

1 Election financing and violence

Implications for transitional justice in Nigeria, Kenya and Sierra Leone

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Introduction

Election financing has become a controversial issue in many electoral processes in the world, particularly because it tends to determine the outcomes of elections. The extent to which a candidate is able to accumulate the financial resources required to mount a campaign using the media and public rallies in order to influence voters increases their chances of visibility and possible election victory. Election financing has also been closely associated with the direct influencing of voters through corrupt deals with corporations, bribery and funding projects designed to encourage voters to support a particular candidate. Election financing may also include officially giving political parties financial assistance to facilitate the various activities that are undertaken during election periods (Birch et al. 2020), including mounting electoral campaigns for individual candidates (Laakso 2007).

A number of scholars have defined election financing as the use of money for the electoral process by political parties and candidates vying for political office (La Raja 2008). While many interconnected areas relate to the use of money in politics, election financing can be analysed from the legal frameworks that define government regulations on financing political parties, campaigns and election management (Hickman 2009). On the other hand, election financing can also refer to the illegal transactions and activities that may finance political parties or politicians' activities or election-related engagement. In most cases illegal transactions in elections are clandestine and tend to be concealed from both the government and the general public (Rapoport and Weinberg 2000). In most African countries election financing has included the bribing of voters during campaigns or luring them through pseudo projects based on the false promise of reaching out to the poor and marginalized. As such, the intention of the politicians is to 'buy' voters and persuade them to vote for the briber.

Electoral campaign financing for political parties in many African countries is characterized by corruption, lack of transparency and accountability. Scholars point out that little is known about the sources that fund political parties during the election process or and such knowledge is seldom

disclosed publicly (Omotola and Aremu 2007). Information about the sources that fund elections in Africa is scarce, and the election processes are often riddled with scandals and controversies (Robins 2011). In those countries where donations for political parties, both private and foreign, are allowed, for example in South Africa and Botswana, the incumbent parties have been able to attract large sums of money from within and outside the country (Coletto and Eagles 2011). However, at the same time this has unfortunately disadvantaged the opposition, exposing those desperate to win elections to the dangers of accepting funding from dubious sources (Collier and Vicente 2008).

The electoral processes in Africa are often fraught with tensions and emotions, divisions and ethnic or religious profiling that can at times degenerate into violence. This has been witnessed in elections in Kenya, Zimbabwe, Guinea, Cote d'Ivoire, Uganda, Nigeria, Mali and Togo, among others. Episodes of violence can be either spontaneous or planned by the political contestants and their supporters (Rapoport and Weinberg 2000, 15–50), who are often paid to attack the candidates' opponents or simply create the kind of chaos that could eventually favour the politician sponsoring the violence. In some cases, electoral violence can be staged to look like a random attack or systematically organized to blackmail a candidate through public scenes and the media; sometimes opponents are physically attacked or even kidnapped (Kagwanja 2009). This means that election periods are often marred by acts of coercion, intimidation and threats (La Raja 2008). When committed to impact the electoral process and the outcome thereof (Daxecker 2020), violence may lead to the exclusion of certain categories of voters who may have been displaced or too intimidated to vote; delays in the delivery of election materials such as ballot boxes and papers; disruptions to or derailment of procedures at the polling stations; and delays in the release of election results (*ibid*). Such actions are intended to influence the outcomes of the electoral process and to help particular candidates to win the elections (Collier and Vicente 2008).

This chapter focuses on election financing in Kenya, Nigeria and Sierra Leone, and draws attention to implications for transitional justice in all three countries. During different electoral cycles there have been scandals related to the financing of the elections and lack of accountability on the part of political parties and politicians (Obi 2011). In Nigeria, for instance, there is a general belief that the incumbent can use violence during election periods as a strategy to fraudulently keep the ruling party in power (Omotola and Aremu 2007). In Kenya politicians mobilize huge financial resources to fund their campaigns, some of which are used to sponsor militia groups to protect political candidates or to intimidate their opponents (Raleigh 2016). In most cases, the youth are targeted as key actors in political violence. In Sierra Leone the use of money to bribe voters and to fund attacks by the militia on political opponents is equally rampant. The legal structures designed to control electoral financing are weak.

