on State Parties to “ensure fair and equitable access by contesting parties and candidates to state controlled media during elections.”
7. Fairness in an election period includes ground rules about campaigning – the do’s and the don’ts, and the defined period of campaigning that should be regulated and enforceable in law.
8. Security forces should serve society – all citizens and all political parties and players without fear or favour. There is also the tendency for organs of security and justice to favour the ruling party as their heads are often indebted to the incumbents.
9. It should be very clear to every political party who is legitimately eligible to vote in any election of the country. To that end most countries use the voters’ roll and voter registration as an instrument of assurance of legitimacy. It is expected that in the voters roll would be admitted *bona fide* citizens of a

legislated age group; with voter registration processes being transparent and understandable to all, and open to public scrutiny by all political parties and any role players.

10. There should be checks and balances that allow people to object to wrongdoing to any aspect of the process at any point; and have their objections addressed institutionally and without delay.

Fundamental to a democracy is an informed and vigilant voting public. Therefore, democracy and electoral education that empowers citizens to be vigilant and active in their civic duties is imperative, and should reach all sectors of society, especially rural voters, women, youth, the educated and non-educated; and it should be adequately funded by the electoral management body through state funds. In addition political parties are also expected to play a role in educating voters about their vision for the country, their manifestos and policy propositions, hence the importance of the media especially state media in exposing voters to political parties. A vocal and informed citizenry is the first and the last line of defence for democracy, when their rights and sovereignty are being challenged or eroded. Voter education should lead to the internalization of core values of democracy in a manner that would lead to constitutionalism, where people, in an intrinsic manner uphold democratic values irrespective of the ruler or party in power.

It should be acknowledged though, that much of what it takes to create the optimum environment for elections is very costly. Capital, human and other key resources are scarce and hard to come by. Africa is not awash with financial resources. Nevertheless, having created a climate for effective and meaningful participation in an election, and when Election Day comes, the political parties and their supporters should have confidence in the processes of the day. They should have confidence in the integrity of the staff; and therefore it is imperative that the recruitment and training of voting staff is above reproach. They should perform their function with integrity and respect for the sovereignty of the voter.

All polling stations should be known, visible, properly sign-posted and accessible to all. As the SADC guidelines state, “polling stations should be neutral places” Party agents should be present at voting stations to sustain the confidence of their supporters while independent observers – both national and international, should be encouraged to observe the process so as to add to its legitimacy and therefore acceptability of the result. Such observers should have free access to information, freedom of movements, be safe and not be interfered with by politicians.

The voting process should be simple and understood by all and without variation. Voting is about numbers; therefore the counting process is the core ritual of the exercise. To that end the counting process should be observed by party agents. The system must be known ahead of time by all parties, including the method of translating votes into seats where applicable. It has become a general practice that counting is done at voting stations to avoid ferrying ballot boxes away from the station and potentially having them contaminated. Upon completion of the count, party agents sign the result slip and the count is announced at the voting station. For us in South Africa, use of technology in the counting process has been very useful in ensuring that results are released timely. Nigeria is another country that used technology effectively in the result compilation process. A delay in the announcement of results can only increase suspicion of possible fraud.

The climax of the election is in the compilation of the various counts of voting stations, and the final announcement. The law should state clearly who has the authority to announce the results. After the announcement of the results, clear mechanisms in the justice system should be in place for raising any objections to the outcome, within reasonable and legal parameters of time. The OAU Declaration (2002) makes it clear that individual or political parties shall have the right to appeal and to obtain timely hearing against any proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws. Access to justice enhances fairness in an electoral process.

This is the democratic culture of the African Age of the AU. It is this culture that defines our commitment as a continental community of nations to the values of the AU Constitutive Act. It is our persuasion in the direction of these moral dictates that tells whether we are, in the words of Frantz Fanon, fulfilling or betraying the mission of our time. When political candidates or parties refuse to play by the rules; when they seek to doctor or refuse to accept the outcome of elections and resort to violence, they discredit the nation; when the media fails to treat all political parties with fairness and respect, they are failing the nation state; when election management bodies fail their nation-states by succumbing to political pressure or being unprofessional in their conduct of elections; they betray the mission and bury the nation's will and aspirations in the rubble of social upheaval and political chaos..

