



Commentary

4 December 2017

By the International Crisis Group

Three Critical African Elections

Delayed elections in the Democratic Republic of Congo (DRC), where the stalled transition risks provoking a major crisis, are one of three critical African polls: the DRC crisis, the recent vote in Kenya and Zimbabwe's election next year all have important implications for democracy and stability on the continent.

Crisis Group's recent publications on the Democratic Republic of Congo (DRC), including our 4 December 2017 report, examine the crisis provoked by President Joseph Kabila's determination to hold onto power and repeatedly delayed elections. The DRC is only one of three African countries we cover whose future course could depend in part on the holding of credible elections: one vote past, in Kenya; one future, Zimbabwe's 2018 polls; and one deferred, in the DRC.

These polls have had – or will have – important implications for democracy and stability not only in the three countries themselves but for the region as a whole. Notwithstanding many positive trends on the continent, the serious flaws in Kenya's vote, delays and risks of manipulation in the DRC and worrying signs in Zimbabwe could prove indicative of a troubling trend of backsliding in Africa.

The contexts for the Kenyan, Congolese and Zimbabwean polls vary: from Kenya's competitive but flawed democracy, to DRC's long transition out of civil war to Zimbabwe's first post-Mugabe elections. Yet they face challenges common to democratic consolidation across the continent. Public office comes with vast power and access to resources; those who lose elections are left with little.

This raises the stakes for both government and opposition, meaning too many elections are fierce, all-or-nothing affairs or incumbents skew the playing field, manipulate polls to ensure they win, or both. Institutions, particularly electoral authorities and courts, become battle grounds and face enormous political pressure, complicating their administration and adjudication of elections. The opposition rarely has good options: compete in unfair conditions and legitimise the vote; or boycott, a strategy that rarely serves its interests over time. Facing uphill battles, some struggle to remain united. Others adopt rejectionist tactics.

Kenya: Frayed Democracy

Kenya's recent crisis was all the more troubling because of the progress the country has made since the 2007-2008 post-election violence. Its 2010 constitution diluted presidential power, created new checks and balances, introduced more inclusive procedures for the appointment of election officials, devolved resources to newly-created counties and set up institutions to monitor and call out hate speech. These reforms should have served to lower the temperature of high stakes elections. Yet Kenyan leaders largely reverted to the old playbook. Ethnic politics dominated. The campaign was driven mostly by identity and money.

Both sides played hardball ahead of the vote. President Kenyatta's ruling Jubilee Party drew from the public purse to campaign and the police responded with brutal force to opposition protests. Opposition leader Raila Odinga, in what looked likely to be his last shot at the presidency, repeatedly asserted before

the polls that he would win if procedures were fair and would reject a vote he lost. Delays in the procurement of election equipment and the murder of the official responsible for overseeing the IT results systems did little to instil confidence.

To Odinga's credit, after official results showed him losing, he called for restraint and took his grievances to the courts. The Supreme Court ruling revealed serious failures in complying with electoral laws and regulations, in particular during the crucial phase of transmitting results, further eroding trust in electoral officials.

Crisis Group argued that the ruling should have given both sides reason to compromise: for Kenyatta, the scale of the problems it identified might have led him to seek a clearer mandate through a fresh vote with improved procedures; for Odinga, it vindicated his complaints about electoral integrity but did not find evidence that irregularities changed the outcome.

Instead, both doubled down and threatened the election commission, which itself was beset by infighting. Kenyatta, feeling betrayed by the judges, adopted increasingly harsh rhetoric, including against the judiciary. Jubilee sowed distrust by pushing through electoral legislation without due consultation with their opponents, complicating efforts to reach consensus on reforms. For his part, Odinga's demands were mostly reasonable but not all implementable before the rerun. His subsequent boycott meant that the vote proceeded without the participation of a candidate who had won some 45 per cent of the votes in the annulled election and still commanded the support of almost half of Kenyans, casting a shadow over Kenyatta's mandate.

“Kenya’s election once again laid bare the ethnic cleavages in society that elites are all too quick to manipulate.”

Kenya's election once again laid bare the ethnic cleavages in society that elites are all too quick to manipulate. It would be hard to portray it as anything but a disaster for Kenyan democracy. Six weeks after the rerun, leaders need to start bridging those divides. President Kenyatta should reach out to Odinga; restoring the official security detail he is due as a former prime minister, but which was withdrawn in mid-August, could be an initial gesture. A public display of talks between the two men would help dial down tensions.