Many countries in Africa have been grappling to effect reforms to their electoral systems in order to put in place the necessary structures for the holding of free and fair elections. Electoral law reforms have been undertaken in Kenya, Nigeria and Sierra Leone, among other countries (Robins 2011). These reforms are meant to cover issues of accountability among political parties', leadership, transparency in the use of political parties' funds, as well as regulation and management of political processes (Rapoport and Weinberg 2000). However, these reforms have not been effectively implemented, and political parties and politicians have been slow to be transparent about their political transactions. As a result, in Kenya, Nigeria and Sierra Leone there is still a need for the enactment of political reforms that can ensure political accountability (Obi 2011).

Conceptualizing election financing

The original aim of elections has always been to allow for peaceful transfers of power. Election financing of political parties is important and necessary since political parties play an important role in election campaigns and are part of institutions in the country's political system (Coletto and Eagles 2011). Election financing is not limited to the running of campaigns and other activities that are undertaken during the election season that lead to voting or how people vote. It includes financing the administrative and political activities of political parties before, during and after the election process. Important as money is for the electoral process, election financing has brought into politics the concept of winning at all costs (Mueller 2011). Unfortunately, elections are sometimes held outside consolidated democracies with groups and institutions sponsoring candidates whose sole focus is to win (*ibid.*). This has led to the commercialization of the election financing process that can attract sources which may be dubious in their dealings and which might have ulterior motives (Côté and Mitchell 2016). These sponsors get so caught up in the desire to win that they are ready to instigate violence if that will enable their candidate garner a seat (La Raja 2008). Electoral violence is viewed as a prototype of political violence and is analytically divergent, but with very practical dynamics (Kapur and Vaishnav 2013). Electoral violence is distinct from other types of organized violence, and is substantially different from non-violent electoral manipulations. However, electoral violence does not take place in a vacuum. There are certain triggers that lead to electoral violence such as pressure to win from the sponsors (Briffault 2000, 620), socio-ethnic rhetoric urging dominance and control, party politics aimed at power control and the exclusion of those who do not fall into line, and regional dynamics influenced by the positioning of neighbouring countries that may have a preference for a specific candidate. Many countries in Africa have attempted to put in place laws that govern election financing as well as institutional structures aimed at streamlining election financing (Coletto and Eagles 2011).

Election financing in many countries, especially Africa, has been identified as the bedrock of political corruption (Côté and Mitchell 2016). All three countries under study, Kenya, Sierra Leone and Nigeria, have introduced laws that guide the holding of elections and election financing (ibid.). However, these laws have often been broken or ignored, particularly when it comes to fundraising.

Kenya has implemented a number of laws aimed at guiding the electoral process and maintaining checks on the conduct of politicians and their political parties. In 2010 Kenya adopted a new Constitution which was promulgated in that same year. The new Constitution paved the way for the enactment of legislative and administrative reforms. These reforms included the Election Act that came into force in 2011; the Political Parties Act and the Independent Electoral and Boundaries Commission Act of 2011; the Elections Campaign Financing Act 2013; and the Leadership and Integrity Act of 2012. In addition, other principles of international laws and treaties were included provided that they had been endorsed by the government of Kenya and were bound to influence the election process.

The Elections Campaign Financing Act 2013 tasked the Independent Electoral and Boundaries Commission (IEBC) with responsibility for creating and keeping a register of all authorized persons in politics; supervising the candidates and political parties in relation to campaign financing; and setting limits on the level of spending by political parties and candidates during election periods. The new Constitution stipulated that certain laws should be introduced into the electoral system over a period of time, and that these should be enacted by the National Assembly.

According to the 2010 Constitution, the IEBC is an independent body and should not be controlled by any person or authority or even be given instructions that do not fall within the remit of the Constitution (Mueller 2011). To enhance the credibility of the electoral system, provisions were made for the values and principles required during the election process, namely transparency, integrity, accountability and good governance. The electoral system was to be subject to the principle of free and fair elections through the secret ballot; free from violence, intimidation, improper influence or corruption. The electoral reforms gave the commission responsibility for financing the political parties. However, this has not adequately implemented despite the laws being in place on how political parties should be financed and conduct their campaigns (Robins 2011). This was one way of ensuring that parties move away from obtaining funding from illegal or clandestine sources.