Against this background we ask the question: are we starting to see a situation where political parties and their leaders are less inclined to accept defeat in an election process and therefore resort to all unconstitutional means to undermine a smooth transfer of power? The 2007/8 post-election dispute of election results and the resultant violence in Kenya, the dispute of election outcome in Zimbabwe after the March 2008 elections and the violence that followed are perhaps the most glaring examples of challenges of party change-over in recent times. These are not the only cases where election outcomes were disputed: Zambia and Nigeria are some of the recent cases even though they did not degenerate to the Zimbabwean and Kenyan civil strife. Multi-party democracy meant that any party or leader that is placed in government also faced the possibility of being replaced through constitutional democratic means – primarily elections. Some constitutions also stipulate term limits for serving leaders.

As a consequence of this new democratic dispensation, many leaders transitioned from power, thus creating a cohort of retired heads of state and government, and some becoming leaders of opposition parties after losing elections. Such a situation was not experienced in the 1960s, 1970s and 1980s as most military rulers and autocratic leaders died in power, were killed or forced into exile. Botswana, Ghana, Kenya, Malawi, Mozambique, Namibia, Nigeria, Senegal, South Africa, Tanzania and Zambia, are some of the countries that have retired heads of state who either lost

elections or relinquished power when their terms came to an end. In rare instances, leaders have voluntarily relinquished power before the constitutionally stipulated term came to an end. Nelson Mandela of South Africa is one such example.

The more recent bitter leadership succession struggle within the ruling African National Congress in South Africa, which resulted in a seating president being removed by his own party is indicative of the fact that the main challenge is not just the party change-over but the general political process of leadership succession. A similar intra-party struggle occurred in Malawi. In both the South African and Malawian case the internal fighting within the ruling parties and leadership succession struggles led to the creation of breakaway parties.

In most of Southern African states that went through liberation struggles the main goal was a revolutionary takeover of the machinery of the state and the imposition of the liberating ruling party's political hegemony. This led to the deep penetration of the state by the governing parties thus blurring the lines between the party and the state. When there is a prospect of party change-over, resistance does not only come from the party leaders but from the senior civil servants, military and police officials who had been deployed by the ruling party and had seen their role in a narrow sense of pursuing the goals of the incumbent ruling party. This is currently the case in Zimbabwe where army and police officials associated with ZANU-PF were reported to declare their unwillingness to accept opposition rule should they win elections.

The other factor that discourages voluntary handover of political power is the use or abuse of state power or resources to persecute ex-political leaders or to settle political scores against opponents. This creates a situation similar to prisoner's dilemma or zero-sum-game in which retiring from politics or accepting defeat by political opponents is associated with risks and persecution.

Political authority in many developing or underdeveloped countries is often associated with accessing resources and influence for personal well-being or personal wealth. Clearly those benefiting would wish that these privileges and resources would last for ever. The fortunes and social mobility of the ruling elite are therefore closely associated with controlling state resources. This has led to institutionalization of corruption within the state. In most instances such countries

have a small private sector that is also dependent on the state and therefore has little or no capacity to independently absorb the political elite that has fallen out of power. Given the rate and the scale of underdevelopment in many African countries this phenomenon is more pronounced and amplified.

Writing in his book *The State in Africa: The Politics of the Belly*, Jean-Francois Bayart chronicles and analyses this phenomenon of elite struggles to access and control resources using the state apparatus. Compounding this problem is the fact that there is usually no institutional arrangement to make the transition of a head of state or political leaders smooth once they retire or lose power. Their material well-being as well as their public role in the society often takes a plunge immediately after they leave office thus making the voluntary handover of power less attractive and risky. In some instances where there are vast strategic resources such as minerals and oil, the leaders act as proxies for external interests or powers that may not readily accept change of government even if this is done through democratic means. External factors in these internal political challenges are important variables to be factored in.

Failure by some African states to build and nurture institutions of democracy leads to the development of a personality cult where everything revolves around the leader as some call it the “Baba” culture; the “Father of the Nation” without whom the state will virtually collapse.

In some instances it is possible that our indigenous conception of traditional authority may also influence the manner and conduct of political leaders who may start behaving like traditional leaders whose rule is often absolute, for life and is not contestable by elections. For such, citizens are subjects.