Western diplomats in Nairobi, who played a useful role during the election, should push both sides to rein in hardliners. The creation of a position of official opposition leader with a budget and perks, which has been proposed by religious leaders and could be implemented through legislation, would be one way to recognise the support Odinga commands. The opposition also should focus on supporting its members who did win office and building support within communities that voted for Kenyatta's party.

Left to fester, the wounds of the 2017 vote are likely to bode ill both for Kenyan democracy and the country's stability over time. In a sign of deepening frustration after the flawed elections, leaders in regions of the country where Odinga draws most support – Western areas and the Coast – are calling for secession.

DRC: A Dangerous Delay

The consequences of the DRC's stalled transition could be graver still. In December 2016, President Kabila's ruling coalition and the opposition signed the Saint Sylvester agreement – stipulating that elections should take place at the end of 2017 after which Kabila should leave power – which appeared to offer a way forward. Since then, however, President Kabila, profiting from a divided opposition and a lack of international engagement, backtracked, asserting control over government, the oversight mechanism and electoral authorities in direct contravention of Saint Sylvester.

In November 2017, the election commission announced an electoral calendar leading to a vote at the end of 2018.

The Congolese opposition is considerably weaker than its Kenyan counterpart. The death in February of its veteran leader, Etienne Tshisekedi, arguably the only figure able to inspire large public support and who should have led the Saint Sylvester agreement oversight committee, has not helped. Other leaders, including former Governor Moïse Katumbi (who could yet emerge as a serious challenger to Kabila), face prosecution and stay outside the country rather than return and risk jail; their absence is understandable but leaves the opposition rudderless.

Others have broken ranks and joined Kabila's government. Those remaining refuse to engage in talks, call for a transitional government without Kabila to be set up after the agreement's election deadline passes this year – a demand with no hope of success – but do not develop or publicise their own policies on social and economic issues critical to a restive citizenry.

As the political impasse deepens, violence is escalating in several provinces. The political settlement that ended the 2002 civil war, which explicitly included a presidential term limit to guarantee the rotation of power, is fraying. Local insurgencies, ethnic clashes, massive jail breaks and crackdowns by security forces are all on the rise.

The DRC's humanitarian crisis, already one of the world's most severe, looks set to deepen. Gradually worsening instability appears the likeliest course – in fact in some cases the regime appears to stoke instability as a pretext for election delays. But a sudden implosion cannot be ruled out and would destabilise the region. Already Angola and the Republic of Congo fret about possible refugee surges across their borders.

While a more engaged opposition is essential to a transition, only concerted international and regional pressure can push President

“The DRC’s humanitarian crisis, already one of the world’s most severe, looks set to deepen.”

Kabila toward a credible election. But both African and Western positions have been mostly reactive. They have also diverged: Western powers are increasingly critical and have sanctioned some of Kabila's entourage; while many African leaders recognise the dangers behind closed doors, they have been reluctant to criticise him openly and question the value of sanctions. Support from African powers for Kabila buys him breathing space.

As Crisis Group's report today argues, both Western and African powers need to redouble efforts to build consensus. Even united, nudging Kabila toward elections would be hard; divided, prospects are close to zero. The Saint Sylvester principles – the organisation of credible elections, no constitutional amendment to allow a third term for Kabila and an opening of political space and respect for human rights – still offer the best route out of the crisis.

The new elections calendar, which is feasible and gives the opposition time to organise, offers an entry point for engagement. But this engagement must be based on a shared Western and African understanding that President Kabila's delays and attempts to hold onto power by indefinitely postponing the vote and eventually challenge the constitution pose the gravest threat to DRC's and regional stability. International actors involved in electoral preparations, including the UN, regional groups and the EU, should monitor adherence to the calendar, warn against unjustified slippage and guard as best possible the credibility of the electoral process, including voter registration.

Zimbabwe: Democracy's New Dawn?

In Zimbabwe, Mugabe's ouster presents a historic opportunity to turn the page on four decades of divisive and enormously destructive one-party rule. Emmerson Mnangagwa,

the new president, struck a conciliatory tone in public statements, pledging to reach across political and ethnic lines. He also reportedly floated forming an inclusive transitional government until general elections, scheduled for mid-2018.

Over the past few days, however, he appears to have backtracked. His new cabinet reflects a consolidation of the old guard, including senior military officers and war veterans. The stalwarts of the ruling party, ZANU-PF, that now hold power are implicated in many of Mugabe's worst excesses, including the rigging of the 2008 presidential vote and crackdowns before the run-off that robbed the Zimbabwean opposition of victory.