Despite the introduction of well-intentioned electoral laws, and the subsequent reform of the electoral system, the electoral process in Kenya is riddled with allegations of vote rigging and massive corruption (Kovacs and Bjarnesen 2018). It is against this backdrop that the National Assembly came up with the Election Offence Act in 2016 to oversee the complaints of the political parties and candidates (Mueller 2011). The Act was intended to ensure that any form of misconduct during the election process would lead to

disqualification, prosecution or even imprisonment in the event of a person being tried and found guilty of an electoral offence. The offences include selling or buying a person's voter card, exchanging the card for money, being in possession of a collection of voter cards, and registering to vote more than once (Sule et al. 2018). Unfortunately, despite the introduction of a plethora of rules and laws, the country witnessed massive and reckless spending during the 2017 election process. This calls into question whether the Constitution has been effective as far as election financing and violence are concerned.

Nigeria has faced similar challenges in the implementation of its electoral financial laws. The demand for sound elections had been viewed as an important aspect in the economic growth of the country and its sociopolitical development (Rapoport and Weinberg 2000). The call for reforms to the electoral system to ensure the holding of free and fair elections in Nigeria increased in volume as the country entered into what has been referred to as the fourth phase of democracy. The current legal framework adopted for the administration of elections in Nigeria is a product of legislative intervention and recommendations made by the electoral reform committee. It comprises the Constitution of the Federal Republic of Nigeria 1999, after the amendments; the Electoral Act 2010, and case law and guidelines that regulate the behaviour of institutions and agencies involved in elections (Sule et al. 2018). In 2010, the National Assembly was tasked with the responsibility of amending the 1999 Constitution in order to allow the Independent National Electoral Commission (INEC) to become financially independent, and to impose a time limitation for the hearing of election petitions, as a strategy of addressing the problem of delay of election cases (Robins 2011). Similarly to Kenya, the Constitution ensures the independence of the INEC and increases the credibility of its functionality. The reformed laws that have been set up to guide the election process in Kenya and Nigeria have introduced well-structured systems for election financing with limits on expenditure, accountability, transparency and disclosure of sources of financiers, but these laws have been flouted with impunity in times of fundraising for election candidates (Okeke, 2020). For example, Section 225 (1–6) of the amended Constitution of the Federal Republic of Nigeria 1999 stipulates that the sources of funding and the expenses of political parties should be transparent, while Section 225 (3)(a) and (b) and 225 (4) forbids political parties to receive any funding from foreign sources. Section 226 (1–3) calls on political parties to publicize their annual reports and accounts. The Electoral Act (2010) imposed ceilings on the amount that a candidate or political party can spend on financing different elective positions. The highest ceiling is pegged on the presidential position at 1 billion naira, and the lowest at 20 million naira for House of Representatives candidates. In Kenya, in addition to the imposition of ceilings on the amount of money that can be spent during elections, a political party is required to submit a campaign financing plan to the IEBC three months before the commencement of electoral activities. The financing

plan should list the amount that will be spent on the nominations of candidates, campaigns, electoral processes, for example.

Nigeria still documents significant and as yet unregulated campaign funds that often create an uneven playing field during elections (Aning and Edu-Afful 2013). The desire to win by any means has seen candidates and parties paying militia groups masquerading as bodyguards to disrupt opponents' campaigns and strongholds and to ensure that their target person wins (*ibid.*). During President Olusegun Obasanjo's administration, decrying the enormous level of spending on elections, the government set up a technical committee mandated with looking into election financing and sources of funding (Sule et al. 2018). The committee was tasked with investigating the high cost of electoral violence and to establish which options might be viable to curb that spending. The president expressed his concerns and fears about the uncontrolled use of vast sums of money, and that ordinary voters end up being short-changed and become pawns in the political game of chess (Coletto and Eagles 2011).

The cost of running for political office is out of the reach of many citizens, and those who do invest in a candidacy know that they have to win by all means and to do so violence often becomes part of the competition (Collier and Vicente 2012). As mentioned above, the government has introduced a number of laws intended to control election financing and spending, but poor structural systems as well as corruption have hampered any possible progress in curbing exorbitant spending on elections. Nigeria's Fourth Republic has witnessed the emergence of political parties that can be categorized as undemocratic, and that lack either ideology or manifesto, no moral authority to account for their spending, and that continue to act with impunity. This has paved the way for financial sources that may be suspicious and illegal being able to infiltrate the country (Coletto and Eagles 2011).

