Democratic Consolidation in Africa: A Comparative Analysis of the Challenges of Elections in Liberia and Kenya

Abstract
This piece comparatively examines the challenges involved in conducting elections that are credible, free and fair as a cornerstone of the democratic consolidation process in emerging democracies in Africa with a focus on the general elections in Liberia and Kenya. Relying on documentary evidences it is widely clear that both countries are plural societies deeply divided along ethnic lines. Inter-group electoral competition is then framed on the 'we' and 'them' turning elections into a political battle of a zero-sum game. Election management bodies are also steeped in this ethnic framing thus hampering their credibility in conducting credible elections. The intervention by the Supreme Courts of both countries to redirect the electoral management bodies to adhere to provisions of the law was a remarkable demonstration of the independence of the judiciary in Africa. This enforces the rule of law critical to democratic consolidation.
Key words: Elections, democracy, consolidation, rule of law

Introduction

Establishing democracy as "the only game in town" in hitherto authoritarian military ruled societies or one party state has been a challenging task in most African countries. Post-independence Africa in the 1960s was dominated by one party state democracy such as was in Kenya until the 1990s when multi-party political competition was introduced with the receding

of Daniel arap Moi, the scion of Kenyan politics. The dominance of one party rule was soon followed by authoritarian military rule with the overthrow of multi-party democracies ravaged by governance issues including corruption and ethnic driven political contests. From Sudan to Egypt in North Africa came down democracies as well as those in Ghana, Nigeria and Liberia from the mid-1960s up through the 1980s.

Liberia, a tiny West African non-colonized country was ruled by a vicious military leader Sgt. Samuel Doe for nearly two decades. A native Liberian, Doe exploited the complex ethnic make-up of the country and deepened the schism between American slave returnees and the natives through a humiliating and political marginalization of the latter. The challenge to Doe's dictatorship plunged the country into one of the longest civil wars in West Africa ignited by Charles Taylor from the late 1980s through 2003 when the United Nations (UN) and Economic Community of West African States (ECOWAS) brokered the Accra agreement that led to the end of the war. The protracted conflict brought the Liberian economy and society to its knees. Since the cause of the war was rooted in the entrenched ethnic divisions in the country and exacerbated by skewed resource distribution and exclusive politics, the Accra agreement laid claim to the return of inclusive broad based competitive democratic politics as the most promising and enduring solution to the conflict. Democratic rule was also believed to possess the necessary opportunities to broaden political participation and shaped ownership of the country's future through shared development gains under the direction of inclusive political institutions. It is the faith in democracy that was leveraged for the elections in 2005 to elect the first female President in Africa, Ellen Johnson Sirleaf as the president of Liberia. In 2012, the second election returned her to office for a final term. The end of Sirleaf's rule is due in 2017 in accordance with the country's constitution. The 2017 elections were therefore historic to pave way for a peaceful and

democratic transition of power in 73 years (Sirleaf, 2017). It was indication of the maturity of Liberia's democracy and the country's politics. It is in this respect that the October 18 elections are unique and challenging for democratic consolidation.

For Kenya, a former British colony that went through a settler form of colonization, political independence was a product of a violent political struggle. The Mau Mau uprising led by Jomo Kenyatta, the pioneer President of Kenya is the equivalent of a civil war. The uprising gave birth to the one party state dominated by the Kikuyu; the majority ethnic group. Kenya is a culturally and religiously plural and complex society. While the political configuration of Kenya is dominated by the Kikuyu, the Luo and the Kalenje are a conspicuous presence. Democratic contestation has seen the Kikuyu on top of the political pyramid and the Luo struggling for a fair share of the national resource distribution. Political reforms opened the space for multi-party politics in the 1990s with President Mwai Kibaki, a Kalenjin who enjoyed a two term presidential tenure up to 2007. The electoral contestation between the then ruling party led by Uhuru Kenyatta and Raila Odinga's Orange coalition led to a bloody post-election violence, the worst in Kenyas' modern democratic history. Over 1,000 people were reportedly killed when Uhuru Kenyatta was declared the winner. Western Kenya, the opposition's stronghold was engulfed in violence including parts of Nairobi. The deadly post-election violence revealed how ethnically volatile Kenya's politics have remained and ethnicity has continued to influence partisan politics and remained a major fault line (Kwatemba, 2010). Political reforms led to a new constitution and a new electoral law to lay the rules for political contestation and entrench the rule of law for democratically competitive elections in Kenya. The amended Kenyan constitution enacted in 2010 provides for the hearing and determination of election petitions within 14 days of presidential elections. Section 140 of the constitution laid the basis for the

Kenyan Supreme Court's dismissal of Raila Odinga's petition after the 2013 election that the exercise had complied substantially with the electoral law (Falana, 2017). Further political reforms resulted in the new Electoral Act of 2016 which provides for electronic voting and competitive process of interview for the appointment of the Chairman and members of the Independent Election and Boundary Commission (IEBC). The constitutional reforms especially lay the basis for effective judicialization of electoral politics in 2013 which was better and more peacefully conducted. The 2017 elections have the imprimatur of remarkably demonstrating the maturity of Kenya's democratic politics and perhaps democratic consolidation.

Liberia and Kenya are young multi-party democracies. The countries are rich in experience with political violence that has continued to threaten or influence especially electoral political outcomes. There are long established ethnic and religious inclinations especially in Kenya while ethnicity holds sway in Liberia with significant influence on contemporary electoral competitions. Both countries have made progress in the entrenchment of democratic rule. Nonetheless, democracy is palpably volatile and yearning for consolidation. It is argued here that the 2017 general elections in both countries are crucial for determining the universality of the course of democratic consolidation in both countries. Key ingredients of this process are the quality of elections and the manner of judicialization of electoral politics in both Liberia and Kenya which would have far reaching consequences on stability. Key conceptual issues examined here include the interface between elections and democratic consolidation, the conditions for elections, and the administration of electoral justice. Policy implications would be tied up in the conclusion.