Some leaders might be reluctant to step down out of genuine patriotic reasons of fear to hand over to successors who may be inspired by power, greed or personal aggrandisement. For yet others, it may be out of concern for good governance and continuity where “Governance is concerned with the manner in which power is exercised in the management of a country’s economic and social resources for development”. (Adebujugbe in *A Third term Agenda: to or not to be?* Olurode (ed) 2006; p. 21).

From a number of these considerations, it is evident that not all reasons for wanting to stay in power are necessarily negative. However, the question is whether in a democracy there will or should be room for perpetual stay in office or undemocratic and/or unconstitutional transfer of power “for the greater good”? The AU Constitutive Act is clear on this matter: “Governments which shall come to power (or stay in power) through unconstitutional means shall not be allowed to participate in the activities of the Union” (Article 30).

In some context the notion of the government of national unity or coalition government is favoured in post-conflict situations where a conscious attempt is made to bring together contending parties for the purpose of national reconciliation and nation-building. This was the case in South Africa where the negotiated political settlement consciously institutionalized this arrangement with the view of being inclusive in the initial phase of the new dispensation; even though the winning party – Mandela’s African National Congress, won by an overwhelming majority. It was understood by all parties that this was a transitional arrangement. In other instances parties enter into a coalition mainly with like-minded political parties which share values, principles and policy positions and can effect a strategic ruling alliance when there is no clear winner of elections.

I would like to end this presentation by suggesting the following simple practical interventions towards building our electoral democratic culture:

1. Creation of an autonomous, non-partisan and well-resourced election managing body that can withstand the pressures from political parties, particularly the incumbent party. That in some countries there is no permanent election managing body and civil servants are used is already fraught with much risk including undue influence from the political leaders in government.
2. Establishment of an institutional mechanism for facilitating smooth transition of retiring heads of states or political leaders to play a role in society. This would include seed funding for establishing charity organizations where these leaders would be patrons. The remuneration

packages and all other benefits that ex-heads of state enjoy need to be reviewed and be made more attractive. Some of the roles of former heads of states can be facilitated by the African Union or regional bodies such as ECOWAS and SADC. These would include a conscious effort to select and deploy former heads of state as mediators or heads of missions in conflict regions as has been the case with Botswana's Masire, Mozambique's Chissano, Tanzania's Nyerere, South Africa's Thabo Mbeki.

3. The issue of incumbency needs serious attention and regulation around an election because of the impression that the playing field is not equal.
4. Modernising political parties by strengthening their internal democracy structures, deepening their roots within society and creating technical support structures to improve their performance for good governance in a pluralistic environment. Political parties of today should embrace the concept of multi-party-ism, diversity of views and interests. What should bind all of them is their patriotism to their common country and their people.
5. Creation of institutions that provide checks and balances for elected representatives and the executive in their governance like the judiciary, independent constitutional institutions. Included in this are civil society institutions that will also assist citizens to be fully involved and participate in their democratic state. An active citizenry keeps democracy alive and in check. As Charles Mutasa (*A critical Appraisal of the Africa Union – ECOSOCC Civil Society Interface in the African Union and its Institutions*; Akokpari *et al* ,2008) says “ Civil society embodies a potential resource base yet to be tapped by political powers, but it is also the mechanism by which their own governance shall be weighed. Civil society is a reservoir of human knowledge..” In a democracy, citizens' voices are to be heard and taken seriously.
6. Adoption of electoral systems which are as inclusive as possible, especially during the transitional phase of democratization. This would prevent the winner-takes-all or zero-sum-game situation that often leads to resistance to power transfer. A balance between an inclusive electoral

system (proportional) and the one that fosters accountability to the voters (Majoritarian) is vital.

7. Encouragement of more countries to sign into and participate in the African Peer Review Mechanism of the African Union in order to get an external assessment of the state of their democracy and systems.

In spite of all these aforementioned challenges, on the whole African countries have made significant progress towards democracy when compared with the period before 1990s. Even cases of resistance to party change-over are relatively fewer than those that accept election outcomes and respect the will of the people. We must not have any illusions; democratization is a process and not an event. It is also an important requisite step towards social and economic justice. Real democracy unleashes people's potential and creativity.

As I end, I put to us and our generation the Frantz Fanon challenge: "Each generation must discover its mission, fulfil it or betray it!" Posterity will sit to judge what we have done with our opportunity of responsibility for the discovery, fulfilment or betrayal of our mission; what will be their verdict? Ours is not to give up.