Sierra Leone, having emerged from the long civil war that destroyed its systems of governance, has been rebuilding its electoral system and putting in place structures that can allow the country to hold free and fair elections (Côté and Mitchell 2016). The government does not fund its political parties but it allows private donors to provide financing for the election process (Okeke, 2020). Left to their own devices, the manner in which the political parties and their candidates go about raising election funds for their campaigns for general elections has become a matter of concern (Von Borzyskowski 2014).

Conceptualizing electoral violence

According to the African Electoral Violence Database, almost 60 per cent of all elections held in Africa during the period 1990–2008 were violent, albeit to varying degrees (Toros and Birch 2019). Further research in the area of political violence has, however, revealed the possibility of such violence persisting in the short term in many contemporary African states (Von Borzyskowski 2014). Systemic violence during elections has become institutionalized and often the political incumbent creates the expectation

that he or she has the upper hand in determining his or her continuation in power or in selecting a different candidate to run for election. In fact, every election has an incumbent party with the state machinery at its disposal and opposition parties contesting for the leadership and power. It follows that the incumbent has a head start in election financing and will want to keep hold of their power by all the means available to them. Choi and Raleigh (2021) state that in situations where the incumbent is seeking to retain power, there is less likelihood of violence, whereas in situations where the incumbent is not contesting the election, there is likelihood of violence. However, this is not always the case because in some situations the incumbent, threatened by strong opposition, has used violence, intimidation and rigging of election results in order to retain the seat (Wahman and Goldring 2020).

Studies have shown that the principal actors of organized violence during election periods have the full backing of the election financiers (Mueller 2011). Those who offer to finance particular political parties do so in the knowledge of the existence of other groups that can be hired to offer special services and support for particular political parties (*ibid.*). At other times the incumbent may use the police and military at his or her disposal to ensure that they can retain their position of power (Bratton 2008). In most African countries election financing silently factors in the funding of non-state armed groups that are disguised as bodyguard service providers. Moreover, such providers may have express instructions to perpetrate attacks during election periods in order to achieve the political objectives of their party and its candidates or simply to sabotage the electoral process (Bob-Milliar 2014).

In Kenya electoral violence has been witnessed during elections held in 1992, 1997, 2008 and 2017. The 2008 elections were the bloodiest leading to the deaths of more than 1,500 people and 700,000 displaced persons (Klaus and Mitchell 2015). Electoral violence in Kenya is usually politically instigated, and is perpetuated by unaddressed historical injustices regarding land allocation and boundaries, displacements of communities, political injustices, human rights abuses, socio-economic marginalization, political exclusion, unemployment, increasing poverty and corruption. To a great extent, electoral violence is used by politicians to control, intimidate and defeat their opponents during election periods. In most cases, politicians have hired militia groups to carry out their political machinations. Over the years there has been an upsurge in the emergence of militia groups such as Mungiki, the Kalenjin Warriors, the Taliban, the Baghdad Boys, Jeshi la Mzee, and Chinchororo (The Humanitarian 2008) that are hired during elections to intimidate opposing candidates, harass voters and cause mayhem in certain polling stations (Mueller 2011). Some of the militia groups are state sponsored, such as Jeshi la Mzee which was closely associated with the then Kenya National African Union during the 1992 and 1997 elections (The Conversation 2017). These militia groups have been incriminated as perpetrators of violence during and after the election process. In 2002, the government outlawed 18 militia groups that were closely associated with the electoral violence.

However, these groups are very fluid and are largely made up of unemployed youth, ready to be hired at any time.

Furthermore, in Kenya there have been allegations of violence in the form of ballot stealing, armed attacks during voting and on voters, arson, looting and, in extreme cases, kidnapping and assassination (Omotolah and Aremu 2007). These events are witnessed during the election period and are directly connected to the electoral process, and target other stakeholders, such as observers who are tasked with monitoring the electoral process, the election officers, and those working with the electoral information system, the registration data, voting results, campaign materials, ballot boxes, polling stations and electoral events, campaign rallies, vote-counting exercises, among many other activities (Birch et al. 2020). During campaigns electoral violence can spiral out of control making certain parts of the country generally unsafe for certain political parties, contrary to the notion that electoral violence is used to sway electoral outcomes for certain parties only (Klaus and Mitchell 2015).