The security elites that orchestrated the "military assisted transition" did so largely to protect their own interests; prospects for reforms that threaten those interests appear slim, although Mnangagwa promised to improve governance and clean up corruption. But he has not said much about changes to the election system, security sector or devolution of power. To the ZANU-PF faithful his tone was also uncompromising: "ZANU-PF will continue ruling no matter what, while those who oppose it will continue barking". The leader has gone, in other words, but, at least for now, the regime remains.

Moreover, the opposition is weak and fragmented. Its plight over the past decade illustrates challenges familiar across the continent. It has repeatedly contested elections, but Mugabe's crackdown in 2008 made clear that the regime had no intention of ceding control. Worried that security forces' violence could spiral out of control, Western and regional powers pushed both sides to agree to a government of national unity, but sharing power arguably

tainted the opposition's leaders and weakened it further.

Boycotting by-elections since 2013 does not appear to have paid dividends, as ZANU-PF's parliamentary majority grew. Years of repression complicate efforts to keep opposition ranks united. The latest attempt, the Movement for Democratic Change (MDC) Alliance, launched in August 2017 and which unites different MDC factions under Zimbabwe's long-time opposition leader Morgan Tsvangirai, has struggled to attract smaller factions and lacks funds. Whether Tsvangirai himself, who is in poor health, can campaign next year is unclear; but there is no obvious alternative. Indeed, a more serious threat might come from within the ranks of the ruling party, though whether factions sidelined by Mnangagwa's takeover will have space to regroup remains unclear.

That said, Mugabe's departure, the more moderate tone struck by Mnangagwa, at least in public, and the fact he needs to put on a good show does raise prospects, however slim, for a cleaner vote next year. Broad consensus exists among opposition politicians and civil society on necessary reforms. These include a credible voter registration process; an independent and capable election commission, with parliamentary oversight; a playing field free of intimidation and hate speech; and access for observers, all of which should be laid out in new legislation.

Despite the tight timeline, none of this would be difficult to roll out were the new government to choose to do so. The elections guidelines of the regional body, SADC (Southern African Development Community), provides a framework for assessing, both before and after elections, conditions for a credible vote. An indicator of Mnangagwa's commitment will be his government's willingness to allow space for such evaluations. Others leaders of SADC countries, whose track record in Harare is mixed but who still enjoy more influence there than other foreign powers, should push against any resistance; the African Union

"Its plight over the past decade illustrates challenges familiar across the continent."

should also monitor closely long-term preparations for the vote. Ideally the opposition would focus on grassroots campaigning and attempt to build momentum behind a single candidate with a clear platform that sets it apart from ZANU-PF.

Reversing Worrying Continental Trends

Many African states have seen enormous advances over the past few decades. In West Africa in particular, democratic norms are more entrenched and a strong consensus exists against incumbents circumventing term limits, even when they try to do so. Overall, however, the continent still struggles with succession. While all countries hold regular, multiparty elections, peaceful transitions of power between one party or leader to another are still too rare. Over recent years, a spate of leaders extending their tenure past constitutional limits, political space narrowing in many countries and a series of election-related crises suggest the trend, at least in parts of Africa, is headed the wrong way.

This matters for stability on the continent. Not every disputed election or move toward authoritarian drift will provoke conflict; not all credible elections will avoid it; and a vote is not the answer to every problem. But a fair vote is invariably better than a rigged one. Even where

flawed polls do not provoke bloodshed, superficial calm can obscure problems that will erupt later.

Fewer Kenyans were killed this year than during the 2007/2008 crisis, but still the gulf in society left by the vote and the deep sense of grievance harboured by opposition supporters could have profound implications over time. Already, violence across the DRC is escalating; Kabila's repeated election delays risk driving the country off a cliff. In Zimbabwe, while a ZANU-PF romp to victory on a skewed playing field might provoke less violence than the upset MDC win in 2008, a prolongation of the stagnant Mugabe governance – particularly the dire prospects for many young people – would herald problems over time.

Taken together, Kenya's election crisis, the DRC's stalled transition and dashed hopes in Zimbabwe – should political space there remain closed – would not only conform to worrying authoritarian trends. They would do much to deepen it. Leaders learn from the experience of their neighbours, and the more they see fellow presidents manipulate and pervert democracy for their own ends, the more likely they are to pursue similar methods.