Elections and democratic consolidation: Conceptual Framework

The democratic system of representative government is functional only when citizens are continuously active through elections. To this extent, elections are a hallmark of democracy and one of the necessary ingredients of the system in any organization or society (Smith, 2001). Thus important and a requisite for democracy, elections themselves do not make democratic rule but the strength and efficiency of its institutions that shape the outcomes of democratic governance on service delivery in public goods (Rothberg, 2001). It has been perfunctorily argued by Beetham (2001) that the democratic justification for elections find expression in the fact that ''since most citizens do not have the time to consider and decide the country's law and policy in person'', they cede their right to representatives as their agents to act in their stead through an electoral process in which each vote counts equally. This justification is instrumentalized by the threat to punish or reward representatives that fail to perform satisfactorily or do so to the delight of citizens. This is the essence of democratic accountability which imposes on representatives the obligation to be accountable to the citizens who appoints them into their positions in a representative capacity.

But whether elections fulfil these democratic functions depend largely on the electoral system; first-past-the post or propositional arrangements. While the former does not treat each citizen's vote equally and fails to produce a legislature that is representative of all political opinions and social composition, it also makes it extremely difficult for small parties to gain access to representation in parliaments (Beetham, 2001). Proportional arrangement rather seeks to achieve representation that is broad based but undermines citizens that value their independence and distrust party affiliations. Both systems need improvements in all aspects to enhance electoral representation as a functional requisite of democracy. Proportional systems

generally serve to increase the general legitimacy of election as they more reasonably accommodate the preferences of all within a society. Either ways modern liberal democracy is stuck with elections. What needs to be done is to seek continuously to correct defective election rules so as to enhance democracy because such rules make room for ideas to be distorted through representation in parliament.

Elections from a minimalist democratic stand point are the only instrument that guarantees a peaceful transfer of power with the consent of the majority of citizens (AGORA, 2017). In this context, elections allow citizens the opportunity to confirm or reject a government (Alexander, 2001). This among other ways and functions is the sense in which elections ensure fundamental contributions to democratic governance. Crucially, elections enable voters to choose leaders and to hold them accountable for their performance in the public realm (Schmitter and Karl, 1991). Accountability is an important and resilient value in the democratic governance scheme. While elections are key in activating democratic accountability (Mainwaring and Scolly, 1995) this can be undermined where the political process is dominated by one party or where elected leaders do not care about re-election. A dominant one party political process constrains voters' choices in terms of candidates, parties or policies. In deepening accountability, the use of elections holds the possibility of checking leaders through the instrumentality of regular and periodic elections and by extension resolving the problem of leadership succession. A peaceful and regular method of effecting leadership change by way of election furthers the continuation of democracy (Wojtasik, 2013).

Democratic elections function in a strategic way to generate political consensus on a wide range of issues. This is effected through the competitive democratic process that compels candidates to expose their records and intentions for public scrutiny. In this way, elections

therefore serve as forum for public debate on crucial public issues and thus assist in the reformulation and aggregation of public opinion (Lijphart, 2008).

Elections activate political representation by enabling voters to choose individuals who in their views and values held by society are the best representatives. The idea of being the best is grounded in their knowledge, integrity, loyalty to the principles of governance, ability to cooperate and achieve compromises for the progress of society (Zukowski, 2004). Elections therefore confer on representatives the mandate to exert power having been imbued with the legitimacy to take decisions on behalf of the public. Those elected are never expected to take decisions in sync with their personal interest but that of the public. Voters make choices among contestants recognizing the capacity of elected representatives to implement policies that meet their aspirations by cooperating with agencies and reaching appropriate compromises for the overall good of the populace. Hence, elections are not only a political mechanism to choose holders of office that voters can relate with, but also those who are capable of effective and efficient representation of the people (Medvic, 2010).

Closely related with the function of elections and choosing representatives are the indirect way of elite selection. This function is derived from the existence of political parties as special organizations in the political space that facilitate the institutionalization of the political sphere. Party members who select elites through elections play a causative role without which it would be difficult to choose and elevate few elites into public office. Elites thus selected must meet basic characteristics that can attract support and subsequently votes and by implication orient selected elites to fulfil the mandate of their offices. As members of political parties, individuals identify with the prevailing ideology or core values that form the central political agenda of the party for society.

Elections' lofty functions of delegation of political representation, selection of elites, political accountability, and legitimation of political authority and aggregation of public opinion have by and large synonymized elections and democracy (Van Reybrouck, 2016). Elections have been sanctioned as the only acceptable way of choosing representatives. So when democracy is mentioned it logically means its realization must be by way of elections. This thinking has created democratic fanatics in form of electoral fundamentalists who venerate elections but soon turn to despise elected elites. This exaggerated and cultic notion on election by electoral fundamentalists has been underscored by Van Reybrouck (2016, p.6) thus;

> Electoral fundamentalism is an unshakable belief in the idea that democracy is inconceivable without election and elections are a necessary and fundamental pre-condition when speaking of democracy. Electoral fundamentalists refuse to regard elections as a means of taking part in democracy seeing them instead as an end in themselves, as a doctrine with an intrinsic, inalienable value

This seemingly blind faith in elections has deleterious consequences when the integrity of election is ignored. These include violence, ethnic tension, criminality and corruption. When elections are seen as the sacraments of the democratic faith and a necessary ritual giving premium to form rather than content, they tend to foster democracy but rather destroy it. This is more serious because elections in modern democratic societies occur in a far more different era of elaborate systems of communication, the dominance of commercial media, the rise and fall of civil society and social media. The emergence of digital democracy activated by social media is the feared danger to democracy by way of the sacrament of elections as the Brexit referendum has shown. The internet and social media have not only bombarded voters with information, it has been distorted and manipulated and scented with fake news that promote bigotry and hatred.

Social media is misinforming and confusing voters who have only the booth to think in a short while before voting, the outcome is Donald Trump's election and the growing populism in Europe.

Once elections were regarded as "the possible fuel of politics" (Van Reybrouck, 2016, p.7) given a boost to democracy. But they are turning out as the primary cause of deep seated problems. This is why voter apathy is rising with extreme distrust of political institutions such as political parties, key players in democracies because the integrity of election is fast waning.

Considered as the major determinant of democratic legitimization of the exercise of political authority, competitive elections must be structured to give vent to broad based and universal participation to select representatives with the legitimate authority to act in the public interest. The content must renew and strengthen citizens' confidence in state and society's institutions hence become instruments of stability (Banducci and Karp, 2003). It is to the extent of enhancing the legitimacy of elections that democratic consolidation finds meaningful expression. According to Schedler (1998, p.91) the term democratic consolidation was originally meant to express "the challenge of making new democracies secure, of extending their life expectancy beyond the short term of making them immune against the threat of authoritarian regression, of building dams against eventual reverse waves". Older democracies are not threatened by the authoritarian reverse but the fragility of new democracies in Africa and Latin America showed that authoritarian probabilities had been lurking around to thwart and reverse the democratic progress being made. There are chances for instance that the military may return as they did in many African countries from the mid-1960s through the 1980s. Democratization in the 1990s has remained under threat of military incursion with the examples of coups that took place in Mauritania (2008), Guinea (2008), and Niger (2010), all of which border Mali. One

commonality is that all the three countries experienced coups at moments of perceived crisis. Another commonality is that they all eventually held elections (Thurston, 2012). Mali (2012) Central African Republic (2013), Lesotho (2014), Burundi, (2015) Burkina Faso (2016) and Zimbabwe (2017) have also had their democracies threatened by military coups. Democratic consolidation was therefore a process of entrenching the value that democracy is the only game in town; the only means by which political power can be acquired and exercised. Acquiring political power requires the political mechanism of elections. In this context, democratic consolidation would serve as a process by which a newly established democracy becomes firmly durable to the extent that "a return to non-democratic rule is no longer likely" (GasioRawsky and Power, 1998, p.740) with Schedler (2001, p.66) also emphasizes the core notion that a consolidated "democracy is one that is unlikely to breakdown".

A democracy is consolidated when it is enduring and political actors accept that it is a legitimate form of rule and no political actor no matter the level of dissatisfaction with the system would seek to act outside the democratic system. All political actors tend to accept and trust democratic institutions and processes as the only legitimate avenues for engagement. This attitudinal and behavioural constructs are undergirded by normative and self-interested factors thus giving sacramental vent to the notion that democracy is the only game in town (Linz and Stepan, 1996).

Democracy is consolidated by way of routine, institutionalization and moralized framing rendering the use of means outside the democratic norm to access power unappealing (Gorokhovskaia, 2017). For instance, even when politicians loss election through fraudulent means, they seek the judicialization of politics to achieve electoral justice rather than resorting to violence.

The conditions or factors that drive democratic consolidation vary from country to country. Huntington (1993) had broadly noted that democratic consolidation would more likely occur in countries with developed economies and have the support of international actors. This points to transition countries that must have built a resilient network of international cooperation that prioritize democratization. Linz and Stepan (1996) echoed Huntington with an elaboration of the predication of democratic consolidation on a strong economy. A simplified notion of the term meaning a religious political actors resolve "not to overthrow a democracy" is reinforced by restraints of a functional state, a free civil society, an autonomous political society, the rule of law, a bureaucracy and a virile market economy. The latter is very critical as it is girded by strong regulatory institutions that mediate the relationship between the market and the state.

As a process, democratic consolidation takes off from achieving the transition from authoritarianism to electoral democracy; here elections are the basic minimum standard means to that end. Once electoral democracy is attained, then liberal democracy where basic liberties are guaranteed and the rule of law is upheld as a sacred principle that imposes limitation on the exercise of power is established. Here law becomes the only basis of official actions. Liberal democracy seeks to advance to a more resilient democracy that is broad based and totally inclusive. Thus Scheldler (1998) outlines the democratic consolidation process to mean ensuring prevention of democratic breakdown, democratic erosion, completing democracy and also deepening democracy. With these parameters, democratic consolidation can be measured by looking out for regime stability through actions of political actors that substantially comply with democratic norms. One key way of examining the dynamics of democratic consolidation is to assess the key political mechanism of elections that seek to ensure the transfer of power from one political party to another. The content of election beyond their forms becomes the issue. Both

Liberia and Kenya have transited from war and a one party situation to electoral democracies. How far have these democracies gone towards consolidation as liberal democratic societies by means of elections?

Conditions for Competitive Elections in Liberia and Kenya in 2017

As a sacrament of the democratic faith "elections are not only an arena of political competition, but also for candidates and political parties, a way to communicate with the public'' (Wojtasik, 2013, p. 33). Political parties and their candidates offer crafted programmes to the electorates that are intended to meet their aspirations. Political parties are then seen as medium of implementation of programmes by setting the political agenda moulded in prevailing values and ideology. The way in which political parties frame their programmes and disseminate them is intended to obtain social support and votes for political parties and their candidates.

The determinable choice of candidates or parties to vote for is influenced by several factors one of which is the integrity of the electoral process which is very critical to strengthening democracy, advancing development and for social and individual security of citizens (AGORA, 2017). One way of measuring the integrity of an election is to determine the extent to which the principle of equality of citizens is honoured and citizens elect their leaders and hold them accountable. Where elections lack integrity, political institutions and public officials would not be accountable and citizens would be denied the equality of opportunity to influence the political process through elections. This situation leads gradually to the loss of public trust in elections and political institutions as well as faith in electoral outcomes. Any government formed from an election without integrity would certainly be weak and disconnected from the public. Such governments may tend to be authoritarian and away from the public (Norris, 2003).

Weak and fragile states as Liberia and Kenya are suitable exemplars that do not command total loyalty of citizens hence other social platforms demand and receive their unwavering loyalty. Ethnicity and religion are good examples. In both countries, ethnicity is

used as a platform for social and political mobilization to enhance ethnic competition (Horowitz, 1985). The mobilization of ethnic elements to serve ethnic competition needs is driven by primordialists and instrumentalists functions (Brown, 2000; Young and Turner, 1995; Nnoli, 1995). The negative outcomes of ethnic mobilization are ''often dramatic and even catastrophic'' (Nnoli, 1995, p.8). The Rwandan genocide of 1994 and the post-election violence in Kenya in 2007/2008 and Nigeria in 2011 are relevant contemporary illustrations.

The 2017 elections in Liberia and Kenya are set against this background of the fragility of the state and complex ethnicity that has been mobilized and manipulated to serve the ends of political competition. The manner of incorporation of African tribes into the modern state is responsible for the elite's manipulation of ethnicity having transformed themselves into citizens while the rest of African societies have remained tribal subjects (Mamdani, 1996). Kenya is a country with over 42 ethnic groups that are largely disparate but are no threat to the stability of the state or themselves. What is the problem is the politicization of ethnicity that has funded recurring ethnic animosities (Kwatemba, 2010).

There is an entrenched age long mistrust among Kenya's ethnic groups that are strong along the majority and minority's continuum. The Kikuyu make up 17% of Kenya's population while the Luhya takes 14%, Kalenjin 13%, Luo 10% and Kamba also 10%. The minorities such as Kenyan-Somali accounts for 6% just like the Kisii while Mijikenda and Mero share 5% and 4% respectively and Turkana are home to 3%.

Fig. 1.

The Kikuyu, Luhya, Kalenjin, Luo and Kamba make up nearly 70 percent of Kenya's 48million population according to the 2009 population census. Major gladiators in Kenyan politics come from these groups (Mohammed, 2017). The country's major political parties are dominated by members of these ethnic groups. President Uhuru Kenyatta and Vice President William Ruto of the ruling Jubilee party are from the Kikuyu and Kalenjin ethnic groups respectively. The National Super Alliance (NASA) a coalition of opposition parties is led by the presidential candidate Raila Odinga from the Luo with other leaders of the coalition drawn from Luhya, Kamba and the Kalenjin (Raji, 2017).

The Kenyan 2017 elections were simply an ethnic electoral competition. Anne Wanjiru Kamau confirmed this in an interview with Aljazeera news when asked who she would vote for states thus: "I will vote for Kenyatta, he is our son" and dismissed the opposition campaigns that "they are wasting their time" (Mohammed, 2017). The 2017 election were to be Kamau's third and she had vowed to vote for Kenyatta; "this is going to be my third voting and I have never voted for someone from another tribe". David Mawira Njeru also similarly expressed his loyalty to the Kikuyu tribe represented by Kenyatta's candidacy. Njeru notes "I'm for Uhuru, he is the only one I trust. To me, he is the only candidate I feel safe with, it is not tribalism. It is just preferring your own people".

Tribal affinity is very strong in Kenya and elections are an opportunity to prove that. Dorothy Makungu from Luhya tribe, identifies with her group, Kenya's second largest group through Moses Wetangula and Musalia Mudavadi who were leaders of Luhya in coalition with Raila Odinga. Makungu had therefore vowed to vote for Odinga's NASA because her tribal leaders belong to NASA. In an unshaken loyalty to the ethnic group she stressed ''there is nothing Kanyatta can say to make me vote for him. Last election I voted for Raila and this time I

will vote for him. I support Wetangula as our leader and he is with Odinga". It was the same for Titus Otieno from the Luo tribe who intoned that as a tribal commitment, "we must back our own. Only our own will bring us development. And that is why I'm going to vote Raila" (Mohammed, 2017). Ethnicity plays a critical role in deciding who wins the presidency in Kenya and the 2017 election was not in any way different. It is in the group that Kenyans find protection and some guaranteed access to resources from the national distributive pool. Thus, loyalty to the group rather than the State is a superior value.

The 2017 Kenyan elections were set against political and electoral reforms that began with the passage of a new constitution in 2010 that had devolved powers to the counties. The elections were to taste how much powers the counties wielded as they would impact the general elections. The electoral law was also amended in 2016 to provide for a competitive appointment of IEBC commissioners. The amended law also provided for electronic voting. Kenyan Courts also through various judicial pronouncements intervened in IEBC's preparation towards the election. For instance in April 2017, the IEBC lost an appeal in which the court ordered that results declared at polling stations must not be subject to change at the national collation centre (Bloomberg, 2017). This ruling was critical to boosting contestants' confidence and trust in the electoral process. In previous elections, results declared at polling stations were subject to change upon arrival at collation centres, a fact that was evident in the 2013 election. Such decentralized arrangement makes it difficult for stakeholders to cheat yet be able to do their new collation based on constituency results.

Despite these reforms the IEBC came under tremendous pressure from Raila Odinga's opposition NASA demanding for more transparency in the operations of the Commission. It attacked the procurement process as not being transparent and being characterized by

irregularities. For example, the award of the contract for poll equipment to a Dubai based Al Ghurair was challenged due to the company's established links with Kenyatta. Though this charge was denied by the company through a deposed affidavit, the cancellation of the contract twice lend credence to the accusation (The Star, 2017). Indeed the procurement director Lawy Aura was finally suspended so also the director of Technology James Muhabi on account of these allegations (The Star, 2017). The latter's replacement, Chris Msando was not lucky to survive as he was found tortured and killed in late July, barely a month to the August 8 election (Reuters, 2017). The death of Chris Msando close to the election raised the possibility that he was tortured to reveal the chances that the election software system could be hacked. Being close to the election, the death presented the difficulties of finding a suitable replacement and effecting necessary alterations in the system to prevent tampering.

On the eve of Kenyan elections, nearly 300 cases were still pending at the courts all relating to one aspect of the election or the other. Suffice to note that the courts had also ruled that manual backup should be used where electronic transfer of results may fail. This and many more critical cases that may have delayed the election were concluded setting the stage for the polls to go ahead on August 8, 2017. It is obvious that the Kenyan elections were to take place under an ethnic tension and palpable distrust of the election management body by the opposition NASA.

Liberia's social composition is strung along two major ethnic groupings of the slave returnees and indigenous groups. Slave returnees were settled in Liberia between 1822 and 1867 and would later be known as Americo-Liberians. The indigenous population consists of over 16 disparate ethnic groups. These include Kpeller, Lorma, Kru, Gissi, Bozzi, Vai Gola, Krahn, Gio, Mandingo, Mano, Sarpo and Bassa (Abrokwaa, 2010). The 1847 Liberian Constitution

stipulated systematic marginalization of the indigenous population and vested political power in the Americo-Liberians. Indigenous populations were then denied political and civic rights. The constitution also excluded indigenous population from participation in the economic and political affairs of the country. The indigenous population had in a sense lacked 'citizenship' and were second class people in their own country. It was this vicious political marginalization that Sgt. Samuel Doe sought to overthrow through the 1980 coup that brought him to power (Nass, 2000). The revolution against Samuel Doe by Charles Taylor in the late 1980s was fought along ethnic lines as the Krahn fought the Gios and Manos of Nimba county the groups to which Doe and Taylor belonged respectively (Sesay, 2012). The Gio and Manos waged the war against the Krahn and Mandingo turning Nimba County into a theatre of the civil war.

The return of democratic rule has seen party politics framed along ethnic lines using ethnicity as the mobilizing platform for electoral competition. The quest for access to state power had engendered the formation of 22 political parties that contested the presidential and parliamentary elections (Sherman, 2006). The result of the 2011 elections also showed established ethnic voting pattern. George Weah of the Congress for Democratic Change (CDC) drew more votes from the Kru ethnic group where he belongs. Nimba county indigenous population also voted Prince Yomi Johnson who hailed from there. The Krahn ethnic group massively voted George Weah to register their grievance over incumbent President Ellen John Sirleaf's role in the ouster of Samuel Doe (Sesay, 2012).

The October 10 2017 general elections appear as the most fiercely contested since the end of the Civil War. The elections may conveniently pass as a referendum on Ellen Johnson Sirleaf's rule (Parley, 2017). In the two terms of Sirleaf, Liberian economy grew by 8.7% in 2013 until the Ebola health crisis and falling commodity prices halted growth (Sirleaf, 2017).

Public infrastructure has also seen significant improvement since 2006. Poverty has climbed down 63.5% in 2007 to 50.9% in 2016 and the country received debt relief of over $4billion and massive foreign aid. Liberia's security institutions have also experienced remarkable recovery thereby enhancing restoration of peace. However, Sirleaf has been criticized for slow recovery of infrastructure such as roads, wide spread corruption and low investments in education and health (Parley, 2017). These disappointing outcomes have become the basis for election campaigns that target change at least on party platforms.

Liberia a country of 4.5million people is therefore set for the presidential and parliamentary elections with 26 political parties; 20 of which fielded presidential candidates while 986 candidates are vying for 73 seats in parliament. Major contenders include incumbent Vice President Joseph Boakai of Unity Party (UP) and Senator George Weah's Coalition for Democratic Change (CDC) and Charles Brumskine of Liberty Party (LP), a lawyer and former president pro tempore of the Liberian Senate (Glencorse and Yealue, 2017). The October 10, 2017 elections would be the first to facilitate a peaceful transfer of power between democratically elected governments since 1944 (Gallagher, 2017). These elections also promise a change of the ruling political party from the incumbent UP to another. For more than a decade after the civil war, democratic Liberia still remains a fragile country. Modest recovery of the economy has been set back by the Ebola health crisis and low commodity prices. Infrastructure remain dilapidated and security still a major challenge. The success of the elections is crucial to deepening and consolidating Liberia's democracy. Like Kenya, tension was palpable as Liberians went to the polls under the yoke of ethnic chauvinism and fragile state institutions including the National Election Commission (NEC).

Electoral Outcomes

August 8, 2017 was a historic day in Kenyan politics. 19.6million Kenyans headed to the poll to elect a new president (EU EOM, 2017). Uhuru Kenyatta, the incumbent flew the flag of the Jubilee Party while Raila Odinga represented the National Super Alliance (NASA) a coalition of four opposition parties. The elections were held after the judiciary had entertained 845 pre-election cases determining more than half of these before the election. This number represents the pivotal role of the judiciary in Kenyan democracy and underscores the central position of the rule of law in deepening democracy. High litigations close to the election also showed the incredibly high level of competition, mutual suspicion among contestants and lack of trust in state institutions especially IEBC particularly following its inability to address issues promptly.

At the close of polls and even before the announcement of results, international election observers had declared that the elections were peaceful, transparent and relatively free and fair. The European Union Elections Observation Mission (EU EOM) specifically noted that closing and counting was well conducted in at least 44 stations observed with remarkable levels of transparency. Overall however, the EU EOM observed that closing inconsistencies were noted with staff failing to carryout mathematical test of results as they had difficulties filling some forms (EU EOM, 2017). Equally important was the challenge with KIEMS that made them unable to allow the functional for transmission of results. Electoral staff also had difficulties processing data for scanning due to technological uncertainties. The African Union Election Observer Mission headed by Joaquim Chissano, former President of Mozambique stated that the elections were peaceful, transparent and credible (Business Daily, 2017). The Commonwealth Observer Group led by Festus Mogae, former President of Botswana had observed that ''the IEBC managed preparation for the election in a transparent and effective manner". The group

noted that ''the opening, voting, closing and counting process at the polling stations … were credible, transparent and inclusive'' (The Commonwealth Observer Group, 2017). The Carter Centre reported that overall, "the opening, voting, closing and counting process were generally well conducted" (The Carter Center, 2017).

It is interesting to note that international observers noted detailed failures with the election from irregularities that bother on the technology deployed to failure to fill relevant forms, all of which had significant implications on the outcome of the elections yet were quick to declare the elections free and fair.

Probably armed by favourable pronouncements from international observers, the IEBC declared President Uhuru Kenyatta winner of the election having polled 54.27% of the votes cast as against Raila Odinga's 44.74% (Mbako, 2017). The opposition rejected the results and argued that the elections were ''marred by irregularities as the results were hacked and rigged in favour of the incumbent''. While it was generally noted that voting was peaceful, opposition NASA argued that the problem arose from the electronic transmission of the results, a process that was manipulated. This technological challenge had been emphasized by the EU-EOM and indeed the other international observer groups.

Barely 10 days after polls had closed; Raila Odinga approached the Supreme Court to challenge the results on August 18, 2017. In a historic judgment upholding constitutionalism and the rule of law, the Supreme Court in a 4-2 judgment declared on 20 September, 2017 that ''the presidential election held on 8 August, 2017 (in Kenya) was not conducted in accordance with the constitution (of the Republic of Kenya) and the applicable law rendering the declared results invalid, null and void''.

The IEBC was then ordered to conduct a fresh poll within 60 days as provided in Article 143 of the Kenyan Constitution. In its detailed judgment the Supreme Court stated that the IEBC had failed, neglected or refused to conduct the presidential election in a manner consistent with the dictates of the constitution. While the court did not find Uhuru Kenyatta directly involved in the irregularities, it found that IEBC had engaged in several irregularities and illegalities in the transmission of the results and other undetermined wrongdoings that affected the integrity of the results (ICG, 2017). The court condemned IEBC for defying court orders to open up its computers for scrutiny which lend credence to opposition's claims that the systems were hacked. In addition, the court frowned at the decision of IEBC to declare final results "before receiving in scanned format, a significant number of forms 34A from the polling stations (Mbaku, 2017). By neglecting its responsibility to verify results, the IEBC was involved in perpetrating illegalities and irregularities that affected the outcome of the polls.

The presidential candidates generally accepted the ruling; Uhuru Kenyatta subtly disagreed with the ruling but announced that he would abide it. Raila Odinga saw the ruling as a vindication of the opposition claims that the elections were rigged. The ruling was seen as historic for the people of Kenya and by extension the people of Africa and declared as a precedent setting ruling nullifying an irregular presidential election as noted by Raila Odinga. President Uhuru Kenyatta would later express a veiled threat against the judiciary after referring to the Supreme Court judges as "crooks" and promising to show them that the Jubilee Party is made up of men (ICG, 2017). This threat suggested that should he not win the runoff there may be violence.

The rerun election was then fixed for 26 October, 2017. Before the election, the gulf between the IEBC, the ruling party and the opposition needed to be considerably reduced. For

example, the opposition demanded for the replacement of several senior IEBC officials especially the Chief Executive Officer, Ezra Chiloba. It called for more transparency in the IEBC's IT system and for the engagement of totally new returning officers. Failure to meet these demands the opposition threatened to boycott the elections. Rather than yield to these demands, the IEBC proposed to allow United Nations and Commonwealth experts to join the commission to monitor the IT system. The IEBC and the ruling party invariably refused to accommodate the opposition demands and Raila Odinga made good the threat to boycott the election on 10th October, 2017 (The Economist, 2017); and with that decision, ordered his supporters to fill the street in protest.

The opposition coalition's boycott of the polls was followed by violent clashes with security agencies especially in Western Kenya, its stronghold and the suburbs of Nairobi. Voter turnout was abysmally low at 33.84 percent of registered voters; representing 7.6million of the 19.6million registered voters (Mohamed, 2017). The election did not take place in Kisumu, Siaya, Homa Bay and Migori counties. In the opposition strongholds, election were postponed due to security challenges that left eight people dead and tens of others injured (Mohammed, 2017). The elections had generally been turned bloody with over 70 people killed after the August poll and another 14 after the October round (Campbell, 2017).

The electoral management body had stated that low voter turnout due largely to opposition boycott would not impact the election, hence Uhuru Kenyatta was declared winner of the rerun poll with 98.2 percent to NASA's 0.9 percent from 265 Constituencies out of 290 including diaspora votes. By staying out of the elections, the opposition rather made it easier for the ruling Jubilee Party to cruise to the coast with victory. The opposition has vowed not to recognize Kenyatta as President and termed his government as illegitimate. The elections have

no doubt polarized Kenyan society and threatened the country's democracy. A legitimacy cloud hovers over the government led by Uhuru Kenyatta having been elected by less than a quarter of the country's citizens.

In Liberia, the general elections were held on 10th October, 2017 with 20 presidential candidates. To avoid a rerun, a candidate was expected to fulfil the constitutional requirements of winning 50 percent plus 1 vote in the first round. Front runners in the election were UP, CDC and LP. The elections from polling to closing were reported peaceful even with logistical challenges of late arrival of election materials due to poor road infrastructure. Unlike the Kenyan elections, the NEC did not come under intense pressure reminiscence of the distrust of the electoral body and mistrust among candidates and their parties. The Carter Centre and European Union monitoring or observer groups declared the election free and fair (Kimenyi, 2017, Reuters, 2017).

NEC fully satisfied with the conduct of the election proceeded to announce the final results on 18th October, 2017. Senator George Weah of the CDC was declared winner with 38.4 percent of the votes, clearly followed by Joseph Nyama Boakia with 28.8 percent. Charles W. Brumskine obtained 9.6 percent of the votes. For failing to achieve 50 percent plus 1 vote as stipulated by the Constitution Weah and Boakai were set for a rerun scheduled for 7th November, 2017 (NEC, 2017).

The runoff election would suffer a setback due to the legal challenge before the country's Supreme Court alleging that the elections were marred by fraud. The Liberty Party candidate that came a distant third had argued that polls had opened late, crowd control was absent and election officials were engaged in fraudulent activities such as ballot stuffing (Reuters, 2017; Toweh, 2017). Mr. Boakai's Unity Party announced it was backing the allegations and even

accused President Sirleaf of holding a private meeting with election magistrates, an allegation she denied and that the meeting was not inappropriate (Reuters, 2017). In its ruling, the Supreme Court on 6th November, 2017 postponed the rerun indefinitely and ordered the legal team of NEC and UP to file their briefs on 10th November, 2017. The court strongly observed that "by setting a date and proceeding to conduct a runoff election without first clearing the complaint of the petitioners which alleged gross irregularities and fraud, the NEC was proceeding contrary to rules which are to be adhered to at all times".

The Liberian Supreme Court dismissed the allegations of voter fraud and irregularities filed by the Liberty party (Agence France-Presse, 2017) setting the stage for the runoff election to be scheduled for 26 December, 2017. The two presidential candidates, 51 year old Senator George Weah of the CDC and 73 year old Vice President Joseph Boakai of LP were ranked first and second respectively after the first round of elections. At the close of the runoff polls George Weah was declared winner by the electoral commission having received 61.5 percent of the votes with 732, 185 defeating Joseph Boakai with 38.5 percent totalling 457, 579 votes (MacDougall and Cooper, 2018). The election was George Weah's third attempt at the presidency since the end of the second civil war in Liberia. This resents a belief in the democratic process as the only legitimate means to power. If not for anything, Liberians have invested their hopes in a candidate to keep the country out of war much as the Ellen Johnson-Sirleaf had done. The successful conclusion of the general elections in Liberia attests to the growing maturity of democracy in the country and the political elites acceptance of the democratic process as the only legitimate means to acquisition of political power.

This decision of the Supreme Court had demonstrated the assertive role of the judiciary in overseeing elections as has been witnessed in Kenya. By undermining electoral rules, elections

lose their integrity and create mistrust and tension among politicians, their parties and citizens. This development undermines the efforts to deepen democracy. While Liberians awaited the outcome of investigation and Supreme Court ruling which may call for fresh polls completely, it is critically important that the matter be concluded in time to avoid a constitutional crisis and allow for the conclusion of the elections for a peaceful transfer of power. This is important for democratic consolidation in war torn Liberia.

Conclusion

Consolidating democracies in emerging democratic societies such as are found in Africa by reaching a two turn over test has proven to be a demanding task. The reasons lie in weak vertical and horizontal accountability system in emerging democracies. Elections are an expression of vertical accountability that lack integrity due to ill preparedness by election management bodies and weak commitment to the rule of law and desperate desire to win at all cost by politicians. The IEBC demonstrated weak diligence when it failed to verify transmitted results against hard copies before announcing results. The lack of security features like water marks or serial numbers on one-third of form 34A meant that the forms were false and illegally smuggled into the electoral process to tamper with results. Official negligence by IEBC amount to connivance with the Jubilee Party or its sympathizers to rig the election against the opposition. IEBC's refusal to comply with the Supreme Court decision to open its computers for scrutiny, blatantly undermined the rule of law and the grounds for legitimate conduct which is the cornerstone of democracy.

NEC in Liberia also failed to investigate allegations of election fraud as alleged by the opposition Liberty Party and rushed to announce results demonstrating gross disregard for legalities. NEC took the grievances of the opposition lightly an action that was a recipe for violence. It also amounted to disregard for the rules of the democratic game legitimizing official conduct.

Horizontal accountability has also been extremely weak as democratic and state institutions prove incapable of checking the impunity of other institutions. For example, the judiciary has acted shyly in questioning illegal activities of electoral bodies and political elites that undermine the rule of law and efficiency of public institutions that fail to deliver public

goods. Undermining horizontal accountability is expressed in grand corruption that benefits operators of public institutions, a tendency that hurts public interest. As the IEBC began preparations for the rerun elections, the commission was torn by lack of cohesion. It was divided against itself, wrecked by primordial interest and failed to redeem itself by refusing to grant access to its IT system by the Supreme Court. It also left untouched staff alleged to have violated the Election Offences Act.

It is essential to note the growing realization of the critical importance of the role of the courts in resolving electoral disputes. Parties and candidates in Liberia and Kenya deferred to the independent judiciary to mediate the electoral challenges. In Kenya, the judiciary demonstrated its independence to underscore the importance of the rule of law to be defended by an independent judiciary critical to the maintenance of a democratic system. In this way, electoral integrity essential to building confidence in state institutions and guaranteeing the mechanism for a peaceful electoral competition and democratic transfer of power was further enhanced. Accepting judicial pronouncements by political leaders in Liberia and Kenyan was a demonstration of credible leadership as a commitment to democratic ideals. The refusal to resort to violence loudly proclaims political elites acceptance of democracy as the only game in town, a sine-qua-non of democratic accountability. The decisive intervention by the independent judiciary in its function as an independent arbiter of justice in these countries will no doubt significantly impact the future of democracy and the rule of law in Africa and by extension enhance democratic consolidation.

References

Agence-France-Presse (2017). George Weah confirmed as Liberia's president, AFP

AGORA, (2017).The role of elections in strenghtening democracy principles and values. Retrieved form https://www.agora-paul.org/interact/blog/role-elections-strenghtening-democracy-principle-and-values on 14th October, 2017

Abrokwaa, C.K. (2010). *Ethnicity, politics and social conflict: The quest for peace in Liberia*, Pennsylvania State University

Business Daily (2017). Observers say Kenyan election was credible. Retrieved http://www.businessdailyafrica.com/economy/observers-say-

Banducci, S.A. and Karp, J.A. (2003). How elections change the way citizens view the political system. *British Journal of Political Science,* Vol.33 pp74-87

Bectham, D. (2001). Elections, lotteries or direct democracy? Open democracy, https://www.opendemocracy.net/node/623 on 8th December, 2017

Bloomberg, (2017). Kenyan court rules vote results declared at station are final. Retrieved from http//www.bloomberg.com/news/articles/2017-06-23/Kenyan-court-rules-president-votes-can-be-declared-at-station on 16th November, 2017

Brown, D. (2000). *Contemporary nationalism: Civic, ethno-cultural and multicultural politics,* London and New York; Routledge

Campbell, J. (2017). Questions remain as IEBC declares Kenyatta victor in election rerun. Retrieved from https://www.cfr.org/blog/questions- on 7th December, 2017

Dougall, C. and Cooper, H. (2017). George Weah wins Liberia election, *New York Times*. Retrieved from http://www.nytimes.com/2017/12/28/world/africa/george-weah-liberia-election.html

Falana, F. (2017). Electoral justice in Nigeria, Kenya.*This day* Live, Retrieved from www.thisdaylive.com on 14th September, 2017

Glencorse, B. and Yealue, L. (2017). Liberia's democracy is failing its people. Retrieved from http://www.washingtonpost.com/news/monkey-cage/wp/2017/10/04 on 17th October, 2017

Gallagher, A. (2017). Liberia's landmark 2017 elections deepen its democracy. http://www.ifes.org/fags/elections-liberia-2017-general-elections on November, 2017

Gasiorowski, M. J. & Power, T. J. (1998). The structural determinants of democratic consolidation: Evidence from the Third World. *Comparative Political Studies*, Vol. 31 Issue 6 pp740-771

Gorokhovskaia, Y. (2017). Democratic consolidation. Retrieved from DoI:10.1093/obo/9780199756223-0224 on 17th October, 2016

Horrwitz, D. (1985). *Ethnic groups in conflict.* Berkeley: University of California Press

ICG (2017). How to ensure a credible peaceful presidential vote in Kenya, Crisis Group Briefing N'129. Retrieved from www.crisisgroup.org on 28th November, 2017

Kimenyi, M.S. (2017). Will the Liberian election runoff result in fragmentation or consolidation of democracy? Retrieved from https://www.brookings.edu/opinions/will-the- on 23rd November, 2017

Kwatemba, S. W. (2010). Ethnicity and political pluralism in Kenya. *Journal of African Elections,* Volume 7 No2 pp77-112. Retrieved from https://eisa/org.za/pdf/JAE7.2kwatemba.pdf on 23rd November, 2017

Lijphart, A. (2008). *Thinking about democracy: Power sharing and majority rule in theory and practice,* London- New York, Routledge

Mamdani, M. (1996).*Citizen and subject; contemporary Africa and the legacy of late colonialism.* Kampala, Fountain Publishers

Mbaku, J. (2017). Kenya: Presidential elections and the rule of law. Retrieved from https://www.brookings.edu/blog/Africa-in-focus/2017/09/06 on 9th November, 2017

Mohamed, H. (2017). Kenyan elections: The ethnicity factor. Retrieved from http://www.aljazeera.com/indepth/features/2017/08/kenyan-elections.ethnicity-factor-170506.81143385.html on 24th October, 2017

--------(2017). Uhuru Kenyatta wins controversial Kenyan poll rerun. Retrieved from https://www.aljazeeranews.com on 11th October, 2017

Medvic, S.K. (2010). *Campaigns and elections: Players and process*. Wadsworth: Cengage Learning

Mainwaring, S. and Scully, T.R. (1995). *Building democratic institutions: Party systems in Latin America,* Stanford: Stanford University Press

Nnoli, O. (1995). *Ethnicity and development in Nigeria.* Aldershot; Ashgate Publishing Limited

Nass, A.I. (2000). *A study in internal conflicts,* Nigeria: Fourth Dimension

NEC, (2017). NEC announces final results: declares runoff campaign open. Retrieved from http://www.necliberia.org/others/php? On 15th October, 2017

Raji, R. (2017). Ethnic politics and the 2017 Kenyan elections. Retrieved from https://www.ntusbfsas.com/africa-business-insights/content/ethnic-politics-and-th-2017-Kenyan-elections on 17th October, 2017

Reuters (2017). Kenya election official tortured, murdered before vote-officials say. Retrieved from http://www.reuters.com/article/us-kenya-election-death on 20th November, 2017

Schmitter, P. C. And Karl, T. L. (1991)> what is democracy is...and is not. Journal of Democracy, Volume 2, Number, 3 pp75-88

Schedler, A. (1998). What is democratic consolidation? *Journal of Democracy,* Vol. 9 Number 2 pp91-107

…….. (2001). Measuring democratic consolidation. *Studies in Comparative Development,* Vol.36, Issue1, pp66-92

Sherman, J.S. (2006). The challenge of ethnicity and conflict. *Liberian Times,* retrieved from https://www.globalpolicy.org/component/content/article/194-Liberia/.....on 19th July, 2017

Sesay, T. (2012). Liberia: Battling the ghosts of ethnic politics. Retrieved from http://www.africareview.com/analysis/Liberia-Battling-the-ghosts-of-ethnic-politics/179....on 23rd January, 2015

Sirleaf, E.J. (2017). Statement by Ellen Johnson Sirleaf, President of Liberia at the Seventy-second Regular Session of the United Nations General Assembly on the theme: Focusing on People; Striving for Peace and Decent Life for all on Sustainable Planet", United Nations Headquarters, New York, September 19, 2017.

Smith, A. (2001). UK media elections-debate the solution? Open democracy, Retrieved from https://www.opendemocracy.net/node/623 on 23rd November, 2017

The Commonwealth (2017). Interim statement by Chair of the Commonwealth Observer Group 2017 Kenya General Elections

The Carter Centre (2017). Preliminary statement on the 2017 Kenyan election. Retrieved from https://www.cartercentre.org/news/pr/kenya-081017.html on 18th November, 2017

The Economist (2017). Raila Odinga takes a gamble by threatening to boycott Kenya's election. Retrieved from https://www.economist.com//news/middle-east-and-africa/2173012 on 21st November, 2017

The Star (2017). IEBC fires procurement director. Retrieved from http://www.thestar.co.uk/2017/06/07/iebc on 8th October, 2017

Thurston, A. (2012). Three recent coups in West Africa and how they played out. Retrieved from https://sahelblog.wordpress.com on 23rd December, 2017

Toweh, A. (2017). Liberia's Supreme Court halts election preparation over fraud accusations. Retrieved from https://www.reuters.com/article/us-liberia-education/Liberias-Supreme-court on 22nd November, 2017

Van Reybrouck, D. (2016). Why elections are bad for democracy. *The Guardian* newspaper. Retrieved from https://www.theguardian.com/politics/2016/jun/29/why-elections-are-bad-for-democracy on 4th July, 2017

Wojtasik, W. (2013). Functions of elections in democratic systems. *Political Preferences,*No4 pp25-38, Retrieved from https://www.researchgate.net/publication on 5th October, 2017