Nigeria has witnessed turbulent historical violence perpetuated by military regimes over many decades. Subsequent military regimes carried out human rights abuses and grossly mismanaged national resources. The regimes presided over the structural collapse of institutions, disregarded the rule of law and criminal justice systems, the suspension of the Constitution, and the endorsement of decrees that saw the suppression of civil societies and gross violations of human rights (Falode 2018). There is enough evidence to suggest that there were gross human rights violations in post-independent Nigeria, especially during the period of military rule that lasted from 1966 to 1999 (Omotola and Aremu 2007). For example, under General Sani Abacha the country went into full spin witnessing high-profile assassinations and the detention of anyone considered to be a pro-democracy activist or sympathizer (Egwaikhide and Isumonah 2001). What followed was a mass exodus of those able to leave the country and journey to Europe and America (Levan 2014).

Shortly before the commencement of the elections in 2011 in Nigeria, a series of bomb attacks took place that were later traced back to the Boko Haram terrorist group (Bratton 2008). And in the 2015 elections in Nigeria, interest groups, businesses and well-placed individuals in the society raised billions of naira for political parties and individual election campaigns for election offices (Omotola and Aremu 2007). The financiers often carry out behind the scenes negotiations with the expectation of certain returns, and are willing to fund violence that will help their candidates to win so as not to lose out on their investment (Briffault 2000). This has been made worse by high levels of youth unemployment, with the latter often becoming an easy target for recruitment into violent militia groups during election periods (Van Biezen 2003). This implies that generally those who invest in financing elections principally seek to influence electoral outcomes in favour of their preferred candidate (Van Biezen 2003).

Emerging from an 11-year-long civil war, Sierra Leone had an uphill task in trying to restructure its election systems and to get them running smoothly

again. The first elections after the decade-long war had registered political parties vying for positions, some of which were operated by former rebel groups that had transformed themselves into political parties, following the Abuja Peace Agreement between the government of Sierra Leone and the Revolutionary United Front (RUF) that ended the war in 2001. The country has since continued to hold elections despite the many challenges facing it. The political system has been slowly democratized since the ending of the civil war in 2001, even though the political parties with large following such as the All People's Congress and the Sierra Leone People's Party have sustained their ethno-regional rivalry in politics. With its civil war background, the country has faced negative post-conflict conditions of corruption, weak governance systems, high youth unemployment and clientelism, all of which have undermined the legitimacy of the government institutions (Jibao and Prichard 2015).

The government assists political parties in the form of tax relief from customs and excise duties on election materials (Jibao and Prichard 2015). In the event that those in opposition do not have sponsors the elections become a sham because there are no serious opponents. The government's failure to regulate election financing leaves the political parties looking for funding from different sources that may be illegal or clandestine (Jackson 2005). The pressure to win the elections sometime comes from the financiers and this could create electoral violence either through intimidation of the opposition or the locking out of opponents from certain zones or regions in the country. The lack of election financing in most cases can hamper the execution and proper running of effective elections (Jackson 2005).

In the three countries under study, Nigeria, Sierra Leone and Kenya, the use of violence by politicians during election periods is very pronounced and is often aimed at limiting the chances of the opponent to win the election, and sometime even to the point of their elimination from the race. Hence, to a great extent electoral violence, although not publicly acknowledged, is subtly viewed as an effective strategy that can prevent opponent voters from casting their votes (Sule et al. 2017). Höglund and Piyarathne (2009), discussing the matter of election financing and its link to electoral violence, observe that voters may not only be discouraged from voting when politicians create violent environments through the hiring of hoodlums to generate an atmosphere of fear, but even those who are bold enough and fiercely determined to cast their votes may just end up voting for candidates who they feel are able to protect them from the violence.

Transitional justice and electoral justice in Nigeria, Sierra Leone and Kenya

From the 1990s to 2010 many countries in Africa opened up their democratic spaces, largely due to the ending of the Cold War, and the emergence of strong political movements that called for citizen participation in governance.

The 20-year period can be described as decades of democratic expansion and constitutionalism. As a result, many African countries amended their Constitutions to allow for multiparty democracy, and broader citizen participation. A number of countries had to make the transition from military-dominated regimes or civil wars to civilian governance during the same period. Such countries included Nigeria, Uganda, Burundi, Angola, Mozambique, South Africa, Sudan and subsequently South Sudan, the youngest nation in the world.

With the emergence of multiparty democracy, constitutionalism and the ending of political conflicts there were calls for political accountability, conflict resolution and transitional justice. South Africa paved the way with the first transitional justice process that looked into the decades of apartheid and its repercussions on society. Through the legal institutionalization of the Truth and Reconciliation Commission (TRC), the country began a new chapter, with a strong drive towards reconciliation. Despite the many challenges that the country has faced, the fair distribution of national resources, employment and opportunities for all remain a mirage in South Africa. However, a number of countries sought to address past crimes and historical injustices through transitional justice processes such as truth commissions, commissions of inquiry and national reconciliation commissions. For example, Burundi, the Central African Republic, Côte d'Ivoire, Chad and Algeria established commissions of inquiry to investigate crimes committed by previous regimes or particular armed groups. These inquiries were attempts to stabilize the country and open a new chapter of accountability. In Kenya, Rwanda, the Democratic Republic of the Congo (DRC) and Côte d'Ivoire the transitional justice process has involved a hybrid of localized mechanisms of truth telling and international arbitration through the International Criminal Court (ICC) and other special international courts, particularly in the case of Rwanda. These attempts at political accountability have borne mixed results. On the one hand, they have created hope that past crimes cannot go unpunished, but on the other hand there have been frustrations regarding the extent to which these transitional justice mechanisms have ended impunity, given the repeated patterns of human rights abuses in the same countries. In Nigeria, Kenya and Sierra Leone the truth commissions aimed to address past crimes, some of which included human rights abuses and election-related crimes.

Although this volume seeks to draw attention to the link between electoral violence and transitional justice, the categorization of violence is much broader than electoral violence. In fact, electoral violence ought to be analysed within the framework of the systemic culture of violence embedded in unaddressed historical injustices and diverse patterns of marginalization. The International Centre for Transitional Justice clarifies that the transitional justice mechanisms adopted by societies that need to transform themselves from repressive regimes, civil wars or massive systematic human rights abuses, are not necessarily special forms of justice (Schabas 2004). The aim

of transitional justice is to help to achieve accountability and redress for victims, which in turn leads to the recognition of the rights of victims, the promotion of civic trust and the strengthening of the democratic rule of law (Yusuf 2007).

Transitional justice processes often attempt to help a country to make the transition from violence to a peaceful and more stable situation. For example, having abolished military rule Nigeria made the transition back into democracy, while Kenya returned to a multiparty system of governance. Sierra Leone, having endured a long period of civil war, had to put in place transitional justice mechanisms that would help to bring an end to any possible armed conflicts (Batchelor 2007).

In 1999, Nigeria moved from a military rule to a democratically elected government, and there was an urgent need to establish a commission to investigate the gross violations of human rights under the different military governments (Batchelor 2007). The democratically elected government of President Olusegun Obasanjo initiated a TRC, later renamed the Oputa Panel (Transitional Justice) (Kukah 2010). The main mandate for the Oputa Panel was to investigate gross human rights violations perpetrated between January 1966 and May 1999 (Lynch 2018). The report was to be presented to the president three months after the start of the mandated term, which was rather unrealistic given the short period of time. This commission was Nigeria's attempt at creating a transitional justice mechanism to look into the impact of military rule, electoral violence and the impact of *coup d'états*, human rights abuses and structural injustices. However, like many truth commissions, the Oputa Panel was underfunded with limited investigative capacity. Eventually, the Panel was able to submit its report to the Obasanjo-led government but its findings were never implemented. The report highlighted gross human rights violations under the different military regimes, including the suppression of civil rights such as voting and freedom of speech, civilian disappearances, arbitrary arrests, torture and imprisonment (Hassan and Olugbuo 2015).

Nigeria continues to struggle to achieve stability with high rates of poverty, corruption and insecurity perpetuated by armed militia and the Boko Haram terrorist group. The 2020 and 2021 demonstrations against the Special Anti-Robbery Squad (SARS), that were dubbed 'End SARS', mobilized thousands of demonstrators, mostly youth, in different parts of the country. The angry population called for an end to police brutality and systemic human rights abuses against civilians. The demonstrations were clear indication that the majority of the population felt politically and economically marginalized by the government system, in addition to the rampant corruption and economic crimes that enrich the ruling class and large enterprises.

Sierra Leone's civil war led to the deaths of over 50,000 people and left thousands of persons mutilated, injured, traumatized and impoverished. Characterized by excessive human rights violations and open impunity, it was mainly a war against the government led by the RUF, and fully

supported by the government of Liberia. For a long time, the country had witnessed corrupt governance, economic mismanagement, and rampant injustices. In fact, long before the civil war, the country had witnessed corruption, electoral violence, bribery, political marginalization in the rural areas, election rigging and impunity, all of which justified the need for a much broader mechanism for transitional justice (MacKenzie 2009). It was against this background that the citizens of Sierra Leone felt compelled to instigate a civil war (Davies 2000). The war lasted 11 years and during this period the world witnessed the signing of multiple peace agreements between the government and the rebel groups. As the civil war drew to an end, the government signed a peace agreement with the RUF that came to be known as the Lomé Peace Agreement. However, it was only after the intervention of United Nations peacekeeping forces that the Abuja Peace Agreement were signed in 2001, followed by the holding of elections in 2002 that eventually brought the protracted conflict to an end (Davies 2000).

There were sweeping demands for amnesty from the rebels, opening up a discussion about the need for a transitional justice mechanism (Evenson 2004). As a result, a TRC was established in 2000, with the mandate of creating a historical record of violations and abuses of human rights through an objective process that follows international humanitarian law terms related to the armed conflict in Sierra Leone (Schabas 2004). The time frame for the investigations was from the time the conflict erupted in 1991 to the signing of the Lomé Peace Agreement, 2000, 11 years later. The TRC was mandated to investigate the impunity with which these gross violations were committed, respond to the needs of the victims, get reports that would oversee the promotion of healing and reconciliation in the country, and prevent any future violations and abuses (Yusuf 2007). It was also expected to examine and report on the causes, nature and extent of these violations and abuses, the context in which they occurred, and to ask whether they were the result of deliberate planning, policy or authorization by any government, group or individual. The role of both internal and external factors in the conflict were to be included in the TRC's report (*ibid.*).

The TRC completed its work and submitted its report at the end of 2002. The report found that rampant corruption was the dominant reason for the outbreak of the civil war, and that the perpetrators were mainly adult males and youth, whose victims were frequently women and children. The common violations were forced displacements, abductions, arbitrary detentions, killings, plundering and looting. Successive governments had continued to allow the abuses to take place, such as the use of the death penalty which had also contributed to social unrest and eventual conflict (Millar 2011, 515–35). The systemic corruption had penetrated the electoral and governance structures, and in most cases elections were rigged. The Commission recommended that the government in power had to be deliberate about the fight against corruption. The judiciary had to be independent, parliament strengthened, and a new bill of rights drawn up. There was also a need to tighten control of the

security forces, open up the political space to allow the participation of women and youth in sociopolitical and economic spheres, promote devolution in governance structures in order to develop regional economic autonomy and set up an agency to implement reparations programmes (Muddell 2007). Unconditional amnesty was one of the demands made at the signing of the Lomé Peace Agreement and was granted to all parties in the conflict and endorsed by the TRC (Horovitz 2006).

The transitional justice process in Kenya has closely been associated with the 2007/08 post-election violence that erupted following disputed election results that left more than 1,500 people dead and over 600,000 displaced. The violence lasted for 59 days, between Election Day, 27 December 2007 and 28 February 2008 when the peace deal was struck between the government and the opposition. There were calls for political accountability against politicians most responsible for fuelling inter-ethnic violence in the country. The mobilization of the youth militia, especially in the Rift Valley region, and in cities such as Nairobi, Mombasa, Nakuru, Eldoret and Kisumu, led to the deaths of civilians and the destruction of property. The ICC intervened and identified six individuals who were considered to have been chiefly responsible for inciting the violence. These included the then Secretary for Education William Ruto, the Secretary for Finance Uhuru Kenyatta, the Secretary for Industrialization Henry Kosgey, Secretary to the Cabinet Francis Kirimi Muthaura, Chief of Police Mohammed Hussein Ali and Joshua Arap Sang, a radio executive. However, all these cases collapsed and none of the accused were ever convicted. In the meantime, the Kenya National Dialogue and Reconciliation (KNDR) under the leadership of UN Secretary-General Kofi Anan brought together Mwai Kibaki, the then disputed president and Raila Odinga, leader of the opposition party, Orange Democratic Movement. The African Union's Panel of Eminent African Personalities, comprising Kofi Annan (chair), Benjamin Mkapa, the former president of Tanzania, and Graca Machel, the widow of Samora Machel, the former Mozambican president and the wife of the former South African President Nelson Mandela, engaged the protagonists in the conflict with the main objective of ending the violence and achieving sustainable peace. The KNDR had four main agendas: to halt the violence and restore all fundamental rights; to address the humanitarian crisis; to overcome the political crisis through dialogue and mediation; and to look into long-term issues and implement reforms that could address historical injustices and institutional failures, particularly those related to land conflicts, institutional reforms and economic inequalities.

The fourth agenda prompted new calls for a constitutional review process, and in 2010 Kenya promulgated a new Constitution that instituted mechanisms for political accountability through the formation of the National Cohesion and Integration Commission; economic justice through a devolved system of governance and the formation of 47 counties in the country; and police reforms and the formation of the Independent Policing Oversight

Authority. Kenya began a new chapter within this post-conflict reconstruction period. Through an Act of Parliament in 2008, the Truth, Justice and Reconciliation Commission (TJRC) was formed with the primary agenda of investigating historical injustices and human rights violations from independence in 1963 to 28 February 2008. Between August 2008 and May 2013, the TJRC collected over 40,000 statements from victims living in the country, one of the highest number of statements collected by a truth commission in the world.

Kenya's TJRC handed its report to President Uhuru Kenyatta on 21 May 2013 amid allegations that the document had been doctored and watered down to exculpate some of the politicians mentioned in the victims' statements (Lynch 2018). The TJRC Act 48(3) stipulated that shortly after submission the report should be published for wider distribution (Robins 2011).

The government was non-committal about implementing the measures outlined in the TJRC's report, despite calls from the civil society and human rights organizations to do so. The report indicated that the violence was mostly 'perpetuated in the context of state security operations' and had devastating effects on the lives of the victims and their families (Ndung'u 2014). Despite the government's unwillingness to implement the TJRC's recommendations, the process marked a poignant moment in the history of the country, and coupled with the ICC's intervention, there was more vigilance of political accountability. Unfortunately, the 2017 elections were equally violent, though not to the magnitude of the 2008 elections. In the 2017 elections the police were largely blamed for the use of excessive force and the killing of more than 33 people in Nairobi alone (Human Rights Watch 2017). This demonstrates that election-related violence in Kenya has yet to be comprehensively addressed, and it would thus be important to implement the measures outlined in the TJRC's report, draw attention to systemic violence during election periods and strengthen political accountability and systems of justice in order to attain peace and stability in the country.

Conclusion

The link between electoral violence and transitional justice is crucial as a process of state and nation building. However, one of the main challenges is to find ways in which this link can be poignantly demonstrated. The main challenge is that not all situations of electoral violence lead to the implementation of transitional justice, and not all transitional justice processes come about as a result of electoral violence. Within a much broader framework electoral justice should be the central defining perspective that puts emphasis on the institutional reform of electoral structures in order to allow for transparency in managing electoral processes; the full participation of citizens in elections without fear of discrimination or threat to violence; the professional operation of security forces to ensure peaceful elections without

any threats of hostility from militia groups, government police or the military.

The election management processes in Kenya, Nigeria and Sierra Leone have faced the challenge of violence that has threatened each country's peace and stability. Electoral reforms in the three countries brought hope for the holding of free and fair elections. However, this has proved to be elusive with bribery, corruption and violence marring every election, while at the same time opposition parties protest against the results and make claims about electoral rigging. There is general impunity about the use of violence, illegal electoral financing and use of inflammatory statements that could spur inter-ethnic violence. The legal structures put in place to control election financing do not have the wherewithal to track the sources of funds and how they are used during elections. Election financing has been closely associated with violence in these three countries chiefly because a win for a political candidate means that such success provides the opportunity to recover the money once in government, largely through corrupt means